all polling places in such State at which votes may be cast in such election are closed; to the Committee on Interstate and Foreign Commerce.

By Mr. HUNT (for himself, Mr. WYLIE, Mr. WATKINS, Mr. KING of New York, Mr. DENNEY, Mr. WILLIAMS of Pennsylvania, Mr. ROTH, Mr. SCHERLE, and Mr. STEIGER of Arizonia):

H.R. 19885. A bill to amend section 64 of the Bankruptcy Act to afford priority to pension fund contributions earned within 3 months of bankruptcy; to the Committee on the Judiciary.

By Mr. MARSH:

H.R. 19886. A bill to authorize acquisition by the United States of certain real property adjacent to the National Cemetery at Culpeper, Va.; to the Committee on Veterans' Affairs.

By Mr. REINECKE:

H. Con. Res. 823. Concurrent resolution expressing the sense of the Congress with respect to the administration of U.S. foreign aid programs in Vietnam by the Agency for International Development; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 19887. A bill for the relief of Stella and Giuseppe Ambroselli and minor child Michael Ambroselli; to the Committee on the Judiciary.

By Mr. BELCHER:

H.R. 19888. A bill for the relief of Josias Bandonillo Guarin; to the Committee on the Judiciary.

By Mr. BRASCO:

H.R. 19889. A bill for the relief of Salvatore DiLiberto; to the Committee on the Judiciary.

H.R. 19890. A bill for the relief of Teresa Matrisciano; to the Committee on the Judiciary.

By Mr. CAREY:

H.R. 19891. A bill for the relief of Piadosa Rodio; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 19892. A bill for the relief of Therese Jean Juste; to the Committee on the Judiciary.

By Mr. DELANEY (by request):

H.R. 19893. A bill for the relief of Alexander Tripodes; to the Committee on the Judiciary.

By Mr. FARBSTEIN:

H.R. 19894. A bill for the relief of Marie Louise Elizabeth Varona Espiritu; to the Committee on the Judiciary.

H.R. 19895. A bill for the relief of Georgia H. Kanellis; to the Committee on the Judiciary.

By Mr. GILBERT:

H.R. 19896. A bill for the relief of Aldo Amanini; to the Committee on the Judiciary.

By Mr. McCARTHY:

H.R. 19897. A bill for the relief of Francoise Bongrade; to the Committee on the Judiciary.

By Mr. MOORHEAD:

H.R. 19898. A bill for the relief of Dr. Nora L. Vasquez; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 19899. A bill for the relief of Constantino Espinola da Silva; to the Committee on the Judiciary.

H.R. 19900. A bill for the relief of Manuel Correia de Malo; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 19901. A bill for the relief of Maria Carmen Valente Pereira; to the Committee on the Judiciary.

By Mr. PODELL:

H.R. 19902. A bill for the relief of Chiu On Chiu and his brother, Kin On Chiu; to the Committee on the Judiciary.

H.R. 19903. A bill for the relief of Francesco Di Domenico and his wife, Giuseppa Di Domenico; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 19904. A bill for the relief of Mr. Giacomo DeSimone; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 19905. A bill for the relief of Esther Gonzalez Criado; to the Committee on the Judiciary.

By Mr. WOLFF:

H.R. 19906. A bill for the relief of Antonio Masucci; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 19907. A bill for the relief of Sister Elsia (Antonietta Frongia) and Sister Maria Claudina (Luciana Cancedda); to the Committee on the Judiciary.

By Mr. PATMAN:

H. Res. 1307. Resolution referring H.R. 19871 to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

SENATE—*Wednesday, September 18, 1968*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore.

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

Our Father, God, again with the miracle of light has come the gift of a new day. For past failures, may no regrets keep us from seizing the challenge of each new dawn. As through sleep and darkness safely brought, restored to life and power and thought, we would each face this fresh chance with the glorious consciousness, "I am with Thee."

Our fathers trusted in Thee and were not confounded—in Thee we trust. In Thee is our sure confidence that the way of the Republic is down no fatal slope but up to freer sun and air.

May the Mighty One, whose boundless love is in the darkness and behind the darkness, be to us as a covert from the wind, a shelter from the storm, and as the shadow of a great rock in a weary land.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, September 17, 1968, be approved.

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

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be taken from the time on the bill.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 278 Leg.]

Anderson	Dominick	Montoya
Bayh	Ellender	Pell
Bible	Goodell	Ribicoff
Boggs	Harris	Russell
Burdick	Hayden	Sparkman
Byrd, Va.	Hickenlooper	Spong
Byrd, W. Va.	Hollings	Symington
Church	Hruska	Talmadge
Cooper	Inouye	Tydings
Curtis	Jordan, N.C.	Williams, Del.
Dirksen	Mansfield	Yarborough
Dodd	McGee	Young, N. Dak.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING], is absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. McCARTHY], the Senator from South Dakota [Mr. McGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], and the Senator from Florida [Mr. SMATHERS], are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kentucky [Mr. MORTON] and the Senator from Maine [Mrs. SMITH] are necessarily absent.

The Senator from New York [Mr. JAVITS] is detained on official business.

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Hart	Moss
Allott	Hartke	Mundt
Baker	Hatfield	Murphy
Brewster	Hill	Nelson
Brooke	Holland	Pastore
Cannon	Jackson	Pearson
Carlson	Jordan, Idaho	Percy
Case	Kuchel	Prouty
Cotton	Lausche	Proxmire
Eastland	Long, La.	Randolph
Ervin	Magnuson	Scott
Fannin	McClellan	Stennis
Fong	McIntyre	Thurmond
Gore	Metcalf	Tower
Griffin	Miller	Williams, N.J.
Hansen	Mondale	Young, Ohio

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The PRESIDING OFFICER (Mr. GOODELL in the chair). A quorum is present.

AMENDMENT OF NATIONAL SCHOOL LUNCH ACT—ORDERED TO LIE ON THE TABLE

Mr. MANSFIELD. Mr. President, I yield myself 1 minute.

I ask unanimous consent that Calendar No. 1409, S. 3848, to amend the National School Lunch Act, and for other purposes, be ordered to lie on the table.

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

GUN CONTROL ACT OF 1968

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. S. 3633, a bill to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 947) of the Senator from Maryland [Mr. TYDINGS]. The time for debate on the amendment is limited to 2 hours, to be equally divided and controlled by Senators TYDINGS and HRUSKA.

Who yields time?

Mr. TYDINGS. Mr. President, I yield myself 10 minutes.

Mr. President, last night, during the waning hours, I called up my amendment No. 947 to add gun registration and gun user licensing to the pending firearms bill.

Last year 7,600 Americans were victims of gun murders. 73,000 Americans were victims of gun robbery. Today we have an opportunity to do something about this incredible carnage. We can do something by adding a reasonable, moderate gun registration and gun user licensing provisions to the pending gun bill.

Gun crime is the No. 1 crime problem which America faces today. There is no way that we can materially reduce crime violence in this country without strong gun laws.

I do not care how strong or how eloquent the speaker, the fact of the matter is that this is purely and simply an anti-crime measure. We can criticize the Supreme Court all we want, and we can find scapegoats all we want, but the fact of the matter is that we are not going to reduce the rate of gun crime violence in the United States until we introduce and enact strong gun laws.

Guns are used in two out of every three murders and robberies in this Nation. This is an appalling ratio.

Guns are used in 96 out of every 100 police killings. They bring terror, damage, and death to tens of thousands of Americans each year.

A vote for the sound gun registration and licensing amendment which I propose is a vote to attack crime. It is a vote to drive fear and danger from our streets, from our shops, and from our homes. A vote for sound registration and licensing is a vote to protect the innocent and to disarm the criminal without significantly inconveniencing the law-abiding citizen.

For the record, I stress this amendment imposes no inconvenience, no burden, no fee, no tax, no expense to the gun owner other than the cost of a 6-cent stamp or two. All of its procedures of registration and licensing can be accomplished by mail. There is no discrimination involved in the issuance of the license or the registration certificate. It is mandatory. The issuance of the registration certificate is automatic. If a person owns nine guns, as I do, on one registration form, which he gets from the post office, he puts his name and address, the make, serial number, and caliber of each of his guns, puts the form in an envelope with a 6-cent stamp, mails it, and receives his registration certificate. That is all the inconvenience it is. There is nothing discretionary; the issuance of the certificate is automatic. Indeed, it is less of a problem than to register a dog, a bicycle, or an outboard motor.

As to the gun license, 2 years after the date of the act, in order to purchase a firearm, the purchaser would have to have a gun purchase permit or license. How do you get the license? You go to your local licensed gun dealer. You fill out a form, you show identification—your social security card or your driver's license—you fill out a form with your name and address; you make affidavit that you are over 18, that you have not been convicted of a felony or a crime punishable as a felony that you have never been committed by a court to an institution for mental incompetency, alcoholism, or narcotic addiction. The application is then checked with the records of the courts and of the Federal Bureau of Investigation, through a central computer, and if you are not a convicted felon and have not been institutionalized, the issuance of the license is mandatory. And there is not a penny involved; no fee whatsoever.

I do not know of a single hunter, sportsman, or other gun owner in Maryland or in any other State, who believes a convicted felon should be able to slip across a State line in order to buy guns. Unfortunately, there are some 39 States where you can buy a firearm without any sort of permit system. I do not believe there is any hunter who wants it possible for a convicted hoodlum or criminal to be able merely to slip across a State line, conceal his identity, and buy guns in order to murder bus drivers, storekeepers, taxicab drivers, police officers, or his fellow citizens. I cannot believe that a reasonable gun owner, fully apprised of the facts, would think that the inconvenience of a 6-cent stamp or two, and the filling out of an affidavit form, is too great a price to pay for protection for the police officers of the United States and their fellow citizens, by making it more difficult for hoodlums and the criminal element indiscriminately to acquire firearms from any pawnbroker or any hardware dealer across a State line.

The statistics in these cases are appalling. Let me summarize a little bit of the testimony before our Juvenile Delinquency Subcommittee, headed by our able colleague, the Senator from Connecticut [Mr. DODD].

We heard testimony that during a 10-year period, Massachusetts State Police traced 87 percent of the guns used in crimes in that State to purchases outside the State of Massachusetts, in jurisdictions which had less stringent gun protection laws.

We heard testimony that showed that in Detroit, Mich., 90 out of every 100 guns confiscated from lawbreakers were not registered in Michigan, which State requires registration, but were obtained in a nearby city in an adjoining State in which gun controls were not enforced.

Mr. President, this situation is intolerable. It is unreasonable, and it is incredibly shortsighted.

A vote for my registration and licensing amendment will help law enforcement without inhibiting law-abiding gun owners and users. I cannot believe that a homeowner, realizing that there is nothing in this legislation that can prevent him from owning guns or take a gun away from him, or tax him for the use of his guns, will object to this simple act of registration, when he realizes its value in protecting the citizens of the United States and as an aid in law enforcement.

It is long past time to disarm the criminal element in our Nation. The amendment I offer will be a tremendous step in the effort to disarm the criminal, without affecting gun ownership, possession, or use by the law-abiding American citizen.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. TYDINGS. I am happy to yield.

Mr. PASTORE. The Senator states that without his amendment it is possible for the criminal to step across the State lines of 39 States and buy guns.

When the Senator says that, is he talking about pistols as well as long barreled guns, shotguns and rifles?

In other words, with the existing law today, anyone in the District of Columbia can go to any State which has no regulation and buy a pistol, can he not?

Mr. TYDINGS. When title IV of the Safe Streets Act becomes law, with the exception of the loophole we put in it yesterday in the dealer amendment, a licensed dealer will not be able to sell a pistol to a nonresident of the State. But when you consider the number of States in the Nation which require no permits to purchase a pistol—some 39 of the States—you see the protection is still minimal, because in those States it is still possible——

Mr. PASTORE. Now, I want to get this very straight for the record. I know a distinction is being made right along, by very sincere people, on this question of long barreled guns and pistols, I am aware of the fact, as the Senator has already brought out, that not too long ago a group of young hoodlums boarded a city bus here in the District of Columbia and, without any provocation at all, shot the driver in the back of his head and killed him—a family man with four children.

The question I am asking is this: Can this type of hoodlum secure any of these guns in any of those States without any restraint at all, under existing law?

Mr. TYDINGS. There are 39 States of

the Union which do not require a permit to purchase a concealable weapon, that is, a handgun or pistol. Hence, in 39 States of the Union, it would be possible for any hoodlum to buy a pistol, despite the enactment of title IV of the omnibus crime bill.

Mr. PASTORE. I thank the Senator for answering that question, because, I wish to speak very frankly to those who are sincerely concerned with curbing crime.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TYDINGS. Mr. President, I yield an additional 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for an additional 10 minutes.

Mr. PASTORE. Mr. President, the other day coming down from Kensington, where I live, to the Capitol, where I work, I passed a number of District of Columbia transit buses. Each one had a billboard behind it that one could see for almost a quarter of a mile. The billboards behind these buses read: "Have the exact change." I think this is a sad commentary on our society—on the state of our security.

The reason for the sign, "Have the exact change," is that transit busdrivers today are taking their lives in their hands every time they sit at the wheel if they have any cash on their person.

Many times it does not make a big difference whether a person has cash or not because hoodlums will bludgeon their victims over the head with a pistol or even shoot a bullet at him if they do not know whether the man has 10 cents or $10 in his pocket.

This is an outrage, a peril, and a plague on our society and a problem to the lawmaker. To my good friends who are sincere in trying to protect the interest of the huntsmen of the country—and they have a perfect right to do that—I say we should not lose sight of the biggest problem. As I had occasion to say in the Senate the other day, we are not trying to pass a law that will hurt the sportsmen in Nebraska, Rhode Island, Connecticut, or Maryland. None of us intends to do that. We are not seeking to impinge upon anyone's constitutional right to bear arms. That is a constitutional right that was written into our Bill of Rights. It was written into the Bill of Rights long, long ago, when our colonies had just become States—and I think Rhode Island was one of the foremost States in that regard. We believed in this inherent right to people at a time when they had to bear arms in order to ward off the arrogance and the oppression of the British in the Revolution to achieve our independence.

At that time the colonists believed in a volunteer militia—each man ready in a minute to bear arms to defend his home.

Today that has changed. We have a standing Army. We have fine police departments. We have State police. We have highway patrols. We have local police. The old reasons are gone—but the old rights remain and justly so. We say today that a man must be preserved in his constitutional rights. We are not trying to disturb his rights. We are not saying to a man, "Look; you can't buy a gun under any circumstances to protect your home and property." We are not saying that.

We are not saying to any sportsman, "You can't buy a rifle to enjoy your pastime as a hunter."

But we must recognize the fact that today we are plagued by crime—it is the No. 1 problem of our country. Something needs to be done about it, and we must all do our part. All we are saying to these fine, decent, sports-loving people is, "Please make a little sacrifice on your part. Go out and get yourselves permits to buy guns."

That will not hurt any fair sportsman. We are saying to them, "We want you to do it because we do not want some gangster or hoodlum to break into your home while you are away at work or at sports afield and do bodily harm to your wife and children."

We are trying to protect the property, the homes, and the families of these sportsmen. That is why we are engaged in achieving this kind of legislation. We are trying to protect their loved ones, and their own lives from the criminal.

We say to them, "Make a little bit of a sacrifice—put up with a little inconvenience in securing your weapons so that we can keep these weapons out of the hands of the desperate hoodlums, gangsters, criminals and insane, who are making a shambles of personal security by their robbing, stealing, and killing."

That is the sole reason we are here.

If we cannot see that panoramic picture, if we cannot look down the road and take the long view of the problem that plagues this country, and torments each one of us, then let us forget the whole thing and go home. That is all the Senator is trying to do.

I realize that perhaps the amendment needs a little shaping up and modification. That is germane to our discussion. I am not one of those who think that if a dealer refuses to sell a person a gun, that person has to come to Washington and talk to the Secretary of the Treasury. It is tough even for Senators to reach the Secretary sometimes on a moment's notice. Perhaps an aggrieved person should be able to go to the district attorney or to the district judge. And they can do these things at home.

I think perhaps the amendment could be shaped up a little. Today one has to get a license to hunt in practically every State of the Union. One cannot go and hunt and kill bears in Rhode Island. There are no bears or moose in my State. Even the deer are disappearing. So our hunting is limited. But hunting is still a popular pastime and we have no intention to injure that sport.

What I am saying is that today, because of the complexity of our society, the public has to endure certain inconveniences that may discommode one for the moment. However, we must do it because of the public interest and common security because we want to defend ourselves against hoodlums and gangsters. That is all we are asking for here.

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

Mr. TYDINGS. Mr. President, I ask the Senator from Nebraska to yield to the Senator from Utah.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. MOSS. The Senator indicated that he had very little experience in getting a hunting license to hunt moose or bear in Rhode Island. I wonder if the Senator thinks there ought to be a Federal hunting license issued by the Federal Government.

Mr. PASTORE. No, I do not. Every State in the Union has its hunting laws. But every State in the Union does not have a gun control law. And that is the difference.

Mr. MOSS. Can the Senator answer the question?

Mr. PASTORE. I have already said No, I do not believe a Federal hunting license is needed. The distinction is that every State in the Union has laws requiring hunting licenses. But not every State in the Union has a gun control law. There is the distinction. Every State has a hunting license requirement.

Mr. MOSS. Even Rhode Island?

Mr. PASTORE. Absolutely. We have a very good one. We have a very, very good one. I will match our State law against any hunting license law in the country. However, 39 of the 50 States are without gun control laws. My goodness gracious, that is 78 percent, 39 out of 50 States that do not have gun control laws.

That is where the hoodlums can get the guns.

Until the day comes when every State has a gun control law, they will continue to get their guns in those States.

Mr. MOSS. Is the Senator aware of any State that does not have a law against carrying concealed weapons?

Mr. PASTORE. That is just the problem. Surely there are such laws. One cannot carry a concealed weapon. However, a gangster could not continue to carry a concealed weapon if he had to get a permit to possess it. That is my point.

The Senator from Utah is arguing my argument. Surely, one cannot carry concealed weapons. That is forbidden in every jurisdiction in our country. But the reason the criminals are carrying concealed weapons is because these hoodlums possess them in the first place. They can buy them in any one of these 39 States. They can then put the weapons in their pockets, hold them against their breasts, or carry them anywhere they want to carry them. And that is the problem.

When they got on that bus in the District of Columbia and killed that driver, they did not get on the bus with weapons in their hands. They had the weapons hidden until the time came when their victim was not looking. Then they let him have it in the back of his neck. And that possession is what I am trying to control.

Did I answer the Senator's question?

Mr. MOSS. I am not sure.

Mr. PASTORE. Let us go through it again.

Mr. MOSS. I am aware of the fact that New York City has had a Sullivan law

now for about 40 years. The number of criminals carrying concealed weapons has not gone down in that period of time. On the contrary, it has increased.

There has been a gun registration law. Not very many people have permits to have guns, but they have guns in New York.

Mr. PASTORE. I know that, and they have them because they go to one of these other 39 States and buy them.

Mr. MOSS. I deny that. I do not think they go elsewhere to buy them. They buy them in New York.

Mr. PASTORE. I do not know about that. They could not buy them in New York if they had a registration law there. And we have seen from the evidence as to Massachusetts, New Jersey, and Detroit what an overwhelming percentage of guns involved in crime had been purchased in other States.

The PRESIDING OFFICER (Mr. YOUNG of Ohio in the chair). The time of the Senator has expired.

Mr. PASTORE. Do not tell me that regulation does not work. Regulation is meant to work.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. I yield 1 minute to the Senator from Connecticut.

Mr. DODD. I should like to say, in response to the exchange between the Senator from Rhode Island and the Senator from Utah, that the New York law has been greatly maligned. The figures show that the incidence of crime by gun in New York, which contains heavily congested and metropolitan areas, is lower than States with much smaller population groupings and with practically no congested areas. The truth of the matter is that that law in New York has worked very well, and I do not know why people say it has not. Every expert on crime of whom I know says this is so.

Mr. PERCY. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. PERCY. Mr. President, I have just returned from a tour of downstate Illinois, and I believe the feelings of the people there are very much like those of the people in any of our Western States. Many of them have failed to see the reason for gun legislation.

I should like to check the answers I gave this weekend—because I am a cosponsor of the amendment offered by the Senator from Maryland—with the answers of the Senator from Maryland.

This is the first question I was asked: "Why is it necessary to have a Federal gun control law when we have a gun control law in the State of Illinois? Why do you support a Federal law?"

I ask the Senator that question.

Mr. TYDINGS. The answer is that the amendment before us is based on the precept that the minute a State or local government enacts an effective gun registration or permit law, that law would preempt and would automatically become effective. But until such time as they do, some protection is needed to the people of the United States.

What we are trying to do is to plug that loophole in order to provide protection and assistance to the law enforcement officials in the States.

Mr. PERCY. I should like to report to the Senator that when I gave that answer, most of the objections that were raised to this law withered away, because people had not realized that it was aimed at strengthening the hands of the States.

The second objection raised was the inconvenience, the paperwork, and the cost to the individual.

I should like to hear the response of the Senator from Maryland once again, to reaffirm what I said in downstate Illinois.

Mr. TYDINGS. As I indicated, the inconvenience would be minimal. The registration could all be done by mail. Indeed, the licensing could be done by mail as well. No fee, no payment, and no tax would be involved. A 6-cent stamp and one piece of paper is all that would be necessary to register one or more firearms individually owned.

Insofar as the issuance of a license is concerned, it would be mandatory. It could either be done through the mail or through a licensed gun dealer. The issuance would be automatic. No discretion would be involved, provided the individual applicant did not have a record as a convicted felon; provided he had not been committed by a court to an institution because of mental incompetency, alcoholism, or narcotic addiction; provided he was not under 18. The inconvenience would be far less than the inconvenience requiring a driver's permit or a hunting license or a migratory bird stamp. And it could all be done by mail.

Mr. PERCY. Is it not true that absolutely no fee is involved on the part of the person registering a gun?

Mr. TYDINGS. That is correct.

Mr. PERCY. Furthermore, this question was raised:

> Well, once the Federal Government gets its foot in the door, that's just the first step. Actually, aren't the authors of this amendment leading toward confiscation of guns in this country?

I gave my answer as a cosponsor of the amendment, and I would appreciate hearing the answer of the author of the amendment.

Mr. TYDINGS. First, it is the entire philosophy of the amendment that licensing and registration should be done at the local level. We have provided that the minute a county, an incorporated municipality, or a State adopted a law or an ordinance substantially equivalent in the field of registration or licensing it would automatically preempt.

We have purposely provided a year's delay from the date of enactment before one would need a registration permit to purchase a new firearm; 18 months before one would need a registration permit to have a gun in possession; 2 years before one would need a permit to purchase a new firearm, and 3 years before one would be required to have a permit to have a firearm in possession. This is just to give the States and the communities an opportunity to enact their own law.

Unfortunately, the gun lobby, particularly the NRA, has been very effective at turning out large crowds to object and to violently protest any type of gun crime control ordinance at the local level.

We feel that by the adoption of this amendment we will be assisting those interested in better law enforcement at the local level to enact such ordinances, and for the local government to become more effective.

Insofar as confiscation is concerned, that is the old fear-raising argument. Nothing in this amendment relates to confiscation. If a person has been convicted of a felony and is not permitted to have a gun permit, he is not entitled to have a gun. But I do not think anybody in this country believes a convicted felon should be entitled to carry a firearm. Even then, we have an escape clause which provides that the attorney general of a State, if he is willing to direct an order, can approve the issuance of a permit or a license to a convicted felon.

So there is absolutely no provision in the amendment which relates to confiscation or which would permit confiscation of a firearm from a law-abiding citizen.

Mr. PERCY. Lastly, I should like to check the answer I gave to a question posed by downstate Illinois people which might apply to questions raised in the minds of people from Western States:

> After all, isn't this just a problem of the cities? Why should we impose a general cost on society? Why can't the cities handle this problem themselves?

My answer to this simply was that it is a problem for the entire country; that the cost of crime is immense; that it is a multibillion dollar expense; and that this expense to society is being borne by the entire United States. It takes money out of the programs that would be required and could be useful in rural communities; and it is a blight on our society to have this condition exist in urban areas. So that if we can disarm juveniles who in urban areas are heavily armed today, if we can disarm criminals who have been convicted of felonies, if we can disarm alcoholics and those who are mentally deficient, it will reduce the cost that society as a whole is bearing today.

If that is coupled with a stop-and-frisk law, which we now have, and which the Supreme Court has ruled is perfectly constitutional, it gives law-enforcement agencies the power and the means by which they can apprehend criminals, jail criminals, and remove weapons from those who are not authorized to use them, without in any way infringing upon the rights of a citizen who is qualified to bear those arms.

This response seemed to answer completely the objections of those I spoke with this weekend in downstate Illinois, and I should like to reaffirm my enthusiasm and commend the Senator from Maryland for his leadership in the field of gun control legislation.

Mr. TYDINGS. The Senator from Illinois is quite correct. Permit me to make one addition. Unfortunately, the percentage of murder by firearms and, indeed, the overall murder rate per 100,000 is not high just in the heavily concentrated metropolitan areas.

As a matter of fact, in many of the weak-gun-law States, primarily in the West and in the South, the murder rate by firearms is substantially greater than it is in the States which have strong

firearm laws, such as New York, New Jersey, Pennsylvania, Massachusetts, and Rhode Island.

The gun murder rate in New York is 31.8 percent, substantially below the national average, which is over 60 percent. The overall murder rate in New York is 4.8 percent per 100,000, and it is 6.1 percent in Arizona, 10.6 percent in Nevada, 9.1 percent in Texas, and 9.7 percent in Mississippi, and 9.9 percent in Louisiana. Indeed, in the State of Utah, 72 percent of all homicides are committed by firearms.

Mr. President, I wish to add one more point. Of every 20 assaults committed without a firearm in the United States, one results in a death; but for every 20 assaults committed by firearms, in the United States rather than with no firearms, four of the victims die.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield on the time of the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I yield 2 minutes to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I wish to ask this question, which troubles the Senator from Louisiana.

Assuming that people are required to register these guns, if the guns are not going to be taken away from them, how would the mere registration of guns save lives?

Mr. TYDINGS. Automatically one could not possess or own a firearm unless he had a registration certificate or a permit. That would give the police officer something to work with. If the police officer were to see a known hoodlum who had just gotten out of jail, whom the police officer knows committed an assault, rape, or murder in a community, he would frisk him to determine whether he had a firearm.

In most States it is not against the law to have a gun without a permit. Under our law the police officer has a tool with which he can bring the person under arrest, to face severe punishment.

Mr. LONG of Louisiana. Will the Senator yield further?

Mr. TYDINGS. I yield.

Mr. LONG of Louisiana. Does the Senator not recall that I offered an amendment on one of the bills that was before the Senate recently that would make it a crime for any man who had been convicted of a felony to possess a firearm? Would that not have the same effect? This would be a Federal offense.

Mr. TYDINGS. That would be after the cow is out of the barn. As long as there are 39 States where any convicted felon could slip over the county line and buy as many pistols or guns as he wishes without any identification or permit, the temptation is going to be there to avoid title VII, and he is going to do it.

Mr. LONG of Louisiana. If a police officer suspects a man of being a dangerous character or a criminal and decides to frisk him, can he not do so now, and if he does so, is it not against the law to carry a weapon in most States?

Mr. TYDINGS. That is the problem. It is not.

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

Mr. HRUSKA. Mr. President, will the Senator yield to me so I may yield to the Senator from North Carolina for 5 minutes?

Mr. TYDINGS. I yield.

Mr. HRUSKA. Mr. President, I yield 5 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, we in this Nation suffer under a delusion, and that is: "When anything tragic happens, pass a law." It does not make any difference whether the law we are going to pass is any good. It does not make any difference how many laws we already have. Pass a law.

This bill, the gun control legislation, has reached an emotional state—quite rightly—largely on the basis of two inexcusable murders, one committed by a man in Memphis, Tenn., on Martin Luther King. In that case, if the man under arrest is the guilty party, his detection will be based on the fingerprints on a gun, and not upon the registration of a gun.

In the case of the other tragic murder which struck down a distinguished Member of this body, the late Senator Robert F. Kennedy of New York, the gun was registered. The gun was carried concealed in violation of the law.

In virtually every State of the Union it is contrary to law to carry a gun concealed. If one wishes to carry a gun, it must be carried in the open and warning given to the world that one is armed with a lethal weapon.

However, the gun used by Sirhan was a registered gun and was carried concealed to the place where he committed the homicide.

We have many State laws on this subject. They should be enforced. Under the law of my State, which applies in all the counties except 20, no one can purchase a pistol without a permit of the sheriff, which permit has to be made a matter of public record.

Mr. President, I have spent 26 years of my life as a trial lawyer or a trial judge. I have spent 6 additional years as an appellate judge. I practiced law in an area where men fight and they sometimes use deadly weapons in doing so.

I practiced law very substantially in criminal courts. As a trial judge I held many criminal courts. As an appellate judge I had to write opinions or pass upon cases where there had been violence.

In all of those years I have never known a single case where the detection or conviction of an accused using a firearm was based upon any registration statute or the registration of that firearm.

Those who argue for registration believe that all underworld characters and all desperate characters are going to hurry and register their guns. The truth of the matter is that they are no more going to register their guns than they are going to carry them unconcealed when they go out to commit homicides or robberies or other crimes of violence. Those who do register their weapons will be law-abiding citizens and those who do not register them will be those who use weapons for criminal purposes. In all probability, we will have just another worthless statute on the books as far as the Federal Government is concerned.

I realize that anyone who today says anything is unconstitutional hazards a very grave danger of losing his license as a prophet and is likely to be branded a false prophet.

I realize the interstate commerce clause has been stretched far beyond its intended meaning. But if we still have a Constitution, there is grave doubt that Congress has constitutional power to require registration of guns already in the hands of the citizens of the States.

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

Mr. ERVIN. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. ERVIN. The States undoubtedly have the power to pass laws of this kind and the argument for registration should be addressed to State legislatures. We should refrain from taking another step toward making the Federal Government a police state. That is exactly what this proposal has a tendency to bring about.

There is no evidence that a registration law would do any good or accomplish any purpose except to put law-abiding citizens to a great deal of trouble and annoyance. While I oppose the Tydings amendment, I favor the bill under consideration as it was reported by the Judiciary Committee.

Mr. HRUSKA. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. During the hearings in June of this year, when the Attorney General appeared before us he was asked about how the law would be enforced, if the registration and licensing bill became a statute. In response to one of those questions, he said:

> It is my judgment that the overwhelming majority of citizens are law-abiding and would proudly register their firearms. The pistol that killed Robert Kennedy had been so registered. That registration was most helpful in identifying the person accused of the crime.

We all recall the circumstances of that dastardly act and horrible event. The man was seized before the smoke from his pistol had cleared and he was on the spot there. I have been kind of mystified as to how registration of that gun resulted in helping to identify the man who was accused of firing the fatal shot.

The Senator from North Carolina is a most experienced lawyer. He is a former trial judge, and appellate judge. Perhaps he could enlighten me on the testimony given to us by the chief law-enforcement officer of the United States.

Mr. ERVIN. I think that his testimony demonstrates what I have said; that is, that no case has been made to justify a registration statute on the Federal level and that there is no substantial evidence that the registration of guns will prove the guilt of those who unlawfully use them.

I have never known a case where either detection or conviction of a person

who used a firearm in violation of the law was ever made to depend upon the registration of that firearm.

Mr. President, at this point I should like to have printed in the RECORD as part of my remarks a letter I addressed to my constituents on the subject of gun-control legislation.

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

DEAR FRIEND: This is to thank you for the communication expressing your views in respect to desirable gun control legislation. I ask at the outset that you pardon me for not replying to it earlier and for the form of this reply. Altogether I have received more than 60,000 communications expressing widely divergent views on this subject. Consequently, I have not been able to keep abreast of my correspondence on this subject and am not able to make a personal response to each of these communications.

Some weeks ago, Congress passed the Safe Streets and Crime Control Act, which has been signed by the President and made a part of the law of the land. I supported this act.

The Safe Streets and Crime Control Act contains some new laws relating to the acquisition and possession of firearms. It outlaws mail-order shipments of pistols and compels those who wish to purchase pistols to buy them from local dealers who can readily ascertain their eligibility to purchase them. It prohibits the acquisition and possession of pistols, rifles, shotguns, or other firearms by any person who has been convicted of a felony; or who is under indictment for a felony; or who has fled from any state to avoid prosecution for a felony; or who has been adjudged mentally incompetent. Moreover, it requires every importer, manufacturer, or dealer in firearms to obtain a license from the Secretary of the Treasury and to keep a record of the names and addresses of every person to whom they sell any firearm of any character.

In addition to having passed this legislation, Congress is now considering the enactment of another proposal which would extend the ban on pistols imposed by the Safe Streets and Crime Control Act to rifles and shotguns and compel those who desire to purchase rifles and shotguns to purchase them from a local dealer in the state of their residence or an adjoining state. I expect to support this proposal.

I am unwilling, however, to vote at this time for any proposal that Congress enact a Federal Statute requiring the registration of firearms or the licensing of those who wish to purchase them. In my honest judgment, no case has yet been made out for the passage of such a law. I spent many years of my life as a trial lawyer and a judge, and have never known a single case where the conviction of the accused depended upon any registration or identification of a firearm.

Moreover, there is grave doubt as to the constitutionality of such a law on the Federal level. States undoubtedly have the power to pass laws of this nature, and whether they should do so is a matter for them to decide.

I would like to make one thing exceedingly plain. I will not support any legislation which would deny to law-abiding citizens the right to purchase firearms for the protection of themselves and their habitations or which will deny to legitimate sportsmen the right to purchase firearms for hunting.

With kindest wishes,

Sincerely yours,

SAM J. ERVIN, JR.

Mr. HRUSKA. I am grateful to the Senator from North Carolina for his contribution. It reflects a great deal of commonsense. No criminal will advise the chief of police in advance that he is going to commit a crime and that registration can convict him. It is sad but true that guns will continue to be used improperly. There has been no creditable testimony which shows any connection between the reduction of crime which is claimed for the bill before us.

Mr. President, I now yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. HRUSKA. Mr. President, I rise in opposition to the pending amendment, which provides for the registration and licensing of firearms.

There are a number of reasons why the amendment should be defeated. I am confident that it will be.

I cite the following reasons as the foundation for rejection of the amendment:

Other forms of gun-control legislation have been subjected to thorough examination in many hearings. This is not true of the proposed registration provisions included in the amendment before us. Until June of this year, no such legislation had been introduced. As a matter of fact, there had been steadfast denials that such legislation was in the minds of the advocates of other forms of firearms control legislation.

Again and again, opponents of the bills before the Senate and House would say, "But this is known as just a beginning. It will surely lead to a control of ammunition. It will surely lead to licensing and registration."

Most of the time they were halted in their tracks by the chairman of the committee, or whoever was presiding, with a stout denial that there were any plans for such legislation in the future.

The reason for that, of course, is that licensing and registration are highly controversial and very unpopular issues. They are not acceptable to the bulk of the gun-owning citizens of this country. Yet there was a complete reversal on the part of the gun-control advocates, because, after passage of one type of firearm legislation, these same advocates went on to the type of thing which is now before us. Gun registration is involved and complex and there will have to be extensive hearings on this type of approach. There was insufficient occasion for consideration of this subject because no bills had been introduced into the Congressional legislative hopper until this June. It was a subject which was studiously and deliberately avoided by advocates of firearms control legislation, until this June.

There was some testimony before the Subcommittee on Juvenile Delinquency, after introduction of bills this year, but it was not extensive and it was very unsatisfactory.

There are constitutional and legal problems and obstacles pointed resulting from the Supreme Court's Haynes decision invalidating certain aspects of registration under the National Firearms Act of 1934. An effort is being made in title II of the bill now before us to meet the requirements of the Haynes case.

It would be untimely and premature to attempt a complicated Federal registration program involving as many as 40 to 50 million people owning an estimated 100 to 200 million firearms and located in 50 States, until this cloud over the Haynes case is removed. This legislation is highly controversial. It is strongly opposed by interested groups. The conflicting testimony of administration witnesses failed to show the administrative machinery or procedures which would be required to support such a system. There was not a satisfactory showing of the cost of such a program nor of the personnel that would be required to enforce it.

It is feared that an effort of the National Government to get into local police work, as would be required to enforce this law, would be a reenactment of the prohibition statute of over 50 years ago which fell under its own weight.

So far, my remarks have been limited to the prematureness, the untimeliness of our consideration of a bill of this kind. Now, when we get into the matter of policy and the wisdom of such a law, I would say that it is doubtful such procedure would serve any useful law-enforcement purpose.

The testimony and statements of the Senator from North Carolina [Mr. ERVIN], it seems to me, are deserving of most serious consideration. After all, here is a man who spent over a quarter of a century as a practicing attorney, as a trial judge, and as an appellate judge. He testified that there is very little, if any, connection between this type of bill and law enforcement generally.

Federal licensing and registration together with heavy penalties for violation, in spite of what its advocates say, would place an unduly oppressive burden upon tens of millions of law-abiding owners of guns who use them properly, legally, and beneficially.

The likelihood of potential harm was pointed out for such a program as furnishing a means of inviting harassment of law-abiding persons without in any way furnishing a deterrent or any effective prevention of misuse of firearms by those criminally disposed.

It is said that this is a simple thing. That the requirements can be handled by mail and therefore there will be no real inconvenience.

What we are considering is not simply a matter of registering a gun and getting a license. There is a tremendous turnover of firearms. Sometimes it is done in the most informal way, among neighbors, among hunters, among fellow gun club members. Compliance with this law will require a constant keeping up to date and, neglecting to do so will visit upon the individual harsh and oppressive penalties.

The problem of adequate staffing to assure effective enforcement would be gigantic and very difficult.

The administration of this law would force the National Government to exercise police power on a scale heretofore unknown except in the case of the national prohibition of alcoholic liquors with its ill-fated history.

This type of licensing and registration would be better left to the State and municipal authorities, which have better means of enforcement.

A national law would not provide the

flexibility required, because of the vastly different circumstances and conditions prevailing in the 50 States.

Mr. President, it is my hope that this amendment will be decisively rejected by this body.

I yield back the balance of the time I allocated to myself for these remarks.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. Mr. President, I yield 5 minutes to the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, first of all, during this debate and on other occasions reference has been made to the accessibility of firearms as a contributing factor to our spiraling crime rate. It has been said that there is no such relationship and reference has been made several times to the list of so-called crime factors in the Uniform Crime Reports of the FBI which does not refer to firearms.

I would like to point out to my colleagues that the availability of firearms as major crime tools has been mentioned in the FBI Uniform Crime Reports since at least 1963. With particular emphasis on murders committed among families and friends and on murders in regions of the country where firearms control laws are relatively lax, the reports from 1963 through 1967 document beyond any question the direct correlation between ease of acquiring a gun and the use of guns to maim and murder.

In 1963 on page 7 of the crime reports, Mr. Hoover says unequivocally:

The easy accessibility of firearms and the lethal nature of a gun are clearly apparent in these murder figures.

And in the 1964 report he reiterates:

A gun, because of its accessibility and lethal nature, makes murder easy.

Mr. President, for the careful study of my colleagues who will be voting on the provisions to limit accessibility of weapons to every crook and assault artist and potential murderer, I ask unanimous consent that the sections on murder and criminal homicide in the crime reports from 1963 through 1967 be printed at this point in the RECORD.

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

[From Uniform Crime Reports, 1963, p. 7]

A firearm was used in 56 percent of the willful killings, a knife or cutting instrument 23 percent, personal weapons 9 percent, blunt objects 6 percent and the remainder other weapons or type of weapon unknown. The use of a firearm as a weapon was up 4 percent over 1962. The use of weapons in murder varies by geographic region, city, suburban and rural areas. In 1963 firearms accounted for 53 percent of the murder in American cities, 62 percent in the suburban area and 68 percent of the rural area. By region, a firearm was used in 37 percent of the killings in the Northeast, 53 percent in the Western States, 56 percent in the North Central States and 64 percent of the murders in the Southern States.

The easy accessibility of firearms and the lethal nature of a gun are clearly apparent in these murder figures. When assaults by type of weapon are examined, a gun proves to be seven times more deadly than all other weapons combined. Over 60 percent of the willful killings within the family unit, 31 percent of all murders, were committed with firearms. In this category the lowest incidence of a firearm used as a murder weapon involved parents killing children. A gun was used in these situations in 29 percent of the fatalities. However, examining these deaths more closely we find that for victims under 5 years of age a gun was used in 13 percent of the killings. For victims over 5 years of age a gun was used in 62 percent of the incidents. It is reasonable to assume that just as many attacks were made on the older children with other weapons but these percentages suggest the lethal nature of a gun. Likewise, in altercations outside of the family where victim and assailant were for the most part acquainted, a gun was used in 57 percent of the killings. Within this group, such as lovers' quarrels, a gun was used in 66 percent of the murders, drinking situations 54 percent, altercations over money and property 67 percent and revenge 76 percent. Felony murder was 44 percent by gun. This proportion was influenced downward by the number of sex killings which concluded with the use of a gun in only 16 percent of the incidents. Otherwise, the vast majority of felony murder was by gun.

[From Uniform Crime Reports, 1964, pp. 6–7]

CRIMINAL HOMICIDE

In this Program murder and nonnegligent manslaughter include all willful killings without due process of law. There are two types of justifiable killings which are not included; namely, a police officer or a private citizen killing a felon. In 1964 the number of willful killings increased 8 percent over the previous year. The national murder rate was 4.8 killings per 100,000 persons. There were 9,250 victims of murder, the highest number since the postwar year of 1946. This annual increase in murder, 1964 over 1963, was the sharpest trend for this crime in recent years.

Murder occurs in a seasonal pattern; that is, more frequently in the summer months of the year. On a monthly basis this is generally true with the usual exception of December. The seasonal pattern for murder is common in the city, suburban and rural areas. It was noted in last year's publication that December, 1963, for the first time in 10 years was sharply below the annual average. In 1964, December again was the peak month for this offense. Murder per unit of population was highest in the Southern States and in our large population centers. In 1964 increases were reported in all cities, large and small, when grouped by population size and also in suburban areas. Rural areas showed a decrease.

In 1964, 55 percent or 5,090 murders were committed with firearms. A knife or other cutting instrument was used in 24 percent of the willful killings; personal weapons, that is, beatings, strangulations, etc., in 10 percent; blunt objects 5 percent; and the remaining 6 percent were committed with other weapons such as poison (1/10 of 1 percent), arson, explosives, etc. A gun, because of its accessibility and lethal nature, makes murder easy. Firearms were used in 57 percent of the suburban murders, 65 percent of the rural killings and 53 percent of those occurring in cities. Regionally, guns were used in 35 percent of the murder in the Northeastern States, 53 percent in the Western States, 57 percent in the North Central States and 64 percent in the Southern States. When examined by motive or circumstance, guns predominated in all murders except sex killings wherein personal weapons, i.e., hands, fists, feet, etc., and stabbings were most common. The handgun was used in 70 percent of murder by firearms, the shotgun in 20 percent and the rifle and other weapons in 10 percent.

[From Uniform Crime Reports, 1965, pp. 6–7]

CRIMINAL HOMICIDE

In the Uniform Crime Reporting Program, murder and non-negligent manslaughter include all willful killings without due process of law. There are two types of justifiable killings which are not included; namely, the killing of a felon by a police officer or by a private citizen. In 1965 there were 9,850 willful killings, a 6 percent increase over 1964. Since 1960 this serious offense has increased 9 percent. The national murder rate was 5.1 killings per 100,000 persons in 1965.

Murder follows a seasonal pattern; that is, it occurs more frequently in the summer months. The exception to this is December which again in 1965 was high for the year. Murder per unit of population was highest in the Southern States which reported a 5 percent increase in volume. Murder in the Northeastern States was also up 5 percent, North Central States up 9 percent, and the Western States 11 percent. In 1965 cities in the 100,000 to 250,000 population group reported the highest percentage increase, up 10 percent, while murder in the suburbs rose 5 percent. Willful killings in the rural area, which had decreased in 1964, rose by over 11 percent in 1965.

In 1965, 57 percent or 5,634 murders were committed with firearms. A knife or other cutting instrument was used in 23 percent of the willful killings; personal weapons, such as beatings, strangulations, etc., in 10 percent; blunt objects, 6 percent; and the remaining 4 percent were committed by other means such as by arson, poisons, explosives, etc. When viewed by geographic regions, the use of a gun in murder followed the same experience as prior years. A firearm was used in 38 percent of the willful killings in the Northeastern States, 60 percent in the Western States, 61 percent in the North Central States, and in 66 percent of the killings in the Southern States.

Circumstances or motives surrounding these willful killings indicate the extent to which this crime is generally beyond police control. Conditions that breed murder—social, human and material—vary widely from one area to another. In 1965 killings within the family made up 31 percent of all murder. Over one-half of these involved spouse killing spouse and 16 percent parents killing children. Murder outside the family unit, usually the result of altercations among acquaintances, made up 48 percent of the willful killings. In the latter category romantic triangles or lovers' quarrels comprised 21 percent and killings resulting from drinking situations 17 percent. Felony murder, which is defined in this Program as those killings resulting from robberies, sex motives, gangland slayings and other felonious activities, made up 16 percent of these offenses. In another 5 percent of the total police were unable to identify the reasons for the killings; however, the circumstances were such as to suspect felony murder.

In those murders occurring within the family unit, a gun was used as the weapon in 59 percent of the cases, likewise, a firearm was used in 58 percent of the killings involving arguments between acquaintances. A gun was used in 49 percent of the felony murders.

[From Uniform Crime Reports, 1966, pp. 6–7]

NATURE OF MURDER

Through the use of a supplemental report, details are collected on murders to obtain data on age, sex and race of the victim, the weapon used to commit the offense, and the circumstances or motive which led to the crime.

In 1966, murder victims were 3 to 1 male, the same ratio as in 1965. Forty-five of every 100 victims were white and 54 were Negro. The remaining 1 percent was distributed among Indian, Chinese, Japanese and other races. By age it is found that 6 of every 10 murder victims were between 20 and 45 years of age with the largest number, 13 percent, falling in the 20–24 age group. Nationwide, the ratio of arrests for murder was more than 5 males to 1 female.

Firearms continue to be the most common weapon used in murder, as illustrated in the accompanying chart, with 60 percent of the 1966 criminal homicides resulting from the use of a firearm. This is an increase from 58 percent in 1965. Cutting or stabbing weapons were used in 23 percent of the murders, personal weapons in 9 percent, and other weapons, including blunt objects such as hammers and clubs, poison, arson, explosives, drowning, etc., in 8 percent.

Murder by type of weapon used, 1966

	Percent
Handgun	44
Rifle	7
Shotgun	9
Cutting or stabbing	23
Other weapon (club, poison, etc.)	8
Personal weapon (hands, fists, feet, etc.)	9

[From Uniform Crime Reports, 1967, pp. 7–8, 113]

MURDER RATE

In 1967, there were 6.1 victims per 100,000 population, up from 5.6 in 1966, a 9 percent increase in the murder rate. Nationwide, cities with 250,000 or over population had a murder rate of 11.9 per 100,000 population, up 20 percent over 1966. In the suburban areas the rate was 3.3, an increase of 10 percent over the prior year, while the rural areas had a rate increase of 4 percent to 5.9.

The number of murder victims in proportion to population was highest in the Southern States where the rate 9.4 was 6 percent above 1966. In the Western States the rate of 4.9 was 14 percent over 1966 and the North Central States with a rate of 4.9 was up 11 percent. The rate of 4.1 in the Northeastern States was 14 percent higher than the 1966 rate of 3.6.

NATURE OF MURDER

Through the use of a supplemental report, details are collected on murders to obtain data on age, sex and race of the victim, the weapon used to commit the offense, and the circumstances or motive which led to the crime.

In 1967, the murder victims were 3 to 1 male, the same ratio as in 1966. Nationwide, the ratio of arrests for murder was more than 5 males to 1 female. Forty-five of every 100 victims were white and 54 were Negro. The remaining 1 percent was distributed among Indian, Chinese, Japanese and other races. By age, it is determined that 6 of every 10 murder victims were between 20 and 45 years of age with the largest number, 27 percent, falling in the 20 to 29 age group.

Firearms continue to be the predominant weapon used in murder, as illustrated in the accompanying chart, with over 63 percent of the 1967 criminal homicides resulting from the use of a firearm. This is an increase of 17 percent in the use of guns over 1966. Cutting or stabbing weapons were used in 20 percent of the murders, other weapons, including blunt objects such as hammers and clubs, poison, arson, explosives, drowning, etc., in 8 percent, and in the remaining 9 percent of the murders, personal weapons such as hands, fists and feet were used. Firearms were the most predominant murder weapons in the Southern States, used in over 7 of every 10 homicides. Cuttings or stabbings were the highest in the Northeastern States in over 3 out of each 10 slayings, while blunt objects or other dangerous weapons were used more often in the Western States than in any other geographic region. The use of personal weapons resulting in strangulation, etc., was highest in the Northeastern States and lowest in the Southern States. Since 1964 murder with the use of a firearm has risen 47 percent, a cutting or stabbing instrument 7 percent, a club or other blunt object 13 percent, and personal weapons 10 percent. Table 22 sets forth the percentage of murder by the use of firearms by state for the years 1962–1967.

Murder by type of weapon used, 1967

	Percent
Handgun	48
Rifle	6
Shotgun	9
Cutting or stabbing	20
Other weapon (club, poison, etc.)	8
Personal weapon (hands, fists, feet, etc.)	9

Region	Murder, type of weapon used—(percent)			
	Firearms	Knife or other cutting instrument	Blunt object, club, etc.	Personal weapons
Northeastern States	44.3	31.8	10.1	13.8
North Central States	65.9	17.8	6.9	9.4
Southern States	72.2	17.3	5.5	5.0
Western States	59.2	17.1	11.9	11.8
Total	63.6	20.0	7.7	8.7

TABLE 22.—PERCENT MURDER BY FIREARM B', STATE 1962 THROUGH 1967

State	Total number of murders	Percent by use of firearm
Alabama	2,166	63.5
Alaska	130	62.1
Arizona	531	66.3
Arkansas	855	69.1
California	4,857	52.3
Colorado	501	60.3
Connecticut	303	46.5
Delaware	170	57.4
District of Columbia [1]	788	47.2
Florida	3,132	67.8
Georgia	2,811	68.7
Hawaii	109	48.6
Idaho	132	68.2
Illinois	3,721	57.0
Indiana	991	64.5
Iowa	222	64.7
Kansas	423	66.1
Kentucky	1,158	77.3
Louisiana	1,728	63.5
Maine	95	47.0
Maryland	1,402	51.3
Massachusetts	712	39.9
Michigan	2,073	52.4
Minnesota	312	58.6
Mississippi	1,197	69.1
Missouri	1,586	67.1
Montana	97	70.3
Nebraska	187	67.0
Nevada	221	67.6
New Hampshire	86	63.1
New Jersey	1,310	41.2
New Mexico	360	65.2
New York	4,835	34.9
North Carolina	2,385	70.2
North Dakota	46	29.0
Ohio	2,350	63.6
Oklahoma	776	62.8
Oregon	322	59.4
Pennsylvania	2,173	43.9
Rhode Island	82	34.1
South Carolina	1,539	74.1
South Dakota	88	61.5
Tennessee	1,642	67.1
Texas	5,104	70.7
Utah	124	74.1
Vermont	26	83.3
Virginia	1,763	63.1
Washington	460	55.4
West Virginia	459	64.0
Wisconsin	391	59.3
Wyoming	84	55.4
Total	59,015	58.2

[1] Includes murders reported by Park Police in Washington, D.C.

Mr. DODD. Mr. President, with reference to the concept of registration, let me say that the great thing that registration will do, as the Senator from Maryland has pointed out, is to let the law enforcement people know where the guns are. I do not expect, and I am sure the Senator from Maryland does not expect, that the hoodlums, the criminals, the shoddy characters will come forward. Perhaps some will, but I doubt it. Anyway, we will be able to determine the location of the tremendous number of guns that we know are at large in this country. The good citizen will come forward. Over 300,000 have in Chicago. The good citizen will either turn in his gun, register it, or have it known that he has a gun.

I cannot understand the attitude of good people who say they do not want to register their firearms. As has been repeatedly pointed out, we register many other things. Why should a person not want his ownership of firearms known? I think he would want it known for his own protection. He would want it known that he has this or that type of gun and he would want to reveal its serial number and its make, and have that information on file with the law enforcement authorities.

This will be a great tool in reaching out to cut down the terrible, growing, rising crime rate in this country, with robberies, assaults, murders, and violence of all kinds being committed with guns. It is insane. This amendment is one thing we can do to try to curb firearms crimes.

What is the great inconvenience? Nothing at all. Anyone who is law abiding should step forward and say, "I have this gun or I have that gun; here is the information on it; I am glad you have it." If anybody steals the gun, there will be no question about the fact that he did not commit the crime because he has complied with registration requirements and made known the theft to the authority.

I believe it was the Senator from North Carolina [Mr. ERVIN] who said that in the murder of our beloved colleague Senator Robert Kennedy, such registration would not have had any effect. That just is not accurate. If we had a registration requirement, the transfer of the weapon, whether by gift, sale, or in any other way, would have had to have been recorded with the law enforcement authorities.

When Sirhan got his gun from another member of his family, it had been four times removed from the original purchaser. The law enforcement people would have known about it if this proposed law had been in effect.

Do I say that such a law would have precluded or prevented altogether the terrible tragedy that took place in Los Angeles? I do not say that. I say at least we will have some grip on the problem and we will be doing better than we are doing now, without any grip at all.

Everyone admits that hundreds of weapons are flooding into the country. We do not know who gets them or where they are. Many States have lax laws, as has been pointed out. Of course, it is no good to have a good law in New York or Connecticut or Rhode Island or Massachusetts or other States if criminals can go outside the States and buy them freely. The Commission of Safety of the State of Massachusetts testified at our hearing about the great problem they have in Massachusetts with respect to the traffic in guns bought outside the Commonwealth of Massachusetts by

criminals and then brought back into the Commonwealth. As a result there is a high incidence of crime committed with weapons procured outside of Massachusetts, where the law is very good.

I commend the Senator from Maryland. We must accept his proposals. It will not do us any good to have a weak, ineffective law. I am sure we have done some good, but we have not done enough. What is the sense of only partially accomplishing the task and allowing criminals, hoodlums, and the like to harbor these weapons and go out and commit more crimes? Let us get a record of where the weapons are and who has them and make a beginning at ferreting out those who should not have them. It is little enough to ask.

The PRESIDING OFFICER. Who yields time?

Mr. COOPER. Mr. President, will a Senator in charge of the time yield me 1 minute to ask two questions?

Mr. HRUSKA. Mr. President, I yield 1 minute to the Senator.

Mr. COOPER. I call attention to page 8, relating to disposition of firearms. Is there anything in the amendment or the bill which provides for confiscation of weapons? What does that section mean?

Mr. TYDINGS. Mr. President, I yield myself 1 minute. There is nothing in the bill which provides for confiscation of any firearms from any law-abiding citizen. However, the bill provides that after September 1, 1971, no convicted felon, a person who has been committed by a court for narcotic addiction, alcoholism, or mental incompetency will be eligible to have a permit for a firearm, and no person will be permitted to keep a firearm who does not have a permit. This would be effective in 1971.

Therefore, convicts, felons, or persons who had been institutionalized would be required to surrender their firearms and would be entitled to receive just compensation for them.

Mr. COOPER. Assume that within the 180-day period following the effective date of the bill or act a person having a firearm did not meet the qualifications or regulations to have one, even on the basis of age, for example. What would happen to the firearm of a person who was not legally competent or did not meet the requirements?

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

Mr. HRUSKA. Mr. President, I yield 2 additional minutes to the Senator.

Mr. COOPER. Would he be required to surrender the firearm?

Mr. TYDINGS. As I say again, this would be effective in 1971. If a State or local community had not enacted a gun permit section, which automatically would pre-empt, at that time it would be illegal for some persons to be issued permits, and it would be illegal for them to have firearms without such permits. As I have said, at that time, the convicted felon, narcotic addict, or mentally incompetent would either transfer his firearms to someone else—and if it were a juvenile I would assume he would give it back to his father or whoever gave it to him until such time as he was of age—or turn his firearm in.

Mr. COOPER. I just want to have the record clear. This section speaks of voluntary surrender; but if a person has in his possession a firearm, and that person is not eligible, under the act, to have such possession, does this mean that there is a procedure worked out for the confiscation of his weapon? The amendment speaks only of voluntary surrender of his weapon.

Mr. TYDINGS. There would be a procedure set up for that person, for example, to the convicted felon, to turn in his firearm. Probably, as a practical matter, by that time he would have disposed of it, or sold it, but there would be an administrative procedure worked out whereby he could surrender the firearm and receive just compensation for it.

Mr. COOPER. I am not trying to argue the merits of the thing, but as I read this proposal, that person, continuing to possess, the weapon, would, of course, be subject to a criminal penalty.

Mr. TYDINGS. That is right.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOPER. But I still say there is nothing in this bill.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I will yield 1 more minute, but that will be about my limit.

Mr. COOPER. I think it is unclear as to whether or not there is any right of confiscation provided, other than voluntary surrender.

Mr. TYDINGS. There is no provision for confiscation. It does make it illegal for a convicted felon, or persons in the categories I have described, to possess firearms after September 1971, without a permit. It does provide, if such person will voluntarily turn in his weapon, machinery for compensation, but there is no machinery provided for confiscation of the firearm. It only makes it illegal for him to possess it without a permit. There is no machinery provided of any kind for confiscation.

Mr. HRUSKA. Mr. President, I yield myself one minute to ask the Senator from Maryland this question:

Title VII of the omnibus crime bill already prohibits a felon from having a gun, does it not? A man who has been convicted or served time on conviction of a felony is barred from having a gun, is he not?

Mr. TYDINGS. Is the Senator referring to the Long amendment?

Mr. HRUSKA. Yes.

Mr. TYDINGS. The Senator is correct.

Mr. HRUSKA. What does this add?

Mr. TYDINGS. You can have all the laws in the world on the books making possession illegal, as we have laws now in many States making it illegal to carry a concealed weapon; but if you permit any hoodlum, no matter how dangerous, to purchase a firearm without a permit——

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. TYDINGS. Of course, the whole thrust of this legislation is to limit the access of criminals to firearms.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I have asked for this time for a very specific purpose. I believe that the arguments have been made very thoroughly by the Senator from Maryland, the Senator from Connecticut, and others, with respect to the details of registration and licensing, which I support and in which I thoroughly believe.

What has not been answered adequately, and why I have asked for the the time to do so, if I can, therefore, is the disquiet among hunters and sportsmen, which I have found upstate in my State, in campaigning there, which is very real, but which is completely misplaced and misguided.

What they fear is not what is in this bill. Of course, they do not know that automaticity of license issuance is provided, and that registration just means filling out a postcard, as you do to say you are going to attend the next American Legion meeting.

But even assuming they know that, they are still afraid. Of what? They are afraid of what we are going to do, not in this bill, not on registration and licensing, but what we are going to do with what they think is the precedent set by this bill. That is what the National Rifle Association and all the other lobbies are scaring them with—that we are going to confiscate weapons, that we are going to tax the issuance of the license, and that even if we tax it as much as an automobile, they think that is a crushing burden—perhaps they are right about that—or that we are going to do something else which will interfere with their ownership and utilization of those weapons in the normal way.

I believe that the more of us who rise on this floor and make it crystal clear that this is no precedent for any such thing, that we do not have confiscation or taxation in the back of our minds, the more reassuring to such persons it would be. We are over 21 and if we like this bill we will pass it, if we humanly can; and if we do not like some other bill that somebody else brings in, that seeks to charge a fee or places some other encumbrance upon the normal use of a weapon by a hunter or sportsman, we will vote against it. After all, we kill many things here in committees, by filibuster, or simply by voting against them or tabling them.

I feel that the real key issue now in this matter is the degree of such reassurance we can give. These men are not afraid of what is here, or should not be, but they are afraid of what it may lead to; and I think they are entitled to the most solemn reassurance that the chairman of the committee or the sponsor of any amendment can give them.

Mr. TYDINGS. Mr. President, I think the point of the Senator from New York is well made. I find the same thing on the eastern shore of my own State of Maryland, as well as in my home county. They fear that somehow this is a bill to tax them, to levy fees against them, or to take firearms away from the law-abiding sportsman, hunter, or homeowner.

As the Senator knows full well, that is completely false and specious. I own nine guns myself, one of which was handed down from my great grandfather. I love

to hunt. Shooting ducks and geese is one of my principal avocations in the fall, whenever I have time to get away. This love of hunting is something handed down to me and instilled in me by my father and my grandfather.

I shall never support any legislation designed either to tax legitimate, law-abiding hunters, sportsmen, or gun owners, or to confiscate weapons from law-abiding citizens—neither now nor any other time.

Mr. JAVITS. Or through a license fee?

Mr. TYDINGS. Or through a license fee. Originally, when I first introduced the amendment, it provided for a $1 minimum fee for the license. Because of the reasons pointed out by the Senator from New York, because of the fear existing, I took the fee out entirely.

As I told my senior colleague from Maryland [Mr. BREWSTER], who has had the same fears expressed to him, I would accept and support an amendment which specifically states that no tax or fee can be provided later, even though the history of the bill was clear, just to reassure sportsmen and law-abiding citizens.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TYDINGS. I yield myself 2 more minutes.

Mr. JAVITS. Will the Senator yield?

Mr. TYDINGS. I yield.

Mr. JAVITS. Representing, as I do, a State with both a large urban and a large rural population, it is perhaps clearer to me than to some Senators that this is really a city-rural issue. We did not think of gun registration, in fact we had no reason to, until we had 70 percent of our population in the cities, where every man cannot have a rifle hanging above his fireplace.

Therefore, if we favor this measure, it is because we think it is essential to the effort to get abreast of crimes in the cities; but we must, at the same time, give assurance to those who fear abuse of this precedent that as far as they are concerned, it will not be abused.

I thank the Senator very much.

Mr. DODD. Mr. President, will the Senator yield me one-half minute?

Mr. TYDINGS. I yield.

Mr. DODD. I think we should call it to the attention of the Senator from New York, in case that has been neglected, that yesterday afternoon, the colleague of the Senator from Maryland [Mr. BREWSTER] offered an amendment which expressly says that no government agency, including States, possessions, or political subdivisions, may legalize the confiscation of otherwise legally held firearms. We accepted that amendment, and it is now a part of this bill.

I join with the Senator from Maryland in his remarks about legitimate gun owners. I know a little about guns. I own four myself. It is against my disposition to be against hunters. I live among them. I have lived among them practically all my life.

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

Mr. TYDINGS. Mr. President, I yield 1 additional minute to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 additional minute.

Mr. DODD. So those who have put abroad these canards about our trying to take away from legitimate sportsmen their weapons are not telling the truth. We have gone to great lengths to make this clear.

I am glad that the Senator from New York has raised the question so that we can have the information in the RECORD.

I receive this criticism from my neighbors at home. They say, "What are you trying to do to us?" When I tell them about it, they understand. However, there has been so much falsehood about the bill that, as the Senator from New York has said, we need to emphasize our position on every occasion.

Mr. JAVITS. Mr. President, will the Senator join with the Senator from Maryland in the pledge that this is not a hidden way in which we will ultimately levy a tax for a permit?

Mr. DODD. Of course I will. I have done it time and again. I do it now.

Mr. HRUSKA. Mr. President, I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, I thank the Senator from Nebraska, who is conducting such a detailed and fine analysis of the various amendments and the positions on the pending bill. I think he has done an outstanding job. He has analyzed this matter as carefully as anyone in Congress.

I want to say flat out that I am unequivocally opposed to the Tydings amendment. I have some very legitimate reasons.

The amendment calls for Federal registration and licensing without a fee. The anticipated costs of this have not even been set out. However, anyone can guess at the figures. I am sure it will be very expensive.

The second point is: By having this registration and licensing requirement, have we gained anything? What have we gained? How have we helped to control the number of crimes committed with guns?

It is self-evident that there is not a single criminal who will register his gun. Nor will he license himself. So the only people who will come under this requirement will be those who enjoy shooting and hunting. The only people that will be affected will be the honest citizens, those who seem to be the forgotten men in politics these days. They find themselves constantly under regulations which affect them and do not affect the very people we are trying to get at.

It seems to me that the particular type of proposal we have before us does not even approach the problem in the way in which we should approach it.

Let me cite an example. One month from now, toward the end of October, our deer and elk season opens in Colorado. The minute that season opens, 100,000 people will be in the Colorado mountains shooting deer and elk and bear and having a great time.

I heard the distinguished Senator from New York say that 70 percent of our population today lives in urban areas. Surely they do. There is no contradiction on that statement. However, many of these people go out and hunt and try to get out of the restrictive atmosphere they experience in these big urban centers. Are we going to put all of them under registration and licensing requirements? Are we going to say they have to comply with all of these rules and regulations before they can go out and enjoy themselves on a weekend?

I cannot see how that would help the situation in any way. It would not help us to control the number of crimes that are committed with guns.

I have been told time and time again by people in my State, and people from other States who have written me, that if the pending measure is passed, the situation will be very similar to that which was experienced during prohibition times. The crooks will continue to operate and get their guns anywhere they can. They will get guns by breaking into stores and stealing them, as they are doing at the present time.

The criminals will not register or license their weapons. The persons affected will be the ordinary, honest citizens.

It is self-evident that once we pass a measure of this kind, the expenses will increase. We will have to employ more people in the Justice Department to try to enforce the law. We will build up a great hierarchy in the Department of Justice. Before long it will be said that we need to charge a fee to register a gun.

It started that way in New York under the Sullivan law. It used to cost 50 cents to register a weapon in New York. Today it costs $20 to register a gun in New York City.

We will move in that direction if the bill is passed. We will do it, because there will be a drain on general taxpayers' funds in order to take care of the cost of the program. And sooner or later it will be argued that people who want to use guns should pay for the cost of the administration of the law.

We might as well recognize this now. I do not think the pending amendment gets at the problem we are trying to hit. I do not think it does the criminal any harm. I think it creates great problems for the honest person, the hunter, the man who likes to hunt or trap shoot.

I am unequivocally opposed to the amendment. I think it is a great mistake to move in this direction.

Mr. TYDINGS. Mr. President, I yield 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. DODD. Mr. President, I shall not attempt to reply to all of the arguments made by the Senator from Colorado. I think those arguments have been well answered already.

The Senator made a statement about the cost of administering the registration and licensing of firearms. I wonder if the Senator is aware of what our present crime situation costs the citizens of our country? The cost runs into the billions of dollars. For example, last year, just for stolen goods, the amount was $1.4 billion. I could go on and on. The

President's Commission on Law Enforcement and Administration of Justice added up the total cost of crime to America in 1966 and it came out to around $24 billion.

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

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

Mr. HRUSKA. Mr. President, I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 minute.

Mr. DOMINICK. Mr. President, I can understand that the Senator is probably correct in his figures. However, the question concerns the relevance between those figures and the pending bill.

Mr. DODD. I think the Senator was not present on the floor when I tried to point out that in the statement made by the Director of the Federal Bureau of Investigation, he said every year since 1963 that in his opinion there has been a great, material relationship between the accessibility of firearms and the crime situation in our country.

I do not know what better authority we could turn to. Mr. Hoover has been in this business for many years. He has the most efficient statisticians and crime analysts. I think everybody knows that. I certainly do.

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

Mr. TYDINGS. Mr. President, I yield an additional 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for an additional 2 minutes.

Mr. DODD. Mr. President, there is a relationship between the accessibility of firearms and the crime situation in our country. Every law enforcement officer that appeared and testified before our committee said that there is.

Mr. DOMINICK. Mr. President, the obvious way to solve that problem is to confiscate all outstanding guns.

Mr. DODD. No, it is not. I have never advocated that. I deny it. I do not want that done. We adopted an amendment yesterday that would prevent it.

What is needed here is to know where these guns are that have been brought into our country certainly since after World War I. We know there are millions of them. And many of those guns are in the hands of people whom the Senator does not want to have them. I would not want them to have those guns, and neither would anyone else.

How are we going to get them out of their hands? We cannot do it by confiscation. I do not believe that would be the right route. It would be fraught with so many injustices and wrongs that it should not be done. I do not think we should do that and I have never advocated it and never will.

I am asking that we take a reasonable step. Let us find out from the honest people, and perhaps from some of the dishonest ones, where these guns are. This way we will at least have a start. At least we will have that tool in our possession.

If a person is found in a car with an unregistered gun, he might have committed only a minor traffic violation. However, he would be guilty of an offense, because of the possession of that unregistered gun, that he would not be guilty of now. We might not catch him at homicide, but we will catch him with the possession of an unregistered weapon. He did not register his gun. He did not let anybody know he had it.

This is a beginning, and it will take some time. We will not solve this problem overnight. We have been building up these crime statistics for a long time. For years and years we have watched them grow and grow. Now we have an opportunity to do something about it. I say to the Senator, with all the earnestness I can summon, that we have been at this, as the Senator knows, for 7 years. We had better do something like this, or we will not effectively reduce the rising crime rate.

Three murders have been committed within two blocks of my front door in less than a year, and I live in what I thought was a fairly quiet neighborhood.

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

Mr. DODD. I yield.

Mr. TYDINGS. Is it not a fact that in our hearings on this matter, so far as effectiveness is concerned, we had witness after witness, law enforcement officers, begging us for this effective legislation?

On June 8, 1965, as recorded on page 473 of the hearings held by the committee of which the Senator from Connecticut is chairman, we inserted in the record, as exhibit No. 103, a telegram—I should like the Senator from Colorado to listen to this—from the Chief Deputy Attorney General of the State of California, Charles O'Brien:

> With regard to testimony on the effectiveness of gun regulations in California, please be advised that the State does not have general registration or licensing statute. However, the State department of justice does maintain a file of dealers' records of sales on handguns. This file has become one of the most valuable aids to law enforcement in the solution of gun crimes throughout the 58 counties of the State. Each day more than 250 urgent requests are received from police departments and sheriff's offices for a search of the files. Information extracted from the files has been credited by law enforcement with the solution of hundreds of felony crimes ranging from homicide to burglary. For instance, information from the file was instrumental, earlier this year, in solving one of the most brutal robbery-homicides in the history of the San Francisco Bay area, the shooting of Oakland busdriver Perseus Copeland. The murder weapon was dropped on the bus and although the original sale dated back to May 1960, police were able to trace the ownership through several hands and arrest the murder suspects, who had fled to Texas. George A. Thompson and his wife, Janette, are now waiting trial on charges of robbery and murder.
>
> Three weeks ago, the California Highway Patrol effected the arrest of Ronald D. Ritchie, a robbery and burglary suspect, by checking the State's file of recorded gun sales. Last Friday, the Hayward Police Department arrested a narcotic addict and suspected burglar, Allen Abrew, on information found in the files. The weapon found on Abrew had changed hands three times but tracing was possible through use of the files.
>
> The committee may also be interested to know the existence of such a file is known to have deterred the criminally minded from purchasing handguns in California. However, such persons have been able to make their purchases in an unrecorded manner in neighboring States. On occasion, such individuals have returned immediately to California and committed gun crimes.

I ask the Senator from Connecticut: Is not this the thrust of the testimony we have received from law enforcement officials throughout the Nation?

Mr. DODD. It is. It is exactly that. The record is replete with it. The Senator is absolutely correct.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). The time of the Senator has expired.

Mr. DODD. I take 2 minutes on the bill.

I should like to add, for the interest of the Senator from Colorado—I know what a fine mind he has, and I have great respect for him—that we are not worried about the sportsmen. Registration is not directed at the good citizens, the good sportsmen, the men who like the outdoors and love to be in the beautiful State of Colorado. They are the decent people. But, as in so many other areas, we have the people who are not decent, who make it necessary to put restrictions on the rest of us because of the illegal activities in which they engage. This goes on through every segment of our society, with respect to almost everything I can think of, and that is why we must do it in this area of firearms. It is not directed at the sportsmen.

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

Mr. DODD. I yield.

Mr. DOMINICK. We already have laws in every State, and Federal laws, saying that murder is illegal; and if the perpetrator is caught and convicted, he can go to jail, he can be hanged, electrocuted, or otherwise punished. Murders still go on. We know that. The fact that a gun is going to be registered does not mean that it will stop murder.

Mr. DODD. No. I say with great respect that I have never said so, and I have never heard anyone else say so. But it will help. It seems intelligent to me to come to the conclusion that we have this criminal element in the country. We know they have guns and all types of deadly weapons; and we had better find out who has them and where they are, and not have this deadly arsenal of 200 million guns hidden from the eyes of law enforcement people.

At least, we can hope to reduce the incidence of murder. It will not stop it. I have never suggested that it would. It is another tool, another way to cut down the number of killings so that the people of this country can have some feeling of safety and security. One walks down the street and does not know what person has a snub-nosed pistol in his pocket. We will not stop it all but we will begin to get somewhere with it.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. I yield 3 minutes to the Senator from Maryland.

Mr. BREWSTER. Mr. President, I proposed an amendment to the basic amendment offered by my distinguished colleague from Maryland. My amendment would add very explicit language

in both title IV and title V of Senator TYDINGS' amendment. The wording would be exactly the same in each case. It reads as follows:

No taxes or fees shall be collected in connection with the enforcement of this title.

Yesterday, I pointed out that there is a fear on the part of many Americans that the gun control legislation we are considering today will result in the confiscation of legally owned firearms.

When I voiced this concern yesterday, the managers of the bill, very wisely, in my judgment, accepted an amendment that I proposed, together with the senior Senator from North Carolina, that would rule out the possibility of any confiscation. These same people, sportsmen, collectors, and others, are concerned about the possibility that their firearms will be taken away by the use of fees or taxes; that they will be priced out of the market. This is clearly not the purpose of the proposed firearm control legislation. It is not intended to be a revenue-raising measure. It is not an attempt to bar anybody from legally owning firearms or from using them.

Therefore, I believe it would be wise to end any fears that our fellow Americans may have by adopting this amendment which I have proposed.

The senior Senator from New York has already clearly stated the need for this proposal. I ask my colleague from Maryland if this amendment to his amendment is acceptable to him and urge my colleagues to support the clear prohibition against taxes and fees which I now offer.

Mr. TYDINGS. Mr. President, this amendment is acceptable, for the reasons outlined by the Senator from Maryland [Mr. BREWSTER], by the Senator from New York [Mr. JAVITS], and myself. My amendment, even without the addition, provides for no fee and no tax. However, in order to assure the many Americans who are sportsmen that it in no way can possibly be construed as a revenue-raising measure, I am happy to accept the amendment of my colleague from Maryland.

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

Mr. TYDINGS. I yield.

Mr. JAVITS. I am pleased that the Senator is doing that. As a lawyer, I believe he is right in his opinion that it is not vital. This fear is so widespread and so unreasoning, that we should dispel it in any way we can.

I say to Senator BREWSTER that the commitment by Senator TYDINGS, Senator DODD, and myself that this amendment not be used as an opening for a tax or a fee is important; and the senior Senator from Maryland implies the same thing in proposing his amendment. That is what these people are worried about, that this is just an opening which we are going to move at a later date with a tax or a fee.

The PRESIDING OFFICER. The Chair calls to the attention of the junior Senator from Maryland that he cannot accept the amendment pro forma, barring unanimous consent of the Senate. It would be in order only after all time has expired. Then there would be required action by the Senate for the adoption of the amendment of the senior Senator from Maryland, or the junior Senator from Maryland would have to get unanimous consent to so modify his amendment.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Nevada.

Mr. BIBLE. Mr. President, I rise in opposition to the amendment.

I am unalterably opposed to Federal registration of firearms and Federal licensing of the thousands of law-abiding people in my State of Nevada and the millions of sportsmen, hobbyists, and other responsible, law-abiding citizens throughout the Nation who cherish their right to keep arms without this kind of interference from the Federal Government.

This amendment is a misdirected attempt to combat the crime problems besetting our major cities.

My record of support for all effective measures to combat crime and in aid of just law enforcement in the United States is abundantly clear. I am not going to dwell on that.

I am convinced, however, that the proponents of this amendment claim too much for it. I have said before, and I say again: No gun control law, no amendment such as this, no matter how strict we write it, is going to keep guns out of the hands of criminals or would-be criminals. They will steal them, black-market them, smuggle them. They will even manufacture them if they have to.

Mr. President, I have noted the very fine statement on this matter last Friday by the distinguished Senator from Idaho. I commend him for it.

When we direct the Senate's attention to our way of life in the great Western States of this Nation, we are speaking on behalf of millions of our citizens.

Mr. President, the people of my State are perfectly capable of formulating and enforcing whatever gun controls, conditions in Nevada may at any time warrant. They object, and I object, strenuously to the imposition from Washington of a scheme of regulation and licensing supposedly geared to combating crime in the cities.

Mr. President, the people of Nevada do not claim the right to decide what gun controls are warranted in New York, California, and elsewhere in the Nation. We do claim the right to judge what restrictions should or should not be imposed in Nevada.

Firearms controls can be dealt with effectively by the States and cities of the country, depending on the special problems and conditions confronting each of them.

We must keep in mind that law enforcement in the United States is, and always has been a primary local responsibility.

Nevertheless, proponents of this gun registration and licensing amendment would compel the States to adopt their proposals, under an ultimatum that if the States do not do so, the Federal Government will then intervene to register the guns and license the gun owners.

This is an outright denial of our tradition in Nevada and throughout the Nation of local law enforcement. It would reverse the historical Federal-State relationship in this vital field.

Mr. President, the formulation and enforcement of gun controls is a matter that must take account of differing local conditions. I oppose the proposed Federal registration and licensing requirements, and urge that the amendment be disapproved.

Mr. HRUSKA. Mr. President, I yield 15 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I am opposed to Federal regulation of arms and Federal licensing of gun owners. To my way of thinking, we need effective law enforcement at every level of our Government rather than a proliferation of gun laws directed primarily at law abiding taxpaying citizens in this great Nation. A person who is bent on committing murder or robbery will certainly not hesitate to violate a gun control law in order to obtain a gun or to secretly store an unregistered firearm. I have yet to hear any reasonable assurance that we could be successful in getting the criminal element to register their guns.

It is the responsibility of Congress to see that any Federal legislation carefully considers the jurisdiction of the States and that of the Federal Government in this crucial area.

The States and local governments have the primary responsibility for keeping the peace. This responsibility includes the authority to enact and enforce gun legislation appropriate to their needs. Such legislation could provide for severe prison terms for persons committing crimes with a gun or for penalties for carrying a concealed weapon without a license or legal permission. The States even have the power to provide for registration of firearms, if deemed advisable. States and localities have law enforcement personnel to enforce gun legislation.

Law-abiding citizens should be allowed to keep guns in their homes for the protection of their families and property.

Existing State and local laws should be enforced vigorously.

The role of the Federal Government in gun control legislation should be limited to assisting States to enforce their laws by regulating interstate shipment of firearms. The use of interstate commerce to circumvent State laws should be prohibited.

Federal laws should regulate rather than prohibit interstate shipment of firearms. Federal law should make it illegal to ship a gun across State lines without an affidavit of eligibility from the purchaser and notification by the shipper to the chief local law-enforcement officer where the purchaser resides. Such officer should have a reasonable time in which to notify the shipper if the purchase violates State law.

A Federal system of gun registration and licensing would require a large Federal police force. A Federal police force could lead to a police state.

Conditions and traditions vary widely from State to State, and the needs of one State should not necessarily be imposed upon another. The Federal Government should take no measures which pressure

or require States to adopt uniform Federal standards.

Federal law should strictly regulate destructive devices such as bazookas and mortars, in the same manner as it now regulates machineguns, short-barreled shotguns, and short-barreled rifles.

Existing Federal laws should be enforced vigorously.

Although proper gun legislation is essential, the gun is merely an instrument of crime; the real cause of crime is criminals, who today are operating in an atmosphere of permissiveness and arrogance. Supreme Court decisions have severely handicapped the police in the apprehension of criminals and diminished the power of the courts to see that the guilty are punished.

The decline of law enforcement in the country is apparent from some shocking statistics: Only 1 lawbreaker in 8 is tried and convicted; of all persons arrested in 1966, 76 percent were repeat offenders. In Washington, D.C., harried police are able to arrest only one-quarter of the perpetrators of crimes, whereas a decade ago they caught one-half.

Just as shocking is the rate of criminal repeaters—lawbreakers who are turned loose to prey again upon society. A recent FBI study of some 18,000 convicts released in 1963 revealed that fully 55 percent had been rearrested for new offenses by June 30, 1966. Criminals are increasingly defying the law successfully, and public confidence in our administration of justice is diminishing.

Our crime and gun problem would largely come under control if conviction rates were doubled and sentences were more severe. The chief keys to the gun control problem are swift apprehension and certain punishment for those who violate the law.

Mr. President, we are all saddened by the large number of murders and other heinous crimes that are committed each year, but I have yet to see statistics that prove accessibility of firearms is the major cause for the increase in crime in our Nation. Even a casual reading of statistics in the 1967 FBI Uniform Crime Reports indicates there is a serious lack of effective law enforcement. On page 1 we read that—

> Over 3.8 million serious crimes reported during 1967, a 16 percent rise over 1966.

And that—

> Firearms used to commit over 7,600 murders, 52,000 aggravated assaults and 73,000 robberies in 1967.

Under the heading of "Careers in Crime," we note that—

> Study disclosed 60 percent of offenders released to the street in 1963 rearrested within four years; fifty-nine percent of the offenders released on parole were rearrested within four years; seventy-two percent of prisoners released early in 1963 after earning "good time" were rearrested; ninety-one percent of those persons acquitted or dismissed in 1963 were rearrested within four years.

Mr. President, again I wish to state that we do not need a proliferation of gun control laws and a Federal police force to enforce Federal regulation and licensing; we need firm effective law enforcement. I have in my hand a compilation of digests of gun laws prepared by the Library of Congress; it is 270 pages long.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Legislative Reference Service of the Library of Congress which indicates State requirements for carrying a concealed gun.

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

[From the Library of Congress]

STATE REQUIREMENTS FOR A PERMIT TO OWN OR PURCHASE A FIREARM AND THE COST THEREOF

The following is a list of the states that require either a permit to purchase a firearm or a license to carry or own one, or both a permit and a license. Provisions relating to the registration and licensing of machine guns are not included, as they are generally a separate category, and are often subject to relatively heavy licensing fees. When a state is not listed, its statutes do not specifically require either a permit to purchase a firearm or a license to carry one. Unless otherwise noted, licenses to carry listed below are not for each gun owned, but rather license the person.

Alabama. License to carry a concealed weapon required. $1/year. (14 § 177 Code of Alabama).

California. License to carry a concealed weapon required. $3/year. (Penal 12054. West's Annotated California Codes).

Colorado. "Authorization by proper authorities" necessary to carry a concealed weapon. No procedure or fee stated. (40–11–1, Colorado Revised Code).

Connecticut. License to carry a concealed weapon required. $2 for first application, $1/year thereafter. (29–30, Conn. General Statutes Annotated).

Delaware. License to carry a concealed weapon required. $2/year. (§ 11–461, Delaware Code Annotated).

District of Columbia: License to carry a concealed weapon required. Renewable every year, no fee fixed by statute. (22–3206, District of Columbia Code).

Florida. License required to carry a pistol or repeating rifle. Renewable every two years, and applicant must post $100 bond. (§ 790.06, Florida Statutes Annotated).

Georgia. License to carry concealed weapon required. $.50/3 years, and applicant must post $100 bond. (26–5105, Georgia Code Annotated).

Hawaii. All weapons must be registered, and prospective owner must have permit to purchase, but no fees may be charged for either registry or permit. (§ 157–3, Revised Laws of Hawaii).

Idaho. Person must have permit to carry a concealed weapon. Permits issued at discretion of police, no fee fixed by law. (18–3302, Idaho Code).

Illinois. To possess or purchase any weapon, person must have Firearms Owner Registration Card. The Card is valid for five years, and costs $5. (§ 38–83–4, Smith-Hurd Illinois Statutes Annotated).

Indiana. License to carry a concealed weapon required. $1/year. (10–4738, Burns Indiana Statutes Annotated).

Iowa. License to carry concealed weapon required. License valid for one year, no statutory fee fixed (§ 695.13, Iowa Code Annotated).

Maine. License to carry concealed weapon required. License good for period from issuance to end of calendar year, and next full year. No fee fixed by statute. (25 § 2031, Maine Revised Statutes Annotated).

Massachusetts. License to carry or possess any firearm required. This license required before weapon may be purchased. $2/2 years. (140 § 131 Massachusetts General Statutes Annotated).

Michigan. License to carry concealed weapon required. $3/year. Permit required to purchase a pistol, but no fee fixed by statute. (§ 28.422, Michigan Compiled Laws Annotated).

Missouri. Permit required to purchase any concealable weapon. Fee $.50. (§ 564.630, Vernon's Annotated Missouri Statutes).

Montana. Permit required to carry concealed weapon. No fee fixed by law. (94–3528, Revised Codes of Montana).

Nevada. Permit required to carry concealed weapon. No fee fixed by law. (202.340, Nevada Revised Statutes).

New Hampshire. Permit required to carry concealed loaded weapon. $2/2 years. Permit required to purchase handgun, no fee fixed by statute. (§ 159.6, New Hampshire Revised Statutes Annotated).

New Jersey. Permit required to carry concealed weapon. $3/year. Permit required to purchase any weapon. $2/year. (2A:151–44, New Jersey Statutes Annotated).

New York. All concealable weapons must be registered. In New York City the fee is fixed by the City Council, in the rest of the state the fee is from $3 to $5/year for the first weapon, and $1/year for each additional weapon. (Penal Law § 400.00, McKinney's Consolidated Laws of New York).

North Carolina. Permit required to purchase pistol. $.50. (14–404, General Statutes of North Carolina).

North Dakota. Permit required to carry pistol concealed or openly. Valid for 2 years, no fee fixed by statute. (62–01–08, North Dakota Century Code).

Oregon. Permit required to carry concealed weapon. $.50/year. (166.290, Oregon Revised Statutes).

Pennsylvania. License required to carry any concealed weapon. $.50/weapon/year. Permit required to purchase any concealable weapon, fee $.50. (18–4628, Purdon's Pennsylvania Statutes Annotated).

Rhode Island. License required to carry handgun on the person. Fee $2/year, plus applicant must post $300 bond. (11–49–8, 9, General Laws of Rhode Island).

South Dakota. License required to carry concealed weapon. $.50/year. (21.0107, South Dakota Code of 1939).

Utah. Permit required to carry concealed weapon, but no procedure or fee indicated. (76–23–4, Utah Code Annotated).

Virginia. License required to carry concealed weapon. Valid for 1 year, no fee fixed by statute. (18.1–269, Code of Virginia).

Washington. License required to carry handgun on the person. Fee $1/year. (9.41.070, Revised Code of Washington Annotated).

West Virginia. License required to carry concealable weapon. Fee $20/year, plus applicant must post $3500 bond. (61–7–2, West Virginia Code).

Wyoming. License required to carry concealed weapon. Duration of permit 3 years, no fee fixed by statute. (6–239, Wyoming Statutes).

Puerto Rico. License required for possession of any firearm except a hunting or target-shooting weapon. No fee fixed by statute. (Title 25, § 426, Laws of Puerto Rico Annotated).

Virgin Islands. All weapons must be registered. Initial fee $3/weapon for rifles or shotguns, $5/weapon for handguns. Subsequent re-registrations free. (Title 23, § 451, Virgin Islands Code Annotated).

Mr. THURMOND. Mr. President, I might also note that many of these statutes are being strengthened by the legislatures of the several States. The digest of my State is found on page 217. In South Carolina, it is unlawful for anyone to carry a pistol, whether or not concealed, with exception for certain authorized groups such as "law-enforcement officials," "armed forces personnel

on duty," and licensed hunters to and from the place of hunting. A pistol is defined as "any firearm designed to expel a projectile from a barrel less than 12 inches in length; but shall not include any firearm generally recognized or classified as an antique, curiosity or collector's item, or any that does not fire fixed cartridges or fixed shotgun shells."

What we need in this country is enforcement of our laws in a way that will be a deterrent to the criminal element. However, as long as the permissive attitude in this country is daily radiating from the White House, the Supreme Court, and yes, even from the Congress, no new gun law will reduce the rise in crime. In April we saw the spectacle of the poor people's campaign invade our Nation's Capital, and the Attorney General made a deal with them that no Park Police and no city police would enter their private domain set up at taxpayers' expense on taxpayers' land.

Mr. President, on July 31, 1960, Mr. Richard Nixon made some very appropriate remarks for our consideration today of Federal registration and licensing. He said:

> The ideal in a free society is that the chief deterrent to crime lies in the respect for law, in the respect for legitimate authority, in the respect for the rights of others that is the standard moral code of every citizen.
>
> But when the homes and schools and churches of a free society fail to inculcate those standards, or when the moral and opinion leaders of a nation fail in their role as commissioned watchmen of those standards, as they have failed in America in recent years, then the people must fall back for their safety upon police and prosecutors and courts.
>
> This is the last line of defense of a free people. It is these defenses that government patrols; it is these defenses that have crumbled before the rising tide of crime; it is these defenses that government must reestablish and rebuild.
>
> One paramount need is for the men of government at the national level to exert their moral authority to the limit, to marshall the armies of public opinion behind what can be nothing less than a militant crusade against crime. Another is for some recent notions in the administration of the law to be abandoned—and for some principles of justice to be re-established.
>
> Poverty, despair, anger, past wrongs can no longer be allowed to excuse or justify violence or crime or lawlessness.
>
> We must cease as well the granting of special immunities and moral sanctions to those who deliberately violate the public laws—even when those violations are done in the name of peace or civil rights or anti-poverty or academic reform.
>
> We must return to a single standard of justice for all Americans, and justice must be made blind again to race and color and creed and position along an economic or social line. Long ago in this country we buried the notion that the rich were above the law. Let us now lay to rest the equally deleterious doctrine that those who speak for popular or favored "causes" are entitled to favored considerations before the bar of justice.
>
> We must re-establish again the principle that men are accountable for what they do, that criminals are responsible for their crimes—that while the boy's environment can help to explain the man's crime, it does not excuse that crime.

Mr. President, a very good illustration of the selective law enforcement we have had under the present Attorney General is the antiriot amendment to the Civil Rights Act passed last March. This statute says that anyone who crosses a State line to incite, organize, promote, encourage, participate in, or carry on, a riot is subject to a fine of not more than $10,000 imprisonment for not more than 5 years, or both.

Despite the fact that riots have become so commonplace that they no longer make front page news, no one has been convicted under the act. The lack of convictions is not surprising, since the U.S. Justice Department has not even sought any indictments under the provisions of the law. This administration is apparently trying to maintain the fiction that all riots spring unassisted from so-called local grievances.

This fiction has been put severely to the test by the recent disturbances in Chicago. Thousands of agitators converged upon that city with the announced intention of inducing violence and interfering with the electoral process of our Nation. Doubtless many of them were misguided youths sincere in their convictions. However, sincerity is no excuse for criminal conduct and Congress has made it a crime to cross State lines to incite a riot.

The fact is that their intentions were spread across the press of this Nation. They went to Chicago, and proof of their presence is that they were arrested in Chicago. It would appear that many of the revolutionaries arrested in Chicago meet the necessary tests for prosecution under the Federal law.

Mr. President, I fear that the present bill, and especially the proposed amendment, if passed, would be selectively enforced under some administrations. As I said a number of times already, our most critical domestic need is effective law enforcement. The chief keys to the gun control problem and other crime problems are swift apprehension and certain punishment for those who violate the law.

I would like to say that I think the attempted analogy of State registration of cars and Federal registration of firearms is ridiculous. State registration of cars has the effect of encouraging orderly Government and highway safety, and Federal registration of firearms has the effect of encouraging more centralized government to suppress individual freedom and a much larger Federal police force.

I hope that the Senate will reject amendment No. 947.

Mr. HRUSKA. Mr. President, I now yield 5 minutes to the distinguished Senator from Mississippi [Mr. EASTLAND].

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. EASTLAND. Mr. President, it is instructive to consider the tactics and strategy of those who would control human nature by the passage of Federal legislation. Regardless of what Congress does to appease their demands in any given area of legislation, those who would control the human heart by passing another law always return to the next Congress to demand even more sweeping laws. Their complaint is always that although the law enacted by the previous Congress has slightly improved the situation, that law has not been "effective" in correcting the evil, and that, thus, a more "effective law" is needed at once.

It can be predicted with some degree of certainty that if this Congress enacts S. 3633, which deals primarily with the interstate transportation of long guns, that among the first bills to be introduced at the beginning of the 91st Congress will be one providing for strict Federal registration and licensing of all guns. The supporters of such a bill will say that although Congress has enacted S. 3633, Americans are still killing each other with guns. They will not give S. 3633 a chance to work, but will immediately call for strict registration and licensing laws.

It can be further predicted with some degree of certainty that if the 91st Congress does enact such registration and licensing laws, then no later than the 92d Congress some of these same people will be demanding that Congress enact laws to confiscate, perhaps with compensation, all guns owned by American citizens. They will be able to show that despite enactment and operation of Federal registration and licensing laws Americans are still killing each other with guns. The only ultimate solution to this problem, they will claim, will be to take away all such deadly weapons from the people.

Supporters of such confiscation legislation will undoubtedly be able to cite many horrible instances in which persons have been able to commit murder with guns which have been registered and licensed; and they will cite instances of persons who have evaded the licensing and registration laws. This will be the cry used as a basis for supporting the enactment of Federal confiscation laws.

Mr. President, let no one be mistaken about the ultimate objective of those who favor "gun control" laws. Although there are few who will presently concede their ultimate goal is the enactment of confiscation laws, there can be little doubt that in the future there will be many who will support such legislation.

This is reason enough to oppose the enactment of S. 3633.

Moreover, Mr. President, I am strongly against the Federal Government disarming the law-abiding citizens of this Nation who own guns for self-defense, sporting purposes, and other lawful purposes. It is shameful for a government to fail to meet the most basic responsibility to the citizen. It is shameful that a government fails to provide protection from violent and unlawful attacks on his person and property. And now this Government—through this law—would demand that such citizen give up his chief means of protecting himself and his property. This would leave the law-abiding majority at the mercy of the lawless and violent persons who have no intention of obeying any Federal gun control laws.

Mr. President, I do not believe that the facts justify the enactment of S. 3633. This Congress has previously enacted

title IV of the Omnibus Crime Control and Safe Streets Act of 1968, which deals with the interstate shipment of handguns. Figures provided by the Federal Bureau of Investigation show that the weapons used in the commission of homicides during 1967 may be broken down in the following percentages:

Handguns	48
Cutting and stabbing	20
Shotguns	9
Rifles	6
Personal weapons	9
Other weapons	8

Thus, in 1967, slightly over 76 percent of all gun homicides were committed with handguns. It is apparent that Congress has already dealt with 76 percent of the gun problem.

In my judgment, the proper way for Congress to legislate in this field would be to wait and see how title IV affects the handgun situation before enacting similar legislation as to long guns.

These figures also show that the enactment of S. 3633 at this time would be a disregard of priorities in the field of Federal control of deadly weapons. The leading weapon in the commission of homicides is handguns, and Congress has already dealt with that subject. The second leading weapon in the commission of homicides is not long guns, but it is knives. Shotguns and rifles together account for 15 percent of all homicides, but knives account for 20 percent. If Congress wishes to deal further with the problem of controlling deadly weapons, it should first act to control long-bladed knives, then act to control long guns.

It is known that organized gangs of criminals, as well as individual criminals, roam large sections of our cities armed with switchblade knives and other long-bladed knives and use these weapons to attack innocent citizens. This is a particularly horrible form of criminal activity, and the weapons used by these criminals to perpetuate it should be controlled before weapons used by the innocent for self-defense and sporting purposes are controlled.

Mr. President, it would be harsh and unjust to subject the owners of rifles and shotguns to Federal registration and licensing laws. The vast majority of the owners of such weapons use them for legal and beneficial purposes, such as for protection and sporting purposes. These people should not be treated as potential criminals.

There can be no doubt but that the application of stringent registration and licensing laws to owners of long guns would greatly decrease hunting and other sporting activities. Many owners of such weapons would decide that it is not worth the trouble of registering each weapon and receiving a license therefor.

In this connection, we should consider the great contribution that hunting makes to the economy of the Nation.

The Bureau of Sport Fisheries and Wildlife, of the U.S. Department of the Interior, published an official survey on this subject for the year 1965—this is the most recent official survey. This survey shows that in 1965 hunters spent $1,121,135,000 on hunting activities. This enormous sum can be broken down as follows:

Food	$115,908,000
Lodging	21,444,000
Automobile transportation	156,666,000
Transportation by bus, rail, air, and water	11,672,000
Auxiliary equipment:	
Boats and boat motors	29,305,000
General	96,267,000
Hunting equipment	397,269,000
Licenses, tags, and permits:	
Licenses, tags, and permits	68,160,000
Duck stamps	3,810,000
Privilege fees and other:	
Annual lease and privilege fees	15,185,000
Daily entrance and privilege fees I (daily fees for hunting on commercially operated preserves)	9,260,000
Daily entrance and privilege fees II (daily fees for hunting on wild lands)	9,530,000
Guide fees and other trip expenses	23,165,000
Dogs	146,474,000
Other	17,017,000

These are 1965 figures, the most recent official figures available. It can be stated with confidence that these figures have increased considerably since 1965. We should not lightly jeopardize the enormous economic contribution made to this Nation by the hunters and sportsmen.

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

Mr. DODD. Mr. President, I yield 4 minutes to the Senator on the bill.

Mr. EASTLAND. Section 924(a) provides as follows:

> Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shal be fined not more than $10,000 or imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

This is a highly unusual penal provision on its face, because although heavy felony penalties are provided, there is no requirement that a violation of any provision of the bill must be knowingly or willfully committed in order to constitute a crime. It simply says "whoever violates any provision of this chapter" shall be punished with heavy fine and/or imprisonment. The only requirement that an act be done knowingly in order to constitute a crime pertains to the making of false statements in applications for licenses and records.

It is elemental criminal law that an act must be done with guilty knowledge or intent in order to be punishable as a felony. This is not true as to misdemeanor offenses.

Let us briefly examine the provisions of the bill, violations which are committed knowingly or unknowingly, willfully or unwillfully, are to be punished as a felony.

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

Mr. HRUSKA. Mr. President, I yield the Senator 2 minutes.

Mr. EASTLAND. Mr. President, in four instances the standard of guilt is made to depend upon the commission of an act by a person who "knows or has reasonable cause to believe" certain facts. See sections 922(a)(5), 922(b)(1) (twice), and 922 (b)(3).

In three cases the standard of guilt is based upon a person "knowing or having reasonable cause to believe" certain facts. See section 922(d), 922(i), and 922(j).

In two other instances, criminal guilt is made to depend upon a person acting "with knowledge or reasonable cause to believe" that certain facts are true. See sections 922(f) and 924(b).

It is certainly unfair to make a person subject to felony penalties based on "reasonable cause to believe." The criminal law of this Nation demands that a person have guilty knowledge in order for an act committed by him to be punished as a felony.

This is doubly true as to this bill, because, as noted previously, there is no requirement that such acts be committed knowingly or willfully in order to constitute a felony.

Thus, an act can be passed not on guilty knowledge, but on reasonable cause to believe, and can be committed knowingly or unknowingly, and can be punished as a felony.

This is a violation of the basic principles of our criminal law.

It is not fair, it is not just, and I doubt that it is constitutional.

Two of these unfair criminal provisions apply to all persons—section 922 (a)(5) and section 924(b).

The other unfavorable penal provisions would apply only to licensed importers, licensed manufacturers, licensed dealers, or licensed collectors.

In my judgment, the supporters of strict Federal gun registration and licensing laws and the supporters of Federal gun confiscation and gun legislation realize that they will not get such legislation enacted in this session of Congress.

However, they are attempting to curb or eliminate the sale of weapons to private citizens by making the criminal liabilities of gun dealers so broad, vague, and nebulous as to discourage and deter any person from engaging in this lawful business.

I do not think it would be fitting, just, or appropriate for Congress to adopt this kind of criminal provision in an effort to harass gun manufacturers, dealers, importers, and collectors and deter them from engaging in their lawful trade.

Mr. President, I voice my strong opposition to this amendment and to any bill which could and inevitably would limit the right of our citizens to keep and bear arms. I do so for many reasons: First, such laws would be merely an opening wedge to the restriction and licensing of all weapons; second, it would be the first step toward a disarmed citizenry, and, finally, a disarmed citizenry would mean that Socialists and criminals will control this Nation.

It would neither be fitting, just, nor appropriate for the Congress to pass such a law. I shall strongly and vigorously oppose such legislation.

Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Utah.

Mr. MOSS. Mr. President, I rise in opposition to the amendment offered by the Senator from Maryland. I do this because I believe the amendment would be ineffective to accomplish the purposes stated for it. I do not believe that it would have any significant effect on the use of firearms in the commission of crimes.

I have earlier addressed the Senate, on the 2d of April and on the 26th of June of this year, at some length on this subject, and those addresses appear in the RECORD on those dates. Therefore, I shall not repeat them.

I do wish to underline one matter that appears in my statement of April 2. The American Bar Foundation issued a report dealing with this problem of firearms and legislative regulation, and their conclusion was as follows:

A fundamental assumption of those who support the drive for stricter regulation of firearms is the belief that easily available weapons are a stimulus to crime, and that the absence of weapons would significantly reduce criminal activity. * * * In our inquiry, we have discovered no convincing evidence on this question.

Mr. LAUSCHE. What is the organization to which the Senator refers?

Mr. MOSS. This is from volume 114, No. 55 of the CONGRESSIONAL RECORD. I do not have the exact page reference.

Mr. LAUSCHE. What is the organization?

Mr. MOSS. This is the report of the American Bar Foundation.

If the amendment would significantly decrease crime, if it would significantly cut down on homicide by these weapons, I then would think that perhaps we ought to make some trial of this sort. But I do not believe there is any evidence of that at all.

Particularly, now, we are talking about registration, where a person simply, by mail, can send in his name and address and a statement of how many guns he owns, and thus register them. There is no identification.

Why cannot that be done under a false name, as was done by Oswald when he ordered his gun by mail? He did not use his own name; he sent in another name, and the order went right through.

If we get to the point where we have identification, which might come on with the licensing, if that is done, and positive identification is required, with photographs, fingerprints, and that sort of thing, then we would get into vast expenditures; but here again, there is no assurance that the gun will not be passed on into the hands of those who would use it illegally.

I commend particularly the comments made by the senior Senator from Idaho and the senior Senator from Nevada. I think both of them have presented, in this debate, very logical and convincing addresses to this body to indicate that the problem of regulating weapons is a State problem, and it ought to remain with the States, where all general law enforcement is centered now. The only field for the Federal Government is to provide that interstate commerce shall not be used to breach the law of a State, or to override the law of a State. When we get into licensing, registration, and all of those matters on a Federal level, then we have taken it out of the hands of the States.

I realize the Senator from Maryland says there will be a grace period, so that the States may act, and thus take the field, and it will not be preempted later. But nevertheless, even if all the States have not acted, why should we have a Federal law if, say, four or five States did not act? Why should we get into that and preempt the whole procedure from all of the States? If a Federal law becomes applicable, it cannot be applied in some States and not in others. It has to be nationwide.

So I believe this is a can of worms, and I shall vote against it, and urge my fellow Senators to do so.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. CLARK. Mr. President, when the President of the United States, the Vice President of the United States, the Governor and the attorney general of one's State, and the police commissioner and other high officials of one's city all support legislation regulating traffic in guns, a Senator is required to give careful attention to the legislation they propose or support.

When one's heavy mail runs over 75,000 pieces, including a massive campaign by the National Rifle Association against the legislation, again one must give pause, though the mail still runs three to two in favor to strong gun legislation, in spite of this massive campaign.

When assassination by gun takes the lives of a President, a Senator, and a widely respected civil rights leader and advocate of peace, then it would seem to be time for Congress to act.

Mr. President, I have given thoughtful and prayerful consideration to this legislation. I support it, including the Tydings amendment. I have had prepared for my use and the use of my constituents a series of questions and answers on my views on gun control, and I ask unanimous consent that that document be printed in the RECORD at this point.

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

QUESTIONS AND ANSWERS ON SENATOR CLARK'S VIEWS ON GUN CONTROL

1. Does Senator Clark favor legislation to confiscate guns?

Definitely not. All responsible, law-abiding citizens would have complete freedom to own and use both hand guns and long guns. But the legislation Senator Clark favors would help to keep guns out of the hands of criminals, drug addicts and insane persons.

2. How would the bill favored by Senator Clark work?

Earlier this year Congress passed a law prohibiting mail order sales, out-of-state purchases and imports of hand guns. The bill Senator Clark favors would extend these provisions to long guns and ammunition. It would also encourage states to enact laws requiring firearms owners to obtain licenses, and to register their firearms, much as car owners must have auto registration and driver's licenses. Where the state did not act, a Federal system would apply.

3. How much would sportsmen have to pay in registration and licensing fees?

Absolutely *no fees* are required from any gun owner or user under the bill Senator Clark favors.

4. What about fingerprinting and identification photographs?

There are no such requirements in the bill.

5. Does Senator Clark favor stiffer penalties for felonies committed with guns?

Yes.

6. Won't criminals refuse to register guns?

Some criminals may refuse to register their guns. But if they are caught with an unregistered gun, they can be jailed on that charge alone, even if no other crime can be proved. So it will be very risky to possess an unregistered gun.

7. Will gun control laws really help to reduce crime?

FBI statistics clearly show that states with strong gun control laws have far fewer murders than states with weak or no gun control laws.

8. What about antiques?

No gun manufactured prior to 1898 is covered by the bill Senator Clark favors.

9. Can youngsters under 18 hunt and shoot?

Yes, as long as their parents consent.

10. Does Senator Clark favor State or Federal gun controls?

State laws. The Federal law would apply only if the State did not act.

Mr. CLARK. I also ask unanimous consent to have printed in the RECORD the series of questions and answers prepared by the Senator from Maryland [Mr. TYDINGS] in explanation of his amendment, which I support.

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

QUESTIONS AND ANSWERS ON THE TYDINGS AMENDMENT

1. What is the Tydings Amendment?

The Tydings Amendment is the refinement of the bill introduced by 19 Senators to provide for registration of all firearms and licensing of all firearms owners and ammunition users. It encourages state action by providing for state or local pre-emption of the federal law. Where a state or locality enacts its own registration and licensing law, the federal law would not apply.

Registration of all firearms will give the police the means to quickly trace guns used in crime to their owner.

Licensing of gun users will weed out persons who, by reason of criminal record, drug addiction, alcoholism, mental incompetence, or age should not be entrusted with a gun in the first place.

2. Would gun owners pay any fees?

The amendment imposes absolutely no fees. Its operation would be paid for out of the general tax receipts of the country.

3. How does registration work?

A gun owner simply sends a law enforcement agency the makes, models, and serial numbers of his guns and his own name and address. It can be done completely by mail. If a gun is found at the scene of a crime, its last known owner can be quickly traced. When a suspicious character is arrested with a gun in his possession, its ownership can be quickly determined. If the gun has been stolen or is unregistered, the suspect can be booked for possession of stolen goods or possession of an unregistered weapon.

If a state or locality enacts its own registration law, guns would be registered with whatever agency the law designated.

Some criminals may refuse to register their guns and risk being jailed for having an

unregistered gun. But any suspected criminal found with an unregistered weapon can be jailed on that charge alone, *even if no other crime can be proved.* So it will become very risky for a criminal to have an unregistered weapon.

4. How does licensing work?

Licensing is simply a way of denying fugitives, criminals, addicts, and mental defectives access to firearms and ammunition. Every purchaser, possessor, or user of firearms or ammunition would have to have a license, except for juveniles with their parents' consent and hunters or sportsmen who have borrowed a weapon for temporary use.

To get a license, you would simply submit a statement affirming that you are over 18, have never been convicted of a felony or committed to an institution by a court on the grounds of alcoholism, narcotics addiction, or mental incompetence, that you are not under indictment or a fugitive, and are not otherwise prohibited by law from obtaining a weapon. In addition, you would supply a physical description like that required for a driver's license and proof of identity (in the form of a draft card, driver's license, social security card, etc.).

If a state or locality enacted a licensing law, the statement and identification would be supplied to whatever agency is prescribed, but if the state or locality does not act, then to any federal firearms dealer. The entire transaction could be conducted by mail.

Issuance of license would be automatic to all law-abiding citizens, without any discretion on the part of the issuing officer.

5. But won't criminals get guns anyway?

If a licensing law were in effect, a criminal, addict, or mental defective could not legally purchase, own or use a gun, because he would not be entitled to a license. Thus, lawful channels of purchase would be cut off to him. Today they are not.

Today, in most states, criminals, addicts, and idiots have access to guns on the same basis as the law-abiding. Even if, after enactment of the Tydings Amendment hardcore criminals may be able to get some guns, the small-time but frequently deadly crook who holds up liquor stores, bus drivers and filling stations or housebreaks will find it much harder and much riskier to possess a gun.

No one claims gun laws are airtight or foolproof. The question is whether we should do what we can to detect and prevent gun crime or continue to do nothing, as we do today.

Mr. CLARK. Mr. President, I repeat, I strongly support the Tydings amendment and the bill and hope both will be enacted.

Mr. HRUSKA. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. HRUSKA. I yield 5 minutes to the Senator from Ohio.

Mr. LAUSCHE. Mr. President, I supported the Senator from Connecticut and the Senator from Maryland on the four enforcement issues that were identified in the document distributed to the several Senators, asking that the bill pending before us be strengthened in conformity with their thinking. I cannot support them on this issue, which is to be decided in the next half hour.

It is my judgment that the Federal Government ought to enter this field only to the extent that interstate shipments and traffic are involved. The bill, as written, will deal with that phase of the problem. I do not subscribe to the idea that the Federal Government ought to invade the prerogatives of the various States of the Nation, when many of them are of the opinion there is no need for this type of legislation.

It is argued that in the States where registration has been adopted, the results have been good. If that is the fact, it would seem that States throughout the Nation would adopt the plan.

We ought not to continue expanding the functions of the Federal Government. We have already over-centralized. We are usurping powers that ought to be exercised by the States.

How many gun holders there are in the United States I do not suppose the record shows.

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

Mr. LAUSCHE. I yield.

Mr. HRUSKA. There are estimates on that. There is no national inventory, but the estimates run from 100 million to 200 million in the reservoir of guns in existence in the United States.

Mr. LAUSCHE. How many owners are there?

Mr. HRUSKA. Some 40 million to 50 million.

Mr. LAUSCHE. Some 50 million?

Mr. HRUSKA. That is an estimate, again. There are approximately 20 million licensed hunters, but over and above that, there are probably another 20 million who own guns who are not licensed hunters.

It might interest the Senator from Ohio to know that when Mayor Lindsay of New York testified, he testified registration of a gun would cost the city of New York $20. At the rate of 100 million guns, that would be $2 billion—$2 billion, Mr. President.

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

Mr. LAUSCHE. I do not have the time.

I am aware of the great expense resulting from thievery and burglary and other transgressions by criminals.

I understand that California has passed a registration law. I do not believe that we have one in Ohio. Why not let each separate State which has its own separate and peculiar problems decide what shall be done about registration? Why should the Federal Government intrude into the matter?

If there are 100 million weapons, that would mean, at a cost of $20 each for registration, that $2 billion would be collected from the citizens.

It is my understanding that according to the pending measure, all we would have to do would be to send in a card and say, "I have a gun." That would not do. We would have to provide much more by way of identification. We may have to provide for fingerprints and pictures so that there will be effective registration. That is not now in the bill but a later day it would have to be if the purposes of registration were to be achieved.

Basically, I do not think we ought to continue this expansion of central Government operations. The central Government is already too large. It is so large that we do not know what is going on within the Federal Government now.

We are now going to undertake the policing of gun ownership. With anywhere from 100 million to 200 million guns in our country, how large a new governmental department would we have to create?

As I have said, I subscribe to the proposition that as far as interstate traffic is concerned, we should step into the matter. However, as far as domestic traffic is concerned, let the States handle the matter.

I will vote against the amendment.

Mr. TYDINGS. Mr. President, I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, this post-convention session of Congress is full of uncertainties and difficulties. It confronts us with many delicate questions for consideration.

We not only have to consider the confirmation of Mr. Justice Fortas next week and the nuclear nonproliferation treaty, I hope, next month, but we also have a gun bill before us for disposal.

This is a most difficult issue. I do not care whether a Senator comes from a big industrial State or a rural State like Montana. I have received my share of criticism on this particular issue, as well as my share of praise. However, I do want to say that the criticism has been in the majority and the praise has been limited and in the minority.

The issue is difficult, delicate, emotional, and practical.

Until the death of two young marines in Washington several months ago, I was against any kind of legislation. I come from a State in which guns are almost added arms for all our people. It is a State in which the crime rate is low, extremely low, a State in which people know how to use guns responsibly, a State which has had guns as a way of life since the days that it was a territory, and even before then.

When a man becomes a Senator, he automatically wears two hats. He is a Senator from his State, and he is a Senator of the United States. The problem which confronts us in this matter of gun legislation is not applicable to a State like Montana. But it is applicable to those parts of the country in which 80 percent of our people live. It is there that the great majority of the crimes take place. It is there, as population increases and becomes congested, that more and more violence results. And while there is more murder resulting from the use of handguns, that does not mean that there is not plenty of murder and attempted murder resulting from the use of long guns.

I was shocked at the assassination of President Kennedy. I was shocked at the assassination of Dr. Martin Luther King, Jr. I was shocked at the murder of our late, beloved colleague, Senator Robert F. Kennedy. But what happened to those men did not change my mind.

What happened to a young Marine lieutenant from Fishtail, Mont., did change my mind, because he was wantonly murdered here in the District of Columbia.

I have no apologies to make for the stand which I have adopted since that time, because in my conscience I feel I am doing the right thing. I know that the pending amendment and the bill are not

cure-alls. But I do think it could dilute and decrease the number of crimes committed by the use of weapons, long gun or hand.

I have received some communications from my State which say, for example, "Guns don't kill; people do." Well, that statement oversimplifies the matter, because guns do not go off by themselves. They go off in the hands of people—sometimes under the stress of emotion and strain, and sometimes deliberately.

I received letters from people in my State saying: "This is the first step toward confiscation." I deny that without equivocation, because if I thought that the pending amendment or the bill even leaned in that direction, I would vote against both.

Some people write and say: "Register Communists, not guns."

For their information, in my early days in the Senate, I did join with several of my colleagues, including the late President John F. Kennedy, in voting for a bill in this Chamber which passed. That bill called for the registration of all Communists.

Some people seem to think this is an invasion of their rights. Perhaps they have a point there. But I would say that the pending bill, contrary to what has been said by some Senators on the floor today, is not aimed at the law-abiding citizen. On the contrary, it is aimed at those who violate or who potentially can violate the law.

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

Mr. TYDINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 5 minutes remaining.

Mr. TYDINGS. Mr. President, I yield an additional 2 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for an additional 2 minutes.

Mr. MANSFIELD. Mr. President, I point out that in the explanation given by the distinguished Senator from Maryland, there is nothing confiscatory, implied, stated, or intended.

I point out that the purpose for the registration of firearms is to help the police agencies in this country trace down crime.

I point out that the licensing of gun users is applicable not so much to the law-abiding citizens of this country, but to the people with criminal records who are drug addicts, alcoholics, mental incompetents, and who in this Nation today in most States can buy guns over the counter.

I point out that basically this is not a Federal registration and licensing law. This is a law which says to the States, "You do it, and we will abstain." The States are given every opportunity, and the States have the initial responsibility.

There have been some statements made today about photographing registrants, and the like.

I would point out that, while those proposals are in the administration bill sent to the Senate—a bill which I oppose, because I believe it goes too far—in the administration bill are provisions which require fingerprints, photographs, police statement on record and identification, and a doctor's certificate on mental incompetency, but no similar requirements are in the Tydings proposal.

Furthermore, the administration bill calls for mandatory Federal legislation, whereas in the Tydings proposal the States get a reasonable period of time in which to enact their own laws first.

In the administration bill is a proposal which permits the cutoff of Federal wildlife conservation funds in the event of noncompliance by a State. No such proposal is in this bill.

This is a reasonable bill. It does not mean the setting up of a bureaucracy. It takes care of the legitimate initial rights of the States. It is not aimed at the law abiding but, rather, at those who violate the law.

I believe this bill is worthy of the consideration of the people of this country and the Members of this body. I know, as much as anyone else in this Chamber, what voting on this bill means. But I believe that those of us who come from the rural West have an obligation to the rest of the country; that all of us, regardless of where we come from, have an obligation to cut down on crime. What is happening in the way of violence in this country today makes this country look pretty bad not only in the eyes of its own people but also in the eyes of the peoples of the world. What do we intend to do about it?

When the Members of the Senate think about this amendment, they should remember that all of us wear two hats—as Senators from the States from which we come and as Senators of the United States.

I sincerely hope that this most meritorious amendment, which protects every possible right I can think of, is approved by the Senate shortly.

The PRESIDING OFFICER. Who yields time?

Mr. TYDINGS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining on the amendment.

Mr. TYDINGS. I yield myself 2 minutes..

Mr. President, I cannot add much, after the words of the distinguished Senator from Montana. He knows, perhaps as much as anyone else in the Senate, what it means to support even such a moderate bill as this in the field of gun crime control. I admire his courage and his leadership. It is those qualities in him which inspire some of us in the back row to perhaps do a better job than we might do otherwise.

This measure, cut it any way you want, is an anticrime bill. Mayor Daley's representative came before our committee this summer and pleaded for the enactment of this measure. The city of Chicago is the second largest city in the Nation. The attorney general of California, our largest State, pleaded for the enactment of this measure, as did the Attorney General of the United States and the head of the National Association of Chiefs of Police.

The testimony before our committee indicates that this Nation's gun laws, which in 39 States permit any hoodlum, criminal, narcotic addict, or maniac to buy a concealable weapon without a license, are a scandal in the civilized world. No other nation has a gun murder rate such as ours.

Statistics show that when a State like New Jersey does move, although the number of hunting licenses may increase, after they have gun licensing, the gun murder rate and the homicide rate go down.

In drafting the proposed legislation, I took the advice and counsel of Senators from the West. I engaged in long colloquy on the floor of the Senate with the Senator from Florida, trying to perfect the proposed legislation in such a way that it would not trample on the rights of the hunters or the law-abiding citizens of our rural areas. There is no provision for fees. There is no provision for licenses. There is no provision for confiscation.

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

Mr. TYDINGS. Do I have any time remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. TYDINGS. I yield myself the final minute.

This is a moderate bill. It does not go nearly as far as the administration bill. This is a bill which, if enacted, would put the burden on the States. It would afford some degree of protection to the citizens of the United States, and it would result, in my judgment and in the judgment of all the law enforcement officials who have testified before our subcommittee, in the saving of countless lives and countless treasure of our people.

I hope the Senate gives it favorable consideration.

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

Mr. HRUSKA. Mr. President, I yield myself 2 minutes, to summarize briefly that those who oppose this amendment do so for a number of reasons.

To begin with no relevance has been shown registration and licensing and a reduction in crime. No impact on law enforcement has been demonstrated. Although it is claimed that this is an anticrime bill, the records of the States which have this type of legislation do not bear the claim out.

Let me remind my colleagues again that this type of registration is under fire in the courts. The Haynes case raised questions about the validity of such registration in the destructive device statute. Yet, if we approve this amendment we would undertake a system of licensing and registration which is more than in the destructive device statute and which would involve tremendous manpower and expenditures. What would the cost be? $10 a gun? $20 a gun? We do not know. But we do know that in New York the cost runs between $20 and $25.

We know, also, that one of the reasons why the officials of Chicago came to plead for a national law is to get that cost off the backs of the taxpayers of Illinois and of Chicago.

It is said that this is only a modest beginning, it is a moderate bill, and so on. I believe every word of it, because

in previous bills having to do with firearms control, it was said that it is a very modest measure because they did not go into ammunition, registration, or licensing. Now we witness licensing and registration.

In New York, the fee for registration of a gun started at 50 cents. Do you know what it is today? It is $20 a gun for the first year and $10 a year per gun for every year after that.

Let us not kid ourselves. There will be a fee in short order. We can also look forward to the time when there will be a demand that guns be rationed and limited in number. Why? Because since the rationale behind this legislation is that the availability and accessibility of guns is a major cause of crime when the people discover that crimes are not in fact reduced, they will want to know why. Then these same advocates will say that you cannot reduce crime without reducing the number of guns which are available. That is going to be the next solution when this approach fails.

We would be well advised to stay away from registering and licensing until we can have further hearings. Until there can be demonstrated some relevance, some impact, some connection between this type of legislation and the crime picture we have today. We must also have time to resolve some of the constitutional and administrative questions inherent in this type of law.

I hope the amendment is soundly defeated.

Mr. TYDINGS. Mr. President, will the Senator from Nebraska yield me 1 minute?

Mr. HRUSKA. I yield 1 minute to the Senator from Maryland.

Mr. TYDINGS. Mr. President, this is a unanimous-consent request which I have cleared with the Senator from Nebraska.

Earlier in the colloquy, my colleague, the distinguished senior Senator from Maryland, offered an amendment which merely sets forth what is the intent of the bill, but in clear language states that no taxes or fees shall be collected in connection with the enforcement of this title. I accept it, and I ask unanimous consent that it be added to my amendment at this time.

Mr. COOPER. Mr. President, reserving the right to object—and I shall not object——

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. Mr. President, I wish to clear up several questions before we vote on the Tydings amendment. I address my questions to the author of the proposal.

Mr. HRUSKA. Mr. President, I yield 2 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, as the Senator from Montana has characterized his State, although Kentucky is not nearly as large as his State, it is a rural State. Many of its people live on farms. They have had a long tradition with weapons—rifles, shotguns, and I must honestly say handguns. The tradition derives from a pioneer background and their need for defense, as Kentucky was the first State settled west of the Alleghenies. They made and used the Kentucky rifle so effectively used in the war of 1812, particularly at New Orleans. But as in all States, weapons have been used illegally and have caused trouble and suffering. As one who served as a circuit judge, I had occasion to try cases dealing with the concealment of pistols, and their illegal use.

Many questions have been raised by the people of my State about the application of this bill. Some of the questions have been answered earlier today. I asked the distinguished Senator from Maryland if anything in the bill would require or permit confiscation of firearms. His answer was that there is nothing in the bill which requires or permits confiscation.

Mr. President, a second question asked by many persons is whether the bill would deprive law abiding citizens of the right to own or possess firearms to protect their homes, stores, businesses, or to carry these weapons in their automobiles as many people do today, because they are afraid of an attack.

As I read the provisions of the bill, there is nothing in the bill or amendment which would deny to a person who is not a convicted felon, narcotics addict, alcoholic, or mental incompetent, the right to have a firearm in his home, store, business, or even in his automobile to protect himself, his family and property.

Mr. TYDINGS. Absolutely not.

Mr. COOPER. Then my understanding is correct.

Another question I want cleared up goes to the possession of shotguns and rifles by persons under the age of 18 or 21. I ask this question because my State is a rural State and boys on farms grow up learning to use shotguns and rifles for practical purposes—among others for use against animals, rodents, and birds which prey upon crops, poultry, and livestock. These young boys perform a useful and necessary service for the benefit of the farm.

As I read and interpret the bill, there is nothing in this bill which prohibits the sale of a rifle or shotgun to a person who has reached the age of 18, and no penalty against the possession or use of a shotgun or rifle by a person under the age of 18.

Mr. TYDINGS. The Senator is correct.

Mr. COOPER. He could have a rifle or shotgun.

Mr. TYDINGS. The Senator is correct.

Mr. COOPER. To emphasize the point, if a boy under the age of 18 possesses a rifle or shotgun, there is no penalty against him.

Mr. TYDINGS. The Senator is correct. The Senator has made a very good point. If the use of a firearm were forbidden to a person under the age of 18, how would the boy under the age of 18 kill rats, go hunting, participate in marksmanship contests, and do all of those things traditional in the many rural areas of his State and mine?

When I originally introduced the measure, the Senator from Florida [Mr. HOLLAND] brought up this matter and we discussed it in colloquy at some length.

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

Mr. TYDINGS. I yield.

Mr. HRUSKA. Mr. President, I yield myself 30 seconds. We were in hopes of getting to a vote. The colloquy now being engaged in has nothing to do with registration and licensing. It has to do with the merits of the bill generally. I suggest we get back to the point.

I yield 2 additional minutes to the Senator to finish his thought, but I think we should get to the business at hand.

Mr. TYDINGS. I thank the Senator.

I provide, on page 5 of the amendment, in subsection 8, that a person "who is ineligible for a Federal gun license solely by reason of age may receive a firearm or ammunition for occasional, brief, and lawful recreational uses."

That was done to protect and make certain the types of activities to which the Senator has referred are protected under the bill.

Mr. COOPER. Mr. President, will the Senator yield further?

Mr. TYDINGS. I yield.

Mr. COOPER. I do not wish to delay action on the measure.

The PRESIDING OFFICER. The Senator from Maryland has no time remaining.

Mr. HRUSKA. Mr. President, I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. Mr. President, the questions I have asked have an important bearing upon the amendment offered by the Senator from Maryland upon which we will next vote. They are important to the people of my State, and our farmers. From the correspondence I have received from people in my State, I know that this amendment is not a very popular amendment. I shall vote for it, but I wanted to clear up these questions for the people of my State before the vote was cast.

As my questions have brought out clearly, neither the Tydings amendment, nor the bill, authorize the confiscation of firearms. It does not deprive the law-abiding citizen from owing firearms, from possessing a firearm in his home or business or on his lands, or carrying it in his automobile a conveyance. It does not penalize a youth under the age of 18 from using a rifle or shotgun. And of course it does not interfere with the lawful hunter or sportsman. To put it simply and bluntly: This bill and amendment do not interfere with the rights of lawful people. If the bill finally requires registration of licenses, it would be to assist in tracking criminals, to prevent crime.

The vast millions of people who possess firearms are not criminals. They do not possess firearms to kill or to commit crimes. But there are thousands of persons who use firearms to kill or in the commission of crimes. This wave of violence and crime will wreck our country. It is the millions of people who are law abiding who will have to bear the burden of the bill, and it is an unpopular burden, to help stamp out crime in this country. This is the reason I support the bill—not to deprive any law-abiding citizen of any right, but to reach or try to reach the criminals.

Mr. GRIFFIN. Mr. President, I have sponsored legislation which would require the registration of firearms.

The pending amendment (No. 947) of the Senator from Maryland [Mr. TYDINGS] also requires registration of firearms. But this amendment goes much further. In addition to registration, it requires Federal licensing, and the amendment contains a number of provisions which, in my view, are unwise.

For example, section 934(d) provides:

(d) The executor or administrator of an estate containing a firearm registered under this chapter shall promptly notify the Secretary (of the Treasury) of the death of the registrant and shall at the time of any transfer of the firearm, return the certificate of registration to the Secretary.

Section 935 provides, in part, that—

(a) Whoever violates a provision of section 932 or 934 shall be punished by imprisonment not to exceed two years, or by a fine not to exceed $2,000, or both.

Thus, an executor of an estate by simply not promptly notifying the Secretary of the Treasury of the death of a registrant would be subject to a criminal penalty of $2,000 or 2 years in jail, or both.

There are other examples. If a registrant under this amendment fails to notify the Secretary within 10 days "of any loss, theft or destruction of the firearm," he would be subject to a criminal penalty of $2,000 or 2 years in jail, or both—section 934(e).

Mr. President, I hope that the Congress will enact the pending gun legislation. And I hope the Congress will continue to study and evaluate the need for additional gun legislation—including gun registration at the State and local levels.

But it is unwise to provide that a registrant who may lose or have his gun stolen or destroyed will be subject to a $2,000 fine or 2 years in jail if he fails to notify the Secretary of such a loss. The registrant may be totally unaware of a loss or theft. A failure to notify the Secretary could be completely inadvertent.

Mr. President, for these and other reasons, I believe the amendment simply goes too far and would be rejected.

Mr. CANNON. Mr. President, I am opposed to all proposals which would require Federal registration of firearms. I believe that registration is a matter exclusively in the State domain.

Registration of guns has nothing to do with the problem at hand in the United States—crime prevention. Some of the most notorious crimes of the last few years were committed by mentally or emotionally disturbed persons using registered guns. For the Federal Government to require every gun-owning citizen in the United States to register with a State or Federal agency is to spoon feed the public with the idea that this will solve our crime problems. It will not. We will then be faced with the danger of instilling in the public a false sense of security by creating the hope that crime will lessen because honest citizens have registered their guns.

The proper approach is for each State to determine its own crime problems and priorities, and to go on from there to apply the appropriate measures.

The correct role of the Federal Government should be limited to its use of power to control interstate commerce to ensure that such commerce is not used to flout State and local laws.

Mr. BYRD of West Virginia. Mr. President, I would like to state my support for the measure now pending in the Senate, the Gun Control Act of 1968.

This bill is not a panacea. Nor is it simply a useless addition to our statute books. Rather, I believe, the bill represents an honest effort to solve an extremely knotty problem—to provide some measure of control over the illegal and improper use of long guns and other destructive devices while at the same time allowing legitimate purchases of firearms by qualified law-abiding citizens.

I believe the prohibitions against the over-the-counter sales and interstate mail-order sales of weapons are worthwhile ones. Arrayed against the inconvenience which may result to the legitimate purchaser is the fact that no longer will criminals, deranged persons, and juveniles be able to simply rent a post office box, send a cash payment, and receive a deadly firearm through the mails. The effect of this law, hopefully, will be to make more difficult the acquisition of firearms by these persons.

I am opposed, however, to the amendment requiring the licensing of gun owners and the registration of firearms. I believe this amendment is unworkable, will have little practical good effect, will be unduly burdensome to law-abiding citizens, and only end up creating a vast new Federal bureaucracy.

The amendment to require registration and licensing would not produce the desired effect on criminals or those with intent to use a gun to commit a crime because it is hardly likely that such individuals would bother to comply with a registration or licensing law which would surely link them and their firearm to the crime. Individuals who have no respect for law to begin with will not bother to obey a law telling them to register their firearms. And these individuals have ways of getting guns without purchasing them through normal, legitimate channels. And in many instances they simply steal the guns.

Further, the number of applications for licenses and registration certificates is bound to run into the millions. This may sound staggering, but the proponents of gun licensing and registration have made the point, and on this I have no reason to doubt them, that there may be as many as 100 million guns in the United States. Assuming this to be so, and assuming that the owners of most of these weapons will want to comply with the law, just administering the licensing and registration provisions of this amendment would create a tremendous new tax burden and drain on the Federal treasury at a time when we can ill afford such new outlays.

I think the proper place for gun licensing and registration, if done at all, is at the State or local level. The States, counties, and municipalities are the governmental bodies charged with the administration of nearly all of the police activities in our country, and, therefore, it is not unreasonable to feel that they should also assume the lion's share of any registration and licensing program, if such is to be had.

Not only could they provide more effective control; they could probably do it at less expense than can the Federal Government. In my opinion, all that a Federal licensing or registration bill will do is to make it that much more difficult for an honest, law-abiding citizen to obtain a weapon while in no way enhancing our law enforcement capabilities or cutting into the rising crime rate.

I believe that if we really want to do something about the crime problem we ought to strike at some of the real causes of our rising crime rate: The diminishing power of the police which has resulted from certain recent U.S. Supreme Court decisions; shortcomings in the Bail Reform Act which result in failure to impose adequate bail restrictions on persons arrested for serious crimes and awaiting trial; the inability of many courts to swiftly deal with criminals because of overcrowded court dockets; the shocking degree of recidivism present among those who have been released from confinement after serving their sentences; and the growing permissiveness and disrespect for authority in the home, in the schools and colleges, and throughout our societal structure.

We have more than enough laws now to reverse the spiralling crime rate. The difficulty is not a dearth of laws, but rather in the failure to firmly and swiftly enforce them.

I urge the Senate to reject the pending amendment.

The PRESIDING OFFICER. All time has expired.

Is there objection to the Senator from Maryland modifying his amendment as suggested by him?

The Chair hears no objection, and the amendment is so modified.

The question now is on agreeing to the amendment, as modified, of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the senior Senator from Oregon [Mr. MORSE]. If he were present, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING] is absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr.

FULBRIGHT], the Senator from Alaska [Mr. GRUENING], and the Senator from Oklahoma [Mr. MONRONEY] would each vote "nay."

On this vote, the Senator from South Dakota [Mr. McGOVERN] is paired with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from South Dakota would vote "nay," and the Senator from Florida would vote "yea."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kentucky [Mr. MORTON], and the Senator from Maine [Mrs. SMITH] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT] would vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 31, nays 55, as follows:

[No. 279 Leg.]

YEAS—31

Brewster	Hayden	Pell
Brooke	Inouye	Percy
Case	Javits	Proxmire
Clark	Kennedy	Randolph
Cooper	Kuchel	Ribicoff
Dodd	Magnuson	Scott
Fong	McGee	Tydings
Goodell	McIntyre	Williams, N.J.
Gore	Mondale	Young, Ohio
Hart	Nelson	
Hartke	Pastore	

NAYS—55

Aiken	Ervin	Montoya
Allott	Fannin	Moss
Anderson	Griffin	Mundt
Baker	Hansen	Murphy
Bayh	Harris	Pearson
Bible	Hatfield	Prouty
Boggs	Hickenlooper	Russell
Burdick	Hill	Sparkman
Byrd, Va.	Holland	Spong
Byrd, W. Va.	Hollings	Stennis
Cannon	Hruska	Symington
Carlson	Jackson	Talmadge
Church	Jordan, N.C.	Thurmond
Cotton	Jordan, Idaho	Tower
Curtis	Lausche	Williams, Del.
Dirksen	Long, La.	Yarborough
Dominick	McClellan	Young, N. Dak.
Eastland	Metcalf	
Ellender	Miller	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—13

Bartlett	McCarthy	Muskie
Bennett	McGovern	Smathers
Fulbright	Monroney	Smith
Gruening	Morse	
Long, Mo.	Morton	

So Mr. TYDINGS' modified amendment was rejected.

Mr. HRUSKA. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. ERVIN. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on September 11, 1968 the President had approved and signed the act (S. 449) to provide for the popular election of the Governor of Guam, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

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, without amendment, the following bills and joint resolution of the Senate:

S.747. A act for the relief of Dr. Earl C. Chamberlayne;

S. 772. An act for the relief of Dr. Violeta V. Ortega Brown;

S 905. An act for the relief of John Theodore Nelson;

S.1327. An act for the relief of Dr. Samad Momtazee;

S. 1354. An act for the relief of Dr. Bong Oh Kim;

S. 1470. An act for the relief of the Ida group of mining claims in Josephine County, Oreg.;

S. 2250. An act for the relief of Dr. Hugo Vicente Cartaya;

S. 2371. An act for the relief of Dr. Herman J. Lohmann;

S. 2477. An act for the relief of Dr. Fang Luke Chiu;

S. 2506. An act for the relief of Dr. Julio Epifanio Morera;

S 2706. An act for the relief of Yung Ran Kim;

S. 2720. An act for the relief of Heng Liong Thung;

S. 2759. An act conferring U.S. citizenship posthumously upon S. Sgt. Ivan Claus King;

S. 3024. An act for the relief of Richard Smith (Noboru Kawano); and

S.J. Res. 185. Joint resolution to grant the status of permanent residence to Maria Mercedes Riewerts.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 17126) to amend the Food and Agriculture Act of 1965; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. GATHINGS, Mr. PURCELL, Mr. FOLEY, Mr. BELCHER, Mr. TEAGUE of California, and Mrs. MAY were appointed managers on the part of the House at the conference.

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

S. 857. An act for the relief of Puget Sound Plywood, Inc., of Tacoma, Wash.;

S. 1069. An act for the relief of Dr. Chung Chick Nahm; and

S. 1652. An act for the relief of Anastasia D. Mpatziani.

The message also announced that the House had passed the bill (S. 2897) for the relief of James T. O'Brien, with amendments, in which it requested the concurrence of the Senate.

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

H.R. 1596. An act for the relief of Demetrios Konstantinos Georgaras (also known as James K. Georgaras);

H.R. 2288. An act for the relief of Charles B. Franklin;

H.R. 2661. An act for the relief of E. F. Fort, Cora Lee Fort Corbett, and W. R. Fort;

H.R. 3527. An act for the relief of Josefina F. Viera;

H.R. 4936. An act for the relief of Mr. and Mrs. John F. Fuentes;

H.R. 5970. An act for the relief of Pedro Irizarry Guido;

H.R. 6325. An act for the relief of 1st. Lt. Allan L. Schooler;

H.R. 7502. An act for the relief of the estate of Pierre Samuel du Pont Darden;

H.R. 7957. An act for the relief of Dr. Dario Duque;

H.R. 8091. An act for the relief of Charles Waverly Watson, Jr.;

H.R. 8245. An act for the relief of Dr. Martin Adolfo Giner-Zaldivar;

H.R. 11085. An act for the relief of Dr. Rafael Ramon Pascual;

H.R. 11253. An act for the relief of Dr. Joseph Moussakhani;

H.R. 12766. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade;

H.R. 12860. An act for the relief of Dr. Luis Ravenet;

H.R. 13351. An act for the relief of Ana Mae Yap-Diangco;

H.R. 13374. An act for the relief of Sfc. Patrick Marratto, U.S. Army (retired);

H.R. 14016. An act for the relief of Dr. Augusto Usategui;

H.R. 14380. An act for the relief of Ai Bok Chun;

H.R. 14389. An act for the relief of Dr. Erdogan Y. Baysal;

H.R. 14467. An act for the relief of John Thomas Cosby, Jr.;

H.R. 14513. An act for the relief of Zumrut Sooley;

H.R. 14786. An act for the relief of Cosmina Ruggiero;

H.R. 15060. An act for the relief of Dr. Jaime E. Lazaro;

H.R. 15061. An act for the relief of Dr. Lydia L. Lazaro;

H.R. 15174. An act for the relief of Dr. Ernesto Jose Giro;

H.R. 15210. An act for the relief of Dr. Ramon R. Azaret;

H.R. 15476. An act for the relief of Mrs. Marjorie J. Hottenroth;

H.R. 15634. An act for the relief of Dr. Carlos M. Perez-Abreu;

H.R. 15969. An act to confer U.S. citizenship posthumously upon Sp4c Klaus Josef Strauss;

H.R. 16238. An act for the relief of Dr. Orlando Balea;

H.R. 17022. An act for the relief of Private Willy R Michalik, [redacted];

H.R. 17109. An act for the relief of Henry E. Dooley;

H.R. 17222. An act for the relief of Roberto Quero;

H.R. 18174. An act for the relief of Dr. Jacques Charbonniez;

H.R. 18274. An act for the relief of Dr. Manuel E. Tayko; and

H.R. 18316. An act for the relief of Dr. Esteban G. Friera.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 224. An act to provide for the rehabilitation of the Eklutna project, Alaska, and for other purposes;

S. 444. An act to establish the Flaming Gorge, National Recreation Area in the States of Utah and Wyoming, and for other purposes;

S. 1440. An act to include in the prohibitions contained in section 2314 of title 18, United States Code, the transportation with unlawful intent in interstate or foreign commerce of traveler's checks bearing forged countersignatures;

S. 1637. An act to amend the Tennessee Valley Authority Act of 1933 with respect to certain provisions applicable to condemnation proceedings;

S. 2715. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Chickasaw Nation or Tribe of Oklahoma, and for other purposes;

S. 3072. An act to amend the act entitled "An act to provide for the rehabilitation of Guam, and for other purposes," approved November 4, 1963;

S. 3182. An act to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Swinomish Indian Tribal Community, and for other purposes;

S. 3420. An act to authorize a per capita distribution of $500 from funds arising from a judgment in favor of the Confederated Tribes of the Colville Reservation;

S. 3578. An act to direct the Secretary of Agriculture to release, on behalf of the United States, a condition in a deed conveying certain lands to the South Carolina State Commission of Forestry so as to permit such Commission, subject to a certain condition, to exchange such lands;

S. 3620. An act to provide for the disposition of judgment funds on deposit to the credit of the Quechan Tribe of the Fort Yuma Reservation, Calif., in Indian Claims Commission docket No. 319, and for other purposes;

S. 3621. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Muckleshoot Tribe of Indians in Indian Claims Commission docket No. 98, and for other purposes;

S. 3671. An act to provide for the striking of medals in commemoration of the two hundredth anniversary of the founding of Dartmouth College;

S. 3687. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the State of Ohio, and for other purposes; and

S. 3728. An act to authorize the use of funds from a judgment in favor of the Kiowa, Comanche, and Apache Tribes of Indians of Oklahoma, and for other purposes.

HOUSE BILLS REFERRED

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

H.R. 1596. An act for the relief of Demetrios Konstantinos Georgaras (also known as James K. Georgaras);

H.R. 2288. An act for the relief of Charles B. Franklin;

H.R. 2661. An act for the relief of E. F. Fort, Cora Lee Fort Corbett, and W. R. Fort;

H.R. 3527. An act for the relief of Josefina F. Viera;

H.R. 4936. An act for the relief of Mr. and Mrs. John F. Fuentes;

H.R. 5970. An act for the relief of Pedro Irizarry Guido;

H.R. 6325. An act for the relief of 1st Lt. Allan L. Schooler;

H.R. 7502. An act for the relief of the estate of Pierre Samuel du Pont Darden;

H.R. 7957. An act for the relief of Dr. Dario Duque;

H.R. 8091. An act for the relief of Charles Waverly Watson, Jr.;

H.R. 8245. An act for the relief of Dr. Martin Adolfo Giner-Zaldivar;

H.R. 11085. An act for the relief of Dr. Rafael Ramon Pascual;

H.R. 11253. An act for the relief of Dr. Joseph Moussakhani;

H.R. 12860. An act for the relief of Dr. Luis Ravenet;

H.R. 13351. An act for the relief of Ana Mae Yap-Diangco;

H.R. 13374. An act for the relief of SFC Patrick Marratto, U.S. Army (retired);

H.R. 14016. An act for the relief of Dr. Augusto Usategui;

H.R. 14380. An act for the relief of Ai Bok Chun;

H.R. 14389. An act for the relief of Dr. Erdogan Y. Baysal;

H.R. 14467. An act for the relief of John Thomas Cosby, Jr.;

H.R. 14513. An act for the relief of Zumrut Sooley;

H.R. 14786. An act for the relief of Cosmina Ruggiero;

H.R. 15060. An act for the relief of Dr. Jaime E. Lazaro;

H.R. 15061. An act for the relief of Dr. Lydia L. Lazaro;

H.R. 15174. An act for the relief of Dr. Ernesto Jose Giro;

H.R. 15210. An act for the relief of Dr. Ramon R. Azaret;

H.R. 15476. An act for the relief of Mrs. Marjorie J. Hottenroth;

H.R. 15634. An act for the relief of Dr. Carlos M. Perez-Abreu;

H.R. 15969. An act to confer U.S. citizenship posthumously upon Sp4c Klaus Josef Strauss;

H.R. 16238. An act for the relief of Dr. Orlando Balea;

H.R. 17109. An act for the relief of Henry E. Dooley;

H.R. 17222. An act for the relief of Roberto Quero;

H.R. 18174. An act for the relief of Dr. Jacques Charbonniez;

H.R. 18274. An act for the relief of Dr. Manuel E. Tayko; and

H.R. 18316. An act for the relief of Dr. Esteban G. Friera; to the Committee on the Judiciary.

H.R. 12766. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade; to the Committee on Commerce.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

AMENDMENT NO. 972

Mr. JACKSON. Mr. President, I call up my amendment (No. 972), and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment (No. 972), as follows:

On page 24, after line 10, add the following new subsections:

"(n)(1) After December 31, 1970, no license shall be renewed or granted under section 923 to an applicant whose place of business is located in a State which does not have in effect a firearm control law which—

"(A) requires all residents of the State who own or possess firearms to register the firearms, within a reasonable time, with the appropriate State or local authorities;

"(B) is adequate to insure that ownership or possession of firearms and ammunition will be denied, to persons who, by reason of age, mental capacity, criminal record, or other incapacity, are incapable of exercising sound judgment in handling firearms;

"(C) provides a central State registry of information on the make, model, serial number, and other identifying characteristics of the firearm;

"(D) provides information as to the identification and address of the owner of the firearm;

"(E) provides that all transfers of ownership of any firearm shall be registered and that the transferee shall furnish the same information and meet the same requirements as are required when the firearm is initially registered;

"(F) provides appropriate penalties to insure compliance with the State registration and firearm control law;

"(G) provides for the transmittal of information contained in the central State firearm registry to the National Crime Information Center of the Federal Bureau of Investigation: *Provided*, That information contained in the registry shall not be disclosed except to law enforcement officers requiring such information in pursuit of their official duties.

"(2) The determination as to whether the State has in effect legislation which meets these standards is to be made by the Secretary of the Treasury. The Secretary's determination shall be reviewable de novo pursuant to chapter 7, title 5, United States Code, in an action instituted in the United States Circuit Court of Appeals within whose jurisdiction the State is located by any person or State adversely affected. Within ninety days from the date of enactment of this Act the Secretary shall propose regulations setting forth the criteria he will apply in determining whether State legislation meets the standards set out in this subsection.

"(o) The National Institute of Law Enforcement and Criminal Justice, established pursuant to section 402 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197; Public Law 90–351; Act of June 19, 1968), is directed to study the problems that State governments face in formulating, drafting, and enacting registration and firearm control laws, and to recommend to the Congress a program for Federal assistance by June 1, 1969."

Mr. JACKSON. Mr. President, first, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, my remarks will be very brief. I do not intend to detain the Senate at any length in connection with this amendment.

Mr. President, the passage of adequate Federal firearms control legislation is a matter of deep concern to me, to other Members of the Congress, and to the people of this Nation. It is imperative that the Congress enact Federal legislation which will end uncontrolled interstate and mail-order traffic in firearms to anonymous purchasers. Irresponsible and unregulated commerce in firearms has rendered ineffective the efforts of those States which have acted to establish reasonable and realistic gun controls.

Enactment of Federal legislation designed to prevent the circumvention of State and local law is a reasonable and a necessary exercise of the Federal power over interstate commerce.

But more than Federal legislation is needed. It is imperative, Mr. President, that the States assume their responsibilities and enact reasonable legislation which will keep firearms out of the hands of those who should not have them, and which will be of assistance in the prevention of crime.

The enactment of title IV of the Omnibus Crime Control and Safe Streets Act of 1968 on June 19 of this year gave the

American people a Federal gun control law which prevents the circumvention of laws which now regulate the sale of handguns in virtually every State and local jurisdiction.

When that measure was considered, amendments were offered which would have extended the mail-order ban to rifles and shotguns. Those amendments were not adopted. The reason they were not adopted, in my judgment, was attributable to the fact that very few States or local jurisdictions have laws governing rifles and shotguns. Consequently, an extension of the mail-order ban to long guns would not have had the result of placing them under effective State and local control. Rather, it would have merely caused additional expense and inconvenience to the legitimate purchaser. In the absence of effective State law on long guns, the effect of extending the mail-order ban to rifles and shotguns would have been merely to require a purchaser to have a gun dealer order a mail-order firearm for him.

I was, therefore, pleased to learn that S. 3633, as reported by the committee, incorporates provisions which minimizes any additional expense or inconvenience to people who purchase firearms for legitimate purposes. In my judgment, S. 3633 is a positive step forward toward sensible Federal regulation of the importation, manufacture, and sale of firearms. I am not persuaded by the arguments of those who contend that the bill would unreasonably burden responsible purchasers of firearms. And, though I am not pleased with all of the provisions of the bill as reported by the committee, I intend to support the measure.

I continue, however, to believe that Federal legislation is not the final answer. Certainly, reasonable and well-designed State laws on the subject of firearms control are an absolute necessity if the problem of gun control is to be dealt with effectively.

The problem of how to persuade the States to adopt effective gun control laws is, however, a very perplexing question.

Some have proposed that in the absence of State action the Federal Government should go ahead and enact legislation to establish a national registration and licensing system. The administration, for example, has recommended Federal licensing and registration legislation which would apply in those States whose laws fail to meet minimum Federal standards.

Similar proposals for Federal legislation have been made by Members of the Senate.

I have studied these proposals very carefully, because I believe that some form of firearms registration is necessary. Registration would be of great benefit in the prevention of crime and in keeping firearms out of the hands of persons who by reason of age, mental capacity, criminal record or other incapacity are incapable of exercising sound judgment in handling firearms. In addition to deterring irresponsible traffic in firearms, a sound registration could be of positive benefit to the legitimate gun owner by furnishing a record of title to his property.

It is my judgment, however, that to be practical and to be effective a registration system must be a matter of State law—with administration and enforcement in the hands of local authorities. The benefits to be gained by firearms regulation and the problems of administration are not the same in rural areas and urban areas; nor are they the same in New York as in Alaska—or in my State of Washington.

Consequently, each State must be free to evaluate its own needs and to enact legislation which fits those needs.

Adoption of a national registration and licensing system would amount to an unprecedented extension of Federal powers beyond the regulation of manufacturers and dealers to cover individuals. I have serious reservations and doubts as to whether this would be either a proper or a desirable exercise of Federal authority.

Furthermore, I question whether these proposals are workable from the standpoint of administration and enforcement. With an estimated 100 to 200 million firearms in private ownership, the administration of a national registration and licensing system would be a monumental task. It is unclear just how the proposed program of Federal registration and licensing would, or even could, be enforced. We do not have a national police force in the United States, and I do not wish to see one established.

Finally, it should be pointed out that almost all of the criminal laws in the United States are established and enforced under State law, and not Federal law. Matters within the police powers of the States should remain under State jurisdiction in accordance with fundamental principles of our federal system.

There is, I believe, a realistic and commonsense alternative to establishing a national registration and licensing system. The alternative is simply to prohibit the shipment in interstate or foreign commerce of any firearms or ammunition to States which do not have in effect a firearms control law which meets minimum Federal standards. The amendment which I have offered adopts this approach.

The merit of this approach is that it leaves the administration of firearm control laws with the States. If a State fails to enact an adequate gun control law for the protection of the public by December 31, 1970, no licenses will be renewed or granted under section 923 of the bill, to manufacturers, importers, dealers, or collectors. The effect of this provision is that all shipments of firearms or ammunition into the State would cease until an adequate gun control law is enacted.

The minimum Federal standards are set out in the amendment and are clear and straightforward. They provide the protection the public needs and demands, and at the same time they allow individual States the flexibility to draft legislation which fits local circumstances.

Finally, Mr. President, I think we must all be fully aware that the enactment of State and Federal firearms legislation will not solve all the problems related to firearms. Unfortunately, the extent to which gun control legislation can deter and prevent crime and needless loss of life has been greatly overstated. But reasonable legislation is a step in the right direction.

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

Mr. JACKSON. I am very happy to yield to the Senator from South Dakota.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from South Dakota for the purpose of his asking questions.

Mr. MUNDT. The Senator from Washington and I agree that Federal registration is not appropriate and is not needed and probably would be ineffective, and certainly tremendously expensive. I go along with the Senator from Washington part of the way, but it seems to me what he has done here is to indirectly achieve national registration of firearms by providing certain Federal standards that require compliance on the part of the States with these standards.

Page 2 of the amendment contains the words:

> The determination as to whether the State has in effect legislation which meets these standards is to be made by the Secretary of the Treasury.

How would the Secretary know as much about our individual States and whether or not the registration requirements and firearms control requirements of a particular State fit the needs of that State as the Governor of the State, for example?

Mr. JACKSON. First of all, someone at the Federal level must make the determination.

Mr. MUNDT. Why?

Mr. JACKSON. For the simple reason that if it were left to the individual States and their conclusions were final, the legislation would be meaningless. All they would have to do would be to say, "We have complied"—that is a conclusion—when in truth and fact the broad standards—and they are broad—have not been met.

Mr. MUNDT. Does not the Senator really believe that a legislature or a Governor of any State, his or mine or any other State, knows much better and much more intimately the requirements of the State than the Secretary of the Treasury?

Mr. JACKSON. Mr. President, may I say to my good friend that there is nothing new about this kind of requirement. We have, for instance, the whole concept of unemployment compensation based on the fact that standards are laid down which States must comply with, and if they fail to comply, the taxes continue to be collected and they cannot collect benefits. That is determined by a Federal agency.

If the Senator will go on and read further, he will find that if, in the judgment of the aggrieved party, the findings of the Secretary are arbitrary and capricious, or if for some other reason the aggrieved party wants to test the Secretary's determination, the plaintiff, of course, has access to the courts. We have made very liberal the right of appeal directly to the circuit court within the jurisdiction of which the State is located.

Mr. MUNDT. Will the Senator yield further?

Mr. JACKSON. I yield.

Mr. MUNDT. The fact that this is not a new approach is one of the things that disturbs me, because we applied this particular concept to the nth degree for the first time in the so-called Highway Beautification Act, in which we gave the Secretary of Commerce the right to veto an act of a State legislature which had been signed by the Governor. This is a veto power greater by far than that held by the President of the United States, because Congress can at least, if it wishes, override the Presidential veto, but here we have the man who sets up the standard acting as the judge of whether the standard set up by the State agrees with his ideas and concepts, and invoking the penalty.

Mr. JACKSON. That is not correct. Congress sets up the standards, and I submit that provision is made for the court to review the matter. It is all a question of law; there would be no questions of fact involved in that kind of proceeding—to determine whether the conditions established by Congress have been met.

So there is judicial review. I do not see how there can be any objection to that kind of procedure.

Mr. MUNDT. Will the Senator yield further?

Mr. JACKSON. Yes.

Mr. MUNDT. How does the Senator deduce that Congress sets the standards from the language of the amendment, which reads:

> Within ninety days from the date of enactment of this Act the Secretary shall propose regulations setting forth the criteria he will apply in determining whether State legislation meets the standards set out in this subsection.

The standards are very vague, pious, pleasing, and persuasive, but they are not meticulous and complete in detail.

Mr. JACKSON. No, but the point is that they cannot go beyond the statutory criteria laid down by Congress; and if there is any question as to the action taken by the Secretary of the Treasury, then the aggrieved party can go right into the circuit court for a judicial review.

We have the alternative here of having the authority vested in the State, to simply make a legislative finding that they have complied when in fact they have not. That would be a meaningless gesture. Instead, the amendment would establish Federal standards and provide for judicial review.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HRUSKA. I yield the Senator from South Dakota 2 additional minutes.

Mr. MUNDT. Mr. President, I regret that my distinguished friend from Washington does not have the confidence in the reliability, the honesty, and the perspicacity of State legislatures and governors that I happen to have. I believe they will act responsibly in this connection.

I increasingly resent a tendency on the part of this Congress and this administration, Mr. President, to apply the doctrine of what I call "coercive cooperation."

They say, "This is strictly voluntary; you can do it, but unless you do it, the Federal Government will come in and tell you the penalty is going to be such-and-such, or no maker of firearms can send firearms or ammunition into your State" or, in the case of the Highway Beautification Act, "We will withhold 10 percent of your highway funds."

That is a curious kind of cooperation, a curious kind of partnership. It certainly is not a voluntary approach; it is a totalitarian, compulsory, coercive approach. It is about as voluntary, Mr. President, as a speech by an official of the Czechoslovakian government, speaking from Prague, welcoming in the invading troops of Russia. He may make it, but he makes it under coercion. I am against this increasing tendency of an almighty Federal Government to shove people around, and now to start shoving States and State legislatures around. I hope this well intentioned amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, can someone yield me 15 minutes?

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished majority leader, I yield the Senator from South Carolina 15 minutes on the bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I have placed on the desk this morning an amendment quite similar to the amendment offered by the distinguished Senator from Illinois, the minority leader [Mr. DIRKSEN], relative to the judicial review powers of the U.S. Supreme Court.

On Monday, the distinguished Senator from Illinois submitted to the Senate an amendment to restrict the judicial review powers of the High Court in pornography or obscenity cases.

There is a question as to the constitutionality and the germaneness of this particular amendment, but there is no question about what is the primary concern in the Nation today with respect to the U.S. Supreme Court and its judicial review authority; and of far more concern than obscenity or pornography is the matter of the public school system of America.

I shall limit my remarks now with the understanding, Mr. President, that I intend to watch the course of the amendment of the Senator from Illinois; and if this body finds it germane, then I shall submit my amendment at that particular time, because I believe it is of greater import.

Referring to the matter of the school cases, I hearken the memory of the Senate to the time when these cases were first presented before the U.S. Supreme Court in December of 1952, when the then Mr. Thurgood Marshall, prior to his elevation to the bench as Associate Justice Thurgood Marshall, was arguing the school cases. There were five States involved at that particular time—actually four States and the District of Columbia—Delaware, Kansas, Virginia, South Carolina, and the District, in the Briggs-Elliott case, which had been ruled on favorably by the District and circuit courts, and was then on appeal before the U.S. Supreme Court, being argued on one side, on behalf of the NAACP, by Mr. Justice Marshall, and on behalf of South Carolina by the distinguished former Solicitor General, John W. Davis, of the State of West Virginia.

I was honored at that time by a former colleague—to other Senators, of course, not to me—and former Governor of South Carolina and member of the court, the Honorable James W. Byrnes, who was then Governor of South Carolina. Having been chairman of a committee to equalize our school facilities, I was in attendance at that particular time, with the Honorable Robert McC. Figg, who is presently dean of the law school of the University of South Carolina.

I now refer to the judicial review of that matter, and as my authority for my particular remarks this morning I refer to Justice Marshall's comments and the colloquy—that is another word, Mr. President, I have learned since coming to Washington, dialog or colloquy—between the court and the arguing attorneys.

I could read the entire transcript; it is powerfully interesting, but I begin on page 23, where Mr. Justice Marshall, as the attorney, at that time, for the appellants, was making comments as follows:

> So what do we have in the record? We have testimony of physical inequality. It is admitted. We have the testimony of experts as to the exact harm which is inherent in segregation wherever it occurs. That I would assume is too broad for the immediate decision, because after all, the only point before this Court is the statute as it was applied in Clarendon County. But if this Court would reverse and the case would be sent back, we are not asking for affirmative relief. That will not put anybody in any school.

I interrupt the quotation at this time to call to the attention of the U.S. Senate that what is at issue here in America is the freedom of choice in the operation of the public school system by the authorities in the several and numerous districts all over the Nation and, on the other hand, a person being denied his equal rights as a full citizen.

The Court in 1954 in that original case said that there is no second-class citizenship. They struck down the State-imposed discrimination. But now we have a bureaucracy and the rulings of the Department of Health, Education, and Welfare. We have gotten exactly what Mr. Justice Marshall said in his argument in 1952 was not contemplated or intended.

I continue to quote:

> The only thing that we ask for is that the state-imposed racial segregation be taken off, and to leave the county school board, the county people, the district people, to work out their own solution of the problem to assign children on any reasonable basis they want to assign them on.
>
> Justice FRANKFURTER. You mean, if we reverse, it will not entitle every mother to have her child go to a non-segregated school in Clarendon County?
>
> Mr. MARSHALL. No, sir.
>
> Justice FRANKFURTER. What will it do? Would you mind spelling this out? What would happen?
>
> Mr. MARSHALL. Yes, sir. The school board, I assume, would find some other method of distributing the children, a recognizable method, by drawing district lines.

Justice FRANKFURTER. What would that mean?

Mr. MARSHALL. The usual procedure——

Justice FRANKFURTER. You mean that geographically the colored people all live in one district?

Mr. MARSHALL. No, sir, they do not. They are mixed up somewhat.

Justice FRANKFURTER. Then why would not the children be mixed?

Mr. MARSHALL. If they are in the district, they would be. But there might possibly be areas——

Justice FRANKFURTER. You mean we would have gerrymandering of school districts?

Mr. MARSHALL. Not gerrymandering, sir. The lines could be equal.

Justice FRANKFURTER. I think that nothing would be worse than for this Court—I am expressing my own opinion—nothing would be worse, from my point of view, than for this Court to make an abstract declaration that segregation is bad and then have it evaded by tricks?

Mr. MARSHALL. No, sir. As a matter of fact, sir, we have had cases where we have taken care of that. But the point is that it is my assumption that where this is done, it will work out, if I might leave the record, by statute in some states.

Justice FRANKFURTER. It would be more important information, in my mind, to have you spell out in concrete what would happen if this Court reverses and the case goes back to the District Court for the entry of a decree.

Mr. MARSHALL. I think, sir, that the decree would be entered which would enjoin the school officials from, one, enforcing the statute; two, from segregating on the basis of race or color. Then I think what ever district lines they draw, if it can be shown that those lines are drawn on the basis of race or color, then I think they would violate the injunction. If the lines are drawn on a natural basis, without regard to race or color—

And, I interject, freedom of choice—

then I think that nobody would have any complaint.

For example, the colored child that is over here in this school would not be able to go to that school. But the only thing that would come down would be the decision that whatever rule you set in, if you set in, it shall not be on race, either actually or by any other way. It would violate the injunction, in my opinion.

Justice FRANKFURTER. There is a thing that I do not understand. Why would not that inevitably involve—unless you have Negro ghettos, or if you find that language offensive, unless you have concentrations of Negroes, so that only Negro children would go there, and there would be no white children mixed with them, or vice versa—why would it not involve Negro children saying, "I want to go to this school instead of that school"?

Mr. MARSHALL. That is the interesting thing in this procedure. They could move over into that district, if necessary. Even if you get stuck in one district, there is always an out, as long as this statute is gone.

There are several ways that can be done. But we have instances, if I might, sir, where they have been able to draw a line and to enclose—this is in the North—to enclose the Negroes, and in New York those lines have on every occasion been declared unreasonably drawn, because it is obvious that they were drawn for that purpose.

Justice FRANKFURTER. Gerrymandering?

Mr. MARSHALL. Yes, sir. As a matter of fact, they used the word "gerrymander".

So in South Carolina, if the decree was entered as we have requested, then the school district would have to decide a means other than race, and if it ended up that the Negroes were all in one school, because of race, they would be violating the injunction just as bad as they are by violating what we consider to be the Fourteenth Amendment now.

Justice FRANKFURTER. Now, I think it is important to know, before one starts, where he is going. As to available schools, how would that cut across this problem? If everything was done that you wanted done, would there be physical facilities within such drawing of lines as you would regard as not evasive of the decree?

Mr. MARSHALL. Most of the school buildings are now assigned to Negroes, so that the Negro buildings are scattered around in that county. Now, as to whether or not lines could be properly drawn, I say quite frankly, sir, I do not know. But I know that in most of the southern areas—it might be news to the Court—there are very few areas that are predominantly one race or the other.

Justice FRANKFURTER. Are you going to argue the District of Columbia case?

Mr. MARSHALL. No, sir.

If you have any questions, I would try, but I cannot bind the other side.

Justice FRANFURTER. I just wondered, in regard to this question that we are discussing, how what you are indicating or contemplating would work out in the District if tomorrow there were the requirement that there must be mixed groups.

Mr. MARSHALL. Most of the schools in the District of Columbia would be integrated. There might possibly be some in the concentrated areas up in the northwest section. There might be. But I doubt it. But I think the question as to what would happen if such decree was entered—I again point out that it is actually a matter that is for the school authorities to decide, and it is not a matter for us, it seems to me, as lawyers, to recommend except where there is racial discrimination or discrimination on one side or the other.

And that is all the school districts are now asking—what Mr. Justice Marshall said in his original argument in the presentation of the Brown case in the famous May 17, 1954, decision.

Mr. President, I will finish with a few other quotations:

But my emphasis is that all we are asking for is to take off this state-imposed segregation. It is the state-imposed part of it that affects the individual children. And the testimony in many instances is along that line.

So in South Carolina, if the District Court issued a decree—and I hasten to add that in the second hearing when we were prevented from arguing segregation, the argument was made that on the basis of the fact that the schools were still unequal, we should get relief on the basis of the Sipuel decision—the court said in that case, no, that the only relief we could get would be this relief as of September, and in that case the court took the position that it would be impossible to break into the middle of the year. If I might anticipate a question on that, the point would come up as to, if a decree in this case should happen to be issued by the District Court, or in a case similar to this, as to whether or not there would be a time given for the actual enrollment of the children, et cetera, and changing of children from school to school. It would be my position in a case like that, which is very much in answer to the brief filed by the United States in this case—it would be my position that the important thing is to get the principle established, and if a decree were entered saying that facilities are declared to be unequal and that the appellants are entitled to an injunction, and then the District Court issues the injunction, it would seem to me that it would go without saying that the local school board had the time to do it. But obviously it could not do it over night, and it might take six months to do it one place and two months to do it another place.

Then finally, if my colleagues please, Mr. Justice Marshall in 1952 in presenting his original argument ended by saying:

Again, I say it is not a matter for judicial determination. That would be a matter for legislative determination.

The distinguished senior Senator from Illinois offers an amendment to cover what should be judicially determined or reviewed with respect to pornography.

Again, Mr. President, if that amendment is germane, then certainly the matter of judicial review of the assignment of school districts, in exercising the freedom of choice, is germane.

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

Mr. MANSFIELD. I yield 2 additional minutes to the Senator.

Mr. HOLLINGS. If the Senate determines that the Dirksen amendment is germane, then I would offer this amendment as a germane amendment.

As Mr. Justice Frankfurter remarked, in an exchange with Mr. Young, who was then Attorney General, in the Delaware case, "We are not going to have this Court act as a super school board."

I have not had the time this morning to check the particular quotation.

I believe this is a matter of concern to America; and, as Mr. Justice Marshall has said, if we are to exercise the legislative function of legislative restraint on a review of judicial determination, it should go first not to pornography or to obscenity but to the running of the public schools of America.

I oppose the Fortas nomination, but I do not oppose it to the extent that I will not vote for the amendment if offered, and if it is the will of the Senate that the amendment of Senator DIRKSEN is germane I shall support it. But if that course is taken then I will certainly offer my amendment at that time.

I thank the Senator.

Mr. HRUSKA. I yield 5 minutes on the bill to the Senator from Illinois.

S. 4058—INTRODUCTION OF BILL RELATING TO THE TRIAL AND REVIEW OF CRIMINAL ACTIONS INVOLVING OBSCENITY

Mr. DIRKSEN. Mr. President, when I submitted my amendment late Monday, it was only for the purpose of having the question of obscenity resolved by a jury. That would go for U.S. courts and State courts as well. Of course, if you had to deny jurisdiction on the part of any court to review or reverse or set aside what was finally found in the lower court, if it were a jury finding on only that one point, it would include nothing else. Many points can be made by way of exceptions and put in the RECORD, but I was interested in only the question of obscenity.

The question came to me yesterday, from among the press, as to why and how this eventuated at this particular moment. The answer is very simple.

I go back to the days when Arthur Summerfield was the Postmaster General under President Eisenhower. The Postmaster conducted quite a drive through the mails against obscene literature, films, and so forth. He set up in the basement of the post office what he called "The Chamber of Horrors," and

would invite people to come down and take a look. And it was a chamber of horrors, indeed.

Well, the matter was pursued somewhat, I suppose not with real vigor; and, as a matter of fact, over the years nothing was actually done about it. But it continued to come before the High Court.

I had an analysis made, and I discovered that Justices were voting one way or another and sometimes in conflict with a decision they had earlier rendered. In strict fact, for at least 10 years or longer, this has been one of the most challenging questions before the Court, and always the first amendment to the Constitution, relating to freedom of speech, has come into play. Well, in the estimate of some Justices, that is an absolute interdiction, as it were, because it says Congress shall make no law, and they interpret that in the field of absolutism.

So we will never resolve this question unless we get at it legislatively, and that we can do, because in setting the judicial power, the Constitution specified the primary areas in which the Court has original jurisdiction.

It then confers, also, appellate jurisdiction, and there is a provision to the effect that it shall be determined according to the way Congress may legislate on the subject. So I think that for a long, long time it has been freely conceded that Congress can change, modify, expand, or restrict the jurisdiction of the Court so far as its appellate jurisdiction is concerned. I have not the slightest doubt that the amendment I offered is perfectly constitutional and that it would do what many people would like to have done.

Now, I am not insensible to the fact, after some discussion with other Members of the Senate, that this could be a convenient vehicle to which one might add something else. I have been notified to that effect, and, of course, that is any Senator's privilege. But, in a discussion with the majority leader this morning, we finally came to the conclusion that perhaps this should be considered as a separate, independent bill, and to let it go to the Committee on the Judiciary for such hearings as may be required. I do not know to what subcommittee it would go, but I would be attentive to it and try to move it on through action by the subcommittee and the full committee and back to the floor of the Senate.

So I can give notice now, Mr. President, that I shall not call up the amendment I submitted, but I have put the same text in the bill; and in behalf of the distinguished majority leader and myself, I now introduce this as a separate bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 4058) to amend title 18 and title 28 of the United States Code with respect to the trial and review of criminal actions involving obscenity, and for other purposes, introduced by Mr. DIRKSEN (for himself and Mr. MANSFIELD), was received, read twice by its title, and referred to the Committee on the Judiciary.

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

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. Mr. President, on Monday I stated on the Senate floor my attitude with respect to the current controversy concerning the confirmation of Mr. Justice Fortas as Chief Justice of the United States because of certain closely divided Court decisions dealing with obscenity.

As I said at that time, I believe it is the constitutional responsibility of Congress to make the laws of the land and for the Courts, including the Supreme Court, to interpret those laws and to adjudge their applicability to the factual cases that are presented.

Today, the distinguished minority leader [Mr. DIRKSEN] and I introduced a bill seeking to implement congressional action in the field of obscenity. As I understand and interpret our proposal—and I speak as a nonlawyer—it would simply leave the question of fact—whether something is obscene—in a criminal prosecution to the final determination and judgment of a jury. As a nonlawyer, it has been my impression that appellate courts were never empowered to change factual findings by the jury that received the evidence at the trial. So long as that evidence was available and could support the jury determination, the factual findings could not be overturned by an appellate court.

All that the Dirksen-Mansfield bill says is that on the question of what printed matters are obscene, the jury of men and women from the community where the proceedings are brought should decide.

As I interpret the bill, questions of law in these cases, including the constitutionality of the statute or ordinance upon which any conviction could be based, could still be reviewed by an appellate court, including the Supreme Court of the United States. On the question of the legal definition of obscenity, any conviction could similarly be reviewed by the appellate process.

I believe that the Dirksen-Mansfield proposal does not offend or change any concept of American jurisprudence.

Mr. DIRKSEN. Mr. President, I thank the majority leader for sharing in the responsibility for this bill, which he does so very willingly.

Between us, we hope that we can prevail upon the Committee on the Judiciary to get to reasonably early action on this measure.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. I yield 2 minutes on the bill to the Senator from South Carolina.

AMENDMENT NO. 980

Mr. HOLLINGS. Mr. President, in view of the distinguished minority leader's remarks with respect to changing his amendment and having it withdrawn now and offering it as a bill, like Mark Twain's boy, I have learned a great deal in the last 5 minutes.

First, I was following the remarks and the leadership of the senior Senator from Arkansas [Mr. MCCLELLAN], who stated to the Senate on yesterday that if this amendment were found to be germane, he, in turn, would offer amendments with respect to search and seizure.

Also, I have been informed by the Parliamentarian that the question of germaneness was not a matter in question before the Senate and that, based on the unanimous-consent agreement on this measure, it could be considered.

I have not been able to discuss the reasons for revising this from an amendment into the form of a bill. Perhaps that is the best course for me. I do not want this school matter treated lightly or voted down in the concern of the Senate over the gun bill, to get a clear, clean, and final vote today.

I will leave the amendment on the desk and consult with my colleagues as to the possibility of having it enacted. Certainly, if I do not get any more encouragement than that which appears now, with the sense of the Senate being to consider solely the gun bill, and with the action taken now by the minority leader, I will not call up the amendment, but offer it as a separate bill, and I leave it at the desk at this time.

Subsequently, the amendment (No. 980) was ordered to lie on the table and to be printed.

Mr. HRUSKA. Mr. President, I yield myself 4 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, the amendment which has been introduced by the distinguished Senator from Washington is a Federal registration measure of firearms in a slightly different form than the Tydings amendment which the Senate has already acted. It is my hope that the Senate will resoundingly reject this amendment as it did the Tydings amendment because this amendment is subject to all the arguments and objections which were previously raised, considered, and rejected a while ago.

There still has not been a showing as to the relevance and impact of the registration of guns to a reduction in crime. What impact would it have on the commission of crime and the misuse of guns? There has been no showing made in that respect.

In addition to the objections applicable to the Tydings amendment, this amendment is objectionable because of the Federal character of the measure. The enforcement of this measure would be under the jurisdiction of the Secretary of the Treasury. The standards and the requirements under this law would be set forth in a Federal law; however, the Secretary of the Treasury would formulate the necessary regulations for determining whether or not those requirements are complied with.

The States will have to send the information required by this amendment to the National Crime Information Center in Washington. This would have the effect of making it a Federal project.

If the penalties are visited on any State because it does not enact a State registration law, then instead of a law regulating guns and regulating interstate commerce, rather we would have a law prohibiting interstate commerce into that particular State. This gets into considerations that go beyond regulations of interstate commerce.

Mr. President, this Nation went into the business of national prohibition some time ago and it did not fare so well. I imagine this proposal would not fare well either. What a lush, potential black market would crop up the instant this embargo went into effect in a State. Yet, the invocation of that sanction would not reduce the inventory of guns in an affected State. Guns would be just as accessible to misuse as they were before. Pressures would immediately start to build up to make it a truly Federal registration act, if for no other reason, because of the cost.

Mr. President, what would be the cost? The New York Legislature had a study on registration and it came up with a figure of $25 a gun. I should state in all fairness that that is not the only cost of registration. There also would be the cost of followup to check out the legality of the man who seeks to register a gun, to determine whether or not he is competent and eligible under the law to register and possess a gun. The $25 can be pared down to $10 a gun.

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

Mr. HRUSKA. Mr. President, I yield myself 4 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 4 additional minutes.

Mr. HRUSKA. Mr. President, that amount of money could be pared and cut down to $10 a gun. On the basis of 100 million guns in this Nation, which is the lowest general estimate made, that would be $1 billion spread around 50 States. If the estimate is 200 million guns that exist in the United States, then it would mean $2 billion, and that is a lot of money.

How long will the States be willing to assume that burden and maintain it. I doubt it will be very long because of the long years of habit of running to Washington with their troubles. How long before the States will say, "Take this off our shoulders. Take it all over." We will get into the situation which the Senate rejected less than 1 hour ago.

I do not think we want to do that. It would undoubtedly lead to taxation, it would undoubtedly lead to a fee for registration. It will lead to a tax on guns. It will also lead to a limitation on guns because the question will be whether or not crime is still going on and what is the effect that availability and accessibility of guns is having on crime. This goes to the continued existence of guns and not to their registration.

Mr. President, it is my hope that this measure, which provides for Federal registration in another form will be rejected by the Senate.

I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield 2 minutes to the Senator from Connecticut and then I will be prepared to yield back the remainder of my time.

Mr. DODD. Mr. President, I want to go on record in support of the amendment, just as I did in the case of the Tydings amendment, which I hoped would be passed.

I do not know how long we have to answer these arguments that there is no relationship between accessibility and crime. If anything is settled, we must settle that. It is said every time. We hear the same old argument that the law would be difficult to enforce, that it would be too costly, and that it would cost $1 million at a time when the cost to this country is in figures no one can calculate, not only in money but in every respect. With reference to the statement that the fee has gone from $1 to $10 or $20, I wish to add that everything else has increased in that period and not just the cost in this area. I do not see any valid argument against this form of registration.

I hope the amendment is agreed to, and I commend the Senator for having introduced it.

Mr. JACKSON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Mr. JACKSON. Mr. President, I wish to briefly summarize the amendment. I do not feel that anyone should object to having a requirement in the law for gun registration. This is the premise on which the amendment is based. I feel very strongly, however, that registration should be at the State and local level. I am opposed to Federal registration. I voted against the Tydings amendment on that account.

However, having said that, it seems to me that it is reasonable and proper to ask of citizens that they be willing to have their firearms registered at a local level. That is the effect of my amendment. I think the approach is reasonable and sensible. For example, if there were Federal registration we would run the danger of having a national police force. There would have to be a Federal police force to see that the law is enforced.

On the other hand, a State law could be adjusted to meet the requirements of that State. Some States may feel, or its legislature may feel, that guns should be registered with the sheriff or the chief of police. Legislatures in other States may feel that the registration should be with the county auditor or the county treasurer, or the county agency that handles licensing.

This amendment provides for broad and flexible administration of the program. It leaves to the States, in the last analysis, the manner in which it would be carried out.

In my area where we have great rural sections and great wilderness areas, the people are concerned about firearms. The urban areas of the country have another problem. Therefore, the effect of the amendment would be to permit the States to determine how best to fulfill the objective of registration.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from Nebraska is prepared to yield back the remainder of his time.

Mr. MANSFIELD. He has yielded back his time.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Washington. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], the Senator from Georgia [Mr. RUSSELL], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Alaska [Mr. GRUENING] and the Senator from Michigan [Mr. HART] are absent on official business.

On this vote, the Senator from Michigan [Mr. HART] is paired with the Senator from Oregon [Mr. MORSE]. If present and voting, the Senator from Michigan would vote "yea" and the Senator from Oregon would vote "nay."

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from South Dakota [Mr. MCGOVERN] and the Senator from Mississippi [Mr. STENNIS] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kentucky [Mr. MORTON], and the Senator from Maine [Mrs. SMITH], are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT] would vote "nay" and the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 35, nays 48, as follows:

[No. 280 Leg.]

YEAS—35

Anderson	Inouye	Pastore
Brewster	Jackson	Pell
Brooke	Javits	Proxmire
Case	Kennedy	Randolph
Clark	Kuchel	Ribicoff
Cooper	Lausche	Smathers
Dodd	Magnuson	Spong
Fong	Mansfield	Symington
Goodell	McGee	Tydings
Griffin	McIntyre	Williams, N.J.
Hartke	Mondale	Young, Ohio
Hayden	Nelson	

NAYS—48

Aiken	Eastland	Miller
Allott	Ellender	Montoya
Baker	Ervin	Moss
Bayh	Fannin	Mundt
Bible	Hansen	Murphy
Boggs	Harris	Pearson
Burdick	Hatfield	Percy
Byrd, Va.	Hickenlooper	Prouty
Byrd, W. Va.	Hill	Scott
Cannon	Holland	Sparkman
Carlson	Hollings	Talmadge
Church	Hruska	Thurmond
Cotton	Jordan, N.C.	Tower
Curtis	Jordan, Idaho	Williams, Del.
Dirksen	McClellan	Yarborough
Dominick	Metcalf	Young, N. Dak.

NOT VOTING 17

Bartlett	Long, Mo.	Morton
Bennett	Long, La.	Muskie
Fulbright	McCarthy	Russell
Gore	McGovern	Smith
Gruening	Monroney	Stennis
Hart	Morse	

So Mr. JACKSON's amendment was rejected.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ALLOTT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, 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. 18785) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes; and that the House receded from its disagreement to the amendment of the Senate numbered 2 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 220) to authorize the sale of certain public lands.

MILITARY CONSTRUCTION APPROPRIATION BILL, 1969—CONFERENCE REPORT

Mr. BIBLE. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes, without the time being taken out of either side, for the purpose of submitting a conference report from the Appropriations Committee.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIBLE. 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. 18785) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of today on pp. 27314–27315, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

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

Mr. BIBLE. Mr. President, the conference committee agreed on an overall figure of $1,758,376,000 for the military construction bill for fiscal year 1969. This is an amount of $13,440,000 over the amount allowed by the Senate, $6,643,000 under the amount approved by the House, and $273,124,000 under the budget estimate of $2,031,500,000.

The conferees agreed on the following amounts for the military services and the Department of Defense:

Army, $548,126,000.

Navy, $291,513,000.

Air Force, $222,141,000.

Defense agencies, $83,396,000.

Army Reserve, $3,000,000.

Navy Reserve, $5,000,000.

Air Force Reserve, $4,300,000.

Army National Guard, $2,700,000.

Air National Guard, $8,300,000.

Family housing, Department of Defense, $583,700,000.

Homeowners assistance fund, $6,200,000.

Mr. President, I wish to emphasize that the military construction bill this year is indeed an austere bill. The percent of reduction from the budget estimate amounts to 13.5 percent. However, I wish to point out that this bill provides for all of the essential operational facilities needed by the military services and adequately supports our troops in South Vietnam. I can state categorically that there are no moneys in this bill for plush accommodations for the military services.

I do not intend to make a long and involved statement of the action of the conference committee. The conference report explains in a succinct manner the complete actions of the committee.

Mr. President, this completes my statement. I believe that the conference committee has presented for the Senate's consideration a military construction bill that fits the stringent financial condition in which this Government now finds itself. I shall be glad to answer any questions which individual Senators may have regarding construction projects in their States.

I ask unanimous consent that, at the conclusion of my remarks on this bill, a tabulation comprising a summary of the conference action on the military construction appropriation bill for fiscal year 1969 be included in the RECORD.

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

MILITARY CONSTRUCTION APPROPRIATION BILL, 1969

[In thousands]

	Appropriations, 1968	Budget estimate, 1969	Passed House	Passed Senate	Conference action	Conference action compared with—			
						Appropriations, 1968	Budget estimate, 1969	House	Senate
Military construction, Army	$372,228	$688,300	$554,597	$537,605	$548,126	+$175,898	−$140,174	−$6,471	+$10,521
Military construction, Navy	486,661	367,000	289,238	286,374	291,513	−195,148	−75,487	+2,275	+5,139
Military construction, Air Force	400,662	266,000	221,588	224,361	222,141	−178,521	−43,859	+553	−2,220
Military construction, Defense agencies	114,540	85,400	83,396	83,396	83,396	−31,144	−2,004		
Military construction, Army Reserve	3,000	3,000	3,000	3,000	3,000				
Military construction, Navy Reserve	5,000	5,000	5,000	5,000	5,000				
Military construction, Air Force Reserve	3,900	4,300	4,300	4,300	4,300	+400			
Military construction, Army National Guard	3,000	2,700	2,700	2,700	2,700	−300			
Loran stations	3,600					−3,600			
Military construction, Air National Guard	9,500	8,300	8,300	8,300	8,300	−1,200			
Total, military construction	1,402,091	1,430,000	1,172,119	1,155,036	1,168,476	−233,615	−261,524	−3,643	+13,440
Family housing	671,271	589,700	586,700	583,700	583,700	−87,571	−6,000	−3,000	
Homeowners assistance fund	20,000	11,800	6,200	6,200	6,200	−13,800	−5,600		
Total, family housing	691,271	601,500	592,900	589,900	589,900	−101,371	−11,600	−3,000	
Grand total	2,093,362	2,031,500	1,765,019	1,744,936	1,758,376	−334,986	−273,124	−6,643	+13,440

Mr. BIBLE. Mr. President, 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.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House agree 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. 18785) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2, to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$291,513,000".

Mr. BIBLE. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate No. 2.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the House.

The amendment was agreed to.

VISIT TO THE SENATE BY PARLIAMENTARY DELEGATION FROM NEPAL

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

Mr. HRUSKA. Mr. President, I yield to the Senator from Colorado 3 minutes on the bill.

Mr. ALLOTT. Mr. President, we are honored to have as guests of the Senate today, two Members of the Parliament of Nepal—Mr. Lalit Chand, who was appointed Chairman of the National Panchayat of Nepal on June 26, 1968, and Mr. Singho Dhoj Khadga, also a Member of the National Panchayat.

Some of my colleagues and I had the pleasure of meeting these gentlemen and the Secretary of their delegation, Mr. Junga Bahadur Chand, at the 56th Conference of the Interparliamentary Union, recently held in Lima, Peru.

We are happy and privileged to welcome them here today, and I ask unanimous consent that the Senate stand in recess for 2 minutes so that Senators may greet our visitors. [Applause, Senators rising.]

RECESS

There being no objection, the Senate (at 2 o'clock and 39 minutes p.m.) took a recess until 2 o'clock and 41 minutes p.m.

On the expiration of the recess, the Senate reassembled, and was called to order by the Presiding Officer (Mr. SPONG in the chair).

Mr. ALLOTT. Mr. President, I thank the distinguished Senator from Massachusetts for his courtesy in yielding.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, 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 House to the bill (S. 827) to establish a nationwide system of trails, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate numbered 2, 3, 4, 5, and 6 to the bill (H.R. 13844) to amend title 5, United States Code, to provide additional leave of absence for Federal employees in connection with the funerals of their immediate relatives who died while on duty with the Armed Forces and in connection with certain duty performed by such employees as members of the Armed Forces Reserve components or the National Guard, and for other purposes; that the House agreed to the amendment of the Senate numbered 1 to the bill, with an amendment, in which it requested the concurrence of the Senate, and that the House agreed to the amendment of the Senate to the title of the bill.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

Mr. SPARKMAN. Mr. President, will the Senator from Massachusetts yield to me?

Mr. BROOKE. I yield 1 minute to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Chair advises the Senator from Massachusetts that he must offer his amendment in order to have time running after which he may yield time to the Senator from Alabama.

AMENDMENT NO. 948

Mr. BROOKE. Mr. President, I call up my amendment No. 948 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in full in the RECORD.

The amendment (No. 948) proposed by Mr. BROOKE is as follows:

On page 62, after line 10, insert the following new title:

"TITLE IV—FIREARMS INVENTORY

"SEC. 401. This title may be cited as the 'National Firearms Inventory Act'.

"SEC. 402. (a) It shall be unlawful for any manufacturer, importer, dealer, or pawnbroker within any State to sell or otherwise transfer any firearm after the effective date of this title to any person unless such manufacturer, importer, dealer, or pawnbroker forwards (1) to the principal law enforcement officer of the locality in which the transaction occurs; (2) to the principal law enforcement officer of the locality in which the transferee resides; (3) to the firearms inventory to be established by the Department of the Treasury by United States registered or certified mail (return receipt requested); and (4) to the transferee a statement in such form as the Secretary shall prescribe, containing but not limited to the following information—

"(A) the name, age, address, and social security number, if any, of the person purchasing or otherwise acquiring such firearm;

"(B) the title, name, and official address of the principal law enforcement officer of the locality in which such person resides;

"(C) the name of the manufacturer, the caliber or gage, as appropriate, the model and the type, and the serial number identification, if any, of the firearm; and

"(D) a true copy of any permit or similar document required for purchase or possession of a firearm by the transferee pursuant to any statute of the State or published ordinance applicable to the locality in which such person resides.

"(b) It shall be unlawful for any person within any State, other than a manufacturer, importer, dealer, or pawnbroker, to receive any firearm obtained by him by purchase, gift, or otherwise, after the effective date of this title, other than by purchase from a manufacturer, importer, dealer, or pawnbroker, unless such transferee forwards within ten days to the principal law enforcement officer of the locality in which such transferee resides a statement in such form as the Secretary shall prescribe containing but not limited to the following information—

"(A) the name, age, address, and social security number, if any, of the person purchasing or otherwise acquiring such firearm;

"(B) the title, name, and official address of the principal law enforcement officer of the locality in which such person resides; and

"(C) the name of the manufacturer, the caliber or gage, as appropriate, the model and the type, and the serial number identification, if any, of the firearm. Any local law enforcement officer designated by the Secretary to receive such a statement shall forward by United States registered or certified mail (return receipt requested) a true copy of any such statement received to the firearms inventory to be established by the Department of the Treasury. The Secretary is authorized to make whatever arrangements he deems necessary, including the dissemination of public information, to effect the policy of this section.

"(c) Any person owning or possessing any firearm purchased or otherwise obtained prior to the effective date of this title shall, within one year after the effective date of this title, file with the principal law enforcement officer of the locality in which such person resides a statement in such form as the Secretary shall prescribe containing but not limited to the following information:

"(A) the name, age, address, and social security number, if any, of the person owning or possessing such firearm;

"(B) the title, name, and official address of the principal law enforcement officer of the locality in which such person resides; and

"(C) the name of the manufacturer, the caliber or gage, as appropriate, the model and type, and the serial number identification, if any, of the firearm. Any local law enforcement officer designated by the Secretary to receive such a statement shall forward by United States registered or certified mail (return receipt requested) a true copy of any such statement received to the firearms inventory to be established by the Department of the Treasury. The Secretary is authorized to make whatever arrangements he deems necessary, including the dissemination of public information, to effect the policy of this section.

"(d) After January 1, 1970, any person (other than a manufacturer, importer, dealer or pawnbroker, acting in a commercial capacity) who possesses a firearm and who changes his residence to any locality in any State subject to the provisions of this title shall, within thirty days, file with the principal law enforcement officer of the locality in which such person takes up residence a statement in such form as the Secretary shall prescribe containing, but not limited to, the following information:

"(A) the name, age, address, and social security number, if any, of the persons owning or possessing such firearm;

"(B) the title, name, and official address of the principal law enforcement officer of the locality in which such person resides; and

"(C) the name of the manufacturer, the caliber or gage, as appropriate, the model and type, and the serial number identification, if any, of the firearm.

Any local law enforcement officer designated by the Secretary to receive such a statement shall forward by United States registered or certified mail (return receipt requested) a true copy of any such statement received to the firearms inventory to be established by the Department of the Treasury. The Secretary is authorized to make whatever arrangements he deems necessary, including the dissemination of public information, to effect the policy of this section.

"(e)(1) Any person who possesses a firearm recorded under the provisions of this title shall, within ten days after any loss, theft, recovery, or destruction of such firearms has been discovered, notify the principal law enforcement officer of the locality in which such person resides. Any local law enforcement officer designated by the Secretary for the purposes of this title shall forward by United States registered or certified mail (return receipt requested) a true copy of any such notification received to the firearms inventory to be established by the Department of the Treasury.

"(2) Any person (other than a manufacturer, importer, dealer, or pawnbroker, acting in a commercial capacity) who sells or otherwise transfers to any other person a firearm recorded under the provisions of this title shall within ten days notify the principal law enforcement officer of the locality in which such transferor resides. Such notice shall indicate the date of the transfer and

the name, age, address, and social security number, if any, of the transferee. Any local law enforcement officer designated by the Secretary for the purposes of this title shall forward by United States registered or certified mail (return receipt requested) a true copy of any such notification received to the firearms inventory to be established by the Department of the Treasury.

"(f)(1) If the Secretary determines after opportunity for a hearing that it is impracticable for most persons in any locality within any State to comply with the provisions of this section, the Secretary shall by regulation establish a procedure by which any such person may file the required statement directly with the Secretary either in person or by United States registered or certified mail (return receipt requested) on forms to be made available by the Secretary.

"(2) The Secretary shall notify the appropriate principal law enforcement officer of any locality designated under the provisions of this subsection of each statement filed pursuant to this section.

"(g) The provisions of this section shall not apply to the sale, other transfer, or ownership of any firearm to or by (A) the United States or any department, agency, or independent establishment thereof, (B) any State or any department, independent establishment, agency, or any political subdivision thereof, (C) any duly commissioned officer or agent of the United States, a State or any political subdivision thereof, in his official capacity; nor shall such provisions apply to any transactions between manufacturers, importers, dealers, or pawnbrokers, acting in a commercial capacity and licensed after the enactment of chapter 44 of title 18 of the United States Code.

"SEC. 403. (a) The Secretary shall establish and maintain an inventory identifying each firearm reported to him pursuant to section 401 of this title. Such inventory shall be established in consultation with the Director of the Federal Bureau of Investigation in order to insure coordination between the inventory and the National Crime Information Center.

"(b) In order to carry out his responsibilities under this section the Secretary is authorized to obtain and use the most modern and efficient automatic data processing equipment for the storage, analysis, and retrieval of information contained in the statements furnished to the firearms inventory to be established pursuant to this title.

"(c) The Secretary is authorized to issue, amend, and revoke such regulations as he deems necessary to carry out his functions under this title.

"(d) The Secretary is authorized to establish a schedule of fees, not to exceed $2 for each firearm, to be paid by each person (other than a manufacturer, importer, dealer or pawnbroker, acting in a commercial capacity) filing a statement under the provisions of this title. The Secretary may authorize each local law enforcement officer designated to forward statements filed under the provisions of this title to retain a portion, not to exceed 50 per centum, of each such fee.

"SEC. 404. (a) The provisions of this title shall not apply to a resident (other than a manufacturer, importer, dealer, or pawnbroker, acting in a commercial capacity) of any State which has enacted or shall enact legislation that establishes an inventory of firearms, including information at least as detailed as that required by this title, and that provides penalties at least as severe as are contained in this title.

"(b)(1) The Secretary is authorized to enter into agreements with any State agency designated by the Governor for the purposes of this title in any State eligible for exemption under the provisions of this section to pay the costs of furnishing the information collected in each such State to the inventory established under the provisions of this title.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"SEC. 405. (a)(1) Any person who violates the provisions of this title or any regulation issued thereunder shall be subject to a penalty which, in the case of the first offense shall be an amount not to exceed $100, in the case of the second offense by the same person shall be an amount not to exceed $1,000, and in the case of a subsequent offense by the same person shall be an amount not to exceed $5,000.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any officer of a designated local law enforcement agency in the course of his official duties.

"(b) Whoever knowingly and willfully makes a false statement on any statement required to be forwarded under this title shall be deemed to have violated the provisions of section 1001 of title 18 of the United States Code.

"(c) Except as provided in subsection (b), no information or evidence obtained from a statement required to be filed by a natural person in order to comply with any provision of this title shall be used as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the statement containing the information or evidence.

"SEC. 406. Only upon the request of a law enforcement agency of a State, political subdivision thereof, or a Federal department or agency shall the Secretary furnish information contained in the inventory established pursuant to this title and such information shall be furnished only to the requesting party.

"SEC. 407. As used in this title—

"(1) the term 'person' includes any individual, corporation, company, association, firm, partnership, society, or joint stock company;

"(2) the term 'fireram' means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall not include an antique firearm or an unserviceable firearm possessed and held as a curio or museum piece;

"(3) the term 'destructive device' means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary or his delegate finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes;

"(4) the term 'importer' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution;

"(5) the term 'manufacturer' means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution;

"(6) the term 'dealer' means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, or (B) any person engaged in the business of repairing such firearms or of making or fitting special barrels, stocks, or trigger mechanisms of firearms;

"(7) the term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearms or ammunition as security for the payment or repayment of money;

"(8) the term 'transfer' shall not include the temporary loan of a firearm for lawful purposes and for periods of less than eight days;

"(9) the term 'possession' shall not include the temporary receipt of a firearm for lawful purposes and for periods of less than eight days;

"(10) the term 'antique firearm' means any firearm of a design used before the year 1870 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1870, but not including any weapon designed for use with smokeless powder or using rimfire or conventional center-fire ignition with fixed ammunition;

"(11) the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa; and

"(12) the term 'Secretary' means the Secretary of the Treasury or his designee.

"SEC. 408. This title shall take effect on July 1, 1969."

Mr. BROOKE. I yield 1 minute to the Senator from Alabama.

EXTENSION OF AUTHORITY RELATING TO REGULATIONS OF MAXIMUM RATES OF INTEREST OR DIVIDENDS IN AGENCY ISSUES

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3133.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3133) to extend for 2 years the authority for more flexible regulation of maximum rates of interest or dividends, higher reserve requirements, and open market operations in agency issues, which was, strike out all after the enacting clause and insert:

SECTION 1. Section 7 of the Act of September 21, 1966 (Public Law 89-597; 80 Stat. 823) is amended to read:

"SEC. 7. Effective September 22, 1969—

"(1) so much of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) as precedes the third sentence thereof is amended to read as it would without the amendment made by section 2(c) of this Act;

"(2) the second and third sentences of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) are amended to read as they would without the amendment made by section 3 of this Act; and

"(3) section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is repealed."

SEC. 2. (a) The first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C.

731b) is amended by changing "limit by regulation" to read "prescribe rules governing the payment and advertisement of interest on deposits, including limitations on".

(b) The second sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by changing "limit by regulation" to read "prescribe rules governing the payment and advertisement of interest on deposits, including limitations on".

(c) The first sentence of section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by changing "limit by regulation" to read "prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts, including limitations on".

SEC. 3. (a) The first sentence of the eighth full paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 347) is amended by inserting ", or secured by such obligations as are eligible for purchase under section 14(b) of this Act" immediately before the period at the end thereof.

(b) The first sentence of the last full paragraph of such section (12 U.S.C. 347c) is amended by inserting "or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States" immediately before the period at the end thereof.

SEC. 4. Section 5A of the Federal Home Loan Bank Act is amended to read as follows:

"SEC. 5A. (a) The purpose of this section is to provide a means for creating meaningful and flexible liquidity in savings and loan associations and other members which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support two main purposes of the Federal Home Loan Bank Act—sound mortgage credit and a more stable supply of such credit.

"(b) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purpose of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, and (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the 'liquidity requirement') may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less or, in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable.

"(c) The amount of any institution's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Board shall prescribe. The Board may prescribe different liquidity requirements, within the limitations specified herein, for different classes of institutions, and for such purposes the Board is authorized to classify institutions according to type, size, location, rate of withdrawals, or, without limitation by or on the foregoing, on such other basis or bases of differentiation as the Board may deem to be reasonably necessary or appropriate for effectuating the purposes of this section.

"(d) For any deficiency in compliance with the liquidity requirement, the Board may, in its discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Board but not in excess of a rate equal to the highest rate on advances of one year or less, plus 2 per centum per annum, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a member shall be paid to the Federal Home Loan Bank of which it is a member, and any such penalty assessed against an insured institution which is not a member shall be paid to the Federal Savings and Loan Insurance Corporation. The right to assess or to recover, or to assess and recover, any such penalty is not abated or affected by an institution's ceasing to be a member or ceasing to be insured. The Board may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

"(e) Whenever the Board deems it advisable in order to enable an institution to meet withdrawals or to pay obligations, the Board may, to such extent and subject to such conditions as it may prescribe, permit the institution to reduce its liquidity below the minimum amount. Whenever the Board determines that conditions of national emergency or unusual economic stress exist, the Board may suspend any part or all of the liquity requirements hereunder for such period as the Board may prescribe. Any such suspension, unless sooner terminated by its terms or by the Board, shall terminate at the expiration of ninety days next after its commencement, but nothing in this sentence prevents the Board from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

"(f) The Board is authorized to issue such rules and regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as it deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Board, shall be paid by the institution. In connection with any such examination or investigation the Board has the same functions and authority that the Federal Savings and Loan Insurance Corporation has under subsection (m) of section 407 of the National Housing Act, and for purposes of this subsection the provisions of said subsection (m), including the next to last sentence but not including the last sentence, and the provisions of the first sentence of subsection (n) of that section are applicable in the same manner and to the same extent that they would be applicable if all reference therein to the Corporation were also references to the Board and all references therein to that section or any part thereof were also references to this section."

SEC. 5. Section 5(c) of the Home Owners' Loan Act of 1933 is amended by inserting immediately before the last paragraph thereof the following new paragraph:

"Any such association may invest in any investment which, at the time of the making of the investment, is an asset eligible for inclusion toward the satisfaction of any liquidity requirement imposed on the association pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations issued by the Board pursuant to that section, or is otherwise authorized."

SEC. 6. (a) Section 404(d) of the National Housing Act (12 U.S.C. 1727(d)) is amended to read as follows:

"(d)(1) Except as otherwise provided in this section, each insured institution shall pay to the Corporation, with respect to any calendar year in which it has a net account increase (as defined in paragraph (2) of this subsection), at such time and in such manner as the Corporation shall by regulations or otherwise prescribe, an additional premium (referred to in this subsection as the 'additional premium') in the nature of a prepayment with respect to future premiums of the institution under subsection (b) of this section. Any additional premium, when paid, shall be credited to the secondary reserve.

"(2) The 'net account increase', if any, for any insured institution with respect to any calendar year is equal to the amount, if any, by which the total of all accounts of its insured members at the end of that year exceeds the largest of the following:

"(A) the total of all accounts of its insured members at the close of the most recent day, if any, after 1965 on which it became an insured institution.

"(B) the total, of all accounts of its insured members at the close of the year in which it most recently became an insured institution, or at the close of 1966, whichever is later.

"(C) the largest total of all accounts of its insured members at the close of any year after the most recent year referred to in subparagraph (B).

"(3) The additional premium, if any, for any institution with respect to any calendar year shall be equal to 2 per centum of its net account increase, computed in accordance with paragraph (2) of this subsection, less an amount equal to any requirement, as of the end of that year, for the purchase of Federal Home Loan Bank stock in accordance with section 6(c) of the Federal Home Loan Bank Act and without regard to any net increase during that year in its holdings of such stock, except that the additional premium for any institution for the first calendar year following the calendar year in which it becomes an insured institution shall not be less than 1 per centum of its net account increase for the year in which it becomes an insured institution. The Federal Home Loan Bank Board shall by regulations or otherwise provide for the furnishing to the Corporation of all necessary information with respect to Federal Home Loan Bank stock.

"(4) The Corporation may provide, by regulation or otherwise, for the adjustment of payments made or to be made under this subsection and subsections (b) and (c) of this section in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for the purposes of this paragraph."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to additional premiums due with respect to calendar years beginning after 1968.

And amend the title so as to read: "An act to extend for 1 year the authority to limit the rates of interest or dividends payable on time and savings deposits and accounts, and for other purposes."

Mr. SPARKMAN. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18,

United States Code, to provide for better control of the interstate traffic in firearms.

Mr. BROOKE. Mr. President, I yield 1 minute to the distinguished Senator from North Carolina.

MILITARY JUSTICE

Mr. ERVIN. Mr. President, on June 26, 1967, I introduced S. 2009, the proposed Military Justice Act of 1967, designed to revise and perfect certain aspects of the system of justice administered in the Armed Forces. I noted at the time that the bill was the product of almost 10 years of painstaking work by the Senate Subcommittee on Constitutional Rights, and had as its purpose the modernization of a system of justice untouched for almost two decades.

The bill is divided into five titles. Title I contains a code of procedure for military boards empowered to issue administrative discharges under other than honorable conditions based upon alleged fault or misconduct. Title II provides for the formation of a separate corps for Navy lawyers. Title III contains numerous important changes to the Uniform Code of Military Justice, the statutory code which governs the system of criminal law enforced through the court-martial structure of the Armed Forces. Title IV provides for the transformation of military boards of review—the military intermediate appellate bodies—into "Military Courts of Review." Title V provides for the consolidation of the present service records-correction boards into a single Board for the Correction of Military Records under the Department of Defense, to promote uniformity among the implementing regulations promulgated and enforced by the individual services.

The bill represented the best efforts of the subcommittee to avoid stifling the military with detailed and inflexible legislation, while still accomplishing the major reforms needed to give the serviceman rights comparable to those he would enjoy as a civilian under recent Supreme Court decisions and applicable State and Federal laws.

I am pleased to say that the purpose of title II—a separate Judge Advocate Corps for the Navy—has been accomplished by independent legislation. But my hopes that the Senate would act on the remainder of S. 2009 during this Congress have not been realized.

The House of Representatives, however, has recently passed a bill providing for some reform of the military justice system—H.R. 15971, introduced and guided through the House by Congressman BENNETT, of Florida. The bill is decidedly not an acceptable substitute for S. 2009. The House bill does not deal at all with the acutely deficient area of administrative discharge proceedings, nor does it make any changes in the military appellate structure. It deals only with changes in the system of criminal justice enforced by courts-martial under the Uniform Code of Military Justice. Even in that area, the bill does not, in my view, contain the minimum reforms necessary to return the military system of criminal justice to the leading position in American law it attained with enactment of the Uniform Code in 1950. I, therefore, have submitted to the Senate Armed Services Committee, which has the House bill under consideration, a number of amendments which would incorporate into the legislation several provisions contained in the comparable titles of S. 2009 but not contained in the House-passed bill. I have every reason to believe that the committee will approve these amendments and I hope the legislation, as amended, will be promptly passed by the Senate in order that this long-overdue legislation can be enacted into law by this Congress.

Two of the amendments I have proposed would provide for legally qualified defense counsel in all special courts-martial and, in addition, for a presiding military judge in any special court-martial authorized to adjudge a bad conduct discharge. At present lawyer-counsel and presiding "law officers" are required in the general court-martial—the highest military trial court, which can impose any penalty authorized by the Uniform Code, including the death penalty. But legally qualified counsel and presiding law officers are not required in the special court-martial, the intermediate military trial court, although that tribunal is authorized by the code to impose a sentence of 6 months' confinement and a bad conduct discharge. My amendments would cure these shortcomings.

In this regard, Mr. President, I would like to invite the attention of the Senate to a number of recent articles supporting my proposed bill, S. 2009, in general, and the right-to-counsel and military-judge provisions in particular. I hope my colleagues will read these articles and be persuaded, as I am, that we must provide members of our armed services with the protection of legally qualified counsel in courts-martial empowered to impose such a severe penalty as 6 months in confinement, and with the additional protection of a lawyer-judge to preside over a court-martial empowered to adjudge a bad conduct discharge which will stigmatize the recipient for life.

I ask unanimous consent that the following articles be printed at this point in the RECORD:

An article by Edward F. Sherman, of Harvard University, entitled "The Right to Competent Counsel in Special Courts-Martial," which appeared in the September 1968 issue of the American Bar Association Journal at pages 866–871.

An article by Dana Bullen entitled "Military Lawyers Without License," which appeared on the editorial page of the Washington Evening Star on September 13, 1968.

Excerpts from an article by Maj. Barrett S. Haight, U.S. Army, entitled "The Proposed Military Justice Act of 1967: First-Class Legislation for Second-Class Citizens," which appeared in volume 72, Dickinson Law Review at pages 92–143.

An article which I wrote entitled "Military Justice Act: Time for Revision," which appeared in the February–March 1968 issue of Trial magazine, published by the American Trial Lawyers Association, and which was reprinted in full in the New York Law Journal on May 17, 1968.

An article entitled "Comment: Right to Counsel and the Serviceman," which appeared in volume 15, Catholic University Law Review at pages 203–233.

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

[From the AMA Journal, September 1968]

THE RIGHT TO COMPETENT COUNSEL IN SPECIAL COURTS-MARTIAL

(By Edward F. Sherman)

(NOTE.—The special court martial is the intermediate court of the Armed Forces, with jurisdiction over any noncapital offense under the Uniform Code of Military Justice. Counsel in special court-martial cases need not be lawyers, and in fact few of them are in special courts-martial of the Army and the Navy. Mr. Sherman argues that the time has come to change this practice and ensure that servicemen are always represented by competent lawyers at such trials.)

One of the traditional duties of a commissioned officer in the American military has been to act as counsel in court-martial trials. In the days when the court-martial was primarily a disciplinary proceeding without complicated legal procedures, officers without legal training were usually capable of performing the limited functions required of counsel. But as drumhead justice gave way to the modern court martial, it became more difficult for officers untrained in the law to understand the legal issues involved. Realizing the inadequacy of nonlawyer counsel, Congress made the requirement in the 1951 Uniform Code of Military Justice that counsel in general courts-martial must be lawyers.[1] The requirement, however, was not extended to special courts martial because of the scarcity of military lawyers, and special courts-martial today are still using nonlawyer officers as counsel. The practice has been condemned by judges, attacked by legal scholars, and challenged in both the courts and Congress, but, like many a time-honored tradition, it does not die easily.

A 1967 decision of the Court of Military Appeals has now cast further doubt on the practice of using nonlawyers in special courts martial. In *United States* v. *Tempia*,[2] the court held that the *Miranda* [3] principles apply to military interrogations of criminal suspects, and so a serviceman must be given the same rights during interrogation (to be told that he may remain silent, that anything he says may be used against him, and that he will be provided a lawyer without charge upon reqeust if he cannot afford one) as a civilian possesses. Thus, after *Tempia*, illogical as it sounds, a serviceman is entitled to an appointed lawyer during interrogation but not in his special court-martial trial. This anomalous situation is a good example of what happens when constitutional standards are applied to certain military law procedures, but the special court-martial practice of using nonlawyer counsel is permitted to continue. It is an indication of the weakness of the special court-martial practice, both on constitutional and policy grounds.

CONSTITUTIONAL QUESTIONS

The special court martial is the intermediate military tribunal, standing between the general court martial in which the accused can receive a heavy sentence [4]—and in which he is provided a lawyer—and the summary court martial in which the accused is not entitled to counsel but can receive only minor punishments (one month's confinement at hard labor, one month's forfeiture of two-thirds pay, extra duties and restriction).[5] A special court martial may try any noncapital offense punishable by the Uniform Code of Military Justice,[6] but its maximum sentence is six months' confinement at hard labor, six months' forfeiture of two-

Footnotes at end of article.

thirds pay, demotion and a bad conduct discharge.[7]

When the Uniform Code was passed in 1951, it was provided that an accused in a special court martial may be represented by his own civilian lawyer or by a military lawyer of his own selection "if reasonably available" [8] or if he does not hire a lawyer and a military lawyer is not provided, by an appointed nonlawyer defense counsel.[9] This provision for counsel was considered more than adequate at the time and, in fact, exceeded the right to counsel provided in most state and federal courts. Then in 1963, the Supreme Court held in *Gideon* v. *Wainwright* [10] that the Sixth Amendment right to counsel as applied to the states by the Fourteenth Amendment due process clause requires that an indigent be provided legal counsel in the trial of a felony case. Courts around the country scurried to comply with the new requirement, but the military took the position that courts martial are not bound by these constitutional limitations and made no move to provide lawyers in special courts.

The claim that military courts are not bound by all the limitations of the Bill of Rights comes from the fact that Article I, Section 8, Clause 14 of the Constitution gives Congress the power to "make Rules for the Government and Regulation of the land and naval Forces". This provision has been interpreted over the years as establishing a relatively autonomous system of military law in which the due process rights of servicemen derive not from the Bill of Rights but from Congress under its Article I powers. In recent years, however, the Court of Military Appeals has held that portions of the Bill of Rights apply to courts martial,[11] and the Supreme Court has extended federal court review of court-martial convictions to claims of denial of constitutional rights.[12] Thus, although there is still a question as to the extent to which the Bill of Rights, particularly the Sixth Amendment, applies to courts martial there is no longer doubt that the court-martial procedures established by Congress are subject to constitutional limitations.

The hub constitutional issue, then, is whether the special court-martial practice of providing nonlawyer counsel meets the requirements of the Sixth Amendment right to counsel and Fifth Amendment due process. The Court of Military Appeals (in *United States* v. *Culp*) [13] and the Tenth Circuit (in *Kennedy* v. *Commandant*) [14] have held that it does. There was no majority opinion in *United States* v. *Culp*, in which all three judges concurred, but Judge Kilday found that due process is complied with (although he believes the Sixth Amendment does not apply to courts martial), Judge Quinn found nonlawyer counsel to be a reasonable compliance with the Sixth Amendment and Judge Ferguson found no violation of the Sixth Amendment because the accused waived his right by accepting nonlawyer counsel. The Tenth Circuit in *Kennedy* v. *Commandant* adopted Judge Quinn's analysis that there is reasonable compliance with the Sixth Amendment.

The two courts avoided *Gideon* by finding that, owing to the "singular nature" of the special court martial—that is, that typically it tries military and misdemeanor offenses, that the procedures are simplified and that the prosecutor must not be a lawyer when the defense counsel is not a lawyer [15]—nonlawyer officers can provide adequate legal representation. *Gideon* specifically involved an indigent charged with a felony in a civilian trial. Whether the *Gideon* rationale should be extended to the special court martial raises several questions: First, can a soldier in a special court martial, no matter how impecunious, be considered an indigent so that he is entitled to appointed counsel? Second, is a special court-martial offense, which can be punished only by a maximum of six months' confinement, comparable to a felony, so that counsel is required? Third, in order to comply with the Sixth Amendment, must the appointed counsel be a lawyer or is an officer who has had classes in military law sufficient?

(1) Whether a soldier qualifies as an indigent would have to be decided on a case-by-case basis. Most enlisted men's pay is so low and savings so small that they would meet the usual standards for indigency applied in civilian courts. However, Judge Kilday maintains in his opinion in *United States* v. *Culp* that members of the military can never be indigents because they are always guaranteed representation in a special court martial.[16] The difficulty with this argument is that it begs the question by assuming that a nonlawyer counsel actually does provide adequate legal representation. If nonlawyer counsel is not adequate, and a strong argument can be made that no nonlawyer can provide adequate representation, then the serviceman is in the same position as an indigent in a civilian court before the decision of *Gideon*. Each is being deprived of adequate representation because he does not have the money to hire a lawyer.

(2) The term "felony" usually refers to an offense punishable by confinement in a penitentiary for more than one year. A majority of special courts martial involve such offenses as AWOL, drunkeness, breaking restrictions and destruction of government property. These are either not civilian crimes or would not be felonies if tried in a civilian court. However, a special court has jurisdiction to try all noncapital offenses under the code, and felonious crimes such as manslaughter, grand larceny and aggravated assault are also tried there. The maximum confinement which a special court can adjudge is only six months, but the total potential punishments are so great (six months' forfeiture of two-thirds pay can amount to some $2,000 for a ranking NCO and more for an officer, demotion will affect both future earnings and career, and a bad conduct discharge may be a lifetime liability) that it is comparable in seriousness to a civilian felony trial.

There is also precedent to extend the *Gideon* rule to nonfelonies. Two Fifth Circuit cases involving misdemeanors have held that counsel is constitutionally required, rejecting the formal distinction between felony and misdemeanor as having little to do with the *Gideon* rationale and instead relying on such factors as the nature of the offense, the extent of the possible sentence and the legal complexity of the case.[17] *Application of Stapley*,[18] a 1965 decision of the United States District Court for Utah, offered a similar analysis. There, a 19-year-old private charged with fraud was refused a lawyer in a special court martial and was represented by an appointed captain in the Veterinary Corps who confused the elements of a key defense and incorrectly advised a guilty plea on all charges. The court found the representation inadequate and held that because the charges involved moral turpitude and there was a risk of substantial incarceration, the Sixth Amendment right to counsel applied. This type of approach seems to be a reasonable application of *Gideon* to the court martial situation, and, under it, most special courts martial would require legally trained counsel.

(3) Although *Gideon* does not specifically state that the "counsel" required by the Sixth Amendment must be a lawyer, the Court imputes legal proficiency to counsel that could only refer to legally trained counsel. There was really no reason for the Supreme Court to specify that it meant a lawyer because only members of the Bar may be admitted to practice before a civilian court. Both the *Culp* and *Kennedy* decisions, however, maintain that the Sixth Amendment requirement of counsel may be met by an officer who has had classes in military law. Thus a key element of the constitutional position taken in *Culp* and *Kennedy* is that nonlawyer officers have enough legal training to provide adequate representation in the simplified special court-martial trial.

ARE NONLAWYER COUNSEL ADEQUATE?

Anyone who has had personal experience with the training in military law given to ROTC and OCS candidates and who has observed nonlawyer officers trying special court martial cases is likely to wonder at the judges' faith in the legal abilities of such officers. The fact is that the average officer has little knowledge of military law, and the contention that he is capable of serving in a special court martial because it is a simpler type of trial is an unfortunate piece of logic that should be seriously examined by the legal profession.

The special court marital, despite the claims that it is a simplified proceeding, purports to provide a full jury trial, to follow the same basic judicial procedures to insure due process as in a general court martial, and to be bound by legal statutes and precedents. Complex problems of admissibility of evidence, instructions and charges, and interpretation of statutes and cases are very much a part of the special court martial. To argue that a nonlawyer, even one who has had considerable experience in special courts martial, brings the same *expertise* to such a trial as a lawyer who has spent three years learning the basic knowledge of his profession is like arguing that a medical aid man who has performed field operations should be given a doctor's license. Some nonlawyers, of course, have performed admirably as counsel in special courts martial. But the facts remains that the nonlawyer, no matter how experienced or well-intentioned, has only a superficial understanding of the legal method, the role of statutes and precedent, the background of legal defenses and rules of evidence, and the concepts of constitutional law. His lack of depth in the law could mean, at a hundred different points in the trial, that the accused will not receive adequate representation.

Despite assurances by the military that nonlawyers provide adequate representation in special courts, few persons who have been closely involved in special courts-martial have illusions about the quality of representation. An Army JAG captain, for example, wrote in the *Military Law Review* in 1962:

"Since legally trained personnel are not required on special courts-martial (even the President of the court need not be and usually is not a lawyer), it takes little imagination to guess the quantity of legal errors and the quality of fairness and justice afforded an accused before this tribunal in comparison with a general court-martial." [19]

Judge Ferguson wrote in *Culp* one of the strongest denunciations of the use of nonlawyers in special courts-martial:

"An officer of the armed services of necessity cannot receive the training required to perform adequately as counsel for an accused. . . . To me it is just unthinkable to conclude that the best intentioned layman can be taught by attendance at a few generalized lectures to become a capable representative of another in a criminal prosecution." [20]

A number of special court-martial cases have been reversed for inadequate representation by nonlawyers.[21] Many more special court-martial errors are never reviewed by an appellate court [22] or appellate review is severly limited because a verbatim transcript has not been made [23] or because the record is too skimpy (as the Subcommittee on Constitutional Rights of the Senate Judiciary Committee has stated, "evidence or information favorable to the accused may not be placed in the records by a counsel who be-

Footnotes at end of article.

cause of his lack of legal training does not recognize what evidence would probably benefit the accused").[24] Judge Ferguson spoke in *Culp* of the frustrations of trying to review a special courts-martial where the defendant pleaded guilty: "How are we to know the real truth of the matters involved if the accused upon the advice of a nonlawyer chooses to confess his guilt judicially and nothing is placed in the record to support the validity of his plea except a formula prated from the Manual?"[25]

It can be anticipated that with the enlarged scope of federal habeas corpus review, there will be an increase in applications to federal courts by servicemen who have been convicted in special courts martial after being refused a lawyer. The special court martial without lawyers does not have a very successful record, and the road ahead is even rockier. It is becoming increasingly difficult to avoid the conclusion that the practice of law by nonlawyers has not proved any more successful in the military than it has elsewhere.

A TRULY ADVERSARY PROCEEDING?

Special courts martial without lawyers frequently do not constitute a truly adversary proceeding. Take a typical Army special court martial. A junior officer, often a lieutenant, will usually be appointed defense counsel as an additional duty in order to "give him some court-martial experience" or because officers of higher grade are too busy. Upon appointment, he will be provided the 144-page *Military Justice Handbook* and the 600-page *Manual for Courts-Martial, 1951*. The commander is required by regulation to "assure himself" that counsel "are currently familiar" with the *Handbook*,[26] but this is a mere formality because officers, due to the press of other duties, rarely devote much study to it or the *Manual*. Judge Quinn wrote in *Culp* that the nonlawyer officer, "with a full knowledge of the Uniform Code and of the procedural regulations"[27] is competent to give legal assistance, and the Tenth Circuit in *Kennedy* spoke confidently of the requirement that every officer be familar with the code and understand the substance of military crimes.[28] The courts, unfortunately, are indulging in sheer fantasy. Most officers have only the haziest notion of what the code is all about, and if you can find one officer in ten who has actually read fifty pages of the code, the *Manual* or the *Handbook* you are extremely lucky.

The amount of time which a counsel devotes to investigating and preparing the case varies with the type of case and the initiative of the officer, but few will undertake the type of thorough investigation, search for witnesses and evidence, and legal preparation which are standard procedures for a competent criminal lawyer. Counsel often fails to make adequate investigation and preparation not because of laziness but because of lack of appreciation of the facts, evidence, witnesses and legal precedents he will require to present an effective defense.

The actual special court-martial trial runs according to the script in the back of the *Manual*. The script is helpful to the nonlawyer participants in insuring that they do not forget any of the necessary elements of the trial, but it has the disadvantage of formalizing what should be an adversary proceeding into a static ritual. Thus, it is not uncommon for a special court martial to be reduced to a recitation from the script, the president and counsel reading back and forth to each other, garbling the unfamiliar legal terms, mistakenly reading beyond their appropriate sections and missing the cues for raising objections and defenses.

A military officer, although not a lawyer, does have the benefit of understanding the psychology and thought processes of the officers on the court. But his military attitudes may also mitigate against his being a good defense counsel. It may be difficult for him to withstand pressures from his commander, and he may be reluctant to take a strongly adversary position before a court of officers of higher grade. Nonlawyers often equate guilt in fact with guilt under the law and lack the background in professional ethics which may help a lawyer to avoid either overzealousness or underzealousness. In Judge Ferguson's words:

"Laymen will never understand an attorney's devotion to the interests of an obviously guilty client or the single-minded loyalty to the latter's cause which almost unexceptionally characterizes the practice of law."[29]

It has been shown that nonlawyers are more likely to advise the accused to plead guilty and not to bargain for a lesser sentence[30] and are less likely to make pretrial motions, such as for the suppression of evidence and confessions, to make timely objections to questions and evidence and to cross-examine witnesses. Finally, although legal training does not insure an effective trial manner, a lawyer with some training in advocacy is more likely to make an effective presentation both in the trial and prior to sentencing. All told, the nonlawyer lacks so much knowledge and training that the adversary nature of the special court martial is seriously threatened.

CONGRESSIONAL CONSIDERATIONS

An omnibus bill on military justice has been under consideration by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee since 1958. Most prior versions of the Senate bill and similar bills offered in the House by Congressman Bennett, one of which was passed by the House on June 3 of this year,[31] include a provision that a bad conduct discharge cannot be adjudged by a special court martial unless the accused was afforded the opportunity to be represented at the trial by a lawyer. However, the Senate bill introduced last session by Senator Ervin, Chairman of the Subcommittee on Constitutional Rights, replaced this provision with the stronger requirement that lawyers be provided in all special courts martial[32] and Congressman Gonzalez introduced a bill with a similar provision in the House.[33] The military services have reluctantly approved of the provision for counsel before a bad conduct discharge can be adjudged but are strongly opposed to requiring lawyers in all special courts.

The provision that counsel must be provided only when a bad conduct discharge is adjudged is so watered down that it will not substantially remedy the present situation and, if passed, it may blunt the impetus for reform and prevent the passage of a stronger provision for years to come. It will not apply at all to Army special courts martial (which constitute almost two thirds of the total military special courts) because Army regulations do not permit special courts to adjudge bad conduct discharges.[34] The Air Force already provides lawyers in all special courts,[35] and so only the Navy would be affected. The provision would not apply to those Navy special courts martial in which a bad conduct discharge is not a possible penalty, and the Navy could avoid the provision entirely simply by not permitting its special courts to adjudge bad conduct discharges as does the Army. There are indications, however, that the Navy would not give up the power to adjudge bad conduct discharges in special courts and so would attempt to provide lawyers in courts where that penalty could be given. A reform provision that has this little effect can scarcely be said to provide a solution to the serious problems posed by special courts without lawyers.

The opposition of the military to providing lawyers in special courts martial has traditionally been based on the philosophy that the special court martial is a disciplinary, rather than a judicial, proceeding and should be controlled and administered by the commander and his officers without unnecessary legal formalities. However, this "disciplinary" view has gradually lost ground as special courts martial have been required in recent years to adopt most of the due process procedures followed in general courts (except for use of lawyers). Congress' amendment of the code in 1962 to permit a commander to assess greater penalties under Article 15[36] has further hastened the progress of the special court away from the disciplinary philosophy since now that a commander can sentence an offender to up to one month's correctional custody (plus fines, restrictions and demotions), there is less need to use a court martial to discipline offenders. As a result, summary courts martial are used less frequently these days,[37] and the special court martial, with its six-months' confinement power, should be made a full-fledged judicial proceeding where an accused can receive a fair trial and be represented by a lawyer.

The military's primary argument against providing lawyers in special courts-martial is that, as stated by the Army in its *amicus* brief in *United States* v. *Culp*, "there are simply not enough lawyers to go around". The argument is based upon estimates that the JAG Corps would have to be doubled in size to provide lawyers in all special courts-martial.[38] This would mean some 1,200 new Army JAG officers and 600 Naval law specialists.[39] A sudden need for twice as many military lawyers would undoubtedly cause administrative problems, but rapid expansion is nothing new to the military, and there is no reason to believe the military could not handle it. The legal corps had to expand suddenly in World War II when the Army JAG Department went from 190 officers in 1941 to 2,162 in 1945,[40] and in the Korean War when 400 Army Reserve JAG officers were called to active duty,[41] and this could be done again. Doubling the JAG Corps is actually less of a problem today than in World War II or the Korean War, and Reserves should not be needed, because there is today a large reservoir of legal manpower—the graduating law students—which can easily be tapped for the manpower needs.

One of the ironies of the present situation is that while the military maintains that it cannot provide lawyers in special courts because there aren't enough military lawyers, thousands of recent law school graduates are being refused by the JAG Corps and being taken into the military in nonlegal jobs. There are few greater wastes in our society than having lawyers do nonlegal jobs while nonlawyers try special court-martial cases. More than 15,000 law students are graduated from law schools each year, and the Army and Air Force JAG Schools and the Naval Justice School are flooded with more than ten applications for every available space.[42] Since it is a buyer's market,[43] JAG Corps are accepting applicants only for obligated tours of four years or more, and the majority of unsuccessful applicants are faced with military service in a nonlegal capacity.

Many lawyers who are taken into the military in a nonlegal position (either as an enlisted man or with a non-JAG commission from ROTC or OCS) naturally hope that they may be able to do some legal work in the service, or at least be assigned as a special court-martial counsel as additional or temporary duty. They quickly find that things aren't done that way in the military. The Army has taken the position that lawyers are not used in special courts-martial, and since appointment of a lawyer as a counsel might mean that the other counsel and possibly the president would also have to be lawyers, lawyers are passed over in favor of nonlawyers for special court-martial counsel.

Footnotes at end of article.

The Navy has been better than the Army in attempting, when possible, to assign lawyers who are not legal specialists to special court-martial work, which partly accounts for its providing legally trained counsel in 42.03 per cent of its special courts as compared to only 5 per cent for the Army.[44]

It is about time that the military stop hiding behind the legal manpower argument and begin to do some creative thinking about how to train and utilize recent law graduates for special court-martial work. The lawyers' corps have been unduly concerned with maintaining a high percentage of career officers [45] and should accept the fact that young, noncareer JAG officers, like the young lawyers in a D.A.'s office, are quite capable of bearing the burden of the litigation work in special courts martial.

One way to train the military lawyers needed for special court martial work is to enlarge the facilities of the Army JAG School at Charlottesville, Virginia, and the Naval Justice School at Newport, Rhode Island, or to establish JAG training schools at other sites. Another possibility is to give law students military law training in conjunction with the ROTC program so that they can be commissioned in the JAG Corps upon graduating and passing their bar examination. A number of law schools now offer ROTC programs, and applications have been stimulated by the fact that ROTC provides a deferment for the student to finish law school. It is short-sighted of the military to continue to commission these law graduates in combat branches, and consideration should be given to devising an ROTC program which would include training in military law (perhaps with one or two summer's additional training) so that they could be commissioned in the JAG Corps. Finally, the military should consider establishing a category for lawyers on active duty whose commissions are in other branches than JAG which would qualify them (after taking a short military law course or passing a qualifying exam) to serve as special court martial counsel when appointed as an additional or temporary duty.

The Navy has special problems. It has testified that 10 per cent of its special courts in 1965 were conducted at sea on ships "which cannot afford the luxury of carrying a law officer", while 24 per cent were conducted by "relatively isolated commands" which do not have enough case load to justify a full-time law officer.[46] Two feasible methods of providing lawyer counsel for ships which cannot carry a lawyer have been used in recent years: the establishment of "dockside courts" [47] whereby larger ships provide the court-martial personnel and counsel for smaller vessels, and the use of "circuit-rider" lawyers in task forces or carriers who would try cases either by going to the small craft by boat or helicopter or by bringing the accused to the large craft. Crimes committed on a small vessel at sea will have to be tried, as are most serious crimes now, when the vessel reaches port or can obtain legal support from another vessel. For those cases where a ship or submarine is isolated for an extended period, provision may have to be made to give the accused his choice of a speedy trial without a lawyer or a delayed trial with a lawyer. The Navy will have to work out its logistical problems, but with some effort and additional lawyers, it can provide lawyers in special courts.

CONCLUSION

The special court-martial practice of using nonlawyers as counsel does not do credit to the military nor serve the ends of justice. Judicial action to declare the practice unconstitutional is slow and uncertain, and so Congressional action is especially needed if reform is to take place in the near future. The manpower problem can be solved, and, in fact, the unfortunate misuse of the skills of many lawyers serving in the military can be corrected in the process.

FOOTNOTES

[1] Uniform Code of Military Justice, 10 U.S.C. § 864 (hereinafter referred to as UCMJ), art. 27(b).

[2] 16 U.S.C.M.A. 629, 37 C.M.R. 249 (1967).

[3] *Miranda* v. *Arizona*, 384 U.S. 437 (1966).

[4] UCMJ, art. 18.

[5] UCMJ, art. 20.

[6] The special court martial is the most used military court, comprising two thirds of the total courts martial. In fiscal year 1965, the Army had 24,813 special courts martial, the Navy and Marine Corps 13,174, and the Air Force 2,057. *Joint Hearings on S. 745–62, S. 2906–7, Part 3 Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 89th Cong., 2d Sess., at 912, 937, 963 (1966) (hereinafter cited as *Joint Hearings*).

[7] UCMJ, art. 19.

[8] In practice, requests for a military lawyer are usually refused as shown by Army testimony that "request for appointment of legally qualified counsel at a special court martial are rarely granted in the Army because these counsel are *in fact* not often reasonably available from their required duties". *Joint Hearings*, page 912.

[9] UCMJ, art. 38(b).

[10] 372 U.S. 335 (1963).

[11] *United States* v. *Clay*, 1 U.S.C.M.A. 74, 1 C.M.R. 74 (1951), adopted the term "military due process" to refer to those due process rights, derived from Congress rather than the Bill of Rights, which are requisite to fundamental fairness and so must be provided in a court martial. *United States* v. *Jacoby*, 11 U.S.C.M.A. 428 at 430–431, 29 C.M.R. 244 (1960), however, stated: "the protections of the Bill of Rights, except those whose are expressly or by necessary implication inapplicable, are available to members of our armed forces". This seems to conform with the Supreme Court's view. Warren, *The Bill of Rights and the Military*, 37 N.Y.U. L. Rev. 181 (1962).

[12] Federal courts were traditionally limited to inquiring on habeas corpus whether a court martial had jurisdiction over the person and offense and acted within its lawful powers. *In re Grimley*, 137 U.S. 147 (1890); *Hiatt* v. *Brown*, 339 U.S. 103 (1950), *Burns* v. *Wilson*, 346 U.S. 137 (1952), extended review to include denial of due process rights which the military had manifestly refused to consider.

[13] 14 U.S.C.M.A. 199, 33 C.M.R. 411 (1963).

[14] 377 F. 2d 330, *cert. denied*, 389 U.S. 807 (1967).

[15] UCMJ, art. 27 (c) (1).

[16] 14 U.S.C.M.A. at 202.

[17] *Harvey* v. *Mississippi*, 340 F. 2d 263 (5th Cir. 1965); *McDonald* v. *Moore*, 353 F. 2d 106 (5th Cir. 1965).

[18] 246 F. Supp. 316 (D. Utah 1965).

[19] Bednar, *Discharge and Dismissal as Punishment in the Armed Forces*, 16 Mil. L. Rev. 1, at 15 (1962).

[20] 14 U.S.C.M.A. at 219.

[21] See *United States* v. *Hamilton*, 14 U.S.C.M.A. 117, 33 C.M.R. 329 (1963), failure to submit evidence in extenuation and mitigation of accused's having made restitution; *United States* v. *Henn*, 13 U.S.C.M.A. 124, 32 C.M.R. 124 (1962), improper advice to plead guilty; *United States* v. *Gardner*, 9 U.S.C.M.A. 48, 25 C.M.R. 310 (1958), failure to move for dismissal for failure to make prima facie case.

[22] Special courts martial are reviewed by the convening authority, the staff judge advocate, and the general court martial authority's Judge Advocate office, and if a bad conduct discharge is adjudged, also by a board of review and in certain cases by the Court of Military Appeals on issues of law. UCMJ, arts. 64–67.

[23] A verbatim transcript is only required if the convening authority requests it. However, a bad-conduct discharge cannot be adjudged without it. UCMJ, art. 19. Reporters may not be provided in Army special courts martial without authority from the Secretary of the Army, and so most Army special courts cannot adjudge a bad conduct discharge. AR 27–145.

[24] *Joint Hearings*, page 459.

[25] 14 U.S.C.M.A. at 220.

[26] AR 27–12, para. 12.

[27] 14 U.S.C.M.A. at 217.

[28] 377 F. 2d at 343.

[29] 14 U.S.C.M.A. at 220.

[30] 1964 Court of Military Appeals Ann. Rep. at 85–86.

[31] H.R. 15971, 90th Cong., 2d Sess. (1968). Congressman Bennett had previously introduced H.R. 226 and H.R. 12705, 90th Cong., 1st Sess. (1967).

[32] S. 2009, 90th Cong., 1st Sess. (1967).

[33] H.R. 6555, 90th Cong., 1st Sess. (1967).

[34] See footnote 23.

[35] *Joint Hearings*, page 963.

[36] UCMJ, art. 15(b), as amended September 7, 1962.

[37] In the first nine months after Article 15 was amended, there were 12,271 Army summary courts martial as compared to 41,848 for the same period the year before. Miller, *A Long Look at Article 15*, 28, Mil. L. Rev. 37, at 113 (1965). H.R. 226, 90th Cong., 1st Sess., would abolish the summary court martial.

[38] Report to Hon. Wilbur M. Brucker, Secretary of Army, by the Committee on the UCMJ, Good Order and Discipline in the Army, January 19, 1960, at 203. Rear Admiral William C. Mott, JAG, US Navy, estimated that up to 3,600 additional military lawyers might be needed. *Joint Hearings*, page 722.

[39] As of December 31, 1966, the Army had 1,164 JAG officers, the Air Force 1,286, and the Navy 591 legal specialists. No additional Air Force lawyers would be necessary because the Air Force provides lawyers in all special courts. Whenever the term "JAG Corps" is used in this article it is intended to refer to all three services, although Navy lawyers are called "legal specialists" and are not in a separate JAG Corps. S. 2009 and H.R. 226, 90th Cong., 1st Sess. would create a Naval JAG Corps.

[40] Fratcher, *History of the JAGC, US Army*, 4 Mil L. Rev. 89, at 106 (1959).

[41] Ann. Hist. Sum., Office of Army JAG, Hist. of Activities of the JAG Office Relating to the Korean Conflict 19.

[42] In fiscal year 1966, there were 1,700 applications for the approximately 150 available Army JAG spaces. Ann. Hist. Sum., Office of Army JAG, fiscal year 1966, page 6.

[43] It must be conceded that the current draft situation has increased the number of JAG applications. However, the JAG Corps have consistently had more applicants than spaces, even in the late 1950's when the draft threat was minimal, and it appears that there will always be law graduates who for reasons such as desire for responsibility, experience or travel will apply to JAG. Incentives, such as preselection of assignments and shorter tours (from the present four to a more reasonable two years) may have to be adopted in periods of small drafting.

[44] *Joint Hearings*, pages 916, 940.

[45] All three services have expressed concern over low JAG officer retention rates. *Career Legal Billets Go Begging*, Journal of the Armed Forces, April 8, 1967, page 1. Report to Hon. Wilbur M. Brucker, *supra* note 38, at 241, noted that first lieutenants made up 40 per cent of the Army JAG Corps (1960) and that "it is desirable that not more than 12–14% of the Corps be first lieutenants".

[46] *Joint Hearings*, page 943.

[47] Ochstein, *The Dockside Court: The Dockside Special Court-Martial of Cominulant*, JAG J., June-July, 1959, page 13; Greenberg. *The Dockside Court*, JAGJ., December 1957–January 1958, page 19.

[From the Washington Evening Star, Sept. 13, 1968]

MILITARY LAWYERS WITHOUT LICENSE

(By Dana Bullen)

It is against the rules in most places to practice law without a license, but in military courts it happens all the time.

The regulations for service trials, approved by Congress in 1950, provide that defense counsel at special courts martial must be an attorney only if the prosecutor is a lawyer. Often both of them are laymen.

As officers and gentlemen these counsel undoubtedly do their best. It can be argued that a non-lawyer officer perhaps can do as much for an accused serviceman as an objecting attorney who might antagonize the court. In any such system, though, the most likely loser has to be the accused.

In one case that reached a federal court in Salt Lake City several years ago, a 19-year-old private facing a bundle of charges ranging from writing bad checks to wrecking a government vehicle was refused a lawyer at such a trial. A captain in the Veterinary Corps was named his counsel.

The captain, according to reports, confused the elements of a key defense and advised the private to plead guilty, ask for a 60-day sentence and say nothing but "yes, sir" and "no, sir."

The federal judge who upset the 60-day sentence given the private called the trial a "mockery."

The incident, perhaps an extreme case, is cited in an article in the current issue of the American Bar Association Journal in which a lawyer with experience as a captain in the military police calls for a change in the law to require military attorneys as defense counsel at all special courts.

Edward P. Sherman, now a teaching fellow at Harvard Law School, contends that special courts martial without lawyers frequently do not constitute a true adversary proceeding.

In a typical Army special court, for example, a junior officer, often a lieutenant usually will be appointed defense counsel as an extra duty to give him some court experience or because higher grade officers are too busy, says Sherman.

Such counsel are supposed to study the 144-page military justice handbook and the 600-page courts martial manual.

Such expectations, says Sherman, are sheer fantasy.

"Most officers have only the haziest notion of what the code (of military justice) is all about, and if you can find one officer in ten who has actually read 50 pages of the code, the manual or the handbook, you are extremely lucky," he says.

One argument raised against requiring service lawyers in such cases is lack of manpower. Another is that the cases heard by special courts are not serious ones.

The number of cases, indeed, is large. The special court martial is the most used kind of military trial. In all of the services combined, there were 54,129 such trials during fiscal 1967. But the number of cases merely underscores the significance of the standards that are followed.

It would not be an impossible job to provide the necessary lawyers, either. The Air Force already affords service lawyers in all of its special courts. The Navy has provided legally trained counsel in 40 percent of its cases.

The main push would be in the Army, where Sherman says legally trained counsel have been afforded in only 5 percent of the cases.

One of the ironies, he says, is that while the services claim they cannot get enough lawyers, thousands of recent law school graduates entering the service have been turned down by the Judge Advocate General Corps and assigned non-legal work.

On the second point, the claim that the cases are not serious, the facts speak for themselves.

Special courts martial have jurisdiction to impose six months confinement, six months forfeiture of two-thirds pay, loss of rank and a bad conduct discharge.

The House of Representatives last June approved a bill submitted by Rep. Charles E. Bennet, D-Fla., that would at least require lawyer counsel in all cases involving a bad conduct discharge.

In the Senate, Sen. Sam J. Ervin, D-N.C., hopes to broaden the requirement to cover all special courts martial regardless of the penalty involved.

"Military justice, which for so long guaranteed many rights that the civilian system did not, can no longer deny this basic right to Americans in uniform," says Ervin.

It may surprise some to hear that the rules for military trials adopted by Congress in 1950 were ahead of the times, but they were. The right to counsel in general courts martial, for example, was made mandatory 13 years before the Supreme Court's famous Gideon ruling in 1963 extended this part of the Constitution to state court felony trials.

According to supporters of reform in the military justice system, it now is past time for it to move ahead again.

[From the Dickinson Law Review, fall 1967]

COMMENTS: THE PROPOSED MILITARY JUSTICE ACT OF 1967: FIRST-CLASS LEGISLATION FOR SECOND-CLASS CITIZENS *

S. 2009

A bill to insure due process in the administration of military justice by prescribing uniform rules of procedures to be followed by the Armed Forces in the case of administrative discharge boards, by establishing a Judge Advocate General's Corps in the Navy, by creating single-officer general and special courts-martial, by establishing in each armed force a Court of Military Review, and for other purposes [1]

The proposed Military Justice Act of 1967,[2] S.2009, is an omnibus bill which embodies numerous changes to the military criminal and administrative discharge systems. Many will undoubtedly call the changes enlightened. Others will label the bill radical, burdensome, perhaps even unworkable. In the words of Senator Sam Ervin upon introducing the bill before the United States Senate: "It is the product of long and painstaking work by the Senate Subcommittee on Constitutional Rights. Our purpose is to modernize a system of justice untouched for almost two decades." [3]

Service in the Armed Forces is one of the very few experiences common to most male (and many female) citizens of the United States. For this reason alone comment should be made on any proposed major change to the criminal and administrative justice systems which are codified by congressional act and implemented by the self-contained military establishment. Additional importance is noted for the legal profession because of the many legal forums and rights to individual counsel available to the serviceman under the present and proposed systems.

The purpose of this Comment is to examine the Act in its entirety and to note its impact on the military and the problem areas which may result. Specific analysis will be directed to the more important and controversial proposed amendments and to the deficiencies sought to be corrected by their enactment. Consideration will also be given to present statutory law and departmental regulations, and to litigation arising thereunder.

I. BACKGROUND AND PROBLEMS

The proposed Military Justice Act has had an extended formation period. Initial hearings were held in 1962 before the Senate Subcommittee on Constitutional Rights of the Committee on the Judiciary.[4] Lasting seven days, those hearings were held to "review the rights [of servicemen] which Congress had in mind when the Uniform Code [5] was enacted. For example, there still are complaints of command control, including allegations that in some form it has even been exerted upon defense counsel. A serviceman still may be subjected to rather dire consequences without the aid of legally trained counsel. Some indications are found that a soldier receives one brand of justice; a sailor another; and an airman, a third. And there have been instances where the safeguards of "due process" which Congress provided in the Uniform Code of Military Justice have not been effective." [6]

Additional impetus for the 1962 hearings was the Annual Report of the Court of Military Appeals for 1960 which noted that "the unusual increase in the use of the administrative discharge since the Code became a fixture has led to the *suspicion* that the services were resorting to that means of circumventing the requirements of the Code." [7] This "suspicion" engendered a two-pronged concern for the Subcommittee: what offenses lead to an administrative discharge, and what safeguards are provided the respondent facing an administrative discharge? The concern was a real one. Any discharge other than the well known "honorable" discharge imparts to the recipient a lifelong stigma and possible loss of property rights. Thus the Subcommittee desired to inquire into the military version of administrative due process, especially where the grounds for discharge were the same as those found in the punitive articles of the Uniform Code of Military Justice.[8]

The Subcommittee subjected thirty civilian witnesses, the Department of Defense, and the Departments of the Army, Navy, and Air Force to intense inquiry. The military services were required to submit detailed statistics to explain their adjudicative procedures and to justify their positions. At the conclusion of the hearngs, the perplexing core problem which confronted the Subcommittee in its attempts to reconcile the administration of justice in the military was summarized thusly:

"Anyone who has attended these hearings is impressed with the fact that this a field in which there is room for a good deal of disagreement on the part of reasonable men as to exactly what must be done. . . . The military force is concerned primarily with defending the security and independence of our Nation. It was not created primarily for the purpose of administering justice. But in the course of its activities, it has certainly found it necessary to engage in the administration of justice, both from the standpoint of discipline of the Armed Forces, a thing which has to exist for the efficiency of the Armed Forces, but also for the purpose of ridding itself of those unfit for service." [9]

Based on the 1962 hearings, sixteen individual bills were introduced before the Senate in 1963.[10] Each of the bills was intended to correct an alleged major defect in the military criminal and administrative discharge systems. Taken as a whole, however, with some overlapping of legal concepts, the original proposed bills were aimed at the following broad areas:

(1) The *command influence* which can be exerted directly or indirectly by a commander on adjudicative proceedings convened under his authority.

(2) Additional *protection of basic individual rights* which attach in criminal and administrative proceedings in which such individuals have an interest.

(3) *Unformity* among the implementing regulations promulgated and enforced by the individual services.

(4) *Prestige and independence* for the military lawyer, the presiding trial officer, and the intermediate tribunals in the courts-martial appellate chain.

Footnotes at end of article.

(5) *Review* procedures designed to provide a more meaningful scrutiny of all courts-martial and administrative discharge proceedings.

Although the purposes of the sixteen bills were commendable and generally acceptable, divergent points of view were expressed prior to and during the 1966 joint hearings held before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary and a Special Subcommittee of the Senate Committee on Armed Services.[11] The controversies covered the range of legislative difficulties: from differences on the technical drafting of otherwise acceptable provisions to disagreement whether the basic problem sought to be cured was really a problem at all. Such important but vague issues as the proper limits of "due process"; justice versus discipline; whether homosexual *tendencies* should constitute grounds for discharge; and how to control "imaginative" inferences which arise when a commander convenes a court-martial, among others, elicited irreconcilable opinions among those who testified before the joint Subcommittee. Additional difficulty arose with the realization that the military should not be hampered by overly-detailed statutes which would remove discretion, undermine the flexibility necessary for adjustment to wartime periods, and not be adaptable to the inherent peculiarities of each of the three military services. Counterbalancing the possibility of stifling the military with detailed legislation was the conclusion that Congressional action was needed to give the serviceman rights comparable to those he would enjoy as a civilian under the protection of recent Supreme Court decisions on the Bill of Rights [12] and such codes as the Federal Rules of Criminal Procedure.[13] Some areas of complete agreement led to apparently insoluble and undesirable side effects. For example, all seemed to concur that no man had a right to remain in the military if he was unfit, unsuitable, or guilty of serious misconduct. However, no one could suggest a completely equitable system for classifying the dischargees. To characterize all discharges the same would taint the esteem in which the honorable discharge is held. To give an individual any other type of discharge, however, would lead to infamy in civilian life, thus allowing the military to permanently stigmatize a man.[14]

From this apparent morass emerged the Military Justice Act of 1967. This omnibus bill is divided into five distinct titles incorporating the main thrust from fourteen of the original sixteen bills.[15] The five are: Title I, detailed procedures for administrative discharge boards; Title II, formation of a separate Corps for Navy Judge Advocates; Title III, numerous important changes to the Uniform Code of Military Justice (UCMJ); Title IV, transformation of boards of review into the Court of Military Review; and Title V, consolidation of present service boards into a single Board for the Correction of Military Records under the Department of Defense.[16] Taken as a whole, the Act is undoubtedly a compromise bill. How well it reconciles the rights of individual servicemen, the necessities of the services, and the adjudicative procedures it codifies will be the subject of further inquiry.

II. ADMINISTRATIVE DISCHARGE BOARDS

(Not pertinent, omitted.)

* * * * *

III. CRIMINAL JUSTICE SYSTEM

The changes proposed in Titles III and IV concerning the criminal justice system are not as sweeping in scope as those intended for the administrative justice system. Primarily, the changes in these titles are intended to align the rights of military defendants and the structure of military courts with those found in the federal district court system.[162] To accomplish these ends the Act incorporates greater independence, status and authority for the military trial and review judges, and a more extensive participation by the military lawyer. The following discussion will highlight the controversial areas with an analysis of their impact on the Armed Forces.

A. Right to counsel

Under present law the military accused is entitled to assigned *legally trained* counsel only at the "general" court-martial [163] (hereinafter GCM). At the "special" court-martial (SPCM) level he must have counsel, but the Uniform Code of Military Justice (UCMJ) does not require formal legal training.[164] Although a defendant before either of these courts can retain civilian counsel, much controversy has arisen concerning this lack of assigned lawyer-counsel before the SPCM, which can impose a sentence of six months confinement and a bad conduct discharge.[165]

In *Culp* v. *United States*,[166] lack of lawyer-counsel was raised as a constitutional question: pursuant to the sixth amendment [167] guarantee of the right to counsel, must counsel *assigned* to accused at SPCM be legally trained? The Court of Military Appeals answered in the negative, thus upholding the present practice. Two separate concurring opinions of the three judge court indicated disagreement on the specific rationale for denying military personnel this important right. The opinion of the court was that an accused in the military is not entitled to counsel as a matter of right *under the sixth amendment*, therefore defense counsel appointed by the court need not be a lawyer.[168] The concurring judges disagreed *inter se* on the application of the sixth amendment to courts-martial, but agreed with the result. Chief Judge Quinn was of the opinion that the appointment of a commissioned officer satisfied the constitutional requirement for "assistance of counsel." [169] Judge Ferguson also indicated that the amendment applied to the military, but said that Culp had waived the constitutional issue since he had accepted the non-lawyer defense counsel appointed for him.[170] If non-lawyer counsel are adequate assistance for an accused in the military, then the only reason for changing this arrangement would be their inadequacy. This was the central issue in *Application of Stapley*.[171] There the military accused sought a writ of habeas corpus in a federal district court after conviction by a SPCM, alleging lack of due process because his assigned counsel had been a non-lawyer and demonstrably inadequate. The court granted the writ, holding the SPCM to be without jurisdiction because "minimal requirements of due process *and* the Sixth Amendment are not satisfied by the assignment as counsel to an accused of officers with substantially no experience, training or knowledge in the field of law, either military or civilian." [172]

Under the proposed legislation Congress seeks to resolve the constitutional and practical issues resulting from non-lawyers being assigned to SPCM. The Act would change the UCMJ to read: "Trial counsel or defense counsel detailed for a general courtmartial *or special court-martial* must. . . ." [173] be legally qualified. This amendment would bring the military in line with the Federal Rules of Criminal Procedure, which require legal counsel to be assigned to defendants unable to procure their own.[174] Although perhaps not the typical accused, a private first-class earning $99.37 basic pay per month should qualify as "indigent" and not be obligated to obtain civilian counsel at his own expense.

The exact impact on the military is difficult to foresee. The Air Force claims it presently assigns legally trained counsel to both prosecution and defense in *all* SPCM.[175] Naval statistics indicate the use of counsel with legal qualifications in approximately forty-two per cent of the cases.[176] The Army, however, favors the use of qualified counsel only when a bad conduct discharge can be awarded.[177] As a practical matter, present Army regulations forbid the transcription of a verbatim record at SPCM, thereby precluding the use of that court for adjudging a bad conduct discharge.[178] With lawyer-counsel required for all SPCM under the Act it is difficult to predict whether the Army will change its present policy. What can be expected for all services is a severe burden on present legal personnel. The SPCM is currently the most frequently used trial court.[179] Because the Act also provides that an accused cannot be tried by a "summary" court-marital [180] (SCM) over his objection,[181] the number of SPCM will undoubtedly increase. It seems reasonable, however, that the military would welcome the increased protection for the accused if a comparable increase in the number of Judge Advocates was also authorized. Although outside the scope of the Act, Congress should take affirmative concomitant measures to insure that additional allocations for military lawyers are made availble. Making legally trained counsel mandatory is only half a solution. The other half is having sufficient attorneys available to satisfy the needs of accused and to insure against the military being unable to prosecute because they lack enough attorneys.

B. Military judges

The USMJ requires that a specially certified and legally trained officer will preside at the highest level military court, the GCM. Under the Code he is termed a "law officer." [182] His specific duties are to charge the court, and to rule *with finality* on interlocutory questions other than challenges, motions for a finding of not guilty, and capacity to stand trial.[183] In practice, the law officer has been accorded more latitude and respect in overseeing the GCM than is apparent from a reading of the military criminal Code. The Court of Military Appeals has stated that the law officer, "like the judge, is the final arbitrator at the trial level as to questions of law. He is the court-martial's advisor and director in affairs having to do with legal rules or standards and their application." [184] Although the status of the law officer as a "federal judge" has been questioned,[185] Congress intends to resolve any doubt by renaming the law officer a "Military Judge." [186] In consonance with recognition as a true trial judge, he has been given greater independence and responsibilities.

Current law provides for the law officer to be detailed by the officer convening the GCM.[187] This practice is strictly followed only in the Air Force.[188] the other services have established a "field judiciary" system under which the law officer is assigned from a chain-of-command originating in the office of the Judge Advocate General.[189] This system provides the law officer with an atmosphere of complete impartiality for the trial and complete independence from the commander convening the court. The advantages of this system are obvious. "One of the most significant developments of the last 10 years in military justice was the institution by the Army and the Navy of their law officer programs [field judiciary]. . . . No other single factor has served to reduce trial errors and improve courts-martial practice than this simple but effective plan." [190] Despite objection by the Air Force that the field judiciary system is not suitable for their present requirements and isolated global dispositions,[191] the Act would make the independent system mandatory for all services.[192] In a society in which all personel are responsive to the inclinations of the commander, it seems most appropriate that trial judges be placed in a position from which they can objectively survey a command, its courts, and the accused.

Footnotes at end of article.

Congress also intends a new role for the law officer/military judge. Like the federal system, in which the defendant can waive trial by jury with the approval of the court and consent of the government,[193] the Act would provide the same option for the military accused.[194] This election would apply to all GCM, but only to those SPCM to which the military judge has been detailed in advance *on request of the convening authority.* A separate proposal would require that an accused may not be tried by a SPCM without a military judge if a bad conduct discharge *may* be adjudged as punishment for the offense.[195] Thus, the convening authority will have to request a military judge if the offense charged is punishable by a bad conduct discharge and the convening authority determines that such punishment is appropriate.[196] In the case of either the GCM, to which a military judge *must* be detailed, or the SPCM, to which a military judge *may* be detailed, the accused can overcome any alleged prejudice he might receive from a court of "line" officers by requesting a court composed only of the military judge.

Notably the military option to be tried by a judge alone provides more freedom of choice for the accused than its civilian courterpart as found in the Federal Rules of Criminal Procedure. Under rule 23 the civilian defendant may waive trial by jury "with approval by the court and consent of the government." [197] The military accused, however, needs such approval only if his written request for a single officer court is made less than twenty-four hours prior to the time the court is assembled. At any time before the above limitation, and having consulted with counsel, the accused alone has the prerogative to decide the composition of the court, assuming it is a GCM or the special form of SPCM.[198] This option effectively precludes any possible claim that the convening authority is "stacking" the court with officers who are predisposed to convictions or acceding to the influence of the commander. Although claims of "stacking" may have validity in some cases, the better practice would be to also secure the approval of the military judge as a condition to trial before that judge alone. This condition precedent would be in accord with the judge's independence and legal objectivity recognized in other provisions of the Act. The military judge is in the best position to analyze the charge sheet and the facts of the case to determine if the rights of the accused would best be protected by a judge *and* a "jury," that is, the full court of line officers plus the military trial judge.

One alternative which Congress has not considered is the military judge sitting alone at the request of the *convening authority.* Such a procedure would appear to affront the constitutional requirement that "Trial of all Crimes . . . shall be by Jury. . . ." [199] Trial by a common law jury, however, has been recognized as a constitutional right which does not extend to military accused.[200] This is manifested by the present composition of the courts-martial under the UCMJ [201] Therefore, assuming it is constitutional, a single officer court would streamline the administration of military justice, especially in the extensively used SPCM. At present, each time an accused successively waives nonjudicial punishment and the summary court-martial,[202] and each time an accused commits an offense appropriately tried by a SPCM, at least three servicemen—usually officers—must be taken from other military duties to sit on the court. Superficially, three is not a large number. Multiplied by a yearly total of forty thousand [203] special courts-martial, however, it can be seen that many man-hours are spent away from other military duties essential to national defense. The defendant's objection to a single officer court could be remedied by providing the right to elect trial by the full court. In light of the demonstrated impartiality of the present law officers, it is suggested that most defendants would not exercise their option to be tried by a court composed of officers from within their own command selected by the convening authority. As noted above, the constitutionality of first offering trial by the military judge may be questionable. Any objection, however, would seem to be met by allowing the accused the option of trial by the full court.

C. Command influence

The very existence of adverse influence exerted by a military commander on the adjudicatory tribunals over which he has convening authority is a debatable question. Not only is the actual presence of command influence conjectural, but the degree of presence and the proper ways to control it are likewise speculative. Such influence can take many forms: *direct influence,* for example lecturing a particular court or issuing command directives to imply or assert that discipline can be best furthered by more convictions; [204] *indirect influence* exerted by other staff officers such as the unit executive officer or staff judge advocate; [205] and *"imaginative" influences* which might result from the inferences a court member could draw because the commander "wouldn't convene a court unless the accused was guilty."

Direct influences are most easily detected and corrected. As indicated, this form is manifested by some direct action taken by the convening authority toward the court. The UCMJ attempts to prohibit influence by the commander in two ways. Article 22(b) [206] disqualifies a commander from convening a court in which he is the "accuser." By "accuser" is meant a person who signs and swears to charges against the accused or who has other than an official interest in the prosecution of the accused.[207] A combination of two other articles [208] would make it a punishable offense for a commander to "censure, reprimand or admonish the court or any member, law officer, or counsel thereof with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding." [209] Although the threat of punishment is present, no case invoking these two articles has been reported.[210] Those close to the situation, however, claim that direct influence rarely occurs,[211] and if it should arise it can be corrected on review by the Court of Military Appeals.[212] Two conflicting considerations bear on these observations. First, the decline in observable direct influence can be attributed to nearly complete acceptance of the UCMJ provisions prohibiting influence; on professional growth by present commanders under the UCMJ; and the decisive action taken by the Court of Military Appeals in cases where command influence is claimed and proved.[213] The second observation tempers the first. Only a few cases are reviewable by the highest military court.[214] Thus any command influence exerted by lesser commanders on the lesser tribunals under their jurisdiction would go undetected and uncorrected except by review in the field, where most lower court sentences are approved. Moreover, the present summary and special courts-martial do not have lawyer-counsel who would be more likely to recognize and protest any adverse influence. It is evident, therefore, that the reassurances of the Judge Advocates General and the Court of Military Appeals judges concerning the decline of command influence are not completely valid. The suspicion of its presence remains. The main consolation is that few, if any, commanders were ever promoted because their command had a large number of courts-martial convictions or because of adverse influence on their courts.

Indirect influences by staff officers can be manifested in many of the same ways as by commanders. Thus, actions by executive officers or chiefs of staff are taken "in the name of the commander" and the comments above would apply. Staff judge advocates present a slightly different problem. As the commander's legal advisors, these officers are equally attuned to his wishes, but must nevertheless advise the commander from a lawyer's viewpoint. Because the technical supervision of a command's courts-martial system comes under his responsiblity, the commander's staff legal officer does have a direct interest in the outcome and conduct of those courts-martial. Moreover, it is the staff judge advocate who counsels the commander on the advisability of trying particular cases. This officer's influence can be exerted in the following ways: technical lectures given by the legal officer to the command concerning courts-martial procedures; advice to subordinate commanders and nonlawyer counsel as to their courts-martial functions; and supervisory powers over the subordinate military attorneys in his office. Past cases and two recent Court of Military Appeals decisions show that staff legal officers are in a position to exert influences which might be adverse to an accused. [215] In *United States v. Albert* [216] a divided court held that a lecture on duties of court members given by a staff judge advocate to an entire command and attended by five of the seven members on accused's court was not prejudicial to the accused and did not deprive him of a fair trial or a fair review of his conviction. Construing the lecture as a whole, "because its impact upon prospective court members can be judged only as a whole," [217] the majority found the lecture to be "a rather common place discussion of the problems in the selection of members of a court-martial and of the general responsibilities of a court member." [218] Despite references by the staff judge advocate to certain "inconsistent" sentences adjudged in prior cases—which references the accused alleged were erroneous criticism and denied impartial review by that officer of accused's own sentence —the court determined that these references were not "exhortations for more severe sentences. . . ." [219] therefore not prejudical. The dissent took an opposite view, stating that "the lecture here was intended to, and did, influence its hearers to adjudge harsher sentences. . . ." [220] The point is that staff legal officers are in a position to exert influence if they so wish. The more reasonable approach is that such lectures are vitally necessary for the education of military members concerning the intricacies of criminal justice and are probably given to educate, not to coerce. The staff legal officer, however, is placed in a difficult position in which he must carefully mark his words lest they be construed to be prejudical to some present or future accused.

A more insidious influence is that which a senior legal officer can exert on subordinate attorneys, especially defense counsel assigned to his staff. In *United States v. Kitchens* [221] it was brought out on appeal that the staff judge advocate had rendered poor efficiency reports on defense counsel because they had zealously defended their clients. Such influence, if permitted to exist, would create difficult pressures for counsel who depend primarily on good efficiency reports for promotion to higher ranks.

"Imaginative" inferences are the most difficult to detect, but perhaps the most easily controlled and corrected. Thorough education of court members and the military in general concerning the presumptions of innocence and burden of proof on the government should dispel undue influences generated by the mere convening of a court to try an accused. As seen, however, education in the form of lectures can be the basis of appeal if not handled impartially.

Two other present methods of controlling imaginative inferences prejudicial to the

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accused are also not completely effective. The presiding officer at SPCM and SCM are line officers, not legally trained law officers. Although the UCMJ[222] and trial manuals[223] used by these presiding officers require the court to be charged concerning the presumption of innocence and proof beyond reasonable doubt, greater room exists for misinterpretation when lay personnel conduct the proceedings. Secondly, challenges for cause are best detected on *voir dire*. The absence of military attorneys at the lower tribunals, however, effectively precludes an assumption that grounds for challenge are sought by open inquiry of the court. Indeed, it is more reasonable to conclude that lay counsel do not know about *voir dire*, much less how to conduct it effectively.

The Act attempts to cope with the vagaries associated with command influence. Although it was suggested that the better solution would be to make such adverse influence a separate crime punishable under federal law,[224] Congress rejected that affirmative measure in favor of a more indirect and preventive approach. By providing legally trained counsel for all accused at SPCM and GCM, any adverse influence will hopefully be objected to by one who is more independent of the commander than a "line" officer and who possesses a more acute sense of justice. The Act forbids written evaluation of a court member's performance of duty on the court.[225] Also specifically prohibited is a derogatory efficiency rating because of the zeal with which counsel defends an accused.[226] As noted, the independent "field judiciary" will uniformly remove the law officer/military judge from direct or indirect influence of the commander who convenes the court-martial.

The *possibility* of command influence will always exist in an organization which places ultimate responsibility in the name of the commander. Fortunately, past records indicate that "instances of command influence have been comparatively rare under the Code. However, when the [Court of Military Appeals] has found it to exist, condemnation of the exercise of improper control has been swift and decisive. The problem in this area is to insure every accused a trial free from unlawful influence and at the same time not to restrict a commander unduly in his exercise of military discipline." [227]

Although charged with the responsibility of disciplining his unit, the commander must also enforce that discipline in a just manner. Like civilian society, the commander is asked to find the offender, bring him to an impartial court, and then remain entirely out of the trial proceedings.[228] Unlike civilian society, however, the commander has the additional responsibility of molding his command for combat in which defective personnel may mean defeat and death. It is thus reasonable to understand the delicate position of the commander in dispensing discipline and justice in the military. The Act incorporates changes which further restrict the commander and his staff from influencing courts convened under their authority. The changes are not so obvious as to make him fearful of enforcing discipline. It is submitted that Congress has struck a proper balance on a problem that lacks precise definition, evaluation, or control.

D. Review

Present procedures for review of courts-martial are considered excellent. "The elaborate system of automatic and discretionary review found in military courts offers greater protection to a defendant before a court-martial than he would receive in civilian courts." [229] Congress seeks to better the system by increasing the review authority of the Judge Advocates General, by reorganizing the level of review just below the Court of Military Appeals, and by expanding the circumstances under which a new trial may be requested.

At present, trial records for those GCM and SPCM cases which involve, *inter alia*, a sentence of punitive discharge or confinement of one year or more are automatically reviewed by a board of review.[230] Further review by the Court of Military Appeals is at the discretion of the Judge Advocate General, or upon the court's acceptance of an accused's petition.[231] All other GMC trial records in which there has been a finding of guilt and a sentence are reviewed in the office of the respective Judge Advocate General for possible forwarding to a board of review, and for automatic review if any part of the findings or sentence is found to be unsupported in law or fact.[232]

For all other SPCM and all SCM, the final automatic review occurs "in the field," that is, below the departmental level. There are no provisions for a higher appellate review, either discretionary or automatic. An accused who alleges prejudicial error by the court, but who was not awarded a punitive discharge or confinement greater than one year, must look outside the appellate chain for a hearing on his claim. There is little doubt that prejudicial error can and probably does occur in these cases. This assertion is strengthened by the present practice of not appointing legally qualified counsel to special and summary courts-martial. Therefore the entire burden of seeking out and correcting prejudicial error lies with the staff judge advocate who serves the field authority which approves the sentence.

The Act proposes to fill the void of discretionary review of summary and special courts-martial. While leaving the detailed procedures to be formulated by the Judge Advocates General, the Act provides that an accused can petition the JAG of his service to review his case on the following grounds: newly discovered evidence, fraud on the court, lack of jurisdiction, or error prejudicial to the substantial rights of the accused.[233] Upon finding a basis for one or more of these grounds, the JAG may vacate or modify any part of the findings or sentence.[234]

The new review authority proposed for the JAG will undoubtedly create an increased burden for the offices of the Judge Advocates General. SPCM and SCM constitute the great majority of cases now being tried in the military.[235] Even assuming that few cases contain error of the type to be recognizable by JAG, the mandatory presence of attorney-counsel at SPCM will render a petition more likely. No time limit has been established within which a petitioner must request review by the JAG,[236] a further hint of ambiguity and difficulty in administering this provision.

Although administratively burdensome, the proposed review authority is an important advance for those convicted at the lesser courts-martial. A finding of guilt by these courts is no less a federal conviction than by those courts which can impose greater punishments. Indeed there are many servicemen who would rather accept a punitive discharge than a sentence of confinement at hard labor, although the lasting effect of the former is undoubtedly the harsher penalty. In any event, it is suggested that the added burden of reviewing such cases is outweighed by the important appellate relief in the office of the official who must be vitally concerned with the brand of justice being dispensed in his legal "field."

A second major change in review procedure concerns the presently named "boards of review." [237] These boards are in reality intermediate courts with vast review power. The Act proposes to recognize their true status by renaming them Courts of Military Review.[238] The review authority and procedures of the present boards will remain substantially the same under the reorganization. One additional power granted to the new court is the authority to suspend all or any part of the sentence.[239] This authority may appear questionable since a suspension is generally a matter of clemency more properly exercised by the convening authority based on intimate knowledge of the individual, the facts of the case, and the needs of his unit. Despite the internal controversies which may arise because the Act requires that at least one-third of the court must be civilians,[240] the reorganization of and independence for the present boards of review will provide this military tribunal with a decorum appropriate to a federal appellate court of comparable jurisdiction.

To bring the military in line with federal procedures, the Act incorporates a provision granting two years [241] instead of one year [242] within which to petition for a new trial. The grounds remain the same—newly discovered evidence or fraud on the court. One proposed change, however, is especially significant. At present an accused can ask for a new trial only in cases involving certain punishments.[243] Under the proposed Act, Congress corrects this arbitrary distinction and contemplates that an accused convicted by *any* court-martial can petition the JAG for a new trial. [244]

Considered separately, the foregoing changes provide acceptable and ameliorative review avenues. Taken collectively, as must be done under a system regulated by one code, one must wonder if all the changes are necessary to protect an accused from possible injustice. For example, an accused convicted of a minor offense at a SCM has available the following new petitions for relief: unlimited time within which to petition for modification or vacation of the findings or sentence;[245] two years within which to petition the JAG for a new trial based on two grounds duplicated in the unlimited petition;[246] and, as will be seen, three years within which to petition the Board for Correction of Military Records to modify, set aside, or expunge any part of the findings or sentence based on equitable grounds supporting an error to be corrected or an injustice to be removed. [247] Close analysis reveals the individual function of each of these review procedures. It is suggested, however, that the extent of rights accorded an accused at the lesser tribunals should not be unreasonable. Where to draw the line between sufficient protection for the individual and sufficient resources to administrate these protective devices is a difficult decision. Because there are substantial differences between a summary and a general court-martial, it is recommended that Congress re-evaluate the proposed review procedures available to all courts. A compromise should be effected so that commensurate consideration can be afforded the petitions related to each type of court-martial. The original Code draftsmen saw fit to exclude petitions from certain courts-martial on the basis of the punishment imposed. [248] If Congress desires to change this scheme to grant further review for all courts-martial, it is submitted that specific rules should be proposed for each of the various courts.

IV. CONSOLIDATED BOARD FOR CORRECTION OF MILITARY RECORDS

(Not pertinent, omitted.)

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V. ESTABLISHMENT OF A NAVY JUDGE ADVOCATE GENERAL'S CORPS

(Not pertinent, omitted.)

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VI. CONCLUSION

The foregoing has been of necessity only a cursory treatment of the numerous changes and complexities of the proposed Act. Some technical, yet procedurally important amendments have not been noted in the text. The sections of the omnibus bill which have been commented upon nevertheless reflect the intent of Congress and the importance of the

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Military Justice Act of 1967. Many provisions have an operational or administrative overtone, but the main theme of the Act is to provide better forums and protective devices to insure that the individual in the military receives due process by adjudicative tribunals. Some provisions are technically objectionable. The main theme, however, seems desirable and feasible.

The proposals concerning administrative discharge procedures, for example, are as sweeping in that field as was the UCMJ in the criminal field in 1950. Experience under that Code has indicated that it was far-sighted and promoted the attainment of real justice. The military adapted to it. Now many new proposals, equally far-reaching but in harmony with civilian practices, are presented in this Act. Despite the administrative complications which might ensue, the military can undoubtedly adapt to this Act if it becomes law. The only alternative would seem to be that contemplated by Professor Morgan when he commented on the UCMJ experience in the military:

"If experience under the Code shows that the influence of command control has not been eliminated, it may well be that a new system will have to be established in which the military will have control only over the processes of prosecution, and the defense, trial and review be under the exclusive control of civilians. The services have the opportunity of demonstrating to Congress that the concessions made in the Code to the demands for effective discipline do not impair the essentials of a fair, impartial trial and effective appellate review." [278]

This observation is equally pertinent to the changes to the administrative and criminal justice systems embodied in the proposed Military Justice Act of 1967.

BARRETT S. HAIGHT.

FOOTNOTES

*The opinions and conclusions presented herein are those of the author and do not necessarily represent the views of the United States Army or any other governmental agency. [Ed. note: The student author is a commissioned officer in the grade of Major on excess leave from the Regular Army].

[1] Preamble, S. 2009, 90th Cong., 1st Sess. (1967).

[2] S. 2009, 90th Cong., 1st Sess. (1967) [hereinafter cited as the Act]. For the text of this bill and accompanying remarks by Senator Sam Ervin, CONGRESSIONAL RECORD, vol. 113, pt. 13, pp. 17323–17339. Joining Senator Ervin in sponsoring the bill were Senators Bayh, Bible, Fong, Long of Missouri and Williams of New Jersey.

[3] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17323.

[4] *Hearings on Constitutional Rights of Military Personnel Before the Subcomm. on Constitutional Rights of the Comm. on the Judiciary,* pursuant to S. Res. 260, 87th Cong., 2d Sess. (1962) [hereinafter cited as *1962 Hearings*].

[5] Uniform Code of Military Justice, 10 U.S.C. §§ 801–940 (1964), *as amended,* (Supp. II 1966), *formerly* 64 Stat. 108–49 (1950) [hereinafter cited as Art. __, UCMJ, 10 U.S.C. § __ (1964)].

[6] 1962 *Hearings* 4–5.

[7] 1960 Court of Military Appeals Report 12.

[8] Art. 77–134, UCMJ, 10 U.S.C. §§ 877–934 (1964).

[9] 1962 *Hearings* 825.

[10] S.2002–17, 88th Cong., 1st Sess. (1963). For the text of these bills and their accompanying memoranda, CONGRESSIONAL RECORD, vol. 109, pt. 11, pp. 14145–14158. The bills were reintroduced in 1965 as S.745–60, 89th Cong., 1st Sess. (1965). CONGRESSIONAL RECORD, vol. 111, pt. 1, pp. 1273–1287. Two additional bills, S.761 and S.762 were introduced at the same time in 1965. Analysis of these bills is beyond the purpose of this paper. They are, however, related to the military justice field. S.761 intended to give jurisdiction to federal district courts to try ex-servicemen no longer under courts-martial jurisdiction but who committed crimes while in the service although never tried under the UCMJ. S.762 intended to give jurisdiction to federal district courts to try civilian employees and dependents who commit certain crimes punishable under the UCMJ while such civilians are accompanying the military outside the United States. These bills were reintroduced by Senator Ervin on the same date as the Military Justice Act of 1967, respectively as: S.2006 and S.2007, 90th Cong., 1st Sess. (1967). CONGRESSIONAL RECORD, vol. 113, pt. 13, pp. 17321–17323.

[11] *Joint Hearings on S.745–762, S.2906 and S.2907 Before the Subcomm. on Constitutional Rights of the Committee on the Judiciary and a Special Subcommittee of the Committee on Armed Services,* 89th Cong., 2d Sess. (1966) [hereinafter cited as *1966 Hearings*].

[12] *E.g.,* Gideon v. Wainwright, 372 U.S. 335 (1963) (right to counsel at criminal prosecutions); Pointer v. Texas, 380 U.S. 400 (1965) (right to confrontation of witnesses for prosecution); Miranda v. Arizona, 384 U.S. 436 (1966) (the right, and the opportunity to exercise that right, to appointed counsel). *Cf.* Greene v. McElroy, 360 U.S. 474 (1959) (right to confrontation at administrative hearings).

[13] FED. R. CRIM. P., 18 U.S.C. appendix (1964), *as amended* (Supp. II, 1966).

[14] *See, e.g.,* Bland v. Connally, 293 F.2d 852 (D.C. Cir. 1961): "We think it must be conceded that any discharge characterized as less than honorable will result in serious injury." *Id.* at 858. *See also* Murray v. United States, 154 Ct. Cl. 185 (1961); *1966 Hearings* 321, 833–36.

[15] The two bills, provisions of which were not incorporated in any duplicate form, were: S.758 (right to demand court-martial in lieu of administrative discharge board) and S.759 (abolishing summary courts-martial). The Act attempts to provide alternate solutions by (1) guaranteeing individual rights before administrative boards; and (2) permitting an accused to refuse trial by the summary court-martial, thus requiring the convening authority to try him at a special or general court-martial. The Act also incorporates provisions from two substitute proposals submitted by the Department of Defense. *See 1966 Hearings* 668–710.

[16] CONGRESSIONAL RECORD, vol. 113, pt. 13, pp. 17323–17339.

(Footnotes 17 through 161 omitted.)

[162] The analogy is apt. Courts-martial are a form of federal court created by statute. The MCM, 1951, ¶ 137, expressly provides one correlation to the federal system: "So far as not otherwise prescribed in this manual, the rules of evidence generally recognized in the trial of criminal cases in the United States district courts. . . ." Although the UCMJ is silent as to which law is otherwise applicable, the Court of Military Appeals has said: "We have repeatedly held that Federal practice applies to courts-martial procedures if not incompatible with military law. . . ." United States v. Knudson, 4 U.S.C.M.A. 587, 590, 16 C.M.R. 161, 164 (1954).

[163] Art. 27(b) UCMJ, 10 U.S.C. 827(b) (1964). The general court-martial has the broadest jurisdiction of all military courts, can adjudge any penalty up to death depending on the maximum authorized for a particular offense, and has requirements for a minimum of 5 members, a law officer, and verbatim record.

[164] Art. 27(c), UCMJ, 10 U.S.C. 827(c) (1964). The special court-martial is the "middle" court between the general and one-man summary courts-martial.

[165] The jurisdictional punishment limit for a SPCM, modified by the maximum authorized for the particular offense: bad conduct discharge (if a verbatim record is kept), six months confinement at hard labor, three months hard labor without confinement, forfeiture of two-thirds pay per month for six months, and reduction to the lowest enlisted grade. Art. 19, UCMJ, 10 U.S.C. § 819 (1964).

[166] 14 U.S.C.M.A. 199, 33 C.M.R. 411 (1963).

[167] U.S. CONST. amend. VI, which provides in part: "In all criminal prosecutions, the accused shall enjoy the right to . . . have the Assistance of Counsel for his defense."

[168] 14 U.S.C.M.A. at 216, 33 C.M.R. at 428.

[169] *Id.* at 217, 33 C.M.R. at 429 (concurring opinion).

[170] *Id.* at 219, 33 C.M.R. at 431 (concurring opinion).

[171] 246 F. Supp. 316 (D. Utah 1965).

[172] *Id.* at 321 (emphasis added). The court did limit its holding to the facts of the case. *Id.* at 320. Other district courts have recently affirmed the present non-lawyer system. *See, e.g.,* LeBallister v. Warden, 247 F. Supp. 349 (D. Kan. 1966).

[173] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332.

[174] FED. R. CRIM. P. 44.

[175] *1966 Hearings* 40.

[176] *Id.* at 1019. The Navy representatives also testified that it utilizes the services of a law officer at complicated special courts-martial. *Id.* at 40. While this is commendable, it is submitted that a good lawyer defense counsel could make even the simplest court-martial complicated for a non-lawyer president of a special court-martial. Since the present UCMJ permits a non-lawyer to preside at special courts-martial, Art. 51(b), UCMJ, 10 U.S.C. § 851(b) (1964), one further disadvantage owing from the proposed change in the Act to have both counsel be attorneys is that their conduct of the trial will raise issues which the average untrained president of the court will be unable to adjudicate.

[177] *1966 Hearings* 89.

[178] Army Reg. No. 22–145 (1964).

[179] In fiscal year 1965 the military convened approximately 40,826 SPCM. *See 1966 Hearings* 912, 1018, 1053. Prior to the expanded authority and increased punishment power in commanders to impose *nonjudicial* punishment, the summary court-martial was more extensively used by the military. *See* Art. 15, UCMJ, 10 U.S.C. § 815 (1964). The intent is to phase out the controversial one-officer summary court. CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17324.

[180] The summary court-martial is composed of one commissioned officer who acts in the capacity of trial counsel, defense counsel, judge and jury. This court may try only enlisted men. Maximum jurisdictional punishment is: confinement at hard labor for one month, restriction to specified limits for more than two months, and forfeiture of two-thirds of one month's pay. Art. 20, UCMJ, 10 U.S.C. § 820 (1964). *See* MCM, 1951, ¶ 20.b. regarding reduction in grade. There is no authorization in the UCMJ for a right to independent counsel.

[181] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332. At present, a serviceman may object to trial by a SCM only if he has *not* been offered nonjudicial punishment. Therefore, if he has been offered nonjudicial punishment and has elected to refuse it, he may be tried by a SCM regardless of his objection. Art. 20, UCMJ, 10 U.S.C. § 820 (1964). The proposed change would permit a serviceman to object to trial by SCM in any situation. Thus, assuming he wishes to risk the increased punishment jurisdiction of the SPCM, the accused has unalterable access to a lawyer-counsel, as proposed in the Act.

[182] Arts. 1(11), 26(a), UCMJ, 10 U.S.C. §§ 801 (11), 826(a) (1964).

[183] Art. 51 (b), (c), UCMJ, 10 U.S.C. § 851 (b), (c) (1964). For a more complete discussion of the law officer's duties, see Department of the Army Pamphlet No. 27–9, "The Law Officer" (1958). *See also* Meagher & Mummey, *Judges in Uniform: An Independent Judiciary for the Army,* 44 J. AM. JUD. SOC'Y 46 (1960); Weiner, *The Army's Field Judiciary System: A Notable Advance,* 46 A.B.A.J. 1178 (1960).

[184] United States v. Berry, 1 U.S.C.M.A. 235, 240, 2 C.M.R. 141, 146 (1952). *Cf.* United States v. Biesak, 3 U.S.C.M.A. 714, 14 C.M.R. 132 (1954).

[185] *See* Miller, *Who Made The Law Officer A "Federal Judge"?*, 4 MIL. L. REV. 39 (1959).

[186] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332. The Act would realistically grant additional power in the "military judge" by authorizing him to conduct pretrial and "in chambers" hearings to pass on the legality of all relevant motions, defenses, objections and "any other procedural function which . . . does not require the presence of the members of the court." *Id.* At least two difficulties will arise as a result of these new powers as drafted. First, the Act would allow the military judge to hold the arraignment and receive the pleas of the accused *if permitted by regulations of the Secretary concerned.* Because the Air Force alone presently requires the trial counsel (prosecutor) to establish a *prima facie* case, although the accused has pleaded guilty, there will undoubtedly be lack of uniformity among the services. *1966 Hearings 62.* While uniformity of itself is not a cherished goal, close analysis of the effect of different procedures in conducting the pretrial arraignment reveals that an accused in one service can receive protection substantially greater than an accused in the other services. Perhaps the better solution is to adopt the more protective procedures in the Manual for Courts-Martial. The second difficulty involves statutory construction. The proposed amendment to Article 51(b), while granting authority in the judge, or in his absence, the President, to rule *with finality* on all interlocutory questions, further provides: "Any such ruling made by the military judge upon any question of law or any interlocutory question *other than the mental responsibility of the accused,* or by the president . . . *other than a motion for a finding of not guilty,* is final and constitutes the rulings of the court." CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332 (emphasis added). The technical question raised is whether this disjunctive phraseology would possibly be giving authority in the president but not the judge to rule *with finality* (or at all) on the mental responsibility of the accused. Because the converse would be a reasonable construction, *i.e.*, that the judge but not the president should be allowed to rule on a motion of not guilty, then the above-mentioned possibility gains added weight. This is so although the most "reasonable" construction is that only the full court, where not preempted by the accused's election, should pass with finality on mental responsibility. Thus, this amendment should be rewritten to remove the inherent difficulty posed above.

[187] Art. 26, UCMJ, 10 U.S.C. § 826 (1964).

[188] *1966 Hearings* 52.

[189] *See, e.g.*, Army Reg. No. 27–135 (1963).

[190] Statement of Judge Homer Ferguson, U.S. Court of Military Appeals, *1966 Hearings* 299.

[191] *1966 Hearings* 52–53.

[192] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332.

[193] FED. R. CRIM. P. 23.

[194] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332.

[195] *Id.* It is interesting to note that this section of the proposed Act also requires that before a bad conduct discharge may be adjudged, a verbatim record must be made, and the accused represented by lawyer-counsel *except in time of war.* This is in direct conflict with a previously noted proposed change to Article 27, UCMJ; that is, counsel assigned to special courts-martial *will* be legally trained. *See* note 193 *supra* and accompanying text. There seems to be no rational reason to include the "in time of war" stipulation if the right to qualified counsel is already accorded to the accused. If Congress wishes to make an exception for wartime situations it must likewise amend the Article 27(b) assignment of legal counsel to permit deviations from that mandate in time of war. This latter amendment, however, would seem to negate the legislative desire that the serviceman be protected in both war and peacetime. "We cannot wait as we did a generation ago, until all these men return to civilian life with their stories of injustice." CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17323.

[196] It is possible that such determination by the convening authority is irrelevant to the question of whether a military judge *must* be detailed to the court if the offense of which the accused is charged carries a maximum punishment, to include the bad conduct discharge, as prescribed in the Table of Maximum Punishments, MCM 1951, ¶ 127(c), Section A. The proposed amendment to Article 19, UCMJ, is couched in mandatory language: "No person *shall* be tried by a special court-martial without a military judge if a bad conduct discharge *may* be adjudged as punishment for the offense with which such person is charged." CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332 (emphasis added). It is noted, however, that no direct reference is made to the Table of Maximum Punishment; that a proposed change to Article 16, UCMJ, describing the types of courts and the accused's election as to the military judge, is worded permissively concerning detail of the judge by the convening authority; and that a bad conduct discharge "may" not be adjudged if the convening authority decides not to allow, for example, a verbatim record to be kept. Thus, it is not clear when the military judge *must* be assigned to the SPCM and when he *may* be assigned. It is further suggested that this ambiguity should be resolved by redrafting to prevent confusion resulting from these two considerations: (1) If the convening authority may—as opposed to must—detail the military judge when a bad conduct discharge is appropriate, what would be the effect of this detail on the court since the members would realize the convening authority considers the punitive discharge appropriate? (2) Because the Table of Maximum Punishments authorizes a bad conduct discharge to be adjudged after a finding of guilty when the accused has a record of two previous courts-martial within the past year, should this fact bear on the question of whether accused with such a record should automatically be guaranteed the right to have his case heard by a court composed at least by a military judge?

[197] FED. R. CRIM. P. 23.

[198] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17332. The one exception is when death may be adjudged for the offense charged. Congress would not permit the military judge to make this weighty decision alone. The full court of a judge and at least five members is required. *Id.*

[199] U.S. CONST. art. III, § 2.

[200] *See* United States v. Burney, 6 U.S.C.M.A. 776, 21 C.M.R. 98 (1956).

[201] The UCMJ speaks only to minimum numbers: SCM, 1; SPCM, 3; GCM, 5. There is, theoretically, no maximum number and "12" is not a required number in any case. The only mention of "peers" is that contained in Art. 25, UCMJ, 10 U.S.C. § 25 (1964), which provides in part that an enlisted accused may request that one-third of the court be composed of enlisted men, and that *when it can be avoided,* no member of the court should be junior in rank or grade to the accused. The power of Congress to set the composition of courts-martial, as well as the entire UCMJ, is derived from the Constitution, art. I, § 8: "The Congress shall have Power . . . To make Rules for the Government and Regulation of the land and naval Forces." The right to a grand jury indictment is also excepted in the fifth amendment. U.S. CONST. amend. V.

[202] *See* note 191 *supra* and accompanying text.

[203] *See* note 189 *supra.*

[204] *See, e.g.*, materials on command influence, submitted by Edward S. Gogen, ACLU, *1966 Hearings* 761–63; *cf.* United States v. Walinch, 8 U.S.C.M.A. 3, 23 C.M.R. 227 (1957).

[205] *See, e.g.*, United States v. Perry, cited in *1966 Hearings* 302; United States v. Kitchens, 12 U.S.C.M.A. 589, 31 C.M.R. 175 (1961); *cf.* United States v. Albert, 16 U.S.C.M.A. 111, 36 C.M.R. 267 (1966); United States v. Danzine, 12 U.S.C.M.A. 350, 30 C.M.R. (1961).

[206] Art. 22(b), UCMJ, 10 U.S.C. § 822(b) (1964).

[207] Art. 1(11), UCMJ, 10 U.S.C. § 801(11) (1964).

[208] Arts, 37, 98, UCMJ, 10 U.S.C. §§ 837, 898 (1964).

[209] Art. 37, UCMJ, 10 U.S.C. § 837 (1964).

[210] *1966 Hearings* 302.

[211] *See generally* the testimony of The Judge Advocates General, *1966 Hearings* 54–61, 97–99.

[212] *See* testimony of Chief Judge Quinn, Court of Military Appeals, *1966 Hearings* 277–93. "I do feel . . . that command control has been largely eliminated." *Id.* at 283.

[213] *See* discussion and cases cited in *The Survey of the Law—Military Justice: The United States Court of Military Appeals 29 November 1951 to 30 June 1958,* 3 MIL. L. REV. 67 (1959); Fischer & Sides, *A Supplement to the Survey of Military Justice,* 8 MIL. L. REV. 113 (1960); and other annual supplements in 16 MIL. L. REV. 91 (1961), 20 MIL. L. REV. 116 (1963), 28 MIL. L. REV. 121 (1965).

[214] See notes 239–41 *infra* and accompanying text.

[215] *See* note 223 *infra.* Judge Ferguson's testimony about this area is illuminating: "Seldom does one see a case in which a military commander directly takes issue with a court-martial or attempts to interfere with it. Instead we find in almost every instance a staff judge advocate tampering with the court in order to obtain a more favorable ratio of convictions and sentences." *1966 Hearings* 302.

[216] 16 U.S.C.M.A. 111, 36 C.M.R. 267 (1966).

[217] *Id.* at 115, 36 C.M.R. at 271.

[218] *Id.*

[219] *Id. See also* United States v. Kitchens, 12 U.S.C.M.A. 589, 31 C.M.R. 175 (1961).

[220] United States v. Albert, 16 U.S.C.M.A. 118, 36 C.M.R. 274 (1966) (dissenting opinion). *Cf.* United States v. Danzine, 12 U.S.C.M.A. 350, 30 C.M.R 350 (1961) (dissenting opinion).

[221] 12 U.S.C.M.A. 589, 31 C.M.R. 175 (1961). *See also* United States v. Perry, cited in *1966 Hearings* 302.

[222] Art. 51(c)(1–4), UCMJ, 10 U.S.C. § 851 (c)(1–4) (1964).

[223] *See, e.g.*, Department of the Army Pamphlet No. 27–15, "Military Justice Handbook, Trial Guide for the Special Court-Martial President" (1965).

[224] *See, e.g., 1966 Hearings* 191, 299.

[225] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17333.

[226] *Id.*

[227] *Survey of The Law of Justice: The United States Court of Military Appeals 29 November 1951 to 30 June 1958,* 3 MIL. L. REV. 67, 74 (1959).

[228] *Cf.* Sheppard v. Maxwell, 384 U.S. 333 (1966).

[229] Quoted by Judge Kilday, Court of Military Appeals, *1966 Hearings* 298, from 63 MICH. L. REV. 168, 170–71 (1964).

[230] Art. 66(b), UCMJ, 10 U.S.C. § 866(b) (1964). This article also provides for automatic review in the less frequent cases involving a general or flag officer, death sentence, or dismissal of a commissioned officer, cadet or midshipman.

[231] Arts. 67(b)(2), (3), UCMJ, 10 U.S.C. §§ 867(b)(2), (3) (1964). The Court of Mili-

tary Appeals automatically reviews sentences involving a general or flag officer, and death.

[232] Art. 69, UCMJ, 10 U.S.C. § 869 (1964).

[233] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17335.

[234] *Id.*

[235] *See* note 189 *supra*.

[236] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17335.

[237] See Art. 66, UCMJ, 10 U.S.C. § 866 (1964).

[238] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17334.

[239] *Id.*

[240] The basic controversy: the military asserts that civilians on the court means less career incentives and openings for professional military lawyers and that undoubtedly problems will arise in combat situations; others advocate that civilians will provide a salutary check on the military similar to the much respected Court of Military Appeals and that the civilians will provide continuity to the court because the term is only for three years, after which the military more probably would be reassigned or retired. *Quare*, will the unwholesome effect be that the chief judgeships will eventually all go to civilians since they presumably will be reappointed term after term, thus becoming the most senior and, undoubtedly, acquiring the more impeccable judicial and administrative abilities.

[241] *See* FED. R. CRIM. P. 33.

[242] Art. 73, UCMJ, 10 U.S.C. § 873 (1964).

[243] The punishments are of the more severe category, and for the most part constitute identical grounds for automatic appellate review: death, dismissal (officers only), dishonorable or bad conduct discharge, or confinement for one year or more. *Compare* Article 73 *with* Article 66. Ironically, a general or flag officer, not dismissed pursuant to a court-martial sentence, has no present recourse to petition for a new trial.

[244] CONGRESSIONAL RECORD, vol. 113, pt. 13, p. 17335.

[245] *See* notes 242, 243 *supra* and accompanying text.

[246] *See* note 252 *infra* and accompanying text.

[247] *See* 10 U.S.C. § 1552 (1964). *See also* part IV *infra*.

[248] Art. 73, UCMJ, 10 U.S.C. § 873 (1964).

(Footnotes 249 through 277 omitted.)

[278] Morgan, *The Background of the Uniform Code of Military Justice*, 6 VAND. L. REV. 169, 184 (1953).

MILITARY JUSTICE ACT: TIME FOR REVISION

(By SAM J. ERVIN, JR.)

When the Uniform Code of Military Justice was enacted in 1950 it represented a revolution in military law. Until that year the American in uniform had been at the mercy of legal procedures older than the Revolutionary War, procedures originally designed for foreign mercenaries—not for citizen soldiers loath to give up the rights for which they are fighting. So antiquated and unjust was the system, that after World War II a great protest came from returning veterans demanding reforms which would guarantee basic American principles of due process of law. They wanted a law which dispenses justice, not discipline.

Once again the country is in a situation very much like that which existed in the 1940's. More and more private citizens are being called to service in an ugly war. More than 500,000 men are now fighting in Vietnam, and this figure may increase to over 600,000 in 1968. At the same time, the selective service is also undergoing revision, and it is likely that younger men will be called to service—nineteen-year olds, barely out of high school.

On June 26, 1967, I introduced a bill (S. 2009) to revise and perfect certain aspects of the system of justice administered in the Armed Forces. This omnibus bill, entitled the "Military Justice Act of 1967," is co-sponsored by Senators Bayh, Fong, Long of Missouri, Williams of New Jersey, Bible, Yarborough and Scott. It represents, with a few modifications, proposals previously contained in twenty different bills introduced in the 88th and 89th Congresses. It is the product of long and painstaking work by the Senate Subcommittee on Constitutional Rights.

Our purpose is to modernize a system of justice untouched for almost two decades.

We cannot wait, as we did a generation ago, until all these men return to civilian life with their stories of injustice. The subcommittee has enough cases already which prove the clear need for legislation. As we call upon millions of young men to offer their lives in defense of American principles, we are bound by conscience to offer them the best legal system we can devise to protect and judge them while they are in uniform.

This means a modernized court-martial system, such as proposed by Title III of this bill.

This means providing the services of skilled legal counsel and full-time military judges.

This also means that young men not be stigmatized with the indelible mark of "undesirable," "unfit" or "unsuitable" unless they first have had the benefit of fundamental procedural rights.

The Military Justice Act of 1967 will accomplish these reforms and many others.

The proposals in this bill are not new, even if they are long overdue. Each provision of the bill is the result of intensive study for many years—in some cases as long as seventeen years—by the Subcommittee on Constitutional Rights, by a special committee of the Committee on Armed Services, judges of the Court of Military Appeals, knowledgeable lawyers in the field of military law, and interested laymen.

Two complete series of hearings have been held in the Senate on these reforms. In 1962, following hundreds of complaints from servicemen and their families and an intensive field investigation, the Constitutional Rights Subcommittee held its first set of hearings. Testimony was received from witnesses with a wide range of experience in military law.

Later, a comprehensive questionnaire was delivered to each of the services which developed additional information on particular problem areas in military law. The published hearings consisted of almost 1,000 pages. A summary report of the hearings published in 1963, presented the subcommittee's conclusions and recommendations.

Based upon this groundwork, I introduced on August 6, 1963, S. 2002 through S. 2019 of the 88th Congress—eighteen separate legislative proposals designed to protect the constitutional rights of servicemen and to perfect the administration of justice in the military, Senators Bayh, Cooper, Fong, Hruska and Humphrey joined with me in sponsoring most or all of these bills.

During the succeeding months the proposals were subjected to intensive study both within the military and without. Alternative suggestions and revised language were submitted from many sources.

The eighteen bills were reintroduced in the 89th Congress on January 26, 1965, as S. 745 through S. 762, with the co-sponsorship of Senators Hruska, Bayh, Fong, Long of Missouri, Williams of New Jersey and the late Olin D. Johnston of South Carolina.

Hearings on this legislative package, plus two additional bills, S. 2906 and S. 2907, drafted by the Defense Department and introduced previously in the House of Representatives by Congressman Bennett, were held in January and March of 1966 before the Constitutional Rights Subcommittee and a special subcommittee of the Armed Services Committee.

The subcommittee received testimony from twenty-eight witnesses, including Assistant Secretary of Defense Thomas Morris, the judge advocates general, the judges from the Court of Military Appeals, representatives of interested Bar associations, and private practitioners of military law. This record extends over 1,000 pages, including an extensive appendix, and over 200 pages of data submitted by the services in response to two additional detailed questionnaires.

The present bill is a product of this history. It was drafted in the months following the 1966 hearings to combine in one comprehensive package those proposed changes in military law which over the course of this study have proved to be necessary and beneficial. With few exceptions, which I shall enumerate presently, the bill incorporates the provisions of the twenty bills introduced in the 89th Congress.

The omnibus bill is divided into five titles. Title I contains a code of procedure for the consideration and issuance of administrative discharges based upon fault or culpable misconduct. To a large extent it codifies existing Department of Defense regulations which were adopted in response to the facts developed at the hearings.

Title II was designed to create a Navy Judge Advocate Corps to replace the then current organizational system of lawyers in that service. Navy law specialists were classified as "special duty officers" along with communications officers, photographers and public relations men. A legal corps was first recommended in 1946. The proposal was endorsed by the Defense Department, the Navy and the Navy's legal branch. It was many years overdue. Since the bills' introduction the Congress has passed and the President has signed Public Law 90–179, which accomplishes the purpose of Title II.

Title III would alter procedures in the Uniform Code of Military Justice, which governs the system of criminal law utilized through the court-martial structure of the Armed Forces. One important change is the authorization of single-officer general and special courts-martial in those cases in which the accused waives trial by the military equivalent of a jury. Another is the extension of the accused's right to legally qualified counsel to the special courts-martial.

A third change is the creation of a "field judiciary" system of senior military lawyers to sit in courts-martial. The "law officers" also would be given greater stature and responsibility in the conduct of the trial. In keeping with this new authority, these officers would be redesignated as "military judges."

A fourth change would establish a pre-trial procedure in courts-martial to expedite and improve the course of the trial itself.

Title III also strengthens the prohibitions against command influence, discourages use of the summary court-martial, and makes certain other necessary procedural changes in the Uniform Code.

Title IV would accomplish the long-needed transformation of the intermediate body which reviews courts-martial convictions from an administrative board into a formal court. The reconstitution of these bodies as appellate courts acknowledges their proper role in the administration of military justice. It should do much to improve the prestige and the quality of these intermediate "courts."

Finally, Title V would consolidate the existing separate boards for the correction of records and bring consistency to the review of military records for errors or injustices.

Aside from a number of technical changes adopted as a result of last year's hearings, the omnibus bill differs from the twenty military justice bills introduced in the 89th Congress in only three major respects. First and most important is the procedural code contained in Title I for governing administrative discharges. The earlier bills were also aimed at securing basic due process rights in the administrative discharge system, but their approach was quite different.

They would have offered any serviceman

facing a charge which might result in an undesirable discharge an opportunity to demand a trial by court-martial instead of being processed administratively. The theory was to permit an individual to elect a procedure assuring him the basic legal rights present in a criminal trial.

During the 1966 hearings this approach was carefully analyzed and certain weaknesses in it were discussed. As a result, the present bill proposes instead to incorporate basic procedural rights into the administrative discharge system.

The new code would govern all administrative proceedings where the basis for the proposed discharge or separation is alleged misconduct involving fault or culpability. Title I is essentially a codification of regulations presently in force in the services. It applies to discharges or separations of enlisted men and officers.

The second major change concerns the controversy over retention of the summary court-martial. In 1961 the Congress enacted a major expansion of the article 15 powers of military commanders—the so-called "nonjudicial" or "company punishment" provision.

One reason for this change was the expectation of the Defense Department that by making the disciplinary powers of the commanding officer equivalent to the judicial powers he had as the summary court-martial offier, the reliance of commanders on that court would decline to a point where it could be abolished.

In the years since that amendment became effective the use of the court has declined dramatically—in the Army and Navy by 50 per cent and in the Air Force by over 70 per cent. Nonetheless, I feel it is administratively impossible for the services to dispense entirely with the court at present. For that reason the omnibus bill does not propose its abolition.

This is no expression of confidence in the summary court. The findings of the Constitutional Rights Subcommittee in 1962 are still valid—the summary court is an inferior court in concept, procedure and the quality of justice it dispenses. Until such time as the court can be totally eliminated from the military justice system, the omnibus bill proposes to remove a technical restriction in the existing right of servicemen to refuse trial by summary court and elect trial by special or general court-martial instead.

In this way, no serviceman would be forced to stand trial against his will in a court where the same man is judge and jury, prosecutor and defense counsel.

A third difference between this bill and its predecessors is a new requirement that legally trained counsel be assigned for all special courts-martial. Under existing law, junior officers entirely untrained in the law can and often are assigned to defend servicemen against serious accusations.

By contrast, the right to legal counsel in the civilian system has undergone considerable expansion in recent years, notably as a result of the Criminal Justice Act of 1964. Further, the Court of Military Appeals, in the recent case of United States v. Tempia, has ruled that legal counsel must be provided in the interrogation stage of military justice.

For these reasons, I believe it is now necessary that the military law recognizes by statute the minimum requirements of the right to legal counsel to which citizens are entitled under the constitution. Military justice, which for so long guaranteed many rights that the civilian system did not, can no longer deny this basic right to Americans in uniform.

I wish to reiterate that the proposals in this legislation have been exhaustively studied for many years. I believe that the necessity of these changes has been thoroughly established. I hope that the legislation will be considered expeditiously by Congress. I can think of no more fitting expression of this country's appreciation for the sacrifices our young servicemen are called upon to make than to grant them the same rights they are defending.

COMMENT: RIGHT TO COUNSEL AND THE SERVICEMAN

"Never have we held that all the rights covered by the Fifth and the Sixth Amendments were abrogated by Art. I, § 8, cl. 14 of the Constitution, empowering Congress to make rules for the armed forces." [1]

The argument that the men and women of the Armed Services are to be afforded the constitutional safeguards guaranteed to all citizens by the Bill of Rights has been made on historical, judicial, and legislative fronts. Perhaps the argument is academic, for regardless of whether Congress, in exercising its power to regulate the military services, is or is not limited by the Bill of Rights, it is more than clear that all concerned with military justice have been successful in their efforts to assure military personnel basic protections of a civilized society—whether by legislative enactment, judicial decree, or administrative practice.

Yet, it is unclear whether the protection of assistance of counsel for military personnel has its foundation in the sixth amendment "right to assistance of counsel." [2] Two recent federal district court opinions [3] and legislation [4] pending in Congress raise anew certain questions: Does the constitutional "right to assistance of counsel" apply to military tribunals? If this right does apply, is legal counsel required or will military counsel suffice? Finally, will practical considerations permit effective application of the right?

Before attempting to resolve the questions, a discussion of the two cases and pending legislation, in view of the history and judicial and legislative activities relating to right to counsel for servicemen, is desirable.

JUDICIAL ACTIVITY

Any analysis of right to counsel in relation to military tribunals must be made with respect to the broader consideration of whether the Founding Fathers understood the power of Congress to make "rules for the government and regulation of the land and naval forces" [5] to be limited by the protections guaranteed all citizens through the Bill of Rights. The only express limitation in the Bill of Rights is that servicemen, unlike civilians, are not entitled to a grand jury indictment.[6] The absence of any distinction between servicemen and civilians concerning the right to counsel has necessitated inquiry into the intentions of the Founding Fathers and examination of the practices prevalent in military tribunals at the time the Bill of Rights was adopted.

An eloquent plea has been made that the original understanding was that the sixth amendment applied to military tribunals.[7] However, the stronger historical case [8] demonstrates that the early Congresses and some of the principal draftsmen of the Bill of Rights did not consider the Bill applicable to military personnel [9] and that the sixth amendment right to counsel "was never thought or intended or considered, by those who drafted the sixth amendment or by those who lived contemporaneously with its adoption, to apply to prosecutions before courts martial." [10]

The historical debate as to the extent of Congress' power or any limitations on this power notwithstanding, the Constitution clearly vests in Congress the power to control and regulate the military establishment.[11] At an early date, the Supreme Court recognized that Congress' power to provide for administration of discipline in the Armed Services by means of military tribunals was entirely independent of and had no connection with its power to establish civilian courts under article III.[12] This separation of civilian and military courts was essential, for "if it were otherwise, the civil courts would virtually administer the rules and articles, irrespectively of those to whom that duty and obligation has been confided by the laws of the United States, from whose decisions no appeal or jurisdiction of any kind has been given to the civil magistrate or civil courts." [13]

However, the Court added that "if a court-martial has no *jurisdiction over the subject matter of the charge* . . . , or shall inflict a punishment *forbidden by the law*, through its sentence shall be approved by the officers having a revisory power of it, *civil courts* may, on an action by a party aggrieved by it, inquire into the want of the court's jurisdiction, and give him redress." (Emphasis in the original.) [14]

Though Congress could and did provide for courts-martial and disciplinary tribunals,[15] article III courts were not completely precluded from reviewing courts-martial proceedings, and a convicted serviceman, by means of a writ of habeas corpus, could, in a civilian court, collaterally attack the jurisdiction of the court-martial rendering his conviction.[16] The civilian court's inquiry was originally limited to the considerations of whether the court-martial had been properly constituted, had jurisdiction over the accused and the charge, imposed a sentence within its power, and afforded the accused the military appellate review granted by statute.[17]

The civilian court's collateral review then expanded into a concept of divestiture of jurisdiction whereby, upon a realization that justice was not served in a court-martial proceeding, a civilian court could rule, upon a habeas corpus application, that a series of errors at trial divested the court-martial of the jurisdiction possessed at the initiation of the proceedings.[18] This expansion of the review of military convictions by civilian courts paralleled the expansion of review of civilian habeas corpus applications.[19]

In 1953, the Supreme Court attempted to clarify the position to be taken by a federal court when it undertakes a habeas corpus review of a military conviction.[20] Still recognizing military law as separate and distinct,[21] the Court stated that military courts have a responsibility to protect the constitutional righs of an accused.[22] The Court concluded that, though Congress had provided that military tribunal determinations were "final" and "binding" [23] upon all courts, such provision did not displace a civilian court's jurisdiction of a habeas corpus application from a military prisoner.[24] In essence, the "finality" of a court-martial decision meant only that if the allegations raised in the writ have been fully and fairly considered in the military tribunal, a federal court is not free to grant the writ merely to re-evaluate the evidence.[25] Rather, the civilian court's review was limited to a determination of whether the military tribunal had given fair consideration to any claim of constitutional unfairness or deprivation of right.[26]

It has been suggested by the Supreme Court that Congress, in making rules and regulations for the Armed Services, is not limited by the Bill of Rights.[27] However, the development of civilian court review of court-martial convictions precludes the absolute acceptance of this suggestion. The due process concepts stated in *United States ex rel, Innes, v. Hiatt* [28] and *Burns v. Wilson* [29] indicate that a serviceman on trial before a military tribunal is at least guaranteed by the fifth amendment a fundamentally fair application of the provisions of military law. These concepts have found their most recent expansion in the pronouncements of the Court of Military Appeals [30] and its treatment

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Footnotes at end of article.

of a serviceman's right to legal counsel. Before discussing this court's views on the right to counsel and the serviceman, attention must be directed momentarily to legislative activity in this area.

LEGISLATIVE ACTIVITY

While judicial activity provided assurances to those in military service of necessary protections of a civilized society, Congress also exercised its legislative powers to aid in the struggle for the protection of military personnel. Military discipline was governed by the Articles of War, enacted in 1806.[31] Revised in 1916 [32] and in 1920,[33] the Articles of War left much to be desired in providing procedural due process for an accused before a military tribunal.[34] Public dissatisfaction with alleged military injustice during World War II [35] resulted in the enactment of the Uniform Code of Military Justice (UCMJ)[36]—a comprehensive scheme of legislation designed to protect the rights of those persons subject to military justice.

That the UCMJ has been successful cannot be denied.[37] Indeed, it has been said that, in some instances, military personnel receive greater protection under the UCMJ than do their civilian counterparts under state or federal law.[38] In addition to the provisions for counsel, discussed below, Congress has, through the UCMJ, assured military personnel many constitutional and procedural safeguards similar to those afforded civilians.[39]

To cite but a few examples, self-incrimination,[40] cruel and unusual punishment,[41] double jeopardy,[42] and command influence on court-martial personnel [43] are prohibited. The accused may challenge members of both general and special courts-martial for cause and peremptorily, and the law officer for cause.[44] The accused has the opportunity to obtain witnesses and evidence and to compel the appearance and testimony of witnesses and the production of evidence.[45] Furthermore, the UCMJ furnishes an extensive system of appellate review.[46] All courts-martial are automatically reviewed by the convening officer and a member of the Judge Advocate General's Office.[47] Certain convictions must be reviewed by the service Board of Review [48] and by the Court of Military Appeals.[49] The accused is entitled to legally qualified counsel before both the Board of Review and the Court of Military Appeals.[50]

Concerning right to counsel, the UCMJ presently requires that trial counsel (analogous to the prosecution) [51] and defense counsel be detailed for each general and special court-martial.[52] An accused is permitted to retain civilian counsel, at his own expense, for either a general or special court-martial.[53] It is important to note that the term "counsel", as used in the UCMJ, does not necessarily refer to legally qualified counsel. Unless counsel is defined as Article 27(b) counsel, it is understood that military, or nonlegal counsel, is intended.[54]

For a general court-martial, which has jurisdiction to try all persons and offenses subject to the UCMJ and which can adjudge any sentence, including death,[55] the law officer (analogous to the judge),[56] the trial counsel, and the defense counsel must be qualified attorneys.[57] For a special court-martial, which has jurisdiction to try all persons and noncapital offenses,[58] but which is limited to adjudging sentences of a maximum of six months confinement, a bad conduct discharge, and lesser penalties,[59] the accused is not entitled to a qualified attorney as defense counsel unless the trial counsel is a qualified attorney.[60] There is no provision for a law officer at a special court-martial.[61] For a summary court-martial, which has jurisdiction to try only enlisted personnel and which is limited to adjudging a sentence of a maximum of one month confinement or its equivalent,[62] there exists no provision for either counsel or law officer.[63]

In addition to the provisions for legal counsel and the other constitutional and procedural safeguards mentioned above, the military services themselves take care to see that non-legal or military counsel are reasonably prepared in the skill of administering military justice. This is accomplished primarily by instruction in the arts of military justice [64] and by the use of the *Manual for Courts-Martial* [65] by court-martial personnel.

It is apparent, then, that "Congress . . . has responded to the challenge of extending the constitutional safeguards, so cherished in civilian life, to the countless thousands of men and women who enter the Armed Services." [66] It is equally apparent that, while there has been no clear constitutional directive to Congress to afford servicemen the sixth amendment "right to assistance of counsel", much has been done by legislative activity to assure military personnel, under some but not all circumstances, the assistance of counsel, both military and legal. Whether enough has been done is, like all questions relating to the protection of American citizens, open to debate.

Court of military appeals

Establishment of the United States Court of Military Appeals by Congress has made that court the primary guardian of servicemen's rights before military tribunals. The court has declared that its duty is to interpret the UCMJ in the light of constitutional protections and that all Bill of Rights guarantees apply to servicemen except those which are expressly or by necessary implication excluded,[67] reversing its earlier view that the rights of military personnel were determined by the UCMJ and that any conflict between the Code and the Constitution should be resolved in favor of the Code.[68]

How this interpretation of its duty affects the right to counsel, however, is unclear, as shown by the recent decision of *United States v. Culp.*[69] Though the Court of Military Appeals had previously reserved the right to pass on the qualifications of officers assigned to defend an accused before courts-martial,[70] in *Culp*, it was confronted with the determination by a Board of Review that the sixth amendment guaranteed the right to legally qualified counsel to a defendant convicted of larceny at a special court-martial and sentenced a bad conduct discharge.[71] Judge Kilday, writing the opinion of the court, stated that "qualifications of counsel for courts-martial are a matter within the sound discretion of Congress" [72] and that, in his opinion, the sixth amendment did not apply to court-martial trials.[73] Chief Judge Quinn, in a concurring opinion, took the position that the sixth amendment right to counsel applied to courts-martial, but that the appointment of an officer pursuant to Article 27(c) of the UCMJ fulfills the requirement.[74] Judge Ferguson, also concurring, agreed that an accused before a court-martial was entitled to the sixth amendment right to counsel but concluded that the defendant was not denied this right since he chose to be represented by the appointed officers.[75]

Implied in the *Culp* decision, therefore, as expressed in the two concurring opinions, is that the sixth amendment directly applies to servicemen in respect to their right to counsel before courts-martial, but that the requirement is met by the appointment of military counsel. Although Chief Judge Quinn questioned the desirability of continuing to permit nonlawyers to practice before tribunals empowered to impose bad conduct discharges,[76] as did Judge Ferguson,[77] he was convinced that Congress has the undisputed right to establish the qualifications of counsel appearing before courts-martial [78] and that "the existing qualifications for counsel before those courts [special courts-martial] are reasonably calculated to insure that appointed counsel possess knowledge of the law normally incident to special court-martial practice." [79]

Thus, the sixth amendment looms in the background of special courts-martial proceedings, and by implication all courts-martial proceedings, but the extent of its application is uncertain.[80] The *Culp* decision, however, reveals a willingness on the part of the courts to relate the constitutional "right to assistance of counsel" to the fundamenal fairness or military due process to which servicemen standing before courts-martial are entitled—a willingness short, though, of direct application of the sixth amendment provisions in all its force.

THE RECENT CASES

Application of Stapley; LeBallister v. *Warden*

Almost without exception,[81] it has been held in the federal courts that the due process guarantee of the fifth amendment and the right to counsel guarantee of the sixth amendment do not require that an accused before a court-martial be represented by legally qualified counsel.[82] Generally, where the sixth amendment has been held to apply, the requirement is satisfied if defense counsel is a commissioned officer admitted to practice before courts-martial.[83]

Application of Stapley [84] and *LeBallister* v. *Warden* [85] demonstrate that confusion and doubt continue to affect servcemen's right to counsel before special courts-martial. In *Stapley* the petitioner brought a writ of habeas corpus to secure his release from custody after being sentenced to confinement for three months, a forfeit of two-thirds pay for six months and a demotion.[86] He had been charged with breaches of military orders and discipline and with writing bad checks.[87] Stapley had been tried by a special court-martial and his request for the appointment of a lawyer as defense counsel had been denied.[88] Financially unable to secure a civilian lawyer,[89] he was assigned military defense counsel with no legal training and no experience in court-martial proceedings.[90] Under the advice of his assigned counsel, Stapley pleaded guilty to all charges and settled for a prior arranged "deal" which his advisers had worked out with the commanding officer whereby he would only receive two months confinement at the most.[91]

District Judge Christensen found that defense counsel "were wholly unqualified to act as 'counsel' with respect to military law, procedure, trial or defense practicality, or at all," [92] and that the court-martial trial "notwithstanding that all participants acted in good faith, constituted no more than idle ceremony or form in accordance with a script arranged beforehand, and limited and determined by defense counsel." [93] Consistent with these findings, Judge Christensen concluded that petitioner was entitled to his release and granted the writ of habeas corpus.[94]

In reaching this result, Judge Christensen concluded that the sixth amendment right to counsel applied to proceedings before special courts-martial, "particularly where the charges are substantial or involve moral turpitude or may result in a substantial deprivation of liberty." [95] However, this apparently broad statement was qualified as follows:

"The circumstances of this case render it unnecessary to decide whether before such tribunals under all circumstances an accused is entitled to be represented by counsel who have been trained and admitted to practice before a civilian court. . . . It is sufficient here to consider only whether under the peculiar circumstances of this case, and in view of the frustration of petitioner's efforts to obtain qualified legal services because of his inability to pay them, minimal requirements of due process particularly in view of the Sixth Amendment, required that counsel made available to the petitioner had requisite competency or qualification in military or civilian laws and proceedings . . . beyond

Footnotes at end of article.

that common to every officer in the military service." [96]

Is the analysis in the opinion any different than that of the Court of Military Appeals in similar cases? [97] Essentially, Judge Christensen has evaluated the factual situation, *i.e.*, the type of crime charged,[98] the character and emotional makeup of the defendant,[99] the circumstances surrounding the proceedings,[100] the fundamental fairness of the proceedings as a whole,[101] and, finally, the qualifications of the assigned counsel to cope with all these factors and give the accused the benefit of an intelligent and competent defense which meets the requirements of the sixth amendment as it applies to military tribunals through a concept of due process.[102]

Such an evaluation determines whether the "minimal requirements of due process and the sixth amendment" [103] are present. The minimal requirements "are not satisfied by the assignment as counsel to an accused of officers with substantially no experience, training or knowledge in the field of law, either military or civilian . . . . it is no longer either reasonable or necessary, if it ever were, to deem any officer qualified to act as defense counsel for an accused merely because he is an officer; nor is it either reasonable or necessary to limit the availability of qualified defense counsel to cases in which the prosecution is represented by qualified counsel.

* * * * *

" '[M]ilitary due process', while within the competence of Congress to establish in view of military necessity, must comport with minimal requirements of constitutional due process to render it immune from attack in the courts when inconsistent confinement of military personnel is involved".[104]

The decision in *Stapley* would not preclude the assignment of non-legal counsel. However, due process will not be satisfied unless the counsel possesses "at least minimal qualifications to rationally advise on substantive and procedural legal problems. . . ." [105] The decision goes further than the approach advocated by Chief Judge Quinn.[106] While *Stapley* would apply the sixth amendment to special courts-martial, it would not necessarily require appointment of legally qualified counsel. However, appointment of an officer, as presently required by Congress, would not always suffice. Rather, the minimal requirements of due process require a case-by-case examination to determine whether the qualifications of counsel, lawyer or nonlawyer, will enable an accused to have a full and fair consideration of the charges against him consistent with the requirements of fundamental fairness.[107]

LeBallister v. Warden [108] involved two separate special courts-martial convictions on charges of absence without leave and disobedience of orders,[109] stemming primarily from petitioner's actions in pursuance of his personal beliefs as a conscientious objector.[110] These convictions each resulted in confinement for six months and forfeiture of a portion of the petitioner's pay.[111] LeBallister did not request representation by civilian or military counsel of his own choice at either proceeding, and was represented by appointed military counsel.[112] Both trial counsel and defense counsel were infantry officers; [113] none were judge advocates, graduates of an accredited law school, nor members of the bar of any court.[114] LeBallister applied for release on a writ of habeas corpus, on the basis that he was not given assistance of counsel as required by the sixth amendment.[115]

Chief Judge Stanley denied the writ and found that petitioner's counsel "represented him at each trial ably and as effectively as was possible under the circumstances," [116] and concluded that "an accused before a military court is not entitled as a matter of right under the Sixth Amendment to representation by legally trained counsel. The right of an accused to be so represented at a general court-martial springs not from the Sixth Amendemnt, but from the action of Congress under Section 8, Article I of the Constitution. No such right is accorded by Congress to one being tried by special court-martial. See United States v. Culp, 14 U.S.M.A. 199, 33 C.M.R. 411 (1963)." [117]

While petitioner cited the *Stapley* decision in his behalf, Chief Judge Stanley stated that *Stapley* was expressly limited "to the peculiar circumstances of that case, including 'the frustration of the petitioner's efforts to obtain qualified legal services because of his financial inability to pay for them,' circumstances not present here." [118]

The *LeBallister* decision appears to be based on a rigid concept of "military due process", *i.e.*, a military accused derives his rights solely from the UCMJ and not from the Constitution.[119] In view of the facts in the instant case, Chief Judge Stanley could have reached the same conclusion by adopting the approach employed by Judge Christensen. For example, the offense charged was strictly a military offense; [120] petitioner was mentally competent,[121] well educated and sophisticated; [122] no prior "deal" had been arranged between defense counsel and the commanding officer; petitioner had not requested counsel of his own choice, nor had he questioned the adequacy or qualifications of his assigned counsel.[123] The circumstances, then, were quite unlike those in *Stapley*, and petitioner's counsel was evidently qualified to effectively cope with them.[124]

Had Chief Judge Stanley employed this approach, it would have been unnecessary to reach the questions of whether the sixth amendment required appointment of legally trained counsel. For, on the facts, it could have been found that the "minimal requirements of due process and the sixth amendment" were satisfied not merely because infantry officers were assigned to represent LeBallister pursuant to Article 27(c) of the UCMJ, but because the counsel assigned possessed "at least minimal qualifications to rationally advise on substantive and procedural legal problems."

As the decisions now stand, and unfortunately there will not be an opportunity for the Court of Appeals for the Tenth Circuit to resolve the differences,[125] *Stapley* accepts the position of Chief Judge Quinn and Judge Ferguson of the Court of Military Appeals, to the extent that the sixth amendment right to counsel applies to military tribunals, but goes further in that assignment of counsel pursuant to the UCMJ will not suffice unless the minimal requirements of due process are satisfied; [126] whereas *LeBallister* stands for the traditional notion, as expressed by Judge Kilday of the Court of Military Appeals,[127] that the sixth amendment does not apply to military tribunals and that it is in the sole discretion of Congress to establish qualifications for counsel for courts-martial.

These two decisions, then, along with *United States v. Culp*,[128] indicate that, although Congress, the courts, and the military services themselves have made major advancements in providing the procedural safeguard of assistance of counsel, either legal or non-legal, to the men and women of the Armed Services, the question of exactly what the sixth amendment requires concerning the right to counsel and the military services is by no means settled.

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While it cannot be denied that Congress has been alert to the need of assistance of counsel for military personnel, investigation of the process of administering military justice reveals various factors indicating the necessity of further action by Congress if military personnel are to be fully protected—particularly when right to counsel is concerned.

First, while the Armed Services have highly competent legally qualified counsel, the competency of non-legal military counsel is subject to doubt. The non-legal defense counsel in the *LeBallister* [129] case was considered competent.[130] However, their competency to deal with the intricacies and technicalities of the law, even if one considers military law to be more simplified in practice than civil law,[131] is questionable.[132] Certainly the total lack of legal qualifications of the military defense counsel in the *Stapley* case is evidence that the provisions for counsel in the UCMJ are not fool-proof in providing competent and qualified counsel for military personnel.[133]

A second factor is the loss of certain benefits and the universal recognition of the stigma resulting from a bad conduct discharge.[134] While it is the policy of the Army not to allow special courts-martial to impose a bad conduct discharge [135] and while the Air Force invariably makes available legally trained counsel for an accused at a special court-martial,[136] there is no statutory requirement that these guarantees will be preserved. Of concern also is the possibility that the use of administrative discharges is a "means of circumventing the requirements of the Code." [137] The loss of benefits and resulting stigma is no less the case for an administrative discharge under conditions other than honorable.[138] While the Department of Defense has issued various directives concerning the right to counsel in connection with administrative discharges under conditions other than honorable,[139] counsel need not be furnished if unavailable,[140] and there is, again, no statutory requirement preserving this safeguard.

A final factor having an impact on Congress' duty to assure military personnel certain safeguards has been the recognition by the Supreme Court that right to counsel is "fundamental and essential to a fair trial." [141] The reaction by some of the states to the Court's pronouncement has been an extension of the right to counsel further for civilians than the UCMJ presently extends it for military personnel.[142]

These various factors have led to the conclusion, as expressed by Senator Ervin, that "except in an emergency situation created by war, any serviceman should have the assistance of a qualified attorney to assist him in connection with a proceeding which may result in a discharge under other than honorable conditions." [143] Therefore, on January 26, 1965, Senator Ervin, Chairman of the Senate Subcommittee on Constitutional Rights, introduced S. 750 [144]—a bill which would further extend the right to legal counsel for the men and women of the Armed Forces. The bill, one of eighteen, is part of "a legislative program designed to further safeguard the constitutional rights of our Nation's service men and women who for so long have sacrificed so much to protect our American way of life." [145]

The set of bills was introduced following an extensive four-year study by the subcommittee [146] and would make alterations to various aspects of the UCMJ.[147] As far as the role of legal counsel in administering military justice is concerned, the proposed legislation would, in addition to the changes required by S. 750 discussed below, give a statutory basis to the field judiciary presently employed by the Army and Navy, extend the system to the Air Force, facilitate the interservice use of field judiciary members, and allow the use of civilian attorneys in the system; [148] establish a Judge Advocate General's Corps for the Navy; [149] require a law officer to be detailed to a special court-martial adjudging a bad conduct discharge; [150] provide legal counsel to serve on appellate review of certain administrative proceedings; [151] require a law officer to be detailed to an administrative board issuing a discharge under conditions other than honorable; [152] and insure the right to counsel in cases involving minor offenses by abolishing the summary court-martial.[153]

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Section 1 of S. 750 would amend 10 U.S.C. § 819, providing, in part, that a special court-martial, except in time of war, cannot adjudge a bad conduct discharge "unless the accused was represented at the trial, or afforded the opportunity to be represented at the trial," by legally qualified counsel. Section 2 would amend 10 U.S.C. § 941, providing, in part, that no member of the Armed Forces can be administratively discharged under conditions other than honorable unless such member is afforded the opportunity to appear before a board called for such purpose and to be represented before such board by legally qualified counsel.

The subcommittee's conclusion, after the hearings held in early 1962, that it is "undesirable that servicemen receive a bad conduct discharge without being provided an attorney, if the accused desires a lawyer's aid and if there is any feasible method for the services to provide him a legally qualified defense counsel," [154] is apparently shared by all concerned with military justice, for during the hearings held in 1966, § 1 of the proposed bill was approved by the judges of the Court of Military Appeals,[155] the Judge Advocate Generals,[156] the Department of Defense,[157] and almost all others testifying before the subcommittee.[158] In view of the policy of the Army and Air Force regarding special courts-martial,[159] it appears that the Navy is the only branch of service which would have any difficulty adjusting to the practice. In any event, there appears to be no opposition to § 1.

Testimony before the subcommittee reveals, though, that there are some who feel Congress should further extend the right to legal counsel. One witness, a lawyer whose practice is confined largely to representation of military personnel, stated: "In view of the decision of the United States Supreme Court in Gideon v. Wainwright I can perceive no justification for permitting the trial of an individual before a special court-martial where he is not furnished with qualified counsel to represent him." [160]

This view was shared by the witness testifying in behalf of the American Civil Liberties Union, who added that—

"Not only is a court-martial conviction a criminal conviction that remains with a defendant the rest of his life, but the sentences that may be imposed (short of a punitive discharge), such as confinement at hard labor for six months, forfeiture of two-thirds of one's pay, and reduction to the lowest enlisted grade, are sufficiently severe to justify the required presence of a legally trained defense counsel." [161]

Chief Judge Quinn of the Court of Military Appeals, while favoring the bill, recommended elimination of the "time of war" exception, noting that "the exercise of military power in time of war tends to be more arbitrary than in peacetime," and that the UCMJ had been enacted because of the "unacceptable practices developed during World War II" [162]—a repetition of which might possibly be avoided by the requirement of representation of legal counsel. The Chief Judge also stated that "the provision raises a serious question as to its applicability during a time when Congress has not actually declared war, as provided in the Constitution." [163]

Section 2 of the bill met with favorable reaction,[164] but, while it was agreed that such a discharge was just as damaging as a bad conduct discharge, there was not total support for including the provision as part of the UCMJ.[165] The Department of Defense maintains that "there is and should be a clear separation in the statutes between (1) those provisions which establish the military judicial system, and (2) laws pertaining to administrative procedures," [166] and, thus, recommends that such procedures should not be incorporated in the UCMJ but elsewhere in Title 10 of the United States Code.[167]

However, as was pointed out at the hearings, "the vice of current administrative elimination procedures is that they eliminate for misconduct with a concomitant stigma while evading the safeguards that should accompany elimination for that reason. Once consequence to the individual of an elimination for misconduct is kept in mind, it becomes absurd to prate, as Army officials so often do, that 'this is administrative, not criminal.' " [168]

Notwithstanding whether such procedures are "criminal prosecutions" and within the scope of the sixth amendment, the proposed bill, if passed, will add further definition to the phrase "right to counsel" in connection with military personnel. However, just as the differences in the later court decisions indicate that the question of how far the sixth amendment right to counsel should be extended remains unsettled, the testimony of those who urge that the proposed bill does not go far enough also indicates that the question of right to counsel and the military, as far as congressional activity is concerned, remains unsettled, despite the proposed legislation.

THE PRESENT QUESTIONS

A century and a half have passed since Brigadier General William Hull invoked at least the spirit, if not the letter, of the sixth amendment right to counsel.[169] As can be seen from the foregoing discussion, since the rejection of General Hull's plea for right to assistance of counsel in a constitutional sense, much has been done by the Congress and the courts to apply the spirit of the right to counsel provision to military tribunals—short of direct application of the full scope of the provision itself. The discussion also reveals that exactly what the sixth amendment right to counsel requires as far as the military services are concerned is not clearly defined. It is time, then, to return to the questions posed at the beginning of this discussion.[170]

Does the sixth amendment right to counsel apply to military tribunals?

Any interested student of the Constitution realizes that raising what at one time is no more than a theory advocated by a few to the level of constitutional doctrine is not an insurmountable problem.[171] While the drafters of the sixth amendment may not have intended the right to counsel provision to apply to courts-martial in 1789, it does not necessarily follow that their intention would have been the same for courts-martial in 1966.

"We're under a Constitution," the oft-quoted declaration states, "but the Constitution is what the judges say it is." [172] True, the Constitution may not have said that an accused before a military tribunal had the right to assistance of counsel at a time when the persons subject to federal military law were of an exceedingly small number,[173] were volunteers,[174] and were often regarded as little more than slaves,[175] and at a time when the offenses denounced by military law were peculiar to military service itself and not punishable in common law courts.[176] Perhaps the Constitution has a slightly different meaning, however, at a time when those subject to federal military law number in the millions,[177] are serving as a result of involuntary draft laws,[178] and can be tried for any crime before a court-martial.[179]

Consequently, while historical evidence would make it difficult, if not inaccurate,[180] to say the original meaning of the Constitution was that the right to counsel applied to military tribunals, there exist sound constitutional theories to permit one to say correctly, in view of the vastly changed circumstances, that the Constitution now means that military personnel, as are civilians in both state and federal courts,[181] are guaranteed, either directly or indirectly, the sixth amendment right to assistance of legally trained counsel.

One theory concerning the protections of the entire Bill of Rights, advocated by Frederick Bernays Wiener, would indirectly apply the sixth amendment protection to military personnel through the due process clause of the fifth amendment.[182] According to Mr. Wiener, the constitutional protections would be assured for those subject to military justice by "read[ing] into the due process clause of the fifth amendment the substance of the guarantees that have been read into the due-process clause of the fourteenth—guarantees whose substance is presently applicable to military persons—and to mark out a line from case to case with due regard to the actualities of the military situation." [183]

Precedential support for the flexibility of the due process clause of the fifth amendment exists in the Supreme Court decision that the equal protection of the laws clause which textually appears in the fourteenth amendment is also included in the meaning of due process under the fifth amendment.[184] As Wiener points out, his theory "will not involve nearly as great an advance in constitutional interpretation" [185] as has other cases, "nor will it encounter the community opposition which arises when a new doctrine runs ahead of and in opposition to community mores." [186]

Following this theory, then, it could just as easily be concluded that the due process clause of the fifth amendment requires application of the sixth amendment right of counsel to military tribunals as it was recently concluded that the due process clause of the fourteenth amendment requires application of the sixth amendment right to counsel to the state courts.[187]

Finding no quarrel with Mr. Wiener's theory and agreeing that "it is not doctrinaire liberalism to urge that its [the fifth amendment's] sweep is broad enough to harden into constitutional bone the gristle of statutory sanctions that now protects the personnel of our armed services," [188] it is submitted, though, that this is not the sole theory under which the protection of right to counsel for servicemen can be elevated to constitutional dignity.

There is a more direct approach available. A fact noted by Mr. Wiener is that the right to counsel provision was not declaratory of existing law, as were other provisions of the Bill of Rights,[189] but was designed to correct an existing evil.[190] While many states had rejected the British practice of permitting defense counsel only for persons accused of treason,[191] it is "a fair summary to conclude that the sixth amendment, insofar as it granted the right to counsel 'in all criminal prosecutions,' guaranteed for all time a right only recently won, and that not universally nor in all cases." [192]

At the time of the drafting of the sixth amendment, the right to counsel provision had the limited meaning only that counsel could speak in court.[193] Since that time, the meaning of right to counsel has been broadened to require supplying counsel in all cases, federal and state, capital and noncapital.[194] Right to counsel means not merely that a defendant must be given an opportunity to have a lawyer appear with him in the courtroom, but that counsel must be provided for a poor person at a preliminary examination which is or may be a critical stage of the prosecution,[195] and that counsel must be provided when an investigation shifts from investigatory to accusatory.[196]

While it has been submitted that the changes in the interpretation of the sixth amendment right to counsel reflects an application of the fifth amendment [197] (and thus Mr. Wiener's theory and the one presented herein may be one and the same thing), the fact remains that no limitations on the definition yet exist. The expanded

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definition of right to counsel, as it presently stands, indicates that it is but a small step forward to expand the definition to include application of this fundamental right to military personnel to the extent that it is applied to civilians.

It would seem that there would be little difficulty in resolving the question of whether the sixth amendment right to counsel applies to military tribunals. Under Mr. Wiener's theory of indirect application through the due process clause of the fifth amendment or according to the theory of direct application through further definition of the right to counsel provision of the sixth amendment, it is clear that there exists sound theoretical basis upon which the constitutional protection of right to assistance of counsel may be provided for the men and women who serve to protect and preserve the Constitution.

Does right to counsel refer to legally trained counsel?

Congress has provided for legally qualified counsel at general courts-martial and for military counsel at special courts-martial.[198] Those courts which have taken the position that the sixth amendment applies to military tribunals have consistently held that the right to counsel, where applied to military tribunals, does not necessarily mean the right to legal counsel.[199] The most recent judicial pronouncement that the sixth amendment right to counsel applies to special courts-martial concluded that it was "unnecessary to decide whether before such tribunals under all circumstances an accused is entitled to be represented by counsel who have been trained and admitted to practice before a civilian court. . . ." [200] There has been no court decision specifically holding that the sixth amendment, if applied to courts-martial, would require legal counsel as opposed to military counsel. Whether this should be the case, then, is unresolved.

Mr. Justice Sutherland has well stated the necessity for a lawyer to represent an accused during a criminal proceeding:

"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of the law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incomplete evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel in every step of the proceedings against him. Without it, though he not be guilty, he faces the danger of conviction because he does not know how to establish his innocence." [201]

Mr. Justice Sutherland's comments refer to civilians; but are they any less appropriate where military personnel are concerned? The punishment and loss of benefits meted out by a court-martial are no less real than that by a civilian court. It is true, however, that under the UCMJ, an accused is provided with legal counsel when a capital offense is involved, *i.e.*, when the accused appears before a general court-martial.[202] Should not this statutory protection be given the permanency and strength of a constitutional protection? An accused is provided with legal counsel when a non-capital offense is involved, *i.e.*, when he appears before a special court-martial, only when the trial counsel is legal counsel.[203] The proposed legislation may alter this if the punishment to be adjudged is a bad conduct discharge.[204] Yet, is there any reason why legal counsel should not also be provided when the punishment for the non-capital offense is less? Furthermore, the sixth amendment requires that civilians shall have the right to assistance of counsel in all capital and non-capital cases.[205] If civilians are entitled to legal counsel in all non-capital cases, why should not a similar right exist for military personnel?

If military law regulated only military offenses, as it did when the Bill of Rights was first adopted,[206] a stronger argument could be made for limiting the meaning of counsel to non-legally trained military counsel. However, as has been noted above,[207] the UCMJ places no limitations on the type of crime which can be tried by a court-martial.

While various guidelines are provided for military counsel in assisting an accused [208] and while the UCMJ stipulates certain procedural steps to aid the accused,[209] it is still doubtful whether military counsel, no matter how competent in other areas, are sufficiently skilled to adequately defend an accused, no matter how petty the charge may be, especially when it is not one of a military nature. Although the UCMJ provides for automatic review of all courts-martial trials,[210] the absence of a lawyer at the original proceedings may reduce the practical value to an accused of this automatic review.[211]

In the *Culp* [212] case, Chief Judge Quinn and Judge Ferguson discussed the qualifications of military counsel and whether legal counsel was desirable. Chief Judge Quinn defended the qualifications established by Congress and stressed the automatic review of all courts-martial trials required by the UCMJ.[213]

While Judge Ferguson's remarks were in reference to the necessity of legal counsel when a bad conduct discharge is involved,[214] the objections he stated apply to military counsel in general. First, the training in military law for a nonlawyer, being no more than a "general orientation course" and lacking any "rigorous and intensive process which fits one to become the advocate of an individual enmeshed in the toils of criminal law," does not provide "the training required to perform adequately as counsel for an accused." [215]

Second, a layman is not necessarily aware of the "ethical responsibilities" of the legal profession and "will never understand an attorney's devotion to the interests of an 'obviously guilty' client or the singleminded loyalty to the latter's cause which almost unexceptionally characterizes the practice of law." [216] A nonlawyer's duty to the Armed Services may take precedence over his duty to his client, for, as Judge Ferguson stated:

"It seems to me well nigh impossible for one untrained both in the law and in the inviolable standards of the legal profession to put to one side what he might conceive as his responsibility to the service and devote himself entirely to the interests of an individual whom he may privately think undesirable." [217]

Third, Judge Ferguson does not see automatic appellate review as a substitute for legal counsel.[218] As Senator Ervin has pointed out, the review is on the basis of the entire record, and a nonlawyer may not recognize what evidence or information, which will be beneficial to the accused, should be placed into the record; consequently, appellate defense counsel can not take advantage of this information.[219] The experience of the Court of Military Appeals supports Senator Ervin's conclusion, as shown by Judge Ferguson's statement:

"The many guilty pleas which we have reviewed on the basis of skimpy transcripts bear eloquent witness to the cogency of Senator Ervin's comments. How are we to know the real truth of the matters involved, if the accused, upon the advice of a nonlawyer chooses to confess his guilt judicially and nothing is placed in the record to support the validity of his plea except for a formula prated from the Manual for Courts-Martial, United States, 1951? We can go only upon the record in measuring its legal sufficiency to support the findings and sentence. Yet, we are truly ignorant of what might have been done had the accused's evidence viewed by an attorney thoroughly versed in the law and bound by the sanctions of the Canons of Ethics to advise and counsel with his client in the best traditions of Anglo-American advocacy." [220]

It must be remembered, though, that certain charges are peculiar to military life, such as disobeying an order or absence without leave, which have no direct counterpart in civilian life, and that the procedure of a special court-martial differs from the proceedings in civilian courts. Emphasis is placed on these factors by Chief Judge Quinn who states: "An officer's ordinary training and experience, therefore, are reasonably calculated to make him learned in the simplified procedures and in the substance of the military type offenses that normally come before such courts." [221]

Although there is no direct counterpart in civilian life to the military type of offense, certain offenses in the nature of traffic violations, public disorder and the like bear resemblance. As of yet, the right to assistance of counsel has not been extended to the point where a lawyer must be furnished for civilians charged with such offenses.[222] It would seem, therefore, that there should be no requirement that legal counsel be provided for military personnel charged with offenses of a similar nature under military law.

A proposed solution to the problem of whether right to counsel refers to legally qualified counsel—a solution which perhaps resolves the differences in approach taken by Chief Judge Quinn and by Judge Ferguson—would be, in addition to requiring legal counsel where the punishment to be imposed is of a serious nature and consequence, to require legal counsel for military personnel in every situation where a lawyer would necessarily be required if the offense were committed in a civilian setting. When a serviceman is accused of an offense which, had he committed as a civilian, assistance of counsel would have been provided, there is no justification in denying him such assistance only for the reason that he is a serviceman. A man is a citizen first, a soldier second. If the right to counsel—the right to assistance by an attorney—is a fundamental and essential right under the Constitution necessary for the fair trial of a civilian, then, indeed, it would be ironic if this same right were denied to those who defend the Constitution merely because they have donned a military uniform.

Can the constitutional right to counsel be practically applied to military tribunals?

Certain objections may be raised to recognizing that the sixth amendment entitles a serviceman to legally qualified counsel. Among these are—that it won't work in time of war; that the military services would have difficulty adjusting to such an extension; that the supply of lawyers is inadequate to assign legal counsel to all courts-martial proceedings; and that the requirement will have a detrimental effect on maintaining discipline and morale. An examination of these considerations is desirable to ascertain whether the constitutional rights can be effectively, as well as theoretically, applied.

Time of War.—This particular consideration may be irrelevant during time of peace. "[I]t does not seem appropriate today to deprive our young men in uniform of safeguards we now provide them because those safeguards might not work well if war should come at some undetermined time." [223] On the other hand, wartime may be the very time that a serviceman may need the protection of legal counsel if the offense charged is other than a military offense for the "exercise of military power in time of

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war tends to be more arbitrary than peacetime." [224] If the offense is military, legal counsel may not be necessarily required.

Whatever the case, it is premature to reject right to counsel for servicemen as not being required by the sixth amendment simply because the exigencies of war may affect the right. When martial law is declared and when military necessity requires, the question of how far the right is affected, if at all, may be determined.[225]

Difficulty of Adjustment: As has been seen throughout this discussion, Congress, the courts, and the services themselves have extended the right to counsel to servicemen in many situations, motivated by the desire to provide for servicemen one of the fundamental safeguards of civilized society. Whatever difficulties of adjustment were necessitated by such extensions have been successfully resolved.[226] Should the situation alter if motivation is replaced by constitutional direction?

All services are, of course, required to assign legal defense counsel for general courts-martial and for special courts-martial when trial counsel is legal counsel.[227] Since the Air Force policy is to assign lawyers to all special courts-martial, the Air Force should have no difficulty in adjusting to the practice. Any difficulty the Army might have would be due to the availability of lawyers, discussed below, but not to the nature of Army operations, which are confined to the ground and conducted in or near a base complex. The only service seriously affected by such a requirement would be the Navy, whose operations make it impractical to assign lawyers to all ships in order to defend an accused while on extended cruises.[228]

However, this same problem arises when a serviceman commits an offense on board ship which would subject him to a general court-martial. Since a general court-martial cannot be convened without the proper personnel,[229] the commanding officer must either confine the accused, or, if it is an extended cruise and such confinement is impossible or impractical until the ship returns to port, he must be taken off the ship.

Since the Navy has had to cope with these conditions as far as general courts-martial are concerned and since proceedings involving a minor offense or one of a strictly military nature may not necessarily require legal counsel, the area of difficulty is that which involves an offense which, had it been committed by a civilian, the accused would be entitled to legal counsel. If this be the case, the commanding officer could proceed in the same manner as he would with an accused awaiting a general court-martial. It might be said that this course of argument points toward the complete abolition of special and summary courts-martial, if not officially, at least in practice. This, however, is not a novel suggestion, even if true, and has been advanced by military experts in the past.[230]

Notwithstanding the difficulties of adjustment, Senator Ervin's words, in reference to the inconveniences of making a lawyer available to a serviceman threatened with a discharge under conditions other than honorable, are particularly appropriate to this objection: "However, if the Armed Services display the same initiative and imagination in confronting this problem that the Army has shown in developing its field judiciary system, I believe the difficulties can be surmounted." [231]

Supply of Lawyers. As far as the sufficiency or availability of manpower to implement a constitutional directive to provide legally qualified counsel, the objections of the military [232] are perhaps motivated by objection to the change in policy rather than by any real difficulty in making lawyers available. As Judge Christensen noted in *Application of Stapley,* "[W]ith the increasing personnel in the military service, the rapidity and ease of transportation and the training facilities and techniques readily available for specialized training or experience, it is no longer reasonable or necessary, if it ever were, to deem any officer qualified to act as defense counsel for an accused merely because he is an officer." [233]

The Statement of the American Civil Liberties Union at the subcommittee hearings indicates, perhaps, that the "manpower shortage" argument is a myth:

"We note that some of the proposals prepared by your subcommittee . . . undoubtedly will dictate the greater utilization of legally trained personnel. To those who would oppose the proposals or revisions on the ground that the Judge Advocate components of the various armed services are inadequately staffed to meet this demand, we would suggest two answers. First, more efficient allocation of existing manpower resources would considerably expand the availability of legally trained personnel. Thus, Judge Advocates who presently are required by many commanders to perform totally unskilled jobs, such as taking of inventories, assignments as club officers or duty officers, and the like, could be freed from such tasks, and their time could more appropriately be spent in the performance of legal duties. Second, because current DOD [Department of Defense] manning requirements have been fully satisfied, many young attorneys are denied appointments as Judge Advocates and are instead called to active duty in non-legal capacities. Accordingly, a large reserve of potential military attorneys remains untapped because of the Defense Department's own personnel policies.

"Thus, it is our view that there is a sufficient source of legally qualified persons to implement any legislation designed to safeguard the constitutional rights of military personnel." [234]

Maintaining Discipline and Morale: If a commanding officer has no direct means of disciplining a man who has committed an offense detrimental to the morale of the unit, and instead, has to refer the offender to a court-martial removed from the location where the offense is committed in order for the offender to receive assistance of legal counsel for what might normally be a purely disciplinary matter, the effect on the remaining men under his command may be injurious to the commanding officer's stature.[235] For the ground forces this would be prevalent in the field. But the problem would be even greater for a commanding officer of a ship at sea.

This objection, however, can be overcome by a commanding officer's intelligent use of the present provisions of the UCMJ.[236] The offense which will normally fall within the scope of matters having a debilitating effect on discipline and morale, if not met with an immediate command remedy, are those which may be treated under Article 15. Having recently been expanded,[237] a commanding officer's powers to render immediate punishment for an offense, when he deems it necessary for the welfare of the unit as a whole, are carefully laid out and, in effect, are broad in scope.[238]

On a ship at sea, punishment may be administered even where the offender demands a trial by court-martial,[239] if immediate remedy is necessary. Such broad power is essential for the safety of the ship and is in line with the commanding naval officer's traditionally broad "mast powers," [240] The punitive remedies are clearly defined [241] and the immediate imposition of disciplinary punishment does not act as a bar to "trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article." [242] Also, punishment under this article does not appear as a cirminal conviction on the record of the offender.[243] In the case of ground forces, upon the demand of the accused, he may not be punished under Article 15, but may receive the proper court-martial.[244] It is, therefore, submitted that intelligent use of Article 15 by a commanding officer will, in all situations meet the objection presented. Just as the UCMJ had no adverse effect on military discipline and morale,[245] there is no objection that the extension of the right to counsel would have such an effect.

CONCLUSION

That those responsible for administering military justice and protecting the rights of military personnel have afforded many basic and fundamental guarantees of civilized society to the men and women of the Armed Services is evident. That, in affording these guarantees, certain practical adjustments have been necessary is equally evident. However, neither the fact that much has been done nor the fact that to do more would require further adjustment offers sufficient justification for failure to afford those who serve to defend the Constitution an essential right of the Constitution. The right to effective assistance of legally qualified counsel—guaranteed to all civilians—if denied to military personnel, belies the fact that the Constitution protects all citizens. Replacing the flexible legislative and administrative privilege of right to counsel, legal or nonlegal, for servicemen with the permanent constitutional right they enjoyed as civilians bears truth to the fact that "the Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances." [246]

R.J.F.
R.L.W.

FOOTNOTES

[1] Mr. Justice Douglas, in Burns v. Wilson, 346 U.S. 137, 152 (1953) (dissenting opinion).

[2] U.S. CONST. amend. VI.

[3] Application of Stapley, 246 F. Supp. 316 (D. Utah 1965); LeBallister v. Warden, 247 F. Supp. 349 (D. Kans. 1965).

[4] S. 750, 89th Cong., 1st Sess. (1965).

[5] U.S. CONST. art. I, § 8, cl.14.

[6] U.S. CONST. amend. V.

[7] Henderson, *Courts-Martial and the Constitution: The Original Understanding,* 71 HARV. L. REV. 293 (1957).

[8] Wiener, *Courts-Martial and the Bill of Rights: The Original Practice* (pts. 1–2), 72 HARV. L. REV. 1, 266 (1958) (hereinafter cited as Wiener I and Wiener II). Mr. Wiener's article was a rebuttal of Mr. Henderson's historical examination and conclusion.

[9] The 1806 Articles of War, the first comprehensive code enacted for the army under the constitution, limited a soldier's exercise of free speech. This included, among other specific limitations, the use of "contemptuous or disrepectful words" in reference to the President, Vice-President or Congress of the United States. Act of April 10, 1806, ch. 20, art. 5, 2 Stat. 359, 360 (hereinafter referred to as the 1806 Articles of War). This article was signed into law by President Jefferson, who, a few years earlier, had led a first amendment attack on similar free speech prohibitions which were applied to civilians by the Sedition Act of 1789. Act of July 14, 1789, ch. 75, 1 Stat. 596.

[10] Wiener I at 49. The 1806 Articles of War contained no specific provision for defense counsel for an accused before a military tribunal. Article 69, 2 Stat. 359, 367–368, provided that the presiding judge advocate at a court-martial should prosecute for the United States and also, in a limited sense, act as counsel for the accused after he pleaded, *i.e.,* the judge advocate could object to leading questions asked of witnesses or incriminating questions of the defendant. In early practice, professional lawyers were not permitted to interfere in courts-martial proceedings by pleading or argument of any kind. A serviceman, however, was permitted to receive informal advice or assistance from counsel. See Wiener I at 22–24.

The circumstances of one of the earliest court-martial trials, indicating that the principal draftsman of the Bill of Rights, James Madison, did not consider the sixth amendment right to counsel applicable to military tribunals, are recounted in Wiener I at 29–31. When Brigadier General William Hull was tried in 1814 for having surrendered Detroit to the enemy in the war of 1812 without firing a shot, he requested that his legal advisers be permitted to address the court and examine witnesses:

"I appeal to the constitution of our country; and if you do not find my claim sanctioned by the letter of that instrument, I am sure you will by its spirit, which I know must govern the deliberations and decisions of this honourable court . . . . when it was provided that the accused should have the benefit of counsel, how can it be supposed that it was intended to confine this provision to accusations before a civil court."

The court-martial ruled that counsel could not address the court personally and sentenced the General to death with a recommendation of clemency. Under contemporary procedure the decision was reviewed by President Madison, who approved the sentence.

[11] The War Powers of Congress are contained in U.S. CONST. Art. I, § 8, cls. 11–14.

[12] Dynes v. Hoover, 61 U.S. (20 How.) 65, 79 (1857).

[13] *Id.* at 82.

[14] *Id.* at 82–83.

[15] See, *e.g.*, Act of March 2, 1799, ch. 24, arts. 47–48, 1 Stat. 709, 713; Act of April 23, 1800, ch. 33, § 1, arts. 33–41, 2 Stat. 45, 50–51; and see generally 1806 Articles of War, 2 Stat. 359.

[16] *Ex parte* Reed, 100 U.S. 13 (1879). This was the first habeas corpus proceeding before the Supreme Court growing out of a court-martial conviction of a soldier. The Court had previously dealt with habeas corpus applications in the cases of military commission prisoners who were civilians. See *Ex parte* Milligan, 71 U.S. (4 Wall.) 2 (1866) and *Ex parte* Yerger, 75 U.S. (8 Wall.) 85 (1868). The Court had earlier held that it lacked jurisdiction to review by certiorari the proceedings of a military commission. *Ex parte* Vallandigham, 68 U.S. (1 Wall.) 243 (1863). In *Reed*, the Court stated that "a writ of habeas corpus cannot be made to perform the function of a writ of error. To warrant the discharge of the petitioner, the sentence under which he is held must be, not merely erroneous and voidable, but absolutely void." *Ex parte* Reed, *supra* at 23. This position was reaffirmed in 1902 when the Court approved the "salutary rule that the sentences of courts-martial, when affirmed by the military tribunal of last resort, cannot be revised by the civil courts save only when void because of an absolute want of power, and not merely voidable because of the defective exercise of power possessed." Carter v. McClaughry, 183 U.S. 365, 401 (1902). See generally Wurfel, *Military Habeas Corpus: I*, 49 MICH. L. REV. 493, 515–519 (1951).

[17] See Note, *Constitutional Rights of Servicemen Before Courts-Martial*, 64 COLUM., L. REV. 127, 130 n.33 (1964). This traditional view was thought to be positively reaffirmed by the Supreme Court in 1950. See Hiatt v. Brown, 339 U.S. 103, 111 (1950). But see Burns v. Wilson, *supra* note 1, discussed *infra*.

[18] This approach was first used by a federal court in Schita v. King, 133 F.2d 283 (8th Cir. 1943), *denial of writ on remand upheld sub nom.* Schita v. Cox, 139 F.2d 971 (8th Cir. 1944), *cert. denied*, 322 U.S. 761 (1944). In this case, the petitioner complained that he had been denied a fair and impartial trial by the sentencing court-martial, including the allegation that he had received ineffective assistance of counsel at the court-martial trial. The court stated that the accused's allegations, if uncontroverted, resulted in a denial of due process and rendered the tribunal without jurisdiction to impose sentence and conviction.

The most cogent statement of the new approach appeared in United States *ex rel.* Innes v. Hiatt, 141 F.2d 664 (3d Cir. 1944). After asserting its power to grant the relief sought on review of a court-marital conviction for constitutional due process deficiencies, the court denied the writ, but stated that the "basic guarantee of fairness afforded by the due process clause of the fifth amendment applies to a defendant in criminal proceedings in a federal military court as well as in a federal civil court. . . . As to them [military defendants before court-martials] due process of law means the application of the procedure of the military law . . . . but the due process clause guarantees to them that this military procedure will be applied to them in a fundamentally fair way. We conclude that it is open for a civil court in a habeas corpus proceeding to consider whether the circumstances of a court-martial proceeding and the manner in which it was conducted ran afoul of the basic standard of fairness which is involved in the constitutional concept of due process of law, and, if it so finds, to declare that the relator had been deprived of his liberty in violation of the fifth amendment and to discharge him from cutody." *Id.* at 666. See also Anthony v. Hunter, 71 F. Supp. 823 (D. Kans. 1947); Hicks v. Hiatt, 64 F. Supp. 238 (M.D. Pa. 1946).

However, the Supreme Court subsequently held that it was error for a circuit court of appeals to extend its review of a military conviction "to such matters as the propositions set forth in the staff judge advocate's report, the sufficiency of the evidence to sustain respondent's conviction, the adequacy of the pre-trial investigation, and the competency of the law member and defense counsel," for the purpose of establishing compliance with the due process clause. Hiatt v. Brown, *supra* note 17, at 110.

[19] Johnson v. Zerbst, 304 U.S. 458, 467–468 (1938). It was on the springboard of this authority that the federal courts began a wider review of courts-martial convictions, on the assumption that the expanded concept of divestiture of jurisdiction was "a fortiorari" applicable to the military courts. See Anthony v. Hunter, *supra* note 18, at 826.

[20] Burns v. Wilson, *supra* note 1.

[21] *Id.* at 140. "This Court has played no role in its (*i.e.*, military law) development; we have exerted no supervisory power over the courts which enforce it."

[22] *Id.* at 142.

[23] See, *e.g.*, Act of June 24, 1948, ch. 625, art. 50(h), 62 Stat. 604, 637–638.

[24] Burns v. Wilson, *supra* note 1, at 142.

[25] *Ibid.* The impact of the *Burns* decision on a federal court's scope of collateral review of military convictions appears uncertain. One view of the decision sees it as establishing the proposition that once Congress has legislatively struck a balance between a serviceman's constitutional rights and military necessity, the federal courts are precluded from questioning this balance. Note, *Constitutional Rights of Servicemen Before Courts-Martial, supra* note 17, at 146–147. This view would not find *Burns* inconsistent with Hiatt v. Brown, *supra* note 17. Chief Justice Warren, however, gives a broader interpretation to *Burns, i.e.*, that "soldiers may not be stripped of basic rights simply because they have doffed their civilian clothes." Warren, *The Bill of Rights and the Military*, 37 N.Y.U. L. REV. 181, 188 (1962).

[26] For the constitutional guarantee of due process is meaningful enough, and sufficiently adaptable, to protect soldiers—as well as civilians—from the crude injustices of a trial so conducted that it becomes bent on affixing guilt by dispensing with rudimentary fairness rather than finding truth by adhering to those basic guarantees which have long been recognized and honored by the military courts as well as the civil courts. Burns v. Wilson, *supra* note 1, at 142–143.

[27] See, *e.g.*, *Ex parte* Milligan, *supra* note 16, at 138 (concurring opinion): "The power of Congress, in the government of land and naval forces and of the militia, is not at all affected by the fifth or any other amendment."

[28] *Supra* note 18.

[29] *Supra* note 1.

[30] See 10 U.S.C. § 867 (1964), which provides for the establishment of the United States Court of Military Appeals and defines its structure and responsibility.

[31] 1806 Articles of War, arts. 1–101, 2 Stat. 359 (1806) (repealed by the UCMJ).

[32] Act of Aug. 29, 1916, ch. 418, arts. 1–121, 39 Stat. 650. The revisions "were only a rearrangement and reclassification without much alteration in substance." Morgan, *The Background of the Uniform Code of Military Justice*, 6 VAND. L. REV. 169 (1953).

[33] Act of June 4, 1920, ch. 227, arts. 1–121, 41 Stat. 787, The revisions embodied some "provisions protecting the rights of an accused." Morgan, *supra* note 32, at 172.

[34] See Morgan, *supra* note 32, at 169–182.

[35] See especially White, *The Uniform Code of Military Justice: The Background and the Problem*, 35 ST. JOHN'S L. REV. 197, 198–209 (1961).

[36] Ch. 169, 64 Stat. 107 (1950), as amended, 10 U.S.C. §§ 801–940 (1964).

[37] John S. Stillman, National Chairman of the American Veterans Committee, testifying before the Senate Subcommittee on Constitutional Rights (hereinafter referred to as subcommittee), stated: "Blackstone at one time referred to the English soldier as being 'in a state of servitude in the midst of a nation of free men.' We have no such stark contrast today, thanks largely to the adoption in 1950 of the Uniform Code of Military Justice." *Transcript of Hearings Before the Senate Subcommittee on Constitutional Rights and a Special Subcommittee of the Senate Armed Services Committee in Joint Hearings on Military Justice and Military Discharges*, 89th Cong., 1st Sess. 404 (1966) (hereinafter cited as *Transcript: 1966 Hearings*); see, also, Statement of the Honorable Paul J. Kilday, Judge, United States Court of Military Appeals, *Transcript: 1966 Hearings* 608. For an early evaluation of the UCMJ, see Ward, *UCMJ—Does It Work?*, 6 VAND. L. REV. 186 (1953).

[38] Brigadier General Kenneth J. Hodson, Assistant Judge Advocate General for Military Justice, Department of the Army, testifying before the subcommittee, stated: "In many respects, members of the armed forces charged with criminal offenses are now accorded more legal safeguards than members of the civilian community in similar circumstances. The present requirements for legal representation of the military accused before and during trial in general court-martial cases and upon the automatic appellate review of those cases are examples." *Transcript: 1966 Hearings* 37–38.

[39] See Quinn, *The United States Court of Military Appeals and Military due Process*, 35 St. John's L. Rev. 225 (1960).

[40] 10 U.S.C. § 831 (1964).

[41] 10 U.S.C. § 855 (1964).

[42] 10 U.S.C. § 844 (1964).

[43] 10 U.S.C. § 837 (1964).

[44] 10 U.S.C. § 841 (1964).

[45] 10 U.S.C. §§ 846–47 (1964).

[46] 10 U.S.C. §§ 859–76 (1964).

[47] 10 U.S.C. §§ 860–65 (1964).

[48] 10 U.S.C. § 866(b) (1964).

[49] 10 U.S.C. § 867(b) (1964).

[50] 10 U.S.C. § 870 (1964).

[51] 10 U.S.C. § 838 (1964).

[52] 10 U.S C. § 827(a) (1964).

[53] 10 U.S.C. § 838(b) (1964).

[54] 10 U.S.C. § 827(b) (1964).

[55] 10 U.S.C. § 818 (1964).

[56] 10 U.S.C. §§ 826–27 (1964).

[57] 10 U.S.C. §§ 839, 851(b) (1964).

[58] 10 U.S.C. § 819 (1964).
[59] *Ibid.*
[60] 10 U.S.C. § 827(c) (1964).
[61] The president of a special court-martial has similar duties as the law officer of a general court-martial. 10 U.S.C. § 851 (1964). However, no member of a special court-martial need be a lawyer. 10 U.S.C. § 816(2) (1964).
[62] U.S.C. § 820 (1964).
[63] 10 U.S.C. §§ 816(3), 827, 838 (1964).
[64] *See e.g.*, [1964] ARMY JAG ANN. REP. 60.
[65] Exec. Order No. 10214, 16 Fed. 1303 (1951), prescribing the U.S. DEP'T OF DEFENSE MANUAL FOR COURTS-MARTIAL (1951), pursuant to 10 U.S.C. § 836 (1964).
[66] Statement of Senator Ervin, 111 CONG. REC. 1227 (daily ed. Jan. 26, 1965).
[67] United States v. Jacoby, 11 U.S.C.M.A. 428, 430–431, 29 C.M.R. 244, 246–247 (1960); see also Warren, *supra* note 25, at 188–190. The Chief Justice considers the UCMJ as the guardian of the Bill of Rights in the military and the Court of Military Appeals as the civilian "Supreme Court" for the military.
[68] See United States v. Sutton, U.S.C.M.A. 220, 11 C.M.R. 220 (1953), and Quinn, *supra* note 39, at 232. *Sutton* was a logical extension of United States v. Clay, 1 U.S.C.M.A. 74, 1 C.M.R. 74 (1951), which based a serviceman's rights on congressional statute.
[69] 14 U.S.C.M.A. 199, 33 C.M.R. 411 (1963).
[70] United States v. Gardner, 9 U.S.C.M.A. 48, 25 C.M.R. 310 (1958); United States v. Fisher, 8 U.S.M.C.A. 396, 24 C.M.R. 200 (1957); United States v. Williams, 8 U.S.C.M.A. 443, 24 C.M.R. 253 (1957). See generally Avins, *Accused's Rights to Defense Counsel Before a Military Court*, 42 U. DET. L.J. 21 (1964).
[71] United States v. Culp, *supra* note 69, at 218, 33 C.M.R. at 413.
[72] *Id.* at 216, 33 C.M.R. at 429.
[73] *Ibid.*
[74] *Id.* at 217, 33 C.M.R. at 429.
[75] *Id.* at 219, 33 C.M.R. at 431.
[76] *Id.* at 218, 33 C.M.R. at 430.
[77] *Id.* at 219–221, 33 C.M.R. at 431–433.
[78] *Id.* at 217, 33 C.M.R. at 429.
[79] *Id.* at 218, 33 C.M.R. at 430.
[80] The *Culp* decision has been interpreted as setting up a double standard of constitutional rights, one for civilians and one for servicemen, indicating that "civilian due process" and "military due process" are not the same. See 49 VA. L. REV. 1581, 1587–1588 (1963). See also Quinn, *supra* note 39, at 233.
[81] One of the exceptions is Shapiro v. United States, 69 F. Supp. 205 (Ct. Cl. 1947), in which a military conviction was voided, on the basis of the sixth amendment, because the accused was denied adequate assistance of counsel. Even in *Shapiro*, the circumstances were such that the judge characterized the proceedings as an example of "military despotism." *Id.* at 207. *Shapiro* also demonstrates an alternative form of attacking a military conviction collaterally in a civilian court, *i.e.*, by suit in the Court of Claims to recover a fine or forfeiture, in this case back pay, assessed by the court-martial. This method of attack dates back to Swaim v. United States, 165 U.S. 553 (1897). Another method of attacking a military conviction is shown by Jackson v. McElroy, 163 F. Supp. 257 (D.D.C. 1958), where the court held that the jurisdiction of the convicting court-martial could be reviewed in an action for a declaratory judgment under 28 U.S.C. § 2201 (1964), wherein the petitioner contends that his conviction and sentence are void and requests a mandatory injunction under 28 U.S.C. § 1361 (1964) to remove the discharge. Recently, the Court of Appeals for the First Circuit approved this method of attack. Ashe v. McNamara, 355 F.2d 277 (1st Cir. 1965).
[82] *Ex parte* Benton, 63 F. Supp. 808 (N.D. Cal. 1945); Duval v. Humphrey, 83 F. Supp. 457 (M.D.Pa. 1949); Adams v. Hiatt, 79 F. Supp. 433 (M.D.Pa. 1948), *cert. denied.* 337 U.S. 946 (1949); Smith v. Hiatt, 170 F.2d 61 (3rd Cir. 1948).
[83] Romero v. Squier, 133 F.2d 528 (9th Cir. 1943), *cert. denied*, 318 U.S. 785 (1943); *accord*, Altmayer v. Sanford, 148 F.2d 161 (5th Cir. 1945).
[84] 246 F. Supp. 316 (D. Utah 1965).
[85] 247 F. Supp. 349 (D. Kans. 1965).
[86] Application of Stapley, *supra* note 84, at 320.
[87] *Id.* at 318.
[88] *Ibid.*
[89] *Id.* at 319.
[90] *Id.* at 313–319.
[91] *Id.* at 319.
[92] *Ibid.*
[93] *Ibid.*
[94] *Id.* at 322. The writ was granted on the traditional basis of lack of jurisdiction in the court-martial, though by the indirect method of divestiture of jurisdiction, in that Judge Christensen held that the court-martial was without jurisdiction by reason of its violation of the petitioner's constitutional rights of effective assistance of counsel and due process. *See* notes 18 and 19 *supra* and accompanying text.
[95] *Id.* at 320.
[96] *Id.* at 320–321.
[97] See cases cited note 70 *supra; but see infra* note 107.
[98] Application of Stapley, *supra* note 84, at 318. "[R]epeated acts of claimed fraud in the issuance of checks some of which if established, could have constituted felonies in a civil court and all of which imputed moral turpitude. Such charges involve problems of substantive law as well as practice, reasonably necessitating knowledgeable legal counsel, advice and assistance."
[99] *Ibid.* "Stapley at the time he faced these charges was of the age nineteen years, apparently immature even for his age, suffering from emotional difficulties, and of limited experience."
[100] *Supra* note 89.
[101] See notes 91, 93 *supra* and accompanying text.
[102] Application of Stapley, *supra* note 84, at 318–320. The defense counsel and assistant defense counsel were a captain and second lieutenant. The captain was a veterinarian who had been in the service for about two years and had no acquaintance with military court procedures. His total training as an officer in military law had been two days. The second lieutenant was 22 years old and had been in the service for a year. He had a political science background in college and had studied the UCMJ in the ROTC program. He had, however, no practical experience or special knowledge in legal matters or procedure. Judge Christensen found their advice to their client totally ineffectual and incorrect in some instances, *i.e.*, defense counsel's belief that intoxication was no defense for a specific intent crime. Also, counsel advised the defendant to plead guilty to all charges, including one thereafter ordered dismissed by the convening authority for legal insufficiency to state an offense. All these factors led to a conclusion that representation in this case did not constitute in fact or law "representation by 'counsel' either civil or military."
[103] *Id.* at 321.
[104] *Ibid.*
[105] *Ibid.*
[106] See note 69 *supra*, at 216, 33 C.M.R. at 428. (Quinn, C. J., concurring).
[107] The Court of Military Appeals has not disturbed, on constitutional grounds, the balance struck by Congress between military needs and the rights of servicemen as set out in Article 27(b) of the UCMJ. In *Culp*, it found that the qualifications established for nonlawyers at special courts-martial bore a reasonable relationship to the purpose to be accomplished. United States v. Culp, *supra* note 69, at 217–218, 33 C.M.R. at 429–430 (Quinn, C. J., concurring). Judge Christensen, however, used constitutional grounds to reexamine this balance and found that, at least in Stapley's case, the requirements established for non-legal counsel were not sufficient to meet the minimum requirements of due process and the sixth amendment.
[108] 247 F. Supp. 349 (D. Rans. 1965).
[109] *Id.*, at 351.
[110] *Ibid.*
[111] *Id.* at 350.
[112] *Ibid.*
[113] *Id.* at 351.
[114] *Ibid.*
[115] *Id.* at 350. LeBallister's petition with the writ of habeas corpus stated that he "was not afforded the opportunity to consult with, nor was he represented by competent counsel, during proceedings before special court-martial." Petition for Writ of Habeas Corpus, LeBallister v. Warden, No. 3919 H.C., D. Kans. Nov. 22, 1965, pp. 1–2.
[116] LeBallister v. Warden, *supra* note 108, at 351.
[117] *Id.* at 352.
[118] *Ibid.* This also reflects the view of the Services on the *Stapley* case as expressed by a Justice Department spokesman. "We interpreted the decision as being restricted to the facts of this case. The opinion did not say that the Army had to appoint lawyers in every special court-martial case. The law says someone with training and experience in these matters must be provided. And the court found in this case that the officer had no experience in this field." The Evening Star (Washington, D.C.), Dec. 1, 1965; p. A–3, col. 4.
[119] This is return to the view as articulated by the Supreme Court in United States *ex rel.* Creary v. Weeks, 259 U.S. 336, 344 (1922). "To those in the military or naval service of the United States the military law is due process." *But see* the statement in *Burns*, *supra* note 69, that "the constitutional guarantee of due process is meaningful enough, and sufficiently adaptible, to protect soldiers as well as civilians." *Id.* at 142.
[120] LeBallister v. Warden, *supra* note 108, at 351.
[121] *Ibid.*
[122] *Ibid.*
[123] *Ibid.*
[124] LeBallister's primary counsel at both special courts-martial was Lt. Craig B. Anderson, a college graduate and a graduate of the Army Officer Candidate School at Fort Benning, Georgia, where he had received twelve hours of instruction in military justice and participated in mock courts-martial. Before being appointed to defend LeBallister, he had twice served as assistant defense counsel at other courts-martial. He was Brigade defense counsel at Fort Ord, California, for special courts-martial at the time of LeBallister's second trial in June, 1965. Lt. Anderson stated that he in no way influenced the petitioner's guilty pleas at either proceeding. Anderson wished to prove extenuating circumstances in order to mitigate the charges against the accused, but LeBallister refused such efforts. Affidavit of Lt. Craig B. Anderson, LeBallister v. Warden, No. 3919 H.C., D. Kans. Nov. 22, 1965, pp. 1–2.
[125] Stapley's attorney filed his writ for the prisoner's release on the fifty-eighth day of confinement. The prisoner would have gone free at the end of sixty days under the reduced sentence he had received from his commanding officer by pleading guilty to all charges. See note 91, *supra*, and accompanying text. In view of this, the case was only two days from being moot when it was filed. Because of this factor and the factual circumstances strongly favoring the petitioner, the Solicitor General's office did not appeal. In LeBallister, after initially reserving the right to appeal, petitioner's attorney allowed his appeal time to lapse. Also, petitioner wrote the clerk of the Kansas District Court expressing his desire to abandon any right to tained through personal interview with Stap- appeal. Therefore, the government's motion to preclude appeal was granted on February 18, 1965. (The above information was obley's attorney, James P. Cowley, through the Army Litigation Department, Judge Advocate

General's Corps, and through interviews with Lt. Col. Abraham Nemrow, JAGC, Chief of Army Litigation, who participated as counsel for the government in *LeBallister*.)

[126] See note 107 *supra* and accompanying text.

[127] United States v. Culp, *supra* note 69, at 200, 33 C.M.R. at 412.

[128] *Supra* note 69.

[129] LeBallister v. Warden, *supra* note 108.

[130] *Id.* at 351; see note 124 *supra*.

[131] United States v. Culp, *supra* note 69, at 217, 33 C.M.R. at 423 (Quinn, C. J., concurring).

[132] *Infra* notes 215–219 and accompanying text.

[133] For further illustration see Neal v. United States, No. 226–62, Ct. Cl., Jan. 20, 1966.

[134] 111 CONG. REC. 1228 (daily ed. Jan. 26, 1955).

[135] *Summary: Report of Hearings by the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary* (hereinafter cited as *Summary: 1962 Hearings*), 88th Cong., 1st Sess. 42 (1963); under A.R. 27–12, par. 1, Oct. 15, 1965, court reporters are not detailed to a special court-martial; consequently a special court-martial cannot adjudge a bad-conduct discharge. See 10 U.S.C. § 819 (1964).

[136] *Summary: 1962 Hearings* 42.

[137] [1960] C.M.A. & JAG ANN. REP. 12.

[138] 111 CONG. REC. 1228 (daily ed. Jan. 26, 1965); Ervin, *The Congressional Study on the Constitutional Rights of Military Personnel*, JAG J. 4, 6–7 (1963).

[139] The latest Directive is DoD DIRECTIVE 1332.14, *Administrative Discharges*, Dec. 20, 1965.

[140] The Directive is similar to S. 750 § 2 in that it provides that "no member shall be discharged under conditions other than honorable unless he is afforded the right to present his case before an administrative discharge board with the advice and assistance of counsel . . . ." Sec. V, A(2). Counsel is defined as "a lawyer within the meaning of article 27(b)(1) of the Uniform Code of Military Justice unless appropriate authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel." Sec. IV, K.

[141] Gideon v. Wainwright, 372 U.S. 325 (1963). For a development of the cases through which the Court gave fuller meaning to the right to counsel provision, see Powell v. Alabama, 287 U.S. 45 (1932); Johnson v. Zerbst, 304 U.S. 458 (1938); Betts v. Brady, 316 U.S. 455 (1942); White v. Maryland, 373 U.S. 39 (1963); Escobedo v. Illinois, 378 U.S. 478 (1964).

[142] For a discussion of the changes in practice, which are taking place in various states, in an attempt to resolve the problems concerning the scope of the *Gideon* decision, see Silverstein, *The Continuing Impact of Gideon v. Wainwright in the States*, 51 A.B.A.J. 1023 (1965).

[143] 111 CONG. REC. 1228 (daily ed. Jan. 26, 1965).

[144] S. 750, 89th Cong., 1st Sess. (1965).

[145] 111 CONG REC. 1227 (daily ed. Jan. 26, 1965).

[146] Extensive hearings were held by the subcommittee in 1962 to determine the need for legislation to insure a more satisfactory method of safeguarding the constitutional rights of military personnel. In addition to the information received during these hearings from the Defense Department, Court of Military Appeals, bar associations, veterans groups, and experts in military law, the subcommittee also conducted an extensive field investigation in Europe to obtain firsthand views as to the adequacy of our present system of military justice. *Ibid.*

The Summary Report issued by the subcommittee contained twenty-two recommendations, most of which were embodied in the set of bills first introduced by Senator Ervin on August 6, 1963. No action was taken at this time. Following the introduction of the bills on January 25, 1965, hearings were conducted in January and March of 1966.

[147] The 18 bills now before this Subcommittee can be categorized by their principal objectives as follows: 1) those which strengthen the independence, prestige and military justice personnel in the exercise of their duties; 2) those which further implement the Constitutional guarantee that no person shall be deprived of life, liberty or property without due process of law; 3) those which simplify and improve military justice procedures; and 4) those which close jurisdictional gaps. *Transcript: 1966 Hearings* 405.

[148] S. 745, 89th Cong., 1st Sess. (1965).

[149] S. 746, 89th Cong., 1st Sess. (1965).

[150] S. 752, 89th Cong., 1st Sess. (1965).

[151] S. 753, 89th Cong., 1st Sess. (1965).

[152] S. 754, 89th Cong., 1st Sess. (1965).

[153] S. 759, 89th Cong., 1st Sess. (1965).

[154] *Summary: 1962 Hearings* 43.

[155] Statements of Chief Judge Quinn and Judges Kilday and Ferguson, *Transcript: 1966 Hearings* 578, 608, 620; See also [1964] C.M.A. & JAG ANN. REP. 2.

[156] *Transcript: 1966 Hearings* 27, 38–39.

[157] *Ibid.*

[158] A notable exception was the testimony of Frederick Bernays Wiener, who recommended that only a general court-martial be permitted to issue a discharge for misconduct, thereby eliminating the need for legal counsel at either special courts-martial or administrative proceedings, *Id.* at 639–645.

[159] *Supra* notes 135, 136.

[160] Statement of Fred W. Shields, *Transcript: 1966 Hearings* 884.

[161] Statement of Edward S. Cogen and Lawrence Spreiser, *Transcript: 1966 Hearings* 685.

[162] Statement of Chief Judge Quinn, *Transcript: 1966 Hearings* 378.

[163] *Ibid.*

[164] For the subcommittee's original conclusions regarding legal counsel and administrative discharges, see *Summary: 1962 Hearings* 4–5, 51.

[165] Statement of Brigadier General William W. Berg, Deputy Ass't Secretary of Defense (Military Personnel Policy), *Transcript: 1966 Hearings* 712.

[166] *Id.* at 713.

[167] *Id.* at 716.

[168] Statement of Frederick Bernays Wiener, *Id.* at 630.

[169] *Supra* note 10.

[170] While one hesitates to predict what "will" be done, since those without the responsibility of office too often say what "should" be done, the discussion of the questions will follow an approach of what "could" be done.

[171] *E.g.*, compare Plessy v. Ferguson, 163 U.S. 537 (1896) with Brown v. Board of Education, 347 U.S. 483 (1954); Betts v. Brady, 316 U.S. 455 (1942) with Gideon v. Wainwright, 372 U.S. 325 (1963); Hammer v. Dagenhart, 247 U.S. 251 (1918) with United States v. Darby, 312 U.S. 100 (1941).

[172] This statement was first made by Charles Evans Hughes, then governor of New York, in a speech before the Elmira Chamber of Commerce, May 3, 1907.

[173] See Wiener I at 9. In 1789 the active troops totaled 672; by 1792, although the authorized total was 5,120, the actual total was only 3,692.

[174] *Id.* at 8 n.47. The first national draft act was not passed until the Civil War. Act of March 3, 1863, ch. 75, 12 Stat. 731.

[175] See Wiener II at 293.

[176] See Wiener I at 10.

[177] *Id.* at 11. As of January 31, 1966, the number of active military personnel totaled 2,899,724. DoD News Release #169–66, March 2, 1966.

[178] The Universal Military Training and Service Act was recently amended to extend the draft until July 1, 1967. Act of March 28, 1963, 77 Stat. 4 (1965); 50 App. U.S.C. 467(c) (1964).

[179] See Wiener I at 11–12.

[180] See notes 7–8 *supra* and accompanying text.

[181] See cases cited *supra* note 141.

[182] Wiener II at 294–304.

[183] *Id.* at 303. Query whether Judge Christensen's analysis in Application of Stapley, 246 F. Supp. 316 (D. Utah 1965), adopts this approach or whether *Stapley* embodies a direct application of the sixth amendment.

[184] Bolling v. Sharpe, 347 U.S. 497 (1954).

[185] Wiener II at 299.

[186] *Ibid.*

[187] Gideon v. Wainwright, *supra* note 141.

[188] Wiener II at 303–304.

[189] Wiener I at 3–4. Trial by petit jury, presentment by grand jury, due process, guarantee of bail, privilege against self-incrimination, and prohibition against double jeopardy were well settled in English law.

[190] *Id.* at 4.

[191] *Ibid.*

[192] Id. at 5.

[193] *Id.* at 4–5. See note 10 *supra* for the role of counsel in early courts-martial proceedings.

[194] See cases cited *supra* note 141.

[195] White v. Maryland, *supra* note 141.

[196] Escobedo v. Illinois, *supra* note 141.

[197] FREUND, ON UNDERSTANDING THE SUPREME COURT 34–35 (1949).

[198] 10 U.S.C. § 827 (1964).

[199] *E.g.*, Romero v. Squier, 133 F. 2d 528 (9th Cir. 1943), *cert.* denied, 318 U.S. 785 (1943); Altmayer v. Sanford, 148 F. 2d 161 (5th Cir. 1945).

[200] Application of Stapley, 246 F. Supp. 316, 320 (D. Utah 1965).

[201] Powell v. Alabama, *supra* note 141.

[202] 10 U.S.C. §§ 818, 827(b) (1964).

[203] 10 U.S.C. §§ 819, 827(c) (1964).

[204] S. 750, 89th Cong., 1st Sess. (1965).

[205] *Supra* note 141.

[206] *Supra* note 176.

[207] *Supra* note 179.

[208] *Supra* note 65.

[209] *Supra* notes 40–46 and accompanying text.

[210] 10 U.S.C. §§ 859–876 (1964).

[211] *Infra* notes 218–220 and accompanying text.

[212] United States v. Culp, 14 U.S.C.M.A. 199, 33 C.M.R. 411 (1963).

[213] *Id.* at 218, 33 C.M.R. at 430. (Quinn, C.J., concurring).

[214] *Id.* at 219, 33 C.M.R. at 431 (Ferguson, J., concurring).

[215] *Ibid.*

[216] *Id.* at 220, 33 C.M.R. at 432.

[217] *Ibid.*

[218] *Ibid.*

[219] 109 CONG. REC. 13354 (daily ed. Aug. 6, 1963).

[220] United States v. Culp, *supra* note 212, at 220, 33 C.M.R. at 432 (Ferguson, J., concurring).

[221] *Id.* at 217, 33 C.M.R. at 429.

[222] See Silverstein, *supra* note 142, at 1026.

[223] Ervin, *supra* note 138, at 11.

[224] *Supra* note 162.

[225] *Cf.* Korematsu v. United States, 323 U.S. 214 (1944); *Ex parte* Milligan, 71 U.S. (4 Wall.) 2 (1866).

[226] For an example of how the military services have resolved certain adjustment difficulties, see the description of the Navy's answer to the shortage of court reporters necessitated by the requirement of 10 U.S.C. § 819 (1964) that "a bad-conduct discharge may not be adjudged unless a complete record of the proceedings and testimony before the court has been made." Ward, *UCMJ—Does It Work*, 6 VAND L. REV. 186, 214 (1953).

[227] 10 U.S.C. § 827 (1964).

[228] *Cf.* Ward, *supra* note 226, at 187.

[229] 10 U.S.C. § 816 (1964).

[230] Statement of Seymour W. Wurfel, Professor, Law School, University of North Carolina: "The enlarged powers now available under non-judicial punishment make it practicable to eliminate both summary and special court-martial. If the proceeding is in

fact 'non-judicial' fine; if it is 'judicial' at all, it should be fully judicial in all respects in justice to both sides. A general court has of course always had jurisdiction to impose the lesser punishment normally associated with special courts." *Transcript: 1966 Hearings* 311. See also S. 759, 89th Cong., 1st Sess. (1965), which proposes the abolition of summary courts-martial.

[231] Ervin, *supra* note 138, at 7.

[232] Brigadier General Kenneth J. Hodson, Ass't Judge Advocate General, United States Army, stated before the subcommittee that the "additional requirement for legal services" required by the proposed amendments to the UCMJ "imposes an unacceptable demand on military manpower sources." *Transcript: 1966 Hearings*, 55. Unfortunately, there is no statistical evidence available to indicate exactly how large a demand extending the constitutional right to counsel to servicemen would make on military manpower sources.

[233] *Supra* note 200, at 321.

[234] *Transcript: 1966 Hearings* 685.

[235] See generally Ward, *supra* note 226, at 225–227.

[236] See 10 U.S.C. § 815 (1964) which deals with non-judicial punishment.

[237] Act of September 7, 1963, 76 Stat. 447. See Ward, *supra* note 226, at 225–227, for an early plea that the non-judicial powers under the original UCMJ be expanded.

[238] 10 U.S.C. § 815 (1964).

[239] 10 U.S.C. § 815(a) (1964).

[240] Ward, *supra* note 226, at 226.

[241] 10 U.S.C. § 815(b) (1964).

[242] 10 U.S.C. § 815(f) (1964).

[243] Note, *Constitutional Rights of Servicemen Before Courts-Martial*, 64 COLUM. L. REV. 127, 136 n.112 (1964).

[244] 10 U.S.C. § 815(e) (1964).

[245] Statement of Seymour W. Wurfel, *Transcript: 1966 Hearings* 330: "I personally don't think that there has been any substantial deterioration in the overall discipline of the military establishment because of the Uniform Code. I would say that its consequences on the whole have been quite beneficial and my personal evaluation would be that the Code has not impeded the essential elements of discipline." See also [1960] C.M.A. & JAG ANN. REP. 4.

[246] *Ex parte* Milligan, *supra* note 225, at 120.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I yield myself such time as I may require.

The amendment I propose would create the framework for local, State, and Federal Governments to cooperate voluntarily in the collection and sharing of limited information concerning the identity, location, and ownership of firearms.

First, the amendment provides for the filing of data on firearms, together with the names, addresses, ages, and social security numbers of their owners, with local law enforcement officers. The information could be filed either by mail or in person.

Second, it relies on incentives, rather than any sanctions, to persuade local authorities to transmit this data to a national inventory.

Third, it provides clear authority for States to create their own inventories and to exempt themselves at any time from coverage of the national system.

Because it is conceived explicitly as a supplement to other local, State, and Federal statutes, the amendment contains no regulatory features of its own and is strictly limited to the collection of information. Its penalty provisions include no terms of imprisonment and only a graduated scale of fines, beginning with a maximum of $100 for the first violation. It places minimal burdens on law-abiding gun owners.

This amendment could substantially improve the enforceability of laws to keep firearms out of the hands of criminals and others prone to misuse them. For example, discovery of an unregistered firearm during a stop and frisk procedure would provide sufficient evidence for charging the individual involved. Should the individual subsequently be found to have a record of prior conviction for felony, he would be subject to other, more serious charges under such laws as the Safe Streets Act, title VII of which makes it a Federal crime, subject to 2 years imprisonment and stiff fines, for a convicted felon to receive, possess, or transport in commerce, any firearm. Thus, while the inconvenience to law-abiding gun owners would be negligible, the increased risk of criminals of acquiring or possessing firearms would be quite substantial.

Mr. President, those of us who favor strengthening the firearms laws of the State and Federal Governments proceed from a very simple premise: the protection of the right of legitimate firearms users is essentially related to protection of the public as a whole against abusive use of firearms. If the right to use guns for legitimate purposes is to be safeguarded, the growing use of guns for illegitimate purposes must be curbed. Thus, those most devoted to the hobby of gun collecting and the sport of hunting and shooting should perceive a clear identity of interests with others who favor improving our firearms laws.

For many months now I have been working with colleagues on both sides of the aisle to develop equitable and effective language to deal with various facets of the firearms problem in this country. Many different approaches have been considered and a number of reasonable proposals have been advanced. From the several ideas which have been developed and which have been discussed at some length in the hearings before the Juvenile Delinquency Subcommittee, I am confident that this body can make a wise selection of the best law for America.

The Judiciary Committee has already taken a notable step in the recommendations it has made to the Senate. I hope we will perfect the present bill in several respects, but I want to say how much I admire the major features of the pending legislation.

It is a major step forward to extend controls to interstate sales of long guns and ammunition. And the bill's regulation of intrastate mail-order sales is highly desirable.

I am, of course, pleased that it incorporates my own proposal prohibiting Federal licensees from selling or delivering destructive devices to private parties. But I am equally gratified that the committee recognized the merit of Senator HRUSKA's other provisions to regulate such devices as are already in private possession. Our colleague from Nebraska has again shown his keen talent in this field and I commend him for it.

The debate on this subject during May and in the months since then has been ample and intense. I do not believe any good purpose is served by wearing down the Senate with a lengthy rehearsal of facts and arguments which are by now well known. Therefore, I will not take long, but will only reiterate a few points which convey the full sense of urgency which I feel on this issue.

There are many things we know about the firearms problem. We know that 20,000 Americans will die from firearms incidents in this country during 1968, some of them murdered, others slain accidentally or by their own hand. Ten times that number, 200,000, will be injured by gunfire. Even the casualties suffered by Americans in Vietnam, in the midst of the war zone, cannot match these grisly figures.

We know that other civilized countries, with more stringent gun controls than the United States, have only the barest fraction of such casualties. Taking population into account, Japan has been suffering only 2 percent the rate of gun deaths of the United States and England only about 5 percent. How can one explain the disproportionate number of gun deaths except by giving due weight to the unregulated availability of firearms in the United States.

We know that violent crimes involving guns have been soaring in this country, with well over 125,000 such crimes—including robbery, assault, and murder—committed during 1967 alone.

We know that the American people have endured the gravest of political and psychological shocks because gun-bearing assassins have robbed them of some of their noblest leaders.

And we know that, according to innumerable studies over three decades, at least 70 percent of all Americans, including most gun owners, favor stronger firearms laws.

But there is also much we do not know about the firearms problem in America. We do not know how many guns there are in this country.

We do not know who has many of the guns which we know are in private hands in this country.

We do not know how many citizens who are clearly unqualified to use firearms sensibly have obtained possession of one or more guns.

We do not know how many crimes have occurred because the criminal gained the false courage a gun often lends to disturbed personalities, or because a criminal was confident that the weapon he used could not be traced to him.

It may be that we can never relieve our ignorance on some of these points. But it is clear that we can acquire vital information on several of them. And it is beyond dispute that more information about the dimensions of the firearms inventory in America, about the location and ownership of firearms, and about traffic in firearms generally can be immensely valuable in coping with the fire-

arms abuses which we know only too well.

This is the purpose to which many of us have been directing our efforts for many weeks, indeed ever since I introduced an amendment to the Omnibus Crime Control and Safe Streets Act designed to create an information-gathering system in this area. I am convinced that, building on that original conception and benefiting from the constructive suggestions of Members from every quarter of the Senate, we now have a fair, workable, and economical scheme that recognizes the many interests at stake. I refer to the proposal for a national firearms inventory, as incorporated in my amendment 948 to S. 3633.

The national firearms inventory is the perfected version of S. 3637 which I introduced on June 12 with the cosponsorship of our distinguished colleagues, Senators CASE, FONG, HARTKE, JAVITS, SCOTT, MAGNUSON, WILLIAMS of New Jersey, and HART.

This bill represents a concerted effort by many Members to find the maximum area of agreement on what we all know is a controversial subject, a subject which affects different constituencies differently, a subject which most Members of the Congress want to handle in a responsible fashion. Let me state its central purposes and major provisions in brief.

The National Firearms Inventory Act is intended to provide necessary information to facilitate enforcement of other Federal, State, and local firearms laws and to bolster law enforcement generally. For example, information collected through this system should certainly bolster the ability of law-enforcement officials to apply the little-noted section 1201 of title VII of the Omnibus Crime Control Act. That provision makes it unlawful, subject to $10,000 fine and/or 2 years in prison, for any felon to receive, possess, or transport in commerce any firearm. If we want to give real teeth to that statute and others directed at the criminal elements in society, we need the kind of information contemplated by the present proposal.

The concept of the national firearms inventory rests on several fundamental principles:

First. The need to involve local law enforcement personnel in the implementation, as well as the employment, of the inventory.

Second. The need to encourage the States to exercise their primary responsibility in this field.

Third. The need to avoid placing undue burdens on the great majority of gun owners, law-abiding citizens who deserve protection, not harassment. I believe an objective review of the present bill supports the conclusion that we have met those criteria and that the bill would provide a major step forward for law enforcement.

What exactly would the act do?

It provides for the filing of certain minimal information with local law enforcement authorities and for a national firearms inventory to be established by the Department of the Treasury in consultation with the Federal Bureau of Investigation.

The information contemplated in this act is modest indeed. In addition to data on each gun sold, dealers would record the name, age, address, and social security number of a person buying a firearm. This information would be filed with the local police at the place of sale and at the place where the buyer lives, as well as with the national firearms inventory. There would be no fingerprints, no photographs, no invasion of privacy. In the case of a private acquisition not involving a dealer, the purchaser would file similar information with the local authorities where he lives, and they in turn would transmit the information to the national inventory. Finally in the case of firearms already held by private individuals, such information would be filed with local law enforcement offices within 1 year after the effective date of the act, that date being July 1, 1969. All such statements could be filed by mail or in person.

After January 1, 1970, any person who owns a firearm and who changes his residence to any locality in a State subject to the provisions of the act would file with the local authorities at his new home. There are also provisions for filing notification of firearms which are lost or stolen and of firearms which are transferred to other persons. The bill makes clear provision for temporary loan of firearms for lawful purposes, so no impediment to sport or other lawful activity is created.

The inventory would rely on the common incentive of law-enforcement officials to pool such information, for there is in fact no sanction or compulsion to force them to do so. The experience of the National Crime Information Center is instructive in this regard; by the end of this year, every State will be cooperating voluntarily in its important operations.

I place great value on the filing of this information at the local level. It does not guarantee that the data will be used to discover the names of felons, known mental incompetents, or others who should not have firearms, but it at least affords an opportunity for such discovery at the outset of the process. I think it not unreasonable to expect that, without disturbing eligible and law-abiding gunowners, local police might often recognize names of persons who should not have guns. Thus, passing this information directly through the hands of local law-enforcement personnel has precisely the advantage of the affidavit procedures which Senator HRUSKA has so ably devised for controlling intrastate mail-order sales. The process provides some of the benefits of licensing without in fact requiring that persons using firearms obtain a license.

The inventory process would put information at the disposal of local law officers which could enable them to provide much improved protection to their communities. At the same time it would provide the structure for a central file of firearms information on which all law enforcement officers could draw in efforts to trace the movement and ownership of firearms which become the subject of investigation.

In addition to its unique involvement of local law officers, the bill provides clear authority for any State to exempt itself from coverage at any time by creating its own inventory system. However, in hopes of maintaining a truly national inventory, the Secretary of the Treasury would be empowered to enter into agreements with exempt States to pay the costs of incorporating their data into the national files. Again, however, the emphasis is on voluntary cooperation between the States and the Federal system.

The need for that cooperation is imperative. Federal action of this type can do much to prevent lax action in some States from undermining the earnest efforts of other States to keep track of firearms in their jurisdictions. The people of my State are especially mindful of the necessity for Federal measures to supplement the substantial gun laws of Massachusetts. In Massachusetts, for example, it has been found that 87 percent of the firearms used in the commission of crimes during a recent year were purchased—not stolen or acquired through clandestine channels—outside the State. The information gathered by the inventory I propose would certainly not prevent all such criminal activity, but, together with the other provisions of the pending legislation, it would be a giant step toward enabling law enforcement officers to identify and apprehend persons who seek to purchase firearms in one jurisdiction for unlawful purposes in another.

Because the bill is conceived explicitly as an information-gathering device to supplement other State, local, and Federal regulations, it contains no regulatory provisions of its own. Moreover, the bill fully recognizes that we are dealing primarily with law-abiding citizens and it places no significant burdens on those owning or acquiring firearms. For instance, it provides only light penalties—no imprisonment at all, as I have mentioned, and only a staged series of optional fines, beginning with a maximum of $100 for the first violation.

There have been some questions about the cost of collecting and storing information of this magnitude. The decentralized system which we propose provides a means for sharing the costs equitably. Through the courtesy of the staff of the Senator from Nebraska [Mr. HRUSKA], I have obtained a knowledgeable estimate that the data handling costs for such a system would be approximately $500,000 yearly. In addition, of course, there would be significant administrative costs, which the bill would meet through a schedule of limited fees, not to exceed $2 per firearm and to be shared with the local law enforcement agencies which participate.

But, Mr. President, I have some question even as to whether we should charge the firearms owner the $2 fee I mentioned. And in that regard, I would seriously consider an amendment to the amendment which would not require the holder of the firearm to pay any fee whatsoever, because in the final instance, the fee that has been established

for the holder of the firearm would most equitably be a fee to be paid by the Federal Government because the purpose of the inventory would be for the good of the entire country rather than for the good of the individual firearm holder.

Mr. President, I consider this a fair arrangement, but in view of the Senate's acceptance yesterday of the amendment offered by the Senator from Maryland, indicating that the pending legislation would not seek to increase fees or taxes on gun owners, I have prepared language to delete this provision. I send this language to the desk and ask that my amendment be modified accordingly.

The PRESIDING OFFICER. The amendment will be modified accordingly.

The modification reads, as follows:

On page 8, of the amendment, delete lines 14 through 22 and insert the following:

"(d) The Secretary is authorized to provide reasonable reimbursement for administrative costs incurred by each local law enforcement officer designated to forward statements filed under the provisions of this title.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

On page 9, line 5, delete paragraph designation "(1)".

On page 9, delete lines 11 and 12.

Mr. BROOKE. This will provide for financing the inventory through appropriations. The very limited inventory we have designed would hardly cost more than a few million dollars on an annual basis. It should be less costly than the $22.5 million estimated for the quite different, centrally administered system proposed by the Department of Justice. The costs are obviously of manageable proportions and we can agree on a means to bear them.

In summary, the measure would provide the framework for a voluntary sharing of information on firearms among the several levels of government. The inventory system would enlist the cooperation of the Federal, State, and local government; it would not command it. And the burden on gunowners would be minimal.

Mr. President, these are the major features of this compromise proposal. It is an honest attempt to reconcile the many interests which have been concerned with this problem. I believe the American people will welcome it as an effective response to a pressing need. I urge my colleagues on both sides of the Senate chamber to support the amendment.

I yield 1 minute to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, I rise to indicate my support for the amendment offered by the distinguished Senator from Massachusetts, particularly in light of the modification to his amendment which he sent to the desk.

Mr. BROOKE. Mr. President, I thank the distinguished Senator for his support of this amendment.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. WILLIAMS of Delaware. As I understand the Senator's amendment, it now provides that there will be no charge for the registration of these guns, but that the cost of this registration will be borne in its entirety by the Federal Government.

Mr. BROOKE. The Senator's understanding is correct.

Mr. WILLIAMS of Delaware. I have read the amendment of the Senator, and I believe that with that modification, he has an excellent proposal. I believe there is nothing wrong with the proper registration of guns. I believe his proposal would be helpful in law enforcement, and I shall be glad to support his amendment.

Mr. BROOKE. I thank the distinguished Senator from Delaware for his support of the amendment.

I yield to the distinguished Senator from Connecticut.

Mr. DODD. Mr. President, I wish to support the amendment offered by the Senator from Massachusetts. I believe it would achieve the objective that many of us here and elsewhere desire to achieve. It would be a way of getting the knowledge that we so badly need, which we have not been able to get thus far in the proposed legislation, nor have been able to get in any other way.

This inventory would be a reservoir of the kind of useful, necessary, and absolutely essential information we must have if we are going to get at the problem of crimes committed with guns. It would establish a system for keeping track of what I consider to be the most deadly items moving in commerce. What are they? We have named them often enough. Some 200 million revolvers, rifles, and shotguns now in the hands of millions of people in this country.

I call for enactment of this amendment and I have compelling reasons to support such a measure.

I need not reestablish the evidence that the gun is the basic tool of the criminal. We have talked about this now for 7 years, in hearings, in Senate and House committees and on the floor of the Senate.

Even opponents of the various proposals that have been voted up or down in this Congress know and agree that the criminal and violent use of firearms is a grave danger and a constant threat to our citizens.

We agreed on this when we passed title IV of the Omnibus Crime Control and Safe Streets Act.

Let me drive home the point that we no longer disagree on the basic issue.

What we must debate and deliberate now is the question of refinement. It is a question of improving what we have. It is a simple matter of making certain that the gun laws that will have come out of this Congress will be workable, equitable, and effective.

This amendment is a way to achieve this purpose.

I want to remind my colleagues that law enforcement has moved into the age of the computer.

State after State is developing advanced crime information systems.

The punchcard will soon be the most effective tool for tracking down criminals.

Even today it helps us to allocate police forces and to establish patrol routes.

Today we have the capability of tracking a stolen car anywhere in the Nation, often in a matter of a few minutes.

And the time is not far when it will be possible to identify a stolen watch or a piece of jewelry from one coast to the other with the help of the computer.

We will be judged unbelievably backward by future generations if we do not begin to use this new technology of crime control in controlling the heretofore completely unchecked traffic in deadly firearms throughout the Nation.

Mr. President, the registration of firearms is a basic step in making effective the new tools that have been developed to help us prevent and control the crime and violence in our Nation.

It is a reasonable step that will burden no one.

It is a procedure that by itself cannot and will not remove one single gun from one single hand.

This amendment will establish a system for keeping track of the most deadly items moving in commerce, the estimated 200 million pistols, revolvers, rifles, and shotguns now in the hands of millions of our citizens.

Today we can trace people with the help of the recordkeeping systems at our disposal. We can trace automobile engines and transmissions. We can check and control the traffic in drugs because of recordkeeping requirements established by this same subcommittee in 1965. And I think we might even be able to locate a can of spoiled sardines that might present some danger to the customers.

And yet we have no substantial way of tracing a deadly weapon.

We have no way of knowing how many millions of guns there are in this Nation.

We do not know who owns them and who has them.

We must rely on the morning paper to find out who should not have had them.

I want to remind my distinguished colleagues that the gun is a durable good; that there are many millions of guns in the hands of criminals today and that without registration we have no control over these weapons.

There are firearms that will be around for another 100 years and this amendment can tell us of their whereabouts today and in the future and give us a chance to remove them from dangerous hands.

I want to remind my colleagues that the arsenal of firearms now in the hands of private citizens is in no way affected by title IV of the Crime Control Act, nor will it be affected by any of the other bills and amendments we consider here today.

Registration alone can assure us that this existing supply of weapons will not become a million time bombs that will continue to destroy our citizens in spite of the other gun laws that will have been enacted.

And I want to remind my colleagues that all the other controls we have enacted and will enact on the traffic in firearms cannot help but give rise to a black market in guns for the benefit of those who will be barred from legitimate channels of purchase.

Today we cannot anticipate the size of this black market, but we know from

our past experience with dangerous drugs that the diversion of these type products into illegitimate channels can be a problem of alarming proportions.

In the case of firearms I am convinced that registration alone can prevent the growth of illegal gun running by the underworld.

Mr. President, I believe that all these are compelling reasons for the adoption of this amendment.

I fully admit that it will not stop all gun crimes.

No law that is realistically conceivable can stop all gun crimes.

But it will help us to begin molding a society that has more respect for the firearm, a society where every lunatic and criminal will not consider in his birthright to go out and buy a firearm.

This amendment will give our police officers some idea from which direction to expect the next shot, and consequently a better chance of preventing it.

And, little by little, it will help us sort out the people who should and those who should not possess firearms.

I am convinced that ultimately registration will prove to be a lifesaving device and a protection to the public.

And I am convinced that improving and changing techniques of law enforcement will force us to pass a registration law in the not too distant future.

In calling for the enactment of this amendment today I merely want to make this Congress responsive to the times in which we live.

That is why I ask my colleagues to disregard the emotional issues that have been evoked to oppose this measure.

Stripped from its emotional defenses, the position opposing registration becomes, in fact, untenable.

Guns are widely used in the commission of crimes.

Guns must be kept out of the hands of criminals, mental defectives, and juveniles.

The traffic in guns must be regulated in one way or another to achieve the above objectives.

And registration of all guns is the only sound way to determine the true size and nature of the firearms traffic and thus to make the regulation and control of that traffic maximally effective.

I think the Senator has made a good suggestion. I hope his amendment is agreed to. The Senator has been a great help in this battle on the floor of the Senate to get decent gun registration and, hopefully, to get it enacted into law. As the attorney general of his State he had an outstanding record as the law enforcement officer of the State of Massachusetts. The State of Massachusetts stands very high on the list of States that has advanced in the control of guns and firearms. It has done so, I think, because of the work the Senator did while he was the attorney general of that State.

Mr. President, I hope we agree to the amendment. It can only help us. We must get something along this line to give us this information. I hope the amendment is agreed to.

Mr. BROOKE. I thank the distinguished Senator.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. BROOKE. I yield.

Mr. DOMINICK. I want to make sure I understand the measure and I would like to present an example.

Suppose I live in Colorado and I shoot in Colorado. Then I come back to Washington and I bring my gun with me. Do I have to register that same gun each time I take it back and forth?

Mr. BROOKE. The Senator registers it in Colorado, and he shoots in Colorado. Then he comes back to Washington. The Senator's question is whether he would have to register it in Washington. My answer would be no.

Mr. DOMINICK. As I read the amendment, if one were to go to a new locality he would have to file the required form with the local law enforcement officer.

I refer the Senator to the top of page 5 of his amendment dealing with changes in locality. It looks to me as if I would have to file the form a second time.

Mr. BROOKE. I think the place of permanent residence would be controlling. The Senator would not have to register in each State to which he went. I understand many hunters travel around the country. I think that filing in New York State, if that were the permanent residence, would be controlling. The information would be sent to the place of residence and the place of residence would send the information to the information pool in the Department of the Treasury.

Mr. DOMINICK. So there would be no necessity, in accordance with the Senator's intent, to have each person, each time he visits a place for shooting, or takes a temporary residence somewhere else, to refile and reregister.

Mr. BROOKE. No. That is not my intention.

Mr. DOMINICK. Suppose I wanted to give a gun to my son who is under the age of 21. Do I have to file on that occasion? Does he have to do so?

Mr. BROOKE. If the Senator gives a gun to his son, the son would have to complete the information we would want. The Senator would have been the owner of the gun and he would have transferred ownership from himself to his son so his son would have to file his name, address, and age so that the local law enforcement officer in his place of residence would have that information and also to forward it to the Treasury Department.

Mr. DOMINICK. Is my understanding correct, that on page 8 the Senator has stricken the fees mentioned in subsection (d)?

Mr. BROOKE. The Senator is correct. I have filed an amendment which would provide for these fees to be paid through appropriations rather than for the owner of the gun or firearm. The reason therefor is that the entire country would benefit from this information and not the firearm holder himself. The only burden on the owner would be to file the information and I do not think it is an undue burden on the firearm holder to file that information with the local law enforcement officer. However, he would not have to pay a fee under the amended version of the amendment.

Mr. DOMINICK. With respect to page 9, is my understanding correct that the penalties remain in effect; that is, if he fails to file he could be fined $100, then $1,000, and up to $5,000?

Mr. BROOKE. The first offense would be $100, then $1,000 and up to $5,000 for the third offense.

Mr. DOMINICK. The Senator is maintaining that penalty?

Mr. BROOKE. The Senator is correct.

Mr. DOMINICK. We have about 10 guns in our family, consisting of shotguns and rifles, some of which have been inherited and some of which I bought. We use them among the members of our family for dove shooting, goose shooting, and duck hunting. Would we have to register each gun and determine ownership between various members of the family each time a person took that gun?

Mr. BROOKE. The gun would have an owner. Someone possesses or owns the gun, and not the family. That person would have to file.

Mr. DOMINICK. We have a kind of common law arrangement where all guns are open to anyone in the family.

Mr. BROOKE. The amendment does not anticipate common law arrangement such as that. This amendment would require an individual owner to file.

Mr. DOMINICK. I thank the Senator.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts. I know the Senator is motivated by a very fine spirit and his objectives are good. However, the fact is that this is merely a different and another form of Federal registration of guns.

It is true, so far as registration by local authorities or by State authorities is concerned, that it is voluntary; however, if they do not do it, the registration is made with the Federal authorities, so it is, in fact, a Federal registration. It may have a different label but it is Federal registration and it is subject to all of the arguments and reasons which prompted this body to reject this concept as embodied in two different amendments on two different occasions today.

Mr. President, I hope the Senate will reject this amendment also.

This amendment would require, as I understand the terms, the registration of every gun in America. As has been mentioned before, there are an estimated 100 to 200 million guns. On the score of expense and cost, I understood the Senator from Massachusetts to say that there would be a cost of $500,000 in establishing a National Crime Information Center. Is that the information the Senator referred to?

Mr. BROOKE. That is not the entire cost.

Mr. HRUSKA. No. As I understand it, that was the cost of the additional rental for computer equipment.

Mr. BROOKE. The Senator is correct.

Mr. HRUSKA. It does not take into account personnel or the cost of local, State, or Federal registration, as the case may be.

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

Mr. HRUSKA. I yield.

Mr. BROOKE. As I said, the $500,000 a year would be the estimate of the cost of data systems. The Senator is correct

about the additional cost which I referred to. This cost would come from a fee of $2 per individual gunowner, on an appropriation, and I have so amended my proposal, but it still would not be more than about $2.5 million annually. I say that is considerably less than the $22.5 million which the Justice Department had called for for the administration of a registration system.

Mr. HRUSKA. Well, I do not know how the Department of Justice arrived at that figure. In fact, this is the first time I have heard of any figure which was issued by the Department of Justice for the expense of registering guns. I would find it difficult to reconcile the expense of $2½ million a year when we have testimony in the RECORD that the New York Legislature study committee examined the subject and reached a figure of $25 per gun. Mayor Lindsay testified that it is costing the city of New York $20 a gun for its registration ordinance.

Perhaps there is something that we should explore there. Perhaps New York is overpaying for the services it is rendering. But, as hard pressed as they are, I do not know that that would be true.

If the $1 billion per year to register 100 million guns at $20 apiece would stop crime or substantially reduce it, perhaps it would be a good proposition. There still has been no demonstration that the sample collection of information of this kind would result in any impact, any fruition, or any progress toward reducing crime or even reducing the misuse of guns.

I earnestly hope that the Senate will put the pending amendment in the same category it put the other two measures on registering and licensing, and reject it. It should be rejected. This approach to gun control has not been canvassed by any committee hearings. It should be studied more thoroughly but, for the time being, the pending amendment should be rejected.

Now, Mr. President, I notice from the news ticker a report on part of the debate which occurred earlier today when the Senate was considering the Tydings amendment for registering and licensing guns by Federal authorities.

It says:

> There were several reasons mentioned—Second, Senator Hruska argued that there were "constitutional, legal problems arising out of Supreme Court decisions."

Continuing:

> Because it is an antigun control which is contended, it gives citizens the right to keep and bear arms.

Now, Mr. President, such an argument would be based on the second amendment which pertains to the right to bear arms. This was not the argument which this Senator advanced this morning. The argument which I advanced this morning was based on the Haynes case, involving the fifth amendment concerning the possible incrimination of a registrant of guns.

I thought I would place that in the RECORD so that there would be no misunderstanding on the basis of what the news media stated.

Mr. President, for the time being, unless there are other requests for time on the pending amendment, I am willing to yield back the remainder of my time.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, if the Senator will yield back his time, I am ready to yield back mine.

Mr. HRUSKA. I am prepared to yield back my time if the Senator from Massachusetts is.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts [Mr. BROOKE].

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the senior Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], and the Senator from Maine [Mr. MUSKIE] are necessarily absent.

I also announce that the Senator from Alaska [Mr. GRUENING] is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], and the Senator from South Dakota [Mr. MCGOVERN] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kentucky [Mr. MORTON], and the Senator from Maine [Mrs. SMITH] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT] would vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 31, nays 53, as follows:

[No. 281 Leg.]

YEAS—31

Boggs	Hartke	Proxmire
Brooke	Inouye	Randolph
Case	Javits	Ribicoff
Clark	Kennedy	Scott
Cooper	Kuchel	Smathers
Dodd	McIntyre	Tydings
Fong	Mondale	Williams, N.J.
Goodell	Nelson	Williams, Del.
Gore	Pastore	Young, Ohio
Griffin	Pell	
Hart	Percy	

NAYS—53

Aiken	Ellender	Miller
Allott	Ervin	Montoya
Anderson	Fannin	Moss
Baker	Hansen	Mundt
Bayh	Hatfield	Murphy
Bible	Hickenlooper	Pearson
Brewster	Hill	Prouty
Burdick	Holland	Russell
Byrd, Va.	Hollings	Sparkman
Byrd, W. Va.	Hruska	Spong
Cannon	Jackson	Stennis
Carlson	Jordan, N.C.	Symington
Church	Jordan, Idaho	Talmadge
Cotton	Lausche	Thurmond
Curtis	Magnuson	Tower
Dirksen	McClellan	Yarborough
Dominick	McGee	Young, N. Dak.
Eastland	Metcalf	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—15

Bartlett	Hayden	Monroney
Bennett	Long, Mo.	Morse
Fulbright	Long, La.	Morton
Gruening	McCarthy	Muskie
Harris	McGovern	Smith

So Mr. BROOKE's modified amendment was rejected.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ALLOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. DODD. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President at the time of the rollcall vote on the amendment offered by the Senator from Washington [Mr. JACKSON[, I was in conference on the HEW appropriations bill, and did not get to the floor of the Senate in time to vote. If I had been present and voting, I would have voted "no."

I thank the Senator from Connecticut.

AMENDMENT NO. 954

Mr. DODD. Mr. President, I call up my amendment (No. 954).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. DODD's amendment (No. 954) is as follows:

On page 33, line 14, strike out "under this chapter" and insert in lieu thereof the following: "imposed by federal laws with respect to the acquisition, receipt, transfer, shipment or possession of firearms and".

On page 33, line 19, strike out "conduct his operations in an unlawful manner" and insert in lieu thereof the following: "act in a manner dangerous to public safety".

On page 33, line 21, strike out the word "licensee" and insert in lieu thereof, "licensed importer, licensed manufacturer, or licensed dealer".

The PRESIDING OFFICER. Does the Senator from Connecticut ask unanimous consent that these amendments be considered en bloc? There are three parts to the amendment he has offered.

Mr. DODD. Yes, I do.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. DODD. Mr. President, I can explain this amendment very briefly. I do not think there is any disagreement about it.

When we passed the omnibus crime bill in May, the Senator from Louisiana [Mr. LONG] offered an amendment to that bill which was adopted as title VII.

Under that title, persons convicted of felonies and individuals in four other categories would forever be precluded from possessing a gun, unless pardoned by the chief executive of a State or by the President of the United States.

My amendment provides a third alternative for application for relief from the Federal law. It provides that one convicted of a felony may apply to the Secretary of the Treasury, and that the Secretary of the Treasury will have power to grant him a license if he finds that he is deserving.

There are many such cases.

Mr. ALLOTT. Mr. President, may we have order?

The PRESIDING OFFICER. Yes, the Senate will be in order.

The Senator from Connecticut will suspend until order is restored. Senators will cease talking and take their seats.

The Senator may proceed.

Mr. DODD. Under this amendment, the Secretary would have the power to grant an application for such relief if it is stated to his satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to conduct his operations in an unlawful manner, and that granting of the relief sought would not be contrary to the public interest.

That is the whole sense of it. I think this ought to be done. I shall be happy to hear what the Senator from Nebraska thinks of it.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

This amendment provides for the granting of an amnesty, which would be vested in the Secretary of the Treasury, as to the provisions of title VII of the Omnibus Crime Control Act.

I ask the Senator from Connecticut if the legislative history of this particular amendment does not start with the enactment of the so-called Winchester amendment to the Federal Firearms Act of last year.

Mr. DODD. That is exactly correct.

Mr. HRUSKA. And then, when title IV of the Omnibus Crime Control Act was drawn, it was put into that act?

Mr. DODD. That is correct.

Mr. HRUSKA. It is also in the bill which we have before us now?

Mr. DODD. That is right.

Mr. HRUSKA. And this is an effort to make it applicable to title VII, which is the so-called Long amendment on the Omnibus Crime Control Act?

Mr. DODD. That is precisely correct. That states the case exactly. That is what it is.

Mr. HRUSKA. Mr. President, I fully support the amendment, and I hope it will be approved by the Senate.

Mr. DODD. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back the remainder of his time?

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendments of the Senator from Connecticut.

The amendments were agreed to en bloc.

Mr. TYDINGS obtained the floor.

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may yield to the Senator from Montana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending unanimous-consent agreement be modified to provide 20 minutes on each amendment, 10 minutes to a side, except that on two amendments, one having to do with ammunition and the other with imports, the time would remain the same, 1 hour.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. MILLER. Mr. President, I am sorry, but I did not hear the request.

Mr. MANSFIELD. Twenty minutes on each of the remaining amendments, except for two, one dealing with ammunition and one dealing with importation, upon which the 1-hour limitation previously agreed to would apply.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 946

Mr. TYDINGS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TYDINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment will be printed in the RECORD.

Mr. TYDINGS' amendment is to add at the end thereof the following new title:

TITLE IV—LICENSING FOR PURCHASE OR CARRYING OF CONCEALABLE WEAPONS

SEC. 401. Chapter 44 of title 18, United States Code, is amended by inserting after section 923 the following new section:

"§ 923A. State permit systems; Federal gun licenses

"(a) The Secretary shall determine which States or political subdivisions of States have adequate permit systems for the purchase or carrying of firearms and shall publish in the Federal Register the names of such States and political subdivisions.

"(b) An adequate permit system shall include provision for—

"(1) identification of the permit holder appearing on the permit, including name, address, age, and signature or photograph;

"(2) restrictions on issuance of a permit to a person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice;

"(3) restrictions on issuance of a permit to a person who, by reason of age, mental condition, alcoholism, drug addiction, or previous violations of firearms laws cannot be relied upon to possess or use firearms safely and responsibly;

"(4) means of investigation of applicants for permits to determine their eligibility under subparagraphs (2) and (3);

"(5) prohibition of possession of firearms by any person who has not been issued such a permit; and

"(6) revocation of a permit issued to a person who subsequently becomes ineligible under subparagraph (2).

"(c) After September 1, 1970, it shall be unlawful for any person to sell or otherwise transfer any firearm to any person (other than a licensed importer, licensed manufacturer, or licensed dealer) unless—

"(1) the sale or transfer is not prohibited by any other provision of this chapter; and

"(2) the purchaser or transferee exhibits a valid permit issued to him by a State or political subdivision having an adequate permit system, or the purchaser or transferee exhibits a valid Federal gun license issued in accordance with subsections (d) and (e).

"(d) A licensed dealer shall issue a Federal gun license to a person eighteen years of age or over upon presentation of:

"(1) a valid official document of identification (such as driver's permit or selective service certificate) issued by the United States, a State, or political subdivision thereof; and

"(2) a statement signed by the person in a form to be prescribed by the Secretary, that he is eighteen years of age or over, that he has never been committed to an institution by a court of the United States or a court of any State or political subdivision thereof on the ground that he was an alcoholic, a drug addict, or mentally ill or incompetent, that he is not under indictment, has not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, is not a fugitive from justice, and is not otherwise prohibited by any provision of Federal, State, or local law from possessing firearms or ammunition; such statement may include such additional information regarding the applicant, including without limitation, birth date and place, sex, height, weight, eye and hair color, and present and previous residences as the Secretary shall by regulation prescribe.

"(e) Federal gun licenses shall be issued in such form as the Secretary may prescribe, and shall be valid for a period of five years. A dealer shall maintain a record of all licenses issued by him as part of the records required to be maintained by section 923 of this chapter, and shall forward to the Secretary the documents described in subparagraphs (d)(2) through (d)(3) of this section.

"(f) Any person denied a Federal gun license under subsection (d) may apply directly therefor to the Secretary in the manner prescribed by regulation of the Secretary.

"(g) Unless otherwise prohibited by this chapter, a licensed dealer may ship or deliver a firearm or ammunition to a person only if the dealer confirms that the purchaser has been issued a valid permit issued pursuant to an adequate State or local permit system, a Federal gun license, or a Federal dealer's license, and notes the number of such permit or license in the records required to be kept by section 923 of this chapter.

"(h) After September 1, 1971, no person may carry a firearm beyond his home or place of business or employment without a valid State or local permit, if he is a resident of

a State or locality having an adequate permit system, or a Federal gun license: *Provided*, That a person not a resident of a State or locality having an adequate permit system, who is ineligible for a Federal gun license solely by reason of age may receive a firearm or ammunition for occasional, brief, and lawful recreational uses.

"(i) Determination of adequate permit systems under this section or adequate registration systems under section 933 and denials by the Secretary of Federal gun licenses shall not be subject to the provisions of chapter 5, title 5, United States Code, but shall be reviewable de novo pursuant to chapter 7, title 5, United States Code, in an action instituted by any person, State, or political subdivision adversely affected.

"(j) It shall be unlawful for any person willfully to fail to deliver a valid Federal gun license to the Secretary if such person has been issued such license and subsequently is placed under indictment, convicted in any court of a crime punishable by imprisonment for a term exceeding one year, a fugitive from justice, committed to an institution by any court on the ground that he was an alcoholic, a narcotics addict, or mentally incompetent, or otherwise prohibited by any provision of Federal, State, or local law from possessing firearms and ammunition.

"(k) It shall be unlawful for any person willfully to convey or otherwise furnish to another person a Federal gun license which may have been issued to himself, or to a third person, in order to evade or obstruct the provisions of this chapter.

"(l) It shall be unlawful to knowingly and willfully make a false statement or representation in connection with any application for a Federal gun license.

"(m) As used in this section, the term 'firearm' shall not include rifles and shotguns, as defined in section 921 of chapter 44 of this title."

SEC. 402. The analysis of chapter 44 of title 18, United States Code, is amended by inserting immediately after

"923. Licensing."

the following:

"923A. State permit systems; Federal gun licenses."

TITLE V—GENERAL PROVISIONS

SEPARABILITY

SEC. 501. If the provisions of any part of this Act or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECT ON STATE LAW

SEC. 502. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of a State or possession or political subdivision thereof, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State, possession, or political subdivision thereof.

RELIEF FROM DISABILITIES

SEC. 503. Notwithstanding the provisions of section 923A(d)(2), a licensed dealer shall issue a Federal gun license to a person who otherwise qualifies under that section but has been convicted of a crime punishable by imprisonment for a term exceeding one year or has been committed to an institution by a court on the ground that he was an alcoholic, a drug addict, or mentally ill or incompetent, if that person displays a document in writing from the chief law enforcement officer of his State of residence specifically authorizing that person to obtain such license.

EFFECTIVE DATE

SEC. 504. The provisions of title IV of this Act shall become effective one year after the date of its enactment.

Mr. TYDINGS. Mr. President, the amendment which I have sent to the desk is a concealable weapons amendment. It is a modified part of the amendment rejected this morning. It relates to licensing of handguns and firearms.

My proposed amendment which is before the Senate now deals solely with concealable weapons. It covers only the purchase or carrying of concealable weapons after September 1, 1970. It excludes ammunition, and it excludes all long guns. It does not include handguns which are now owned, or which are purchased before September 1, 1970, and kept on the private premises of the owner, that is, his home or farm or place of business, or at his place of employment. It eliminates all registration.

Basically, it would require that any individual who wishes to purchase a handgun after September 1, 1970 must have a permit, either issued by the local community or the State under State or local law; or, if a State has no such State or local law, it has the same provisions for the issuance of licenses as my original amendment did. There are no fees, no administrative discretion, no fingerprints, no photographs. Issuance of the permit is mandatory, the only exception being if the individual is a convicted felon, or has been committed by a court to an institution for mental incompetency, alcoholism, or narcotics addiction, or is a juvenile 18 years of age or under.

It provides the same emphasis on State and local, county, or city ordinances. The minute a State or local community acted, it would preempt the field.

I might say, Mr. President, that I have talked to a number of Senators, and I understand that this amendment is one which is far easier for many Senators to support.

Seventy-six percent of all gun crimes—murder, robbery, and assault—are committed with handguns. Last year, as we know, we had 7,600 gun murders in the United States.

Mr. President, a handgun is a very deadly weapon. My amendment would provide that it would be a felony to carry a concealed weapon after September 1, 1970, if it was not on a man's own property, or his own place of business or employment, unless he had a permit to carry such a concealed weapon.

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

Mr. TYDINGS. I yield.

Mr. COOPER. Will the Senator from Maryland read the language to which he has just referred? I believe it is on page 5, line 7.

Mr. TYDINGS. Yes. Let me say, this is a modification of my amendment No. 946.

Mr. COOPER. Yes, I have it. Will the Senator read the exact language he now proposes?

Mr. TYDINGS. It would read as follows:

(h) After September 1, 1971, no person may carry a firearm beyond his home or place of business or employment without a valid State or local permit.

Mr. COOPER. That is enough for my purpose. The Senator explained a moment ago that his amendment would prohibit the carrying of a "concealed" weapon or firearm beyond a person's home or place of business or employment. However, the language the Senator read provides that no person could carry a "firearm" beyond his home or place of business or employment. The word "concealed" is omitted from the language.

Mr. TYDINGS. Mr. President, if the Senator will turn to page 6, line 17, subsection (m), he will note that it reads:

As used in this section, the term "firearm" shall not include rifles and shotguns.

The use of firearms here refers to pistols or revolvers, which I refer to as concealed weapons.

Mr. COOPER. I understand. The amendment is limited to handguns. It does not touch in any way rifles or shotguns.

Mr. TYDINGS. The Senator is correct.

Mr. COOPER. I asked the question because the Senator used the words "concealed firearms" in explaining the purpose of the amendment. "Firearms" is defined on the next page to mean pistols or handguns and revolvers. But to be explicit, I urge the Senator to amend the amendment, by inserting the word "concealed" before the word "firearm" in line 8, page 5.

Doing this would bring his amendment into harmony with laws in many States. My State prohibits the carrying of concealed weapons. It does not prohibit the carrying of a weapon which is openly displayed. The courts have interpreted carrying a concealed weapon to mean either concealed from view on one's person, or if carried in a vehicle, concealed and easily accessible to the person. Using the word "concealed" will preserve the interpretation of that term by many State courts.

Mr. TYDINGS. The Senator has a good point. I was using the term "concealed weapons" to refer to pistols or revolvers as opposed to the type of firearm such as a long gun which cannot be easily concealed. However, if one had a permit, he could carry a pistol or revolver anywhere.

Mr. COOPER. That is the law in many States. If the Senator would insert the word "concealed" on page 5, line 8, between "a" and "firearm", then the language would be in accord with the statutes of many States and interpretation by the courts, including my State.

Mr. TYDINGS. I think the point is well made. The language here was worked out by the Senator from Louisiana [Mr. LONG] and me this morning. I have no objection to adding the word "concealed" before the word "firearm" as it appears on line 8 of page 5.

Mr. President, I so modify my amendment.

The PRESIDING OFFICER. Would the Senator from Maryland state the modification.

Mr. TYDINGS. On page 5, line 8, between the words "a" and "firearm" insert the word "concealed".

The PRESIDING OFFICER. The amendment is so modified.

Mr. COOPER. Mr. President, while I have the opportunity to do so, I would like to congratulate the senior Senator from Connecticut, Senator DODD, for initiating this legislation and for his long fight—now successful—to secure a fair

and effective firearm control bill. He deserves great credit. I would also commend the Senator from Maryland, Senator TYDINGS, for his effective work and presentation of the issue. Senator HRUSKA has contributed much to all of us from his knowledge of this complicated subject.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 4 minutes.

Mr. HRUSKA. Mr. President, the Senate has already expressed itself firmly and quite decisively on proposals that would involve Federal licensing or registering.

There are, of course, an infinite number of variations that could be proposed here to raise this same basic proposition over and over again.

No matter what you call it this amendment is still Federal licensing, and as such is subject to virtually all of the objections that have been stated to the three other registration amendments which we have considered today. These amendments have all been attempts to get the Federal Government into the business of exercising police power on a local basis. The pending amendment would be meaningless if it were not enforced. To be effective it would have to be enforced, and enforced diligently. And this enforcement would, of necessity, involve the Federal Government in the exercise of police power similar to the rejected amendments.

I might suggest again that no showing has been made that this amendment will aid in reducing the misuse of guns or the number of crimes. This same argument was advanced against the other three proposals which the Senate has rejected.

The pending proposal is especially offensive because all States but one have had a law which makes it illegal to carry a concealed weapon on one's person, and yet this amendment proposes to involve the Federal Government in an area where the States have already acted.

In 1966 there were riots and demonstrations in Chicago. Although 6,000 arrests were made on the charge of carrying guns there were less than 200 convictions.

Are we going to put the Federal Government into the business of enforcing what the communities themselves should do?

In addition to arguments already advanced we must consider the matter of regulation, and also the matter of the cost. Of course cost alone standing on its own, would not be persuasive if there were reasonable cause to believe that the expenditure of this money would reduce crime. That it would reduce murder. That it would reduce the misuse of guns. I am sure the Senate would approve it if this could be shown; however, lacking that demonstration, this amendment would involve the expenditure of money for no purpose at all.

It is my hope that the Senate will reject the amendment and reject it by as large, if not a larger margin, than it did the other proposals along the same line.

Mr. MILLER. Mr. President, will the Senator from Maryland yield on his time? I would like to ask a question.

Mr. TYDINGS. Mr. President, I do not have that much time.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Maryland has 10 minutes remaining. Six minutes remain to the Senator from Nebraska.

Mr. MILLER. Mr. President, I would like to say to the Senator from Maryland that I favor his amendment, but I need some clarification, if he will yield.

Mr. TYDINGS. Mr. President, I will answer the questions on my own time.

Mr. MILLER. Mr. President, does this adequately cover a nonresident from my State of Iowa, for example, who has a permit and comes into the State of Maryland and has that permit with him? Is he protected by this?

Mr. TYDINGS. The Senator means a person with a permit?

Mr. MILLER. I mean a person from Iowa who has a permit and is in the State of Maryland, or vice versa.

Mr. TYDINGS. All it requires is that he has a permit issued from any State.

Mr. MILLER. Mr. President, I ask the Senator from Maryland if he would mind amending his amendment so that on page 2, starting on line 9, it would read: "who is under indictment for, or who has been convicted in any court, of a crime of violence punishable by imprisonment for a term exceeding 1 year."

I think there should be a distinction made between crimes of violence and other crimes. I think this would get at what we are trying to do.

If the Senator would agree, there would have to be a similar modification of his amendment on page 4 and on page 6.

I am suggesting that we make this conviction or indictment for a crime relate to a crime of violence as distinguished from other crimes which do not have any particular relationship to firearms. Of course, I would include in that crime of violence such crimes as kidnaping and other things.

Mr. TYDINGS. So that it would read, on page 2, "who has been convicted in any court of a crime of violence punishable by imprisonment for a term exceeding 1 year."

Mr. DODD. I believe that would destroy the purpose of Senator Ervin's amendment.

Mr. ERVIN. It would.

Mr. DODD. The Senator from North Carolina offered a good amendment, which described a felony. A simple assault would be a crime of violence.

Mr. TYDINGS. The Senator from Iowa would leave in the term of a period of 1 year?

Mr. MILLER. Yes.

Mr. ERVIN. I wrote out approximately 15 amendments to be put in by unanimous consent of the committee.

Mr. MILLER. I do not wish to undo what the Senator from North Carolina has done. This could then read as I have suggested, with this addition: "Crime of violence punishable as a felony by imprisonment." Then we would deal only with felonies, but they would be crimes of violence punishable by terms of over 1 year.

Mr. TYDINGS. I believe that is a good point.

Would the Senator from Iowa read, for the RECORD, his modification on each page?

The PRESIDING OFFICER (Mr. PELL in the chair). The time of the Senator has expired.

Mr. TYDINGS. I yield the Senator 5 minutes on the bill.

Mr. DODD. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. Eleven minutes.

Mr. DODD. I yield the Senator 2 minutes on the bill.

Mr. MILLER. The modification I suggested is as follows: On page 2, change the paragraph beginning on line 8, running through line 12, as follows:

(2) restrictions on issuance of a permit to a person who is under indictment for, or who has been convicted in any court of, a crime of violence punishable as a felony by imprisonment for a term exceeding one year, or who is a fugitive from justice;

On page 4, starting with the word "that" on line 3, have the remainder of the sentence read as follows:

That he is not under indictment for, or has not been convicted in any court of, a crime of violence punishable as a felony by imprisonment for a term exceeding one year—

And so on. On page 6, starting at the top of the page, have the lines I am covering now read as follows:

If such person has been issued such license and subsequently is placed under indictment for, or convicted in any court of, a crime of violence punishable as a felony by imprisonment for a term exceeding 1 year—

And so on. Those are the three modifications, and I believe they would tie in with the concept behind this amendment, and would also fit in with what the Senator from North Carolina has previously done in the bill.

Mr. TYDINGS. Mr. President, I accept the modifications, and I ask for the yeas and nays.

The PRESIDING OFFICER. The text of the modifications will have to be sent to the desk.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I hope the Senate will reject this amendment, because it is another registration amendment, for all practical purposes, so far as concealable weapons are concerned.

After we had passed the safe streets bill, I discovered that it would affect people in a number of States, including my own State, who had been convicted only of misdemeanors. And that serious mistake was committed after long study of the matter.

We would be legislating on the floor of the Senate, with the acceptance of this amendment. This is a difficult field in which to legislate even with time for deliberation and study. We should not adopt an amendment which would interfere with the rights of the States in many respects. I am uncertain about what the amendment as modified would do. I hope

the Senate will reject the amendment and take the bill as it came from the committee, with the amendments that have already been adopted.

Mr. TYDINGS. The modifications incorporate the language suggested by the Senator from North Carolina.

Mr. ERVIN. Will somebody read the modifications?

Mr. TYDINGS. They are, on page 2 of the amendment (No. 946), lines 8 through 12: "restrictions on issuance of a permit to a person who is under indictment or who has been convicted in any court of a crime," and here we added the same language the Senator from North Carolina added "of violence punishable as a felony by imprisonment for a term exceeding 1 year."

Mr. ERVIN. The trouble is that it does not do it. It leaves it where the punishment exceeds 1 year, and a misdemeanor in my State and in many other States——

Mr. TYDINGS. We said "felony"—for a crime punishable as a felony. We amended it with the language that the Senator used in his amendment.

Mr. ERVIN. My amendment left out anything about a year. It said a felony under Federal or State law.

I sincerely hope the Senate will not legislate at this late hour on the floor of the Senate and will reject the amendment as modified.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I ask unanimous consent that I be permitted to introduce Senators from Liberia who are visiting this country, without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VISIT TO THE SENATE BY DIGNITARIES OF LIBERIA

Mr. HARTKE. Mr. President, the country of Liberia has been a longtime friend of the United States. Visiting with us at the Capitol today are Ambassador Samuel Edward Peal, Senator Elizabeth Collins of Bong County, Senator Joshua Harmon of Grand Bassa County, Representative J. C. N. Howard of Montserrado County, and Representative Thomas Findlay of Grand Bassa County. [Applause, Senators rising.]

Mr. HARTKE. Mr. President, I am aware that a vote is about to take place. I hope that Members of the Senate, after completing their vote, will take this opportunity to pay their respects to these distinguished friends of the United States.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

Mr. SCOTT. Mr. President, the amendment now before the Senate to S. 3633, the State Firearms Control Assistance Act, creates a Federal licensing system for possessors of concealed weapons and is designed to combat the increasing tide of crime in the United States. This legislation is patterned after a measure put forward by Senator DIRKSEN during Judiciary Committee deliberations on the State Firearms Control Assistance Act, and addresses itself to a major weapon of crime—the handgun or so-called concealed weapon.

In 1967 a firearm was used in 63 percent of the murders committed in the United States. Of those firearms used for murder, 76 percent were handguns, 14 percent shotguns, and 10 percent rifles.

This measure will encourage the enactment of effective State permit laws to prevent criminal and irresponsible persons from obtaining and using handguns. Moreover, it will protect the citizens of those States that have enacted licensing legislation from the lawless acts of armed persons coming from other States that have not adopted such measures.

Basically, this licensing system is a means of denying fugitives, criminals, addicts, and mental defectives access to handguns. Every purchaser, possessor, or user of such firearms would have to have a license. To get a license, he would submit a statement affirming that he is at least 18 years old, has never been convicted of a felony or committed to an institution by a court on the grounds of alcoholism, narcotics addiction, or mental incompetence, that he is not under indictment or a fugitive from justice, and is not otherwise prohibited by law from obtaining a weapon.

Issuance of a license would be automatic to all law-abiding citizens, without any discretion on the part of the issuing officer. Denial would be automatic in the case of felons, fugitives, adjudged alcoholics, addicts, and mental incompetents, and those under 18.

In those States that enact licensing legislation aimed at protecting the public from essentially the same class of persons, the State system would preempt totally the Federal system. In those States not enacting such legislation within a reasonable period of time following the enactment of the Federal law, a temporary system of Federal licensing would be put in effect.

This is workable legislation. It is aimed at a principal weapon of crime in the United States. It will not unduly interfere with the overwhelming majority of law-abiding citizens, hunters, sportsmen, and collectors who make legitimate use of firearms. It will safeguard the public from criminal and irresponsible use of firearms.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished senior Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], and the Senator from Maine [Mr. MUSKIE] are necessarily absent.

I also announce that the Senator from Alaska [Mr. GRUENING] is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], and the Senator from South Dakota [Mr. MCGOVERN], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kentucky [Mr. MORTON], and the Senator from Maine [Mrs. SMITH] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT] would vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 35, nays 49, as follows:

[No. 282 Leg.]

YEAS—35

Aiken	Hart	Percy
Bayh	Hartke	Proxmire
Brewster	Inouye	Randolph
Brooke	Javits	Ribicoff
Case	Kennedy	Scott
Clark	Kuchel	Smathers
Cooper	McIntyre	Symington
Dodd	Miller	Tydings
Fong	Mondale	Williams, N.J.
Goodell	Nelson	Yarborough
Gore	Pastore	Young, Ohio
Griffin	Pell	

NAYS—49

Allott	Ervin	Montoya
Anderson	Fannin	Moss
Baker	Hansen	Mundt
Bible	Hatfield	Murphy
Boggs	Hickenlooper	Pearson
Burdick	Hill	Prouty
Byrd, Va.	Holland	Russell
Byrd, W. Va.	Hollings	Sparkman
Cannon	Hruska	Spong
Carlson	Jackson	Stennis
Church	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Thurmond
Curtis	Lausche	Tower
Dirksen	Magnuson	Williams, Del.
Dominick	McClellan	Young, N. Dak.
Eastland	McGee	
Ellender	Metcalf	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—15

Bartlett	Hayden	Monroney
Bennett	Long, Mo.	Morse
Fulbright	Long, La.	Morton
Gruening	McCarthy	Muskie
Harris	McGovern	Smith

So Mr. TYDINGS' amendment (No. 946) was rejected.

Mr. HRUSKA. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. ALLOTT. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MURPHY. Mr. President, I send to the desk an amendment and ask that it be stated.

The legislative clerk read as follows:

On page 35, line 9, strike out the period and insert in lieu thereof: "; *And provided further*, That, notwithstanding any other provisions of this Title, the Secretary shall authorize the importation of categories of firearms not peculiarly susceptible to criminal use for which there is an active market for sporting and other legitimate purposes."

Mr. MURPHY. Mr. President, we have been considering proposed amendments to title IV of the Omnibus Crime Control Act. Changes have been recommended for the purpose of correcting what were felt to be inequities contained in the bill. To me, among the most glaring of these is that contained in the sections which result in the elimination of the importation of substantial varieties of newly manufactured firearms.

No matter how one feels regarding the merits of gun-control legislation, I think he can in good conscience support the amendment I am offering which mitigates the import restrictions on newly manufactured firearms and foreign surplus military firearms. This will have no effect on the availability of firearms generally in this country, and, thus, on gun control as such, because virtually every handgun newly manufactured overseas for importation into the U.S. market is a copy of an existing U.S.-made handgun.

My colleagues will recall that extensive discussion has taken place on the availability of the foreign manufactured popular "Saturday night special revolver," and arguments were advanced that the import provision in question was necessary to restrict the supply of such a weapon. I am now advised that two different domestic manufacturers are producing virtually the identical weapon and at a cost to the American public that is less than that charged for the European version.

Realistically, Mr. President, the only effect of continuing the import provision in the gun-control bill will be to create a windfall for domestic manufacturers. Identical items, which could not be classed as "sporting," are being, and will be, manufactured domestically in whatever quantities American manufacturers can produce and market profitably. The only result, of course, will be damage to American import businesses and their employees and disruption of contracts with manufacturing entities in friendly nations. Section 925(d) will do no more than protect a domestic industry which has not even asked for aid. There will be no benefit to our country in the sense of meeting the stated purposes of the Omnibus Crime Control Act. Crime will not be reduced in any way. I believe that the approach taken by section 925(d) as it is written, is bad law, and that the considerable number of decent law-abiding Americans who buy guns have a right to prefer features resulting from foreign manufacture or manufactured to military specifications or perhaps to shop around for the lowest available prices. It is one thing to take firearms peculiarly susceptible to crime out of commerce or to place them under special restrictions, but it is quite another thing to set a precedent here for cutting off the source of any class of firearms for which there is a legitimate demand in the United States.

We are not here deciding that guns are bad, that American citizens are not competent to own and handle guns, that commerce in guns is a gray and unsavory part of American business. Therefore, we should not chip away through the process of discrimination against lower priced firearms, or highly popular high-priced sporting guns. Let us not be carried away by the seriousness of the crime problem to the point where we invite the Treasury Department to tell Americans what firearms they can and cannot buy without regard to specific characteristics which make the firearm a tool of crime.

Our concern here is to stop crime and the criminal element. It is not in any way to handicap or impose any gun restrictions upon the good, decent, law-abiding citizen.

That is the simple purpose of my amendment and I urge my colleagues to consider it. I am hopeful that it will be adopted.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MURPHY. Mr. President, I am glad to yield to my friend, the Senator from Nebraska [Mr. HRUSKA].

Mr. HANSEN. Mr. President, may I be yielded some time? I would wish to ask my colleague some questions, if I may.

Mr. HRUSKA. I yield 10 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. Do we have any definition as to what constitutes "sporting purposes in the import provisions of the committee bill"?

Mr. DODD. I think the bill uses the language "sporting purposes." The report spells that further on page 38 under the designation section 925(d) as follows:

SECTION 925(D)

This subsection gives the Secretary authority to permit the importation of ammunition and of certain types of firearms—(1) those imported for scientific or research purposes or for use in competition or training under chapter 401 of title 10 of the United States Code; (2) an unserviceable firearm other than a machinegun; (3) those firearms not coming within the purview of the National Firearms Act (26 U.S.C. 5801 et seq.) and suitable for sporting purposes (in the case of surplus military weapons, this type is limited to shotguns and rifles), and those previously taken out of the United States. The subsection contains a proviso permitting the Secretary to authorize the importation of a firearm or ammunition for classification purposes.

The standards set forth in this subsection for the importation of firearms are designed and intended to provide for the importation of quality made, sporting firearms, including pistols, rifles, and shotguns, such as those manufactured and imported by Browning and other such manufacturers and importers of firearms.

It was made clear at the hearings that the imports which provided perhaps the greatest aggravation to big city crime were extremely cheap .22-caliber revolvers made largely in Europe for the U.S. market. The difficulty of defining weapons characteristics to meet this target, without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.

However, it is not intended that a starter gun (as defined in section 921(a)(3) of this title) which is imported for nonsporting purposes, such as for conversion to a lethal firearm upon importation, or subsequent thereto, be allowed to be imported. The committee's record is clear that hundreds of thousands of starter guns have been imported into this country for nonsporting purposes and their continued importation would be detrimental to the maintenance of law and order within the United States.

It is recommended that the Secretary establish a council that would provide guidance and assistance to him in determining those firearms which meet the criteria for importation into the United States. Such a council could include representatives of government, firearms industry, including firearms importers, the sporting fraternity, and firearms research organizations, designated by the Secretary.

Such a council would have substantial information available upon which to draw their conclusions, including the hearing records of the Judiciary Committee's Subcommittee to Investigate Juvenile Delinquency, and the several reports that have been issued by the committee with regard to the problem of gun control.

Mr. HANSEN. Would the Olympic shooting competition be a "sporting purpose"?

Mr. DODD. I would think so.

Mr. HANSEN. What about trap and skeet shooting?

Mr. DODD. I would think so. I would think that trap and skeet shooting would certainly be a sporting activity.

Mr. HANSEN. Would the Camp Perry national matches be considered a "sporting purpose"?

Mr. DODD. Yes; that would not fall in that arena. It should be described as a sporting purpose.

Mr. HANSEN. I understand the only difference is in the type of firearms used at Camp Perry which includes a wide variety of military types as well as commercial. Would all of these firearms be classified as weapons constituting a "sporting purpose"?

Mr. DODD. No. I would not say so. I think when we get into that, we definitely get into a military type of weapon for use in matches like those at Camp Perry; but I do not think it is generally described as a sporting weapon. It is a military weapon. I assume they have certain types of competition in which they use these military weapons as they would in an otherwise completely sporting event. I do not think that fact would change the nature of the weapon from a military to a sporting one.

Mr. HANSEN. Is it not true that military weapons are used in Olympic competition also?

Mr. DODD. I do not know. Perhaps the Senator can tell me. I am not well informed on that.

Mr. HANSEN. It is my understanding that they are. Would the Senator be inclined to modify his response if I say that is true?

Mr. DODD. It is not that I doubt the Senator's word. Here again I would have to say that if a military weapon is used in a special sporting event, it does not

become a sporting weapon. It is a military weapon used in a special sporting event. I think the Senator would agree with that. I do not know how else we could describe it.

Mr. HANSEN. With reference to the questions I have just asked, is there any other restriction on any type of firearm other than those defined under the provisions of the National Firearms Act?

Mr. DODD. Are there any other types than those described?

Mr. HANSEN. With reference to those questions, is there any restriction on any type of firearm other than those defined under the provisions of the National Firearms Act?

Mr. DODD. Of course; military surplus weapons, certainly.

Mr. HANSEN. But there are no restrictions on domestically produced firearms; is that true?

Mr. DODD. No; unless the several States or any of the States may impose such restrictions, there is nothing of that nature in this bill.

I hope I understand the Senator correctly. I assume, for example, the Senator is thinking of .32-caliber guns manufactured by an American company in this country.

Mr. HANSEN. That would be an example.

Mr. DODD. I do not know of any.

Mr. HANSEN. Would the purchase price or general condition of a firearm relate itself in any manner to its classification of a firearm to be used for "sporting purpose"?

Mr. DODD. Not specifically. While certain firearms may be designated nonimportable and at the same time be inexpensive, the cost of the weapon is not the decisive factor. I think there are some very expensive sporting weapons. I have heard of guns costing $5,000 and more. I suppose there are military weapons that cost much money. But I do not think the price is the standard, nor do I think it should be.

Mr. HANSEN. Do imported firearms differ from those produced within the United States?

Mr. DODD. Some of them do. The starter pistol that has been dumped into this country by the hundreds of thousands is an adjustable weapon. I do not think we make anything like it in this country. We ran into that in our investigation of the mail-order traffic. We found three vendors in California who imported 180,000 starter pistols and then altered them so they would fire .22-caliber rimfire ammunition.

The starter guns use blanks, but they are readily convertible to fire .22-caliber rimfire ammunition which is a very dangerous situation. So that type of gun is not manufactured in the United States.

Mr. HANSEN. It is my understanding that starter pistols are manufactured in the United States. They are not identical, but quite similar.

Mr. DODD. I quite agree that they are manufactured in the United States. But my point is they are not convertible, as are foreign-made guns, into .22-caliber rimfire weapons.

Mr. HANSEN. Are imported rifles and shotguns any different from those produced domestically?

Mr. DODD. Not that I know of. Some may be better and some inferior; but similar shotguns and rifles—and this is determined by calibration and other standards—are the same in the sense that they are the same kinds of weapons.

Mr. HANSEN. If domestically produced firearms are not unlike their imported companions, why do we have a distinction made between "sporting purpose" within the import section?

Mr. DODD. Because our country has been flooded with weapons such as I have described—starter pistols with blanks. Some of them were military surplus. That was the reason for excluding them. We found we were the only country in the world that allowed military surplus weapons to be sold to its citizens, until we stopped it. So that was a reason, in addition to the reason I have already given, that many of these guns were simply sent over here so they could be made into really dangerous weapons. They were not what they were represented to be at all.

Mr. HANSEN. If I understand the Senator correctly, he said that despite the fact that a military weapon may be used in a sporting event, it did not, by that action, become a sporting rifle. Is that correct?

Mr. DODD. That would seem right to me.

Mr. HANSEN. With the Senator's own definition, I come back to my original question: What good reason is there for excluding foreign-produced firearms used for "sporting purpose"?

Mr. DODD. We do not. We specifically make that exclusion. If a gun, a rifle, a shotgun, or a handgun is useful for a "sporting purpose," there is no prohibition against its importation.

Mr. HANSEN. Does not the import section of this bill draw a distinction between foreign made and domestically produced firearms with regard to "sporting purpose"?

Mr. DODD. Is the Senator talking abut rifles and shotguns or handguns?

Mr. HANSEN. Whatever kind of gun comes under the classification.

Mr. DODD. As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.

Mr. HANSEN. My question, then, to the distinguished Senator is this: What rationale is tenable or is reasonable to prohibit or restrict or in any way limit the importation of a gun, a copy or a very similar facsimile of which can be made, produced, and sold in this country?

Mr. DODD. I think the Senator and I know what a genuine sporting gun is. Obviously, a 40- or 50-year-old military surplus .45-caliber gun is not; neither is a .38 caliber or a .36 caliber or a .32 caliber. They are not used in skeetshooting or trapshooting or hunting. Some people carry handguns in hunting, not particularly where I live, but they do in the Far West and Northwest. However, I do not think they carry any such gun as I have described. I think most of them carry a higher quality weapon. The handgun that would be importable as a sport gun is one that is generally suited for targetshooting, skeetshooting, and trapshooting and hunting.

Mr. HANSEN. Are imported handguns any different from those which are produced in the United States?

Mr. DODD. Some of them are. Some of them are very similar.

Mr. HANSEN. Are there any basic design differences that the Senator can point out that would make it possible to say whether a gun is manufactured in this country or has been imported

Mr. DODD. I have already said the .22-caliber converted starter gun is one where the design is different. We also have such converted weapons in larger caliber.

Mr. HANSEN. Are there any safety standards which may be different?

Mr. DODD. That depends on where they come from. In some countries standards are higher than others. If they are high, they can be imported. If they are useless junk, they cannot.

That was our point, to keep out of the United States what were really the junk guns that came flooding in here by the hundreds of thousands, in addition to the thousands of gun parts which were easily convertible, which could be used by people who should not have this type of weapon which they obtained from mail-order houses.

Mr. HANSEN. Are imported handguns usually subject to proof testing abroad?

Mr. DODD. One of our witnesses said his guns were test fired in Germany before they were dismantled and sent to America as parts. Our record is not complete on that.

Mr. HANSEN. It is my understanding that, in many instances, foreign guns are subjected, as a rule, to more safety tests than domestically produced ones.

Mr. DODD. I am not informed as to that.

Mr. HANSEN. I was wondering what the Senator's opinion was on that.

Mr. DODD. I really do not know. That information was not relevant to our inquiry. We simply assumed that, if a certain imported gun blew up in someone's hand, it was unsafe. And that happened frequently with the kinds of guns I am talking about.

Mr. HANSEN. Are domestic handguns subject to proof testing?

Mr. DODD. In this country? I have always thought they were.

Mr. HANSEN. Would the Senator know what make or what manufacturer?

Mr. DODD. Well, I have always heard of New Haven and Hartford in this connection. They have testing ranges, I think they call them.

Mr. HANSEN. Is there any distinct difference relating to imported firearms, pricewise, as compared with those produced in the United States?

Mr. DODD. Some prices are very close, very much the same. Some are not. I could answer generally by saying that some are and some are not.

Mr. HANSEN. I thank the distinguished Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, will the Senator from California yield me 5 minutes?

Mr. MURPHY. I am delighted to yield my distinguished colleague 5 minutes.

Mr. HRUSKA. Mr. President, this amendment comes about by reason of an unnecessary and undue limitation on importation of guns. The pertinent language of the committee bill is found on page 34, starting at line 6, where it is provided that "the Secretary may authorize a firearm or ammunition to be imported or brought into the United States."

Then, dropping down to the last few lines on the page, "if it is generally recognized as particularly suitable for or readily adaptable to sporting purposes."

There are people who believe that this language is too narrow. It should be broadened. One way of putting it very simply would be to extend this authority to firearms suitable for sporting as well as other lawful purposes.

The amendment of the Senator from California, of which I am privileged to support, provides that the Secretary shall authorize the importation of categories of firearms not particularly susceptible to criminal use, for which there is an active market for sporting and other legitimate purposes.

There is not any sense in restricting the use to sporting purposes. There are other lawful and legitimate purposes—self-defense and protection, protection of industrial plants, to name a few. There is also the matter of collectors' items, which category might not be included as a sporting purpose.

The result of that narrow language is twofold: First, it deprives the U.S. gun owner and user of a choice of guns of foreign make. Second, the restrictive language found in this bill is the subject of protest by seven GATT countries. These nations have protested to the extent that they are threatening retaliation because of this limitation on imports from their countries. Those countries are Belgium, West Germany, France, Italy, Luxembourg, the Netherlands, and Spain.

It seems to those of us who support this amendment that this restriction should be broadened not to a point where it will be harmful. Not to the point of importing guns which are not desirable. Imports are already controlled by licensing through the Office of Munitions Control, by the U.S. Department of State, and in addition incoming shipments are controlled by U.S. customs.

The Office of Munitions Control has, through its licensing procedures, already embargoed the importation of destructive devices. They have an effective embargo on automatic weapons. They have now included .22-caliber firearms on their munitions list, and therefore subject to an import license.

I call the attention of the Members of this body to the fact that this includes starting pistols, .22 starter pistols for sporting events.

So there is ample authority for the imposition of import controls insofar as any harmful or dangerous guns are concerned.

The term "sporting purposes" does not include all of the weapons that the American buyer should have to choose from. It would be well to broaden that definition, as well as the authority of the Secretary to authorize imports. It should be done, and I hope it will be done.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HRUSKA. I ask for 2 more minutes.

Mr. MURPHY. Fine.

Mr. HRUSKA. There is no reason why guns of foreign origin should be subjected to any different control than guns of domestic manufacture. Mr. President, for years the domestic manufacturers of guns have tried to get some kind of regulation and limitation of imports. The approach in this bill is a back door route to their goal, because it is not in a finance bill. We have here a provision which gets into the field that belongs in the Committee on Finance, rather than the Committee on the Judiciary. There is absolutely no reason why we should favor domestic manufacturers in this way, and in doing so cut off the American customer, the American gun owner and gun fan, from having his choice of weapons. So I hope the amendment of the Senator from California will be agreed to and that it will become a part of this bill.

Mr. MURPHY. I thank my distinguished colleague for his remarks. He has pointed out with much greater definition than I could command exactly the point. The basic point involved is that we are concerned here with stopping the criminal use of guns. We are not concerned with further penalizing the good citizen, the man who, for the protection of his home, his farm or ranch, should be given a free choice of the kind of firearm that he might want to use.

Mr. HRUSKA. Mr. President, will the Senator yield further?

Mr. MURPHY. I am happy to yield.

Mr. HRUSKA. Often it is said that these imports are cheap and dangerous, made out of pot metal, and all that sort of thing.

Mr. President, on that score I would be very much opposed to them, but I would also be opposed to the same kind of cheap, pot metal guns that are made in this country. If guns are to be barred because they are cheap and dangerous, and will blow up in a man's face, the same test should be applied to guns made in this country. The catalogs are full of cheap domestic guns of that kind. I am opposed to all such guns. The Murphy amendent, if approved, would bar starter guns from coming into this country.

Mr. MURPHY. The Senator is correct. In many cases, the manufacturer will give you a warning as to the kind of ammunition you may use with any kind of safety.

Fortunately, I do not think the market for that type of gun is very great. As far as I am concerned, that type of gun is dangerous in any case. There should be standards and tests to prevent its being marketed. I am surprised there are not. My amendment is certainly not designed to permit the importation of such guns. It particularly restrains the Secretary from allowing guns "peculiarly susceptible to criminal use" from being brought in.

Mr. President, I reserve the remainder of my time.

Mr. DODD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. DODD. I yield 4 minutes to the Senator from Maryland.

Mr. TYDINGS. Mr. President, I sincerely hope the Senate will reject this amendment. It would open the floodgates and make this country a dumping ground for every cheap handgun manufactured overseas.

In the testimony before the Subcommittee on Juvenile Delinquency in 1965, the chief of police of Atlanta, Ga., said that more than 80 percent of criminal guns confiscated from arrestees were foreign made, cheap $5 or $10 Saturday night specials, as they call them.

The rate of handgun imports for the first 3 months of this year was more than seven times the entire handgun importation for the year 1958. That may be fine for the few companies that import these cheap $5 or $10 handguns, but it certainly has nothing to do with the legitimate sportsman, with the legitimate marksman. This is a market which is peculiarly susceptible to the criminal element, the juvenile element, the type of person we do not want having these handguns, which are frequently concealable weapons, to get to. I sincerely hope the Senate will reject this special interest amendment.

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

Mr. TYDINGS. I will yield on the Senator's time.

Mr. MURPHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. MURPHY. Mr. President, I point out that the Senator from Maryland apparently did not hear my remarks. With reference to the Saturday night specials, I made reference to the fact that there is this exact same type of gun being manufactured domestically and it is on the market at even cheaper prices. I object to these guns, too, and my amendment is written so as to proscribe their importation if they are—as the amendment says and as the Senator says—"peculiarly susceptible to criminal use."

Furthermore, if we have not written a piece of legislation that will take care of this particular type of gun without making the emphasis lie in an area where guns are used for proper purposes, sporting and protection purposes, then I think we ought to take another look at the whole bill.

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

Mr. MURPHY. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, it has been suggested that the pending amendment is fine for a few importers of guns into this country, but not for the rest of the country.

Mr. President, the language in the bill is only good for the manufacturers of cheap domestic guns.

I have cataloged here the New Imp, made in Texas, the CDM revolver, made in America. Here is another one made in the United States. Here is one made in Brooklyn. All of these guns are cheap pot

metal guns. These cheap guns can be sold, but the imported guns cannot be sold and this apparently includes some very high priced guns.

Mr. President, the Secretary of State already has the authority to establish an import licensing system, such as it has established as against these .22 caliber guns, including starter pistols.

So, when it is stated that this might favor the importer, remember the Secretary already has the power to control this flow and this power will not be limited by this amendment. There is no reason to penalize all importers to get at the offenders.

Mr. MURPHY. Mr. President, I point out in connection with what my distinguished colleague has just said that I have in my hand a copy of an advertisement concerning an American-made revolver, .22 caliber Regent, with 3-, 4-, or 6-inch barrel, swing-out cylinder chamber. One can buy them for $750 a hundred or can buy one for $9.75.

I am talking more in favor of not limiting the choice of Americans who want to use handguns, shotguns, and rifles for proper purposes. I do not think that we should prevent their freedom of choice. I do not think that this restriction belongs in the pending bill.

Mr. DODD. Mr. President, I think it would be a great mistake and a great pity if at this late hour we were to open the gates again and flood the United States with millions more weapons. It has taken a long time to almost completely close off this traffic. I think we are on the threshold of closing them altogether. First, however, we had to stop that awful flood of surplus military firearms. That attempt met with a lot of opposition.

We are the only country in the world which allowed it. We finally caught on and stopped it.

We then found out through an investigation of the mail-order traffic that these fly-by-nighters were buying up starter pistols that were easily adjusted to killer pistols. They sold them by mail order to children, fools, alcoholics, drug addicts. The law-enforcement authorities came to us and said, "For heaven's sake, stop it."

Law-enforcement people came from the State of California. The chief law-enforcement officer, the attorney general of California, came. Law-enforcement officials came from everywhere, from every part of the country. They said:

> This is a great cause of crime in our country. These weapons should never be admitted within our borders.

We have been struggling to stop it. An effort was made to stop us. And I know who is interested in stopping us. They have been around to see me, and they want to get some relaxation of this language so that they can bring these weapons in and sell it over the counter.

I said to them what I said to the Senator from Wyoming, that in the language of the bill if it is generally recognized as particiularly suitable for, or readily adaptable to sporting purposes, they will not have any problem. Otherwise, it should not be here.

What good does it do to say that we can make them here? I think our manufacturers are pretty careful about this. We do not have that kind of control over these people, however. Many of these guns can be used for genuine sporting purposes.

I think that the use of a weapon must be examined by these standards. For example, when the matter was being discussed before our committee, one of the Representatives said that he shoots bears, I believe in Michigan. I did not know they had bears in Michigan. He said that he used, I believe, a .45-caliber gun. I suppose it can be said that that type of gun is being used for genuine sporting purposes.

I think that is the only way we can determine this. Otherwise, I think we would turn the clock back and have this chaotic condition again. I do not know how many of these weapons are in the country already. They are dangerous weapons. Some of them were so poorly made that they would blow up and injure people. That happens in our own country. It should not happen again. There is no excuse for having more of it. If it is already bad, we should not compound the situation. I do not understand that argument in behalf of reopening the case.

Mr. PASTORE. Mr. President, will the Senator yield for an observation?

Mr. DODD. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, the thing that amazes the Senator from Rhode Island is that we work and fight and strive on the floor of the Senate to limit the importation of meat products, to limit the importation of textile products, and to limit the importation of steel. And here we are shedding crocodile tears because of the free flow in commerce of pistols and guns which can be used only to kill.

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

Mr. PASTORE. I do not have the floor; however, I will be glad to yield if they give me that privilege.

Mr. MURPHY. Mr. President, on my own time, I point out to the Senator that in some of the industries he has mentioned there have been requests to bar importation.

So far as I know, there has been no request for protection with respect to the matters involved in this amendment.

If that looked like a crocodile tear in my eye, it is caused by a new pair of glasses.

Mr. PASTORE. The fact remains that someone is asking that this be done. There is a pecuniary interest involved. It is the people who are importing guns who are interested in supporting the amendment. It does not come out of the clear blue. There is some reason for it.

We enacted a limitation before. We propose to take it out this afternoon. I am saying that if we can stand up and limit the importation of meat, an edible product—and we do it—and if we can limit the importation of textiles, a wearable product—and we do it—and if we can limit the importation of steel—and we do it—what is so wrong with limiting the importation of cheap guns which can be bought by cheap hoodlums to kill people with?

Mr. HRUSKA. Mr. President, will the Senator yield so that I may answer that specific question?

Several Senators addressed the Chair.

Mr. DODD. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. I believe I have the floor.

Mr. HRUSKA. Mr. President, will the Senator yield on my time?

Mr. DODD. I will yield later. The Senator from Rhode Island is dead right, as he is practically all the time.

Mr. PASTORE. Mr. President, I am right, but not dead right.

Mr. DODD. Mr. President, since we passed title IV last May, the importers have sought permits to get some 2 million of these guns into the country before the December 15 deadline.

We were urged to move the deadline back. Last year they imported one-half million of these weapons. But when they realized that Congress was going to act, they ordered 2 million more. They are bombarding the Munitions Control Board of the State Department to try to get importation permits. Why? Because they know where the market is. There is no other reason. It is just what the Senator from Rhode Island says it is. They want to peddle these deadly weapons as they have been doing it; and so they want to have plenty of these Saturday night specials on hand when the law becomes effective.

Something was said by someone about protection of these industries. There are more gun manufacturers in my State than in any other State. I have said a number of times that they are good companies. They are old companies, and they are respectable in every way. They have never importuned me in any case to protect them from any competition abroad. That has nothing to do with my reason and the reason of several other Senators for saying that the importation of these guns should stop.

It all arose from the complaints of law-enforcement people and of citizens in general and from the crime condition in our country. Now some intend to reopen that door, and it should not be done.

Mr. PASTORE. The only reason why the Senator brought up the question is that the assertion was made this afternoon that this amendment has disturbed five GATT countries and that they are ready to work out reprisals against us. All I can say that it is just too bad.

Mr. DODD. I point out that the gun industry supported Senator HRUSKA's bill, not mine, and the Senator from Nebraska's bill did not prohibit the importation of these items. I do not know why they supported his but they did. And they fought me every time they could. So I do not believe that is much of a factor in this area.

That is as simple as I can make it. We should not open the door and let millions of these deadly weapons into the United States.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes.

On the score of imports of beef, steel, and textiles, may I say this: The Senator from Rhode Island is eloquent. Let me point out that in the case of beef, steel, and textiles, we do not bar imports, we just hold them to a reasonable level.

Here, if a gun is not for a sporting purpose, it is not let in at all.

Those who are interested in having a choice of guns for other than sporting purposes which are legitimate and which are not peculiarly susceptible to criminal use should have a choice. There is no reason why they should not have a choice.

So this is not on a parity with beef, steel, and textiles. Over a billion pounds of beef comes into this Nation, and, therefore, we have a reason to urge a limitation of beef imports. That is not the situation we are faced with here at all.

Insofar as a protectionist measure is concerned, it was not many years ago when a Representative from Hartford, Conn., introduced a protectionist measure for foreign guns. It did not get any place. I believe the Senator from Connecticut will remember that.

Mr. DODD. I do not remember it.

Mr. HRUSKA. Representative Musmanno introduced it, and it was not favored by the House or by the Senate.

With respect to importunings by importers, I have not talked with any importer. The Senator from Connecticut insists that he is not importuned by the big companies. It is not a question of being importuned. The big companies have tried for years to get some kind of protection, and now they are getting it.

It is said that the U.S. manufacturers are pretty careful in regard to these cheap guns. How careful are they? They are careful enough to offer for $9.75 an American-made CDM revolver, .22 caliber. And here is the "Imp," six-shot .22 caliber, for $14.95, even with pearl-like grip.

Here is one made in Texas, a Derringer, and a Western Six. Here is a Regent. And there are others.

They are careful enough to cater to the very market to which the Senator from Connecticut refers. They are very careful by themselves.

Again I say that where the gun comes from should not have anything to do with it. If it is peculiarly susceptible to criminal use, the Secretary of the Treasury would not be able to let them in, by the language of this amendment. So what we are really saying is that imports which are for lawful purposes cannot come in, if they are not for sporting purposes alone. To that extent, I believe we would be derelict if we did not approve this amendment.

Mr. DODD. Eighty percent of the guns used in the commission of crime are the very guns about which we are talking. How does it happen that 80 percent of these foreign imports are used in crime. We do not have any such figure for domestically produced weapons.

If Senators want to let loose on this country again the kind of situation we are now getting under control, which for many years plagued fathers and mothers and police officers and their families—and just about everybody else who had any thinking capacity with respect to what was going on in this Nation—if it is their desire to turn back and bring that situation on again, open the door again, we will all be the sadder for it. I do not know of any justification for it.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. DODD. I yield.

Mr. DOMINICK. I understood the Senator from Nebraska to indicate that if you wanted a foreign sporting gun, you could not get it in after a certain date.

Mr. HRUSKA. No. If it is for other than a sporting purpose, it cannot be brought in.

Mr. MURPHY. And that decision would be made by the Secretary of the Treasury.

Mr. DODD. The language is, if it is "suitable for sporting purposes."

Mr. MURPHY. That decision would rest directly with the Secretary of the Treasury. That point is very sensitive to me, because during my 4 years in the Senate I have had dealings with some of the appointive officers in the executive branch; and sometimes the meaning they read into a law is not exactly the meaning that Congress intended in writing the law. That is why I believe it might be hopeful and prudent to eliminate this. I do not see that any great harm would be done. They manufacture them as fast as there is a buyer; and if they do not import them, they will make them here.

Mr. DODD. They have not. All of these deadly weapons come in from outside the country.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DODD. I yield back the remainder of my time.

Mr. MURPHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN (after having voted in the affirmative). On this vote I have a pair with the senior Senator from Oregon [Mr. MORSE]. If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], and the Senator from Florida [Mr. SMATHERS], are necessarily absent.

I also announce that the Senator from Alaska [Mr. GRUENING] is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], and the Senator from Florida [Mr. SMATHERS] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], and the Senator from Maine [Mrs. SMITH] are necessarily absent.

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "nay."

The result was announced—yeas 6, nays 78, as follows:

[No. 283 Leg.]

YEAS—6

Bayh	Hickenlooper	Murphy
Curtis	Hruska	Thurmond

NAYS—78

Aiken	Goodell	Morton
Allott	Gore	Moss
Anderson	Griffin	Mundt
Baker	Hart	Nelson
Bible	Hartke	Pastore
Boggs	Hatfield	Pearson
Brewster	Hill	Pell
Brooke	Holland	Percy
Burdick	Hollings	Prouty
Byrd, Va.	Inouye	Proxmire
Byrd, W. Va.	Jackson	Randolph
Cannon	Javits	Ribicoff
Carlson	Jordan, N.C.	Russell
Case	Jordan, Idaho	Scott
Church	Kennedy	Sparkman
Clark	Kuchel	Spong
Cooper	Lausche	Stennis
Cotton	Magnuson	Symington
Dirksen	Mansfield	Talmadge
Dodd	McClellan	Tower
Dominick	McGee	Tydings
Eastland	McIntyre	Williams, N.J.
Ellender	Metcalf	Williams, Del.
Ervin	Miller	Yarborough
Fannin	Mondale	Young, N. Dak.
Fong	Montoya	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hansen, for.

NOT VOTING—15

Bartlett	Hayden	Monroney
Bennett	Long, Mo.	Morse
Fulbright	Long, La.	Muskie
Gruening	McCarthy	Smathers
Harris	McGovern	Smith

So Mr. MURPHY'S amendment was rejected.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 minutes.

PVT. WILLY R. MICHALIK

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17022, a private bill, to give posthumous citizenship to a boy who was killed in Vietnam. This boy looked forward to becoming a citizen. This is the least our country can do for him in the way of an honor at this time. This matter has been cleared with the minority leader, the chairman of the Committee on the Judiciary, and its ranking minority member.

The PRESIDING OFFICER laid before the Senate H.R. 17022, an act for the relief of Pvt. Willy R. Michalik, RA-15924409, which was read twice by its title.

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, was read the third time, and passed.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the distinguished majority leader whether it is anticipated that the pending bill will be completed tonight and, if so, what the program will be for Thursday.

Mr. MANSFIELD. Mr. President, it is anticipated, with a little luck and continued cooperation, that the pending business will be completed tonight—we would all hope, at a reasonable hour. The time limitation on the amendments has been reduced somewhat, with the cooperation of the two Senators in charge of the bill, and those most interested.

Then, it is thought that tonight we would take up a private bill, Calendar No. 1315, on which the distinguished Senator from Arizona [Mr. FANNIN] will have a statement to make.

Also, if time allows, the Senator from Nevada [Mr. BIBLE] is prepared to take up the Senate-passed bill on the District of Columbia judges.

It is hoped that on tomorrow, with the concurrence of the distinguished chairman of the Finance Committee and the ranking minority member, that we will take up Calendar No. 1411, an act relating to the dutiable status of aluminum hydroxide, and so forth; then Calendar No. 1480, to amend the Tariff Schedules of the United States on certain nonmalleable iron castings; and possibly Calendar No. 1481, having to do with amendments to the Internal Revenue Code.

Mr. PASTORE. Mr. President, is there any way we could ascertain how many more amendments there might be tonight?

Mr. MANSFIELD. The Senator from Iowa has one. I believe there is another one. I would say that perhaps we can finish around 6 o'clock this evening. Amendments are available.

Mr. DIRKSEN. I thank the majority leader.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment of Mr. MILLER, is as follows:

On page 12, line 15, insert after the word "crime": "of violence".

On page 21, line 22, insert after the word "crime": "of violence".

On page 22, line 22, insert after the word "crime": "of violence".

On page 23, line 3, insert after the word "crime": "of violence".

On page 33, line 2, insert after the word "crime": "of violence".

On page 33, line 9, insert after the word "crime": "of violence".

Mr. MILLER. Mr. President, I shall be very brief. This amendment, offered by myself and the Senator from Kentucky [Mr. COOPER], is a technical amendment designed to make it clear that the type of crime for which there is an indictment or a conviction, which prohibits the issuance of a license under the bill, will be a crime of violence. So that in the appropriate places in the bill the phrase is "crime of violence punishable as a felony," rather than "crime punishable as a felony."

What we intend, I believe, is to get at those people under indictment, or who have committed crimes such as breaking and entering, robbery, felonious assault, mugging, kidnapping, manslaugther and the like. It might be possible to extend this to include crimes of violence of a mental nature such as extortion. But what we are not aiming at are those who may be under indictment or convicted for tax evasion, embezzlement, or mail fraud, those who have not committed a violent act in connection with their indictment or conviction.

I should like to point out that we leave alone in the amendment the definition of "a fugitive from justice." A fugitive from justice is one who is under indictment for a crime punishable as a felony. I do not believe it would be wise to make that a crime of violence because whether he is an embezzler, a person being sought after for kidnaping, or a crime of violence, does not make too much difference. He is the kind of person who may well acquire a firearm. So this has been left alone.

I would appreciate it if the Senator from Connecticut [Mr. DODD] would take this amendment to conference because I believe it is trying to do what we all want to do, and the matter could be cleared up in conference.

Mr. DODD. The Senator from Kentucky [Mr. COOPER], and the Senator from North Carolina [Mr. ERVIN], have already spoken to me, as has the Senator from Iowa about this amendment. Their judgment is very good and I am happy to take the amendment to conference. It is a sensible amendment and I think we should adopt it.

Mr. MILLER. Mr. President, I yield back the remainder of my time.

Mr. DODD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on adoption of the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HRUSKA. Mr. President, I yield 5 minutes to the Senator from Nebraska [Mr. CURTIS] on the bill.

Mr. CURTIS. Mr. President, I thank the Senator. I shall take no more than that.

I arise primarily concerning the work of my colleague, Senator HRUSKA, on this measure. The subject of gun control has been before the American people and before the Congress for a long time. It is our hope that whatever is finally enacted will be in the public good and will be sound, just, and fair, in accord with our Constitution and in accord with our federal system.

This has been a most difficult subject to deal with. It is something that has been wrought with emotion. That does not mean the subject is unworthy of consideration. It does mean that it requires care, that it requires study, that attention must be given to the legislative language.

An examination of the hearings will show the long, intensive work devoted to this bill by my colleague, Senator HRUSKA. I am sure that, whatever turns out to be enacted into law, it will be a much better law because of the long hours he has spent in studying this matter, in the questioning of witnesses, in the care taken in drafting the measure—and something more than that. I believe that opposition to a legislative proposal plays a very important part in our legislative process. I think that Senator HRUSKA has rendered a very distinctive service to the public because he has opposed and because he has required the proponents to submit their proposals not only to the public, but to the press, to the committees, and in other ways required that they prove their case.

For that reason, I rise to pay tribute to Senator HRUSKA for his long hours of work.

I would not minimize the endeavors of any of the other members of the committee, but I think sometimes when a Senator takes a position that in many places is unpopular, he renders a peculiar service to our country.

Certainly, laws that are hastily considered, certainly laws that are the subject of emotion, are not in the public interest; and for that reason, for a long time we will reap the benefits of the splendid service rendered by my colleague, Senator HRUSKA.

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

Mr. CURTIS. I yield.

Mr. DODD. I would like to say to the Senator from Nebraska that I join him in the sentiments he has expressed here. I have had occasion to work with Senator HRUSKA for some years. He is a worthy, decent, capable man to work with, and he made a great contribution to our studies of this problem.

Mr. CURTIS. I thank the Senator. I want to say to the Senator from Connecticut that he has worked diligently, long, faithfully, and conscientiously, and I commend his efforts, and those of the other members of the committee. However, I called attention particularly to a role that had to be played by someone at a time when the tendency might have been to act hurridly and without careful scrutiny that comes only from opposition and requiring the proponents to prove their case.

Mr. President, I yield the floor.

Mr. MOSS. Mr. President, I send an amendment to the desk and ask for its present consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed at this point in the RECORD.

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

The amendment is as follows:

At the appropriate place, add a new title IV beginning on page 64 entitled, "Joint Committee To Investigate Crime".

"SEC. 401. (a) There is hereby created a Joint Committee To Investigate Crime, to be composed of seven Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, and seven Members of the Senate to be appointed by the President pro tempore of the Senate. In each instance not more than four members shall be members of the same political party.

"(b) Vacancies in the membership of the joint committee shall not affect power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection.

"(c) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress.

"SEC. 402. (a) The joint committee shall make continuing investigations and studies of all aspects of crime in the United States, including (1) its elements, causes, and extent; (2) the preparation, collection, and dissemination of statistics thereon, and the availability of reciprocity of information among law enforcement agencies, Federal, State, and local, including exchange of information with foreign nations; (3) the adequacy of law enforcement and the administration of justice, including constitutional issues pertaining thereto; (4) the effect of crime and disturbances in the metropolitan urban areas; (5) the effect, directly or indirectly, of crime on the commerce of the Nation; (6) the treatment and rehabilitation of persons convicted of crimes; (7) measures for the reduction, control, or prevention of crime; (8) measures for the improvement of (a) detection of crime, (b) law enforcement, including increased cooperation among the agencies thereof, (c) the administration of justice; and (9) measures and programs for increased respect for the law.

"(b) The joint committee shall report to the Senate and the House of Representatives, from time to time, the results of its investigations and studies, together with such recommendations as it may deem desirable. Any department, official, or agency engaged in functions relative to investigations or studies undertaken by the joint committee shall, at the request of the joint committee, consult with the joint committee from time to time with respect to such functions or activities.

"SEC. 403. (a) In carrying out its duties, the joint committee or any duly authorized subcommittee thereof is authorized to hold such hearings and investigations, to sit and act at such places and times within the United States, including any Commonwealth or possession thereof, whether the House or the Senate is in session, has recessed, or has adjourned, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems necessary. The joint committee may make such rules respecting its organization and procedures as it deems necessary. No recommendation may be reported from the joint committee unless a majority of the committee is present. Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or by the joint committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses.

"(b) The joint committee may appoint and fix the compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable; and, with the prior consent of the heads of departments or agencies concerned and the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Federal Government, as it deems advisable. The joint committee is authorized to reimburse the members of its staff for travel, subsistence, and the other necessary expenses incurred by them in the performance of the duties vested in the joint committee other than expenses in connection with meetings of the joint committee held in the District of Columbia during such times as the Congress is in session.

"SEC. 404. The expenses of the joint committee shall be paid one-half from the contingent fund of the House of Representatives and one-half from the contingent fund of the Senate, upon vouchers signed by the chairman or the vice chairman of the joint committee."

Mr. MOSS. Mr. President, I shall explain the amendment briefly. I yield myself 3 minutes.

Mr. President, the amendment that is now offered is a joint resolution that has been pending in this body since June 1967. It would create a joint committee to investigate crime. The committee would be made up of seven Members from the House and seven Members from the Senate, with the chairman and vice chairman to rotate between each of the Houses annually, to investigate all aspects of crime.

The bill we are talking about today has been brought forward as something to check and have an effect upon crime. For the first time this committee would investigate the causes of crime, exchange of data with law enforcement agencies, investigate causes of urban disturbances, improved procedures for attacking the problem of crime, and investigate means of increasing respect for law.

This joint committee would, of course, not be a legislative committee; it would simply report to the Congress on its findings.

It seems to me that Congress has the legislative obligation to move into the field of dealing with what many think is the greatest issue before us today, and that is crime in our country.

The identical language of this resolution was presented to the House of Representatives in House Joint Resolution 1; and on a rollcall vote, it passed the House of Representatives 312 to 8. Since that time it has been awaiting action here in the Senate.

The resolution was sponsored by 21 Senators in this body from both sides of the aisle. It was bipartisan. I am sure it is one that all of us feel we very much need, if we are going to attack the grave and serious problem that confronts us all over the country.

I know we have machinery in various committees to do this, but what this effort would do would be to bring into focus the fact that, after all, Congress, through a joint committee, wants to attack the problem of crime—not only detection, rehabilitation, and conviction of criminals, but also the basic causes of crime, and to compile the data and bring it in a report to Congress.

The President has appointed commissions for special purposes at various times, but they have ceased to exist after an investigation of rioting or whatever the purpose was. This joint committee would continue and would be of use to us here in the Congress. It would also underline that we, too, here are accepting our responsibilities and we are moving in this field.

I ask that the amendment be adopted and that we take it to conference with the House, which, I am sure, will concur in it since the House voted overwhelmingly for the same thing originally.

I am glad to yield to the Senator from Maryland [Mr. TYDINGS] for 3 minutes.

Mr. TYDINGS. Mr. President, I support the resolution offered as an amendment by the Senator from Utah. This is a measure which he and I have worked on together for some 2 years. I think it is an important measure. It would establish a very important Senate-House committee, one which I think is vitally needed.

No problem which faces the United States is any more grave than the problem of crime and disorder. The measure would provide machinery for a joint Senate-House committee to work in this field. The measure was passed nearly unanimously by the House of Representatives. I support the distinguished Senator from Utah 100 percent.

Mr. MOSS. Mr. President, I thank the Senator from Maryland. I reserve the balance of my time.

Mr. HRUSKA. Mr. President, I have some regret that the measure as to which the Senator from Utah has drawn his amendment is brought up in this fashion, frankly. It is a proposal to create a commission. That commission should be entitled to a bill in its own right, which would create it and sustain it.

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

Mr. HRUSKA. I yield.

Mr. EASTLAND. This measure is pending before the McClellan subcommittee at this time.

Mr. HRUSKA. That is correct.

Mr. EASTLAND. It is under active consideration in the Committee on the Judiciary, and hearings are planned on this very proposal. What this amounts to is an attempt to discharge the Committee on the Judiciary.

Mr. HRUSKA. It is on that score that I would feel very reluctant to favor that measure as an amendment to this bill. I think it should stand on its own feet, as an independent act. As a matter of fact, it came up only recently, and there has been no delay in its consideration. I think we ought to avoid the possible implication that there is the equivalent of

the discharge of a committee involved, and anything that might be inferred therefrom. I sincerely hope that the Senate will take those matters into consideration.

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

Mr. HRUSKA. I yield.

Mr. McCLELLAN. I should like to make one observation.

I am not necessarily opposed to the establishment of a Joint Committee on Crime. The Permanent Subcommittee on Investigations is vested with the power to investigate crime at practically all levels. Presently, the subcommittee is in the process of investigating riots, civil disobedience, and other related criminal activities.

If it is the will of Congress to set up a Joint Committee on Crime, we should have hearings on such a proposal. The power given such a committee would have to be withdrawn from the Permanent Investigations Subcommittee. I hasten to remind my fellow Senators, however, that six different times, or at least five times, the Senate has passed unanimously a bill creating a Joint Committee on the Budget, but each time the House of Representatives has refused to pass such a bill.

I say to the Senate that if we cannot deal with our difficult fiscal problems with a joint relationship and a joint effort, I have some concern about our setting a precedent dealing with a joint effort in other matters such as crime.

I think there should be a candid relationship, and I think in many instances joint committees are effective. Perhaps in the investigation of crime a joint committee would be the better way to do it.

I say, in the presence of the chairman of the Committee on Rules and Administration that at the beginning of this session when the rioting occurred, there was a proposal to set up a joint committee to investigate that rioting. I went to the chairman of the Rules Committee, and also to the leadership of both parties, and suggested that a joint committee investigate the rioting, rather than the Permanent Investigating Committee.

The authority was given to the investigating subcommittee and we are doing the best we can, but now we are confronted with this amendment.

Senators will recall that yesterday I opposed an amendment offered by the distinguished minority leader, because I thought it was not germane to S. 3633, and because I thought it was a matter that should go through the ordinary committee processes. I opposed attaching to S. 3633 that kind of amendment.

If this is the way the Senate wants to proceed, to circumvent the ordinary committee process then I will offer as an amendment to establish a joint committee on the budget. Then I should like for the conferees to be instructed, that they either get both of these amendments retained in the bill, or take them both out.

If Senators want that kind of arrangement, all right. But I do not believe in yielding to the House of Representatives on the matter of crime when we get no consideration from them in trying to make a joint approach to grave fiscal problems.

I do not intend to unduly criticize the House of Representatives, but the Senate would be passing this amendment without any hearings, and without the due process of this body.

I want it understood that I have no objection to creating a joint committee, if that is the way Congress wishes to proceed, because investigating work is tedious, difficult, and unpleasant.

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

Mr. McCLELLAN. I yield.

Mr. EASTLAND. A vote for this amendment is, in reality, a vote to discharge the Senate's investigating subcommittee; is that not correct?

Mr. McCLELLAN. Of course. It would have that effect.

Mr. President, if this is the will of the Senate and the way it wants to proceed, then I want to use the same process to get enacted into law a bill to create a joint committee on the budget, such as the Senate has passed five times unanimously. I intend to offer it as the next amendment.

Mr. DODD. Mr. President, in view of what the distinguished Senator from Arkansas has said here, I wonder if the Senator from Utah would not reconsider his offering of his amendment, for two reasons, one being the possibility, which I am sure none of us, certainly including the Senator from Utah, would want to have happen, and that is to take any jurisdiction away from the subcommittee of the Senator from Arkansas, and, second, as I understand the parliamentary situation——

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DODD. As I understand the parliamentary situation, the House of Representatives has acted on this matter.

Mr. MOSS. That is correct.

Mr. DODD. So we could not take it to conference; if we act upon it here, it is a passed bill, is that true?

Mr. McCLELLAN. We can go to conference on this bill.

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

Mr. DODD. Yes; I yield. I wonder if the Senator will not consider withdrawing his amendment.

Mr. MOSS. Mr. President, let me say, in the first place, this is not designed to take jurisdiction away from any existing committee or subcommittee. It is to create a joint committee of the two Houses of Congress to investigate crime. I have listed all of the fields to which they are directed to point their investigation. It is not just some specific area, like riots, or a particular crime; it is the whole field of crime.

Second, this matter has been before us since the 23d day of June 1967, and we have not had any hearings. I have pleaded for hearings, I have written letters asking for hearings, and I have talked to the Senator from Arkansas about it. I have done everything I could, and there are 23 Senators in this body, from both sides of the aisle, who have been taking an active part in trying to get this done.

Now, when we think perhaps we are within 2 weeks of the end of the session, it is said, "Well, we will have hearings. We will proceed in the regular, orderly way."

If we could not proceed in more than a year to have any hearings, I think the most orderly way might be to put it in this bill, which has to do with limiting crime, and see if this body wants to make a record, the way the House of Representatives did when it voted 312 to 8 to create this joint committee.

NARRATIVE EXPLANATION OF GUN MURDER PROFILE

Mr. DODD. Mr. President, the opponents of gun legislation have argued that gun murders are crimes of impulse or passion, that the killer is a noncriminal before committing murder in the majority of cases, and that no law would prevent such people from legitimately buying guns.

In order to establish the facts, a staff study was initiated by the Juvenile Delinquency Subcommittee to determine the personal backgrounds of America's gun killers and the circumstances of the murders in which they were involved.

Over the past 9 months we have collected two file cabinets full of information—facts, not fancy—on over 1,000 gun killers in 66 cities spread across America.

We know that gunmen account for 63 percent of our murders annually and that their toll of lives ran to 7,600 in 1967. All the evidence points to the conclusion that the figure will be much higher this year.

With these facts in mind, let me highlight some of the results of our murder study.

Our final product is captioned "Profile of a Gun Murderer, 1967." It is a conclusive documentation of the backgrounds of America's gun killers, based on the best information available, taken directly from the arrest reports of our Nation's major police departments.

The documentation completely shatters the argument of the National Rifle Association that murderers for the most part are not criminals.

Of more than 1,000 gun murder defendants whose cases were studied, 712 or 71 percent had criminal records prior to the time that they committed murders. In fact, the 712 gun murder defendants between them had a grand total of 4,796 prior criminal arrests, which works out to an average of 6.7 previous arrests before their arrest for murder.

The study also revealed the following facts:

In 63 percent of the murders, the defendant and the victim were known to each other, either as relative, friend, or acquaintance.

In 82 percent of the cases, the murder resulted from a fight, a domestic quarrel, or a family argument.

In every case the ready availability of firearms was a major factor for the simple reason that it is easier to kill with a gun than with any other weapon. As psychologists have demonstrated, the terrible ease with which a trigger can be

pulled plays a large role in many murders, especially in the so-called crimes of passion. In such crimes, instead of the finger pulling the trigger, it is frequently the trigger which pulls the finger.

The Juvenile Delinquency Subcommittee has prepared a chart detailing the information from 66 cities out of 71 that submitted adequate information which makes up the "Profile of a Gun Murderer." I would like to insert this chart at this point in the RECORD.

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

PROFILE OF A GUN MURDERER

City	Number of defendants arrested	Juveniles	Number of defendants with prior arrests	Total number prior arrests	Relationship				Circumstances			
					Family	Acquaintance	None	Unknown	Domestic	Altercation/argument	Felony	Unknown
1. Akron, Ohio	18	1	13	78	6	7	4	2	6	7		5
2. Albany, N.Y	4		4	13	1	1	2		1	3		
3. Allentown, Pa.[1]												
4. Amarillo, Tex	2		2	17		1	1			2		
5. Beaumont, Tex	4		2	10	2	1	1		3			1
6. Berkeley, Calif	1		1	17			1				1	
7. Boston, Mass	17		10	101	5	5	3	4	5	12		
8. Buffalo, N.Y	7		7	50		4	3		1	3	2	1
9. Camden, N.J	7	2	6	73	1	3	3		1	5		1
10. Canton, Ohio	4		2	6	2	1	1		2	2		
11. Charlotte, N.C	8		7	21	3	5	1		3	5		
12. Chattanooga, Tenn	16		9	36	2	13	1		2	14		
13. Chicago, Ill	34	1	19	74	6	16	13		6	17	11	1
14. Cincinnati, Ohio	35		23	118	13	14	7	1	12	16	6	1
15. Cleveland, Ohio	57	4	33	165	8	20	21	9	8	23	16	11
16. Columbus, Ga	4		2	14	1	3			1	3		
17. Columbus, Ohio	19		8	(2)	8		11		8	9	1	1
18. Corpus Christi, Tex	14		9	127	6	6	1		6	7		
19. Dallas, Tex.[1]												
20. Dearborn, Mich.[3]												
21. Denver, Colo.[1]												
22. Des Moines, Iowa	2		1	1		2				2		
23. Detroit, Mich	172	12	120	1,115	38	64	44	3	38	88	16	8
24. District of Columbia	64		53	370	10	31	10		9	35	5	2
25. Fresno, Calif	5		3	25	2	2			2	2		
26. Greensboro, N.C.[1]												
27. Honolulu, Hawaii	10		7	54	2	7	1		2	7		1
28. Indianapolis, Ind	12		6	22	7	5			7	5		
29. Jersey City, N.J	8		4	29	1	3	4		1	5	2	
30. Kansas City, Mo	19		19	147		10	9		1	15	3	
31. Knoxville, Tenn	11		8	75	2	8		1	2	7		2
32. Lincoln, Nebr	1		1	12			1				1	
33. Little Rock, Ark	11		6	21	3	2	2	3	3	4	1	2
34. Los Angeles, Calif	32	2	25	204	9	10	13		9	17	6	
35. Madison, Wis.[3]												
36. Miami, Fla	20		14	97	4	3	13		4	10	5	1
37. Minneapolis, Minn	10	1	7	70	4	12	1		4	11	1	1
38. Montgomery, Ala	13		10	89	4	3	7		4	10		
39. Nashville, Tenn	28		22	271	5	9	14	2	5	18	1	6
40. Newark, N.J	6		6	31	4	2			4	2		
41. New Haven, Conn	5		5	17	1	1	1	1	1	2		1
42. New Orleans, La	9		5	31	2	1	6		3	3	3	
43. Newport News, Va	8		7	41	2	4	2		2	6		
44. New York City, N.Y	49	1	30	110	4	15	28	2	4	41	4	
45. Niagara Falls, N.Y	2		0	0		2					2	
46. Norfolk, Va	13		6	52	1	7	5		1	9	3	
47. Oakland, Calif	24		18	118	9	10		5	9	8	7	
48. Omaha, Nebr	19		11	68	7	5	6		7	9	2	
49. Paterson, N.J	5		3	14		3	2			5		
50. Philadelphia, Pa	77	11	46	208	23	16	38		22	43	5	7
51. Portsmouth, Va	6		6	21	1	3	2		1	4	1	
52. Providence, R.I	3		2	8	1	1	1		1			2
53. Richmond, Va	28		19	112	6	2	19		6	17	2	2
54. San Francisco, Calif	24		17	72	5	11	8		5	13	6	
55. St. Louis, Mo	23		18	118	7	9	6		7	15		
56. St. Paul, Minn	6		5	32	2	4			2	4		
57. San Antonio, Tex.[1]												
58. San Diego, Calif	6		5	30	1	2		3	1	3		2
59. Scranton, Pa.[3]												
60. South Bend, Ind	5		4	11	1	2	2		1	1	3	
61. Spokane, Wash	1		0	0	1				1			
62. Syracuse, N.Y	5		3	15	2	1	2		2	3		
63. Tacoma, Wash	6		4	27		3	3			6		
64. Tampa, Fla	13		12	(2)	4	3	6		5	8		
65. Topeka, Kans	2		1	0	1		1		1		1	
66. Tucson, Ariz	5		4	43		2	3			5		
67. Utica, N.Y												
68. Wichita, Kans	9	1	6	42	4	3	2		4	5		
69. Worcester, Mass	1		0	0	1				1			
70. Yonkers, N.Y	4		1	15	2		2		2		2	
71. Youngstown, Ohio	9		5	35	4	4	1		4	5		
Total	1,042	36	712	4,796	251	387	389	36	253	581	119	59
Profile (percent)			71	6.7	63				82			

City	Age		Type of gun used												Total with felony arrests
	1st arrest (average)	This arrest (average)	Rifles		Shotguns	Handguns								Not known	
			.22	Other		.22	.25	.32	.38	.45	6.35	7.32	9 mm.	Other	
1. Akron, Ohio	23.8	37.4	1		3	4	3		2			1		4	9
2. Albany, N.Y	27.5	43.2				2		1	1						3
3. Allentown, Pa.[1]															
4. Amarillo, Tex	17.5	25.5				2									1
5. Beaumont, Tex	26.0	46.2			2	2									1
6. Berkeley, Calif	30.0	41.0	1												
7. Boston, Mass	26.1	35.5			4	3	2	3	2	1	1	1			7
8. Buffalo, N.Y	26.2	39.1			1	1	2	2	1						4
9. Camden, N.J	19.1	27.3				2		1	1				1	1	4
10. Canton, Ohio	27.2	28.0	1		1	1			1						
11. Charlotte, N.C	22.4	35.7	2			2	1	1	1					1	6
12. Chattanooga, Tenn	33.0	42.9			1	1		1						13	4

Footnotes at end of table.

PROFILE OF A GUN MURDERER—Continued

City	Age: 1st arrest (average)	Age: This arrest (average)	Type of gun used: Rifles .22	Rifles: Other	Shotguns	Handguns: .22	.25	.32	.38	.45	6.35	7.32	9 mm.	Other	Not known	Total with felony arrests
13. Chicago, Ill	23.7	27.2	1		6	8	4	9	5	1						11
14. Cincinnati, Ohio	27.1	35.6	4		5	15	25	4	1		2					17
15. Cleveland, Ohio	24.2	31.0	3	1	1	7	2	7	14		1				18	19
16. Columbus, Ga	36.6	47.5				3	1									
17. Columbus, Ohio	28.8	27.8		1	3	7	4	1	3	1						(2)
18. Corpus Christi, Tex	29.3	38.3			1	8	1	1	1	1					1	9
19. Dallas, Tex.[1]																
20. Dearborn, Mich.[3]																
21. Denver, Colo.[1]																
22. Des Moines, Iowa	31.5	32.5	1						1							
23. Detroit, Mich	(2)	28.2	7	9	24	18	12	15	34	1			2	25	10	8
24. District of Columbia	23.2	33.8		1	2	14	2	11	12	2	2		1	6		3
25. Fresno, Calif	26.3	43.4	1			1		1	2							
26. Greensboro, N.C.[1]																
27. Honolulu, Hawaii	21.5	29.7		2	1	1	1	1	5	1					1	7
28. Indianapolis, Ind	33.5	43.0			1	2		1	7					1		3
29. Jersey City, N.J	26.3	31.1			1	1		3		1				1	1	4
30. Kansas City, Mo	23.3	33.7			3	3	1	1	6	1				1	2	11
31. Knoxville, Tenn	31.5	41.4	1		1	1		2	3	1			1	1		4
32. Lincoln, Nebr	18.0	33.0			1											1
33. Little Rock, Ark	24.5	32.9		2		2	2	1	2		1			1		5
34. Los Angeles, Calif	20.0	29.3	2	2	1	10	4	3	15					1		19
35. Madison, Wisc.[3]																
36. Miami, Fla	27.0	35.7	1	1	2	7	1	1	1		1		1	4		12
37. Minneapolis, Minn	32.1	36.6	1		1	4	1	2	6					1		7
38. Montgomery, Ala	32.5	47.4		1	4	5			1	1				2		10
39. Nashville, Tenn	27.9	38.2			8	3	2	2	8					7		15
40. Newark, N.J	17.6	26.5	2		1	2								1		3
41. New Haven, Conn	28.8	34.4			2	1			1		1					1
42. New Orleans, La	30.0	38.6				5			3						1	2
43. Newport News, Va	31.1	38.3			1	2	1		2						2	
44. New York City, N.Y	25.2	34.6	3	4	4	16	3	7	6				1		3	23
45. Niagara Falls, N.Y	26.5	26.5						2								
46. Norfolk, Va	27.0	35.0	2	1	3	3	1	3								4
47. Oakland, Calif	27.4	37.4	1	2		5	4	2	4	1			1	4		12
48. Omaha, Nebr	24.7	33.0	2		1	3	1	1	8	2						4
49. Paterson, N.J	31.0	33.4						3	2							3
50. Philadelphia, Pa	22.7	29.6	7	1	5	26	4	9	18				2	3	2	39
51. Portsmouth, Va	32.8	42.0			1									2	3	4
52. Providence, R.I	18.6	23.6	1		1	1										1
53. Richmond, Va	26.7	33.2		1			2							24	1	12
54. San Francisco, Calif	27.8	35.5		1	1	7	2	4	7	1				1		9
55. St. Louis, Mo	25.9	32.8	1		2	4	4	3	7						2	12
56. St. Paul, Minn	25.3	32.6			3	3										3
57. San Antonio, Tex.[1]																
58. San Diego, Calif	24.8	32.4			1	1		2	2							
59. Scranton, Pa.[3]																
60. South Bend, Ind	20.0	23.6			3									2		2
61. Spokane, Wash	42.0	42.0				1										
62. Syracuse, N.Y	22.0	26.8					1	4								
63. Tacoma, Wash	22.3	30.0		1		3	1								1	3
64. Tampa, Fla	(2)	(2)			2	4		2	3					2		(2)
65. Topeka, Kans	43.0	44.5	1					1								1
66. Tucson, Ariz	23.8	31.0			1	3	1									3
67. Utica, N.Y.[3]																
68. Wichita, Kans	19.0	28.5	1	1		4	1	1	1							4
69. Worcester, Mass	27.0	27.0			1											
70. Yonkers, N.Y	29.2	30.0		1					1					2		1
71. Youngstown, Ohio	30.0	42.8				2	1	4	2							4
Total	26.6	35.0	48	33	111	236	98	123	203	16	9	2	10	94	65	460
Profile (percent)																64

[1] Inadequate for tabulation.
[2] Unknown.
[3] None.

WHO WANTS GUN CONTROLS?

Mr. DODD. Mr. President, the tide of public opinion in favor of the strongest kind of gun controls is evident at every turn.

My office has been inundated with letters of support, demands for action by Congress and hosts of newspaper stories reflecting public opinion in communities across the Nation.

For the information of my colleagues, Mr. President, I ask that a selection of news stories and editorials, which I believe to be respresentative, to be printed in the RECORD at this point.

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

[From the Louisville (Ky.) Courier-Journal, Sept. 12, 1968]

BIKES, GUNS AND APPLE PIE

License bicycles? Why, you might as well license guns. Or mother's apple pie. Surely, the Board of Aldermen hasn't thought this thing through. Any red-blooded American can see this is the first step toward confiscation of bicycles. Nothing could please those dirty, Commie rats more. Without bicycles people wouldn't be able to get to the bomb shelters in time; our population would be left defenseless.

Anyway, bicycles don't kill people; people kill people. Why blame the poor, innocent bicycle? Licensing would only penalize the honest, law-abiding, right-thinking cyclists. Criminals would still steal them; some people would still misuse them riding sidesaddle, cutting in front of trailer trucks, knocking down God-fearing pedestrians.

The thing to do is to enforce the law against the people who abuse bicycles; better still, make it stiffer; give 'em life without parole. It would help, too, if the courts would stop turning loose bicycle thieves all the time. Every time you turn around you see a bicycle thief wheeling away from court. This soft-headed, muddle-brained attitude has bred a widespread disrespect for law and order. No wonder decent Americans are afraid to walk on the sidewalks anymore.

Furthermore, why license bicycles just in the city? That won't do the job, and it'll hurt business. People will just go to the suburbs to buy and steal their bicycles.

If all of this sounds familiar, it should. It is a sample of the kind of argument used against an effective gun control ordinance which seemed to impress a majority of the aldermen and the Mayor.

They are not, however, our arguments. We see nothing wrong with licensing bicycles. If dogs and cars, why not bikes? Or guns?

[From the Carmel (N.Y.) Putnam County Courier, Aug. 1, 1968]

CONGRESSIONAL PARALYSIS AND THE GUN LAW

Better than eight out of every ten people in America have expressed their desire for a strong gun legislation to curb the insanity of a nation gone wild with the gun mystique.

Yet no matter what is said, what is done, Congress has consistently ignored public opinion, and this paper for one would like to know why.

THE RECORD

The record more than speaks for itself, and it is one of insanity, ridiculousness, and bordering disbelief.

Every year between 50 and 200 million pistols, revolvers, rifles, and other bullet projecting firearms are purchased in our society. Two-thirds of these are purchased through the mail, and all of them are negotiated as easily as a loaf of bread.

The record shows that in Los Angeles, there are more guns than in all of Saigon. The

American image inspired a communist national poet to write poems depicting the stars in our flag as bullet holes. Great propaganda material for them, and free too!

THE NRA

The record shows that 84% of this nation's people prefer a strong gun law, yet every time the subject reaches congress, the 1,000,000 member National Rifle Association thwarts every effort to make changes. Every drive to accomplish gun law legislation has been met by an N.R.A. counter movement, and the result has invariably been congressional paralysis.

Mysteriously all further efforts dissipate till the next drive. The N.R.A. apparently wields a greater power and influence than all of us suspected.

New York State Assemblyman Leonard Slavisky was told by an N.R.A. representative that they tell legislators "We will terminate from public office anyone who disagrees with us" and the legislators believe them.

The NRA also boasts that within 72 hours they can produce half a million letters from its members on any gun bill. Yet they consistently deny that they represent or do any lobbying whatsoever. The pentagon as a courtesy supplies cut rate surplus weapons and free ammunition to the safety and conservation programs for gun owners which is of course part of the N.R.A.

Perhaps it's not altogether a complete mystery as to why congress just can't seem to accomplish anything better than, as President Johnson described it, a "watered down" and "halfway" gun bill, when one realizes that at least two dozen congressmen are N.R.A. members.

THE STATISTICS

In only one year more than 20,000 Americans in America were gun fatalities, including 7,000 murders and homicides. There were 10,000 suicides, 3,000 accidental deaths and better than 100,000 wounded by gunfire.

Compare this to 29 murders in England, 37 in Japan (with one-half the population of the U.S.) Other nations such as France, Holland, etc., have similar records.

No one is expecting to end a problem of this size overnight, or with one law, but somewhere a first step, not a shuffle, but a sizeable step, must inaugurate a change.

Remington, Savage and Winchester, three of America's largest gun producers, deserve their first step salute for their stand urging the end to all mail order sales on rifles and shotguns. If the producers can take a first step why can't the NRA do the same, and congress, too?

We agree that for the most part the members of the NRA, and all gun enthusiasts are aware of what's right and wrong and abhor violence of any kind. What's wrong then with a license for the gun and the ammunition that goes in it as well. It could keep those guns out of the hands of the wrong people and thus spare the lives of many innocent people. We ask—what's wrong with that?

[From the Parkersburg (W. Va.) Sentinel, June 20, 1968]

WHO CONTROLS GUNS?

We cannot become too excited by those who fanatically denounce stricter gun laws as an intrusion upon their freedom. Almost all of the major countries of the world impose far more stringent gun controls than does the United States.

A survey by The New York Times, last week disclosed that in Britain, France, Belgium, the Soviet Union and Italy, ownership of firearms is considered a privilege, not a right, and the privilege is subject to strict legislation.

Nobody in Britain, for example, may have a firearm by night.

French laws are strict and unambiguous. They stipulate that arms purchasers must be over 21. Mail order sales are banned and all gun sales must be registered.

In France only the police and licensed guards are permitted to carry loaded firearms. Private persons with properly registered revolvers cannot carry them on their persons under any circumstances.

Gun control laws in Italy are similar to those in France and a certificate of police clearance and registration of the weapon are required.

In Spain, the procedures make it even more difficult to buy a gun. An applicant must tell the director general of security why he wants one, and the director may deny the request without giving a reason.

After the Spaniard gets a purchase permit and buys his gun, he must register it with the nearest post of the civil guard. Crimes in which shooting is involved are said to be rare in Spain.

Private ownership of rifles and revolvers in the Soviet Union is punishable by as much as two years imprisonment.

[From the Huntington (W. Va.) Advertiser, June 20, 1968]

STERN GUN LAWS CUT CRIME

The need of more rigid gun control legislation to reduce crime, particularly murders, has been forcefully demonstrated by statistics released by Sen. Jennings Randolph, D-W.Va.

In New York, which has a strong gun law, murders with guns during the years 1962–1965 amounted to only 31.8 per cent of all homicides reported.

The rates of murders in other states having strong laws during the same period were:

Pennsylvania, 43.2 per cent; New Jersey, 38.6 per cent; Massachusetts, 35.3 per cent; and Rhode Island, 24 per cent.

But in these states having weak laws the rates during the same period were much higher: Florida, 66 per cent; Arizona, 66.4 per cent; Nevada, 66.9 per cent; Texas, 68.7 per cent; Mississippi, 70.9 per cent; and Louisiana, 62 per cent.

These figures offer undeniable evidence that states having strong gun laws reduce the percentage of murders with firearms.

Statistics for three years also show that the number of murders with guns is significantly increasing. The number of such killings in 1964 reached 5,090 or 55 per cent of the total. The number in 1965 was 5,634 or 57 per cent of the total, and in 1966 the number reached 6,552, or 60 per cent of the total.

Still other figures demonstrated the need of legislation restricting the sales of rifles and shotguns. In 1964 the number of long gun murders reached 1,527; in 1965, 1,690; and in 1966, 1,747.

In each year the number killed with long guns was about 30 per cent of the total.

But besides those killed, statistics show an alarming increase in the number of aggravated assaults with firearms. In 1964 the number was 27,700; in 1965, 34,700; and in 1966, 43,500.

Since 1960 firearms have been used in the murder of 322 or 96 per cent of all 335 police officers killed.

Of these murders only 53 took place in northeastern states that have stringent gun laws and 151 in southern states having weak laws.

These statistics make clear why Sen. Randolph has joined Sen. Thomas Dodd, D-Conn., in sponsoring two additional gun control bills. One bill would restrict the mail-order sale of rifles and shotguns and the other would require federal registration of all firearms.

On the basis of statistics, these measures would unquestionably help reduce attacks and murders and would thus check the alarming spiral of crime throughout the country.

Responsible citizens can help toward their enactment by urging the support of their senators and representatives.

[From the Holyoke (Mass.) Transcript-Telegram, June 25, 1968]

THE GLOVES ARE OFF

President Lyndon B. Johnson has finally taken the gloves off in the battle against the indiscriminate sale and use of firearms. His proposal yesterday that legislation be passed to require registration of every gun in the nation and the licensing of every person using such is sound.

However sound it may be, it is also daring, for it flies in the face of all the arguments put forth by gun enthusiasts (we have often termed them "gun nuts," which is an unfair appellation for the vast majority). But does it really? Does registration and licensing preclude the ownership of guns? Are these restrictions in violation of the Constitutional rights of gun owners? The answers are obviously negative.

It is true that crimes and accidents resulting from gunfire will continue, but they will continue at a greatly lessened rate. As President Johnson notes: "Homes and city streets across the nation which might have rung with gunfire will be spared the tragedy of senseless slaughter. We will never be able to measure this violence that does not erupt. But our history tells us America will be a safer country if we move now . . ."

This is the point. By action taken now to restrict the scope of firearms we shall be saving the lives of countless of thousands of those who will follow us. This is a real investment in the future.

It is a grave disappointment that such men as Senator Eugene McCarthy are negligent in their awareness of the desperate need this country has for strict firearms legislation as he, in effect, puts himself in the camp of the dinosaurs who would do nothing. But hopefully there are sufficient legislators in agreement with the President—and the overwhelming majority of the American people—to enact sensible laws.

There are very few who advocate the full abridgement of the right to own and use weapons. But the gun enthusiasts who continue their opposition to almost all restrictions, should understand that registration and licensing is little different than the procedure they undergo to own and operate an automobile. This is not the same thing as denying legitimate shooters their full rights.

We hope President Johnson's message is acted upon as quickly as possible. It is a real investment in our future.

[From the Cleveland (Ohio) Plain Dealer, July 13, 1968]

LAWMAKERS DON'T HEAR GUNS BARK

Another shooting spree in New York where a sniper killed three persons and wounded a fourth focuses attention once more on gun legislation.

The slayer used an automatic carbine. This is a "long gun" which has long been illegal under federal laws against fully automatic weapons.

Another "long gun," a 22-caliber rifle, was used in Lakewood yesterday in the killing of one person and the critically wounding of a second.

Laws that cover the interstate sale, sales to minors, etc., of hand guns leave the country only half safe. With this in mind the administration has been pushing a measure which would provide for registration and licensing of all guns.

But the Senate Judiciary Committee shot down this proposal this week by voting amendments which would exempt rifles and shotguns from the new bill.

Citizens, horrified by the homicide rate, must step up their campaign to let their senators and congressmen know their desire for gun controls.

[From the Rockford (Ill.) Register-Republic, July 8, 1968]

REALISTIC GUN LAW

(From Newsday)

The President is right. All firearms should be registered and computerized by the FBI. Only in this way can reasonable control be exerted to help guard against the possibility that guns can too easily fall into the hands of assassins or potential criminals. The 50 states should be given first opportunity to establish systems of gun registrations; if they fail to do so, the federal government should take over the job.

Sales of handguns by mail and under certain other restrictions already are limited, but long guns—shotguns and rifles—are under no control. Between 50,000,000 and 100,000,000 guns are in the hands of private citizens, all but a tiny majority of them law-abiding. These guns are owned mainly by sportsmen. Today, unregistered guns can be stolen from sportsmen and never traced.

Because of this lack of controls, guns can be bought over the counter, or by mail, by any criminal or malcontent who has the cash to pay for them.

This country has one of the worst homicide rates in the world, and one of the worst recent records for the assassination of public officers. The murder of Sen. Robert F. Kennedy is a poignant memory in the minds of all of us. The President's appeal should be heeded. It imposes only a minor inconvenience on the law-abiding. The proposed law would serve the nation well if it kept one weapon from the hands of one man who used it to kill a national leader or an ordinary citizen.

[From the Decatur (Ill.) Herald, July 8, 1968]

BOW AND ARROW BETTER

Last Wednesday's shootout in New York City's Central Park points up the fallacy of viewing the registration of firearms as a cure-all.

The alleged killer did not own the pistol used, having stolen it from a man he had visited. New York has comparatively strict gun laws, but so long as guns are in circulation the criminal and the deranged will manage to obtain them. And children will still find them and accidents will still occur.

Licensing laws do tend to keep firearms away from undersirables, however, and do help law enforcement officials solve gun-connected crimes. And mandatory waiting periods for the purchase of firearms do keep angry people from rushing out and buying a firearm for hasty—perhaps fatal—use.

Ultimately, however, Americans are going to be forced to face the problem of the sheer number and availability of guns. The only solution likely to have any substantial effect is the ban of at least some types of firearms.

Two types come to mind immediately: the pistol and the rifle.

The rifle holds an important place in the hunting world. But some states, in the interest of hunter safety, have already outlawed the rifle for deer hunting, substituting the shotgun with rifled slug. Illinois is one of these states.

There is little game which cannot be taken with the shotgun. If hunting with firearms is as crucial to the happiness and tradition of this country as some would have us believe, then it can be done with a shotgun.

If, however, sportsmen are really more interested in "being out in the woods," "watching the dog," and "pitting your skill against the game," then hunting with bow and arrow would seem to make more sense than gunning down some animal with a powerful firearm.

Those who would prefer to stalk, but not kill game might consider combining the hobbies of photography and hunting.

None of us likes restrictions. We all want as many options as possible. But we live in a congested and complicated world.

The teenager who enjoys drag racing on city streets does not want restrictions on his "rights," but they are there for the benefit of others. The man who likes "one for the road" does not like restrictions on driving while drinking, but they are necessary. Children do not like restrictions on possessing fireworks, but experience has shown that such restrictions are desirable.

Likewise, sportsmen and hobbyists can adjust to changing times and circumstances—in the interest of others.

The courts have held that the Constitution is not violated by restrictive gun laws. But if a constitutional amendment is necessary, it should be passed.

In the meantime, federal legislation calling for the licensing of both guns and gun owners, as well as restrictions on who may buy guns, is a needed first step.

It is the least a civilized country can do in the second half of the 20th Century.

[From the Newark (N.J.) News, July 15, 1968]

DEADLINE ON GUNS

Even though the need for stricter gun-control legislation daily becomes more apparent—the grisly incident on a South Bronx street being but the latest evidence—Congress continues to take a relaxed attitude.

An immediate blockade lies in the Senate Judiciary Committee. After ruling out, by a single vote, amendments on registration and licensing of long guns, the committee has taken refuge in delaying maneuvers against President Johnson's appointment of a chief justice and a federal judge. The thinly disguised filibuster on the judges could keep the gun law locked in committee until Congress adjourns.

The House committee handling companion legislation has shown itself to be no more amenable to promptness. There, too, amendments incorporating registration and licensing languish.

There can be no mistaking the public's attitude in favor of a national gun-control measure that would ban interstate mail-order traffic in shotguns and rifles and subject them to registration by serial numbers kept in a central file.

Members of both House and Senate report a preponderance of mail from individuals—not paid lobbyists—favoring such controls. Letters to The News are similarly abundant and supportive.

For once Congress ought to override the pressures of organized groups like the National Rifle Association and bring a reasonably stern law up for a vote on the floor of House and Senate. This still is possible before the Aug. 3 adjournment for the conventions. The opportunity should not be lost to deviously devised delaying moves.

[From the Nashville (Tenn.) Tennessean, July 5, 1968]

HOW MANY MORE MUST DIE BEFORE CONGRESS ACTS?

A 20-year-old woman was shot to death in New York City's Central Park and her sniper slayer fought a wild gun duel with officers until he was killed. Two officers and a bystander were wounded.

In hardly more than 12 hours after the Central Park slaying, another duel broke out in Harlem when a sniper shot and wounded a patrolman.

Earlier in the week, in Meridian, Miss., an Alabama fugitive armed with a submachine gun and a pistol was seriously injured and his woman companion, a member of the Ku Klux Klan, was killed in a shoot-out with police. A policeman and an innocent bystander, who stepped out on his porch to see was was going on, were critically wounded.

According to the Associated Press, a total of 169 persons were killed by guns in the U.S. during the week beginning at midnight, June 16. Of these, 93 were homicides, 62 were suicides and 14 were gun accidents. Whether this was an average week isn't clear, but what is clear is that violence with guns is steadily growing.

The Central Park sniper was evidently unbalanced. The Klansman in Mississippi with his submachine gun and pistol is said to have been wanted on two armed robbery charges and a prime suspect in at least a dozen bombings, burnings and shootings.

President Johnson called anew this week for gun control laws "to protect the American people against insane and reckless murder by gunfire."

Congress could—and should—respond to the President's urging for stronger gun control legislation. Unhappily, both Rep. Carl Albert in the House and Senate Democratic leader Mike Mansfield in the Senate have registered opposition to the President's proposal for stronger legislation.

Despite this opposition on the part of the Democratic leaders, the legislation can be passed, if enough people in this country are willing to express their sentiments to Congress. The National Rifle Association is expending an all-out effort to prevent any rational control of guns, and it could win by default.

How many innocent persons are going to have to be struck down by a sniper's bullet—in the park or on one's own porch—before Congress will move?

[From the Springfield (Mass.) Union, July 5, 1968]

GUNS NOT FOR EVERYONE

The fatal shooting in New York City's Central Park on Wednesday and the shots fired the same day at the brother of Sen. Robert Kennedy's accused assassin were only among the more dramatic of gun assaults that occur every day in this country. Obviously, something must be done to keep firearms out of the hands of irresponsible people. No amount of carping on the need to penalize "people, not guns" alters the fact that deadly weapons should not be easily available to felons, mental defectives or other incompetents.

Further delay in the passage of pending control laws that would make it harder for such people to get possession of guns can only mean more lives will be lost needlessly. Even Senate Majority Leader Mike Mansfield, whose Montana constituents are more against than for gun controls, supports two current proposals: that of President Johnson to ban interstate mail order sales of rifles and shotguns and Sen. Tydings' bill for licensing and registration of firearms. The latter, while in principle the same as a licensing-registration bill of the President's would give the states time to pass their own registration laws and would make license application simpler.

A National Rifle Association official said in regard to the Central Park incident that it only proved the appeal for additional gun laws was "distorted," since New York State already had the "most stringent" laws of that kind in the nation. Actually, the New York tragedy, and the more than 6,000 other fatal shooting annually in this country, underscore the need for strict universal gun control standards in the United States. Sensible curbs in one state can be nullified when arms are purchased in other states where controls are lax and brought in. Thus, of 4,506 taken from criminals in Massachusetts in the past eight years, 87 per cent had been brought in from Maine, New Hampshire and Vermont.

The most a responsible gun owner has to fear from controls is the need to register his weapons and get a license. It is inconceivable that any law-abiding and violence-deploring citizen would resent doing that much to help save lives.

[From the Miami (Fla.) News, July 3, 1968]

BUY A GUN FOR THE FOURTH?

The fact that sparklers have gone the way of the three-inch salute, cherry bomb, roman candle and sky-rocket as Fourth of July contraband is cause for nostalgia, but not necessarily regret.

We bow to the findings of the health and safety experts who say that sparklers cause too many burns to be excepted from the ban against fireworks.

What strikes us and a number of others as ironic, however, is the fact that while toy sparklers are outlawed, pawn shop windows and gun shops are full of noisemakers of a more deadly nature.

As one shopper remarked, you can't buy a sparkler to celebrate the Fourth, but whatever your purpose, you can walk into stores around town and buy a gun and bullets.

Some controls over the sale of these firearms are already on the books, but they are not enough. What is needed is total registration of guns and licensing of those who own them.

[From the Boston (Mass.) Herald Traveler, July 9, 1968]

CRUCIAL WEEK FOR GUN CONTROL

This is the crucial week in Congress for gun control legislation. The House will consider the Administration's bill to ban murder by mail order, and the Senate will hold hearings on measures to insure the licensing of gun owners and the registration of their weapons.

But despite the continuing carnage (if present rates continue, there will be a gun murder every hour during 1968) and despite the national will for effective laws (a recent Harris poll showed three out of every four Americans and two out of three gun owners want stricter controls), there is a good chance that Congress will take no effective action on firearms control.

Strong legislation got as far as it has because of a flood of letters and telegrams following the assassinations by gun of Dr. King and Sen. Kennedy. But the bills are stalled because the revulsion to lax laws has subsided somewhat while an appeal from the National Rifle Association has sparked a wave of anti-gun control mail.

Opponents of effective gun control legislation have two basic appeals. One is that such laws infringe upon a Constitutional right to bear arms. The second is that such laws are only a prelude to abolition of private guns. Both are phony.

The Second Amendment, in full, reads: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The meaning of this amendment was made clear by the U.S. Supreme Court in the 1939 U.S. v. Miller case. Miller had been convicted of violating the National Firearms Act by transporting an unregistered sawed-off shotgun across state lines. Upholding his conviction, the court said, "In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than 18 inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the second Amendment guarantees the right to keep and bear such an instrument."

And, as Atty. Gen. Ramsey Clark pointed out at the hearing held Monday by the Senate Juvenile Delinquency Subcommittee, registration and licensing would not be steps toward abolition. The aim of the proposed laws legislation—like the aim of requirements for the registration of cars and the licensing of drivers—is to control, not prohibit. Consider what the highway toll would be like in 1968 with 100 million unlicensed drivers operating 100 million unregistered motor vehicles.

For five cents, a citizen can send a post card to his Senator or Representative urging compulsory firearms registration and licensing. For a penny more, he can send a first class letter. And for $1 more, he can telephone the local Western Union office (in Boston, HU 2-8020) and send a 15-word telegram to Washington. We urge all citizens to cast their votes in what is, in effect, a national referendum on the question, "Should we have sane gun control laws?" Vote today. The life you save may be your own.

[From the Middletown (Conn.) Press, June 13, 1968]

CONTROLLING GUNS

Among the free nations of the world, the United States is unique in the freedom which its citizens have to possess arms.

Britain has a long history of firearms control, with the result that only 45 murders involving guns were recorded there last year as compared to more than 5,000 such slayings in the U.S. alone. The United States is much larger—about four times larger—but still the ratio would run about 180 to 5,000. All guns must be registered, and in the case of handguns or rifles, an applicant must show "good reason" for possession. "Self defense is most unlikely to be considered a good reason," according to the Home Office.

In France, strict rules are in effect. Thus during the last week of violence in France not one shot was fired by anyone and the only death was a stabbing. In Japan, pistols, carbines, and other small guns are absolutely prohibited for anyone except police and military personnel. About 800,000 shot guns are licensed in Japan only 30,000 rifles.

Throughout the world, the carnage is less than in the United States because of gun registration or rules. By contrast, it is estimated that California alone is actually awash with guns. The state attorney general said last week that he has official knowledge of 2,600,000 guns in California, about one weapon for every two or three adults.

But it is also true that the West sees the subject of gun controls in a far different light than other parts of the country. When Senator Robert F. Kennedy spoke in Oregon, the most hostile audience he faced was in a small town and the question they wanted answered was why he was supporting the gun law before Congress. Many observers have noted that any suggestion that there should be more rigid control of arms seems to be an attack on the heritage of the nation.

Today, however, the people are becoming alarmed. Dr. George Gallup says that most people in the nation "favor a law requiring the registration of all guns, a law banning the sale of all guns throughout the mail, and strict restrictions on the use of guns by persons under 18 years of age.

We believe that the time to act is now. There would seem to be little reason to sell guns through the mail, especially if no validated registration systems exists in the country. Nor do we believe that there would be a constitutional problem in banning the sale of guns to convicted felons, habitual drunkards, drug addicts, mental incompetents, and minors. Nor do we see why the country should not now register weapons.

The registration of guns will not magically reduce the number of murders in this nation overnight, nor will such a law end assassinations. But a start will be made. The present laws are most inadequate. Laxness is a disgrace and a danger to all. So long as the legitimate hunter or target shooter has an opportunity to obtain a weapon—which would not be prevented by registration—the constitutional rights which have long been conveyed would remain in force. But it's time to outshout the gun lobby.

[From the Allentown (Pa.) Call-Chronicle, July 5, 1968]

FIRE AWAY FOR GUN LAWS

Americans who want reasonable gun controls will have to do some hustling to beat down the hysterical attacks being whipped up against the entirely realistic registration proposals now before Congress and the Pennsylvania Legislature.

For a little while last month, an outpouring of mail from all parts of the country offered Congress convincing evidence that polls showing about 80 per cent of the people in favor of stronger controls are just about on target. Now, however, the million-member National Rifle Association which long has boasted about the tons of letters it can produce in a week is beginning to catch up. As a result, controls the President considers so essential in the crime fight are seriously threatened.

The gun lobby broadside, triggered from the NRA headquarters in Washington, is loaded with the same wet ammunition the paid propagandists have been firing for years. The biggest bang is that registration of guns is the first step to taking them away from farmers, hunters, target shooters, collectors or anyone else who has a legitimate use for these weapons. Those responsible for the noise apparently see the President and all others who advocate sensible laws as part of a treacherous Communist conspiracy.

If there was even the slightest shred of truth to this shibboleth or any of the other distortions being bandied about on the authority of the NRA, its members could save a lot of money and have a lot more time for honest shooting. This newspaper and all others would join them in fighting the proposals. So would most other Americans, including the President.

Fortunately, there is nothing more diabolic about a law requiring registration of guns for a modest fee than to one that calls for the licensing of all automobiles, motorcycles and dogs. Listing the ownership of automobiles doesn't seem to have reduced the number on the highways, but it has made it easier for police to identify those involved in killings. If registering guns would do nothing more, this would be enough to justify the proposed legislation.

Congress needs the assurance that this is the law most Americans want. The best way to give it to them is to bombard them with so many letters before the matter comes up again next Tuesday in the Senate Judiciary Committee that the will of the people can't be denied regardless of what the lobbyists threaten or promise.

[From the Cleveland (Ohio) Call and Post, July 13, 1968]

FOR GUN CONTROL

One reason why the National Rifle Association has been able to thwart the best efforts of local, state and federal legislators to enact effective gun control legislation is that, for the most part, they are either affluent or scared.

They are the Americans with enough leisure-and-means-to engage in trap-shooting, duck hunting, and the expensive shooting matches that are the so-called recreation of the idle rich.

A great number of them, of course, feel a special security in the possession of a varied arsenal of lethal weapons, because they are becoming more and more concerned about the rising tide of black revolution in this country, and are distrustful of law enforcement officials whom they think are being "too lenient" on civil rights demonstrators.

They yearn for the old days of the vigilantes, who, when they considered a local sheriff or federal marshall too bumbling or inept in the pursuit of his duties, simply gathered their pistol packing associates together and took the law into their own hands.

Today, even as in the days of the old west, the vigilante was an otherwise respected citizen with great regard for "law and order" even if he had to break the law to maintain it.

They are the people who contend that the criminal element among us would not register, and that many would get their hands on guns through theft or illegal traffic. But the inescapable impression is that they are more concerned that nobody gets the opportunity to check on the weapons they are stockpiling against "the day."

They piously plead the right to possess any number of guns under the constitutional provision that gives the U.S. citizen the right to possess arms, ostensibly to protect his home and property against intruders and thieves. There was a time in our history when, with law enforcement officials as scarce as hen's teeth, a man was virtually naked and defenseless without a shotgun or rifle in his humble cabin, and a well-oiled handgun strapped around his waist.

Today, there is no necessity for Americans to go about reenacting the saga of the wild west. There are many complaints that big-city police forces are understaffed, but this overlooks the fact that fewer would be needed if it were not so easy for any crook or crackpot to secure and conceal a gun, then walk among his neighbors with the instrument of death concealed on his person.

If a man thinks he needs a gun to protect his home, there is no reason why he should not buy one, register the purchase, and keep the gun in his home. When he puts the gun in his pocket and walks out into the public streets with it, his motives are instantly suspect. The assumption that he will use it against anyone who arouses his ire or seemingly threatens his security, is at least 50 percent plausible.

Gun control laws will cause him to think twice before using the weapon for a purpose other than to protect his own life. Because the gun is registered, fewer police, in less time, will be able to ferret out the gunman and bring him to justice.

A gun is a lethal weapon. Its possession indicates both the intent upon certain provocations and the potential to destroy life. What kind of life it destroys is the individual's decision, and those who guard against the wanton destruction of human life need to have as much knowledge as possible as to who the persons are who are to make these decisions.

[From the Meadville (Pa.) Tribune, June 27, 1968]

NO GUNS FOR THE UNFIT

Despite some bitter criticism and personal vilification from sportsmen and gun enthusiasts, we have endorsed proposed legislation to control traffic in guns ever since Sen. Thomas Dodd introduced his first bill in 1963. In supporting now President Johnson's proposal for registration of firearms and licensing of owners we do not oppose the ownership and legitimate use of guns by responsible persons.

There is some merit in the contention that such controls would not keep guns out of the hands of all irresponsible persons, that those intent upon obtaining firearms would obtain them by some means, legal or illegal. Even with stringent enforcement, no law ever receives 100 per cent compliance.

But all reasonable steps to keep guns out of the hands of minors, criminals, the mentally incompetent and drug addicts must be taken in an attempt to cut down on senseless killing in this country. Such killing includes the slaying of public officials as well as the death of any individual. Since guns, the most lethal of weapons, are used most often in killing and in the commission of many other crimes, curbs on their availability to irresponsible persons makes sense.

Such measures as have been proposed—ban on mail order sales of firearms and licensing and registration—would not interfere with a responsible citizen's right to own and use guns. Firearms still would be available to all qualified citizens who desire them. The inconvenience that might be caused legitimate gun buyers and owners would be small price to pay for greater public safety.

The hue and cry against registration and licensing is surprising. Sportsmen and gun owners usually use their cars to travel to target ranges or to hunting grounds. They do not object to licenses for hunting and fishing. They do not oppose the licensing and registration of motor vehicles and the licensing of their operators. The latter procedure in Pennsylvania and many other states seeks to prevent incompetent persons from operating motor vehicles just as licensing would seek to prevent incompetent persons from obtaining firearms.

For some reason gun enthusiasts interpret registration and licensing as the first step toward confiscation of firearms possessed by private citizens. Licensing and registration of boats and autos have not resulted in their confiscation. In the unlikely event that private ownership of firearms by responsible persons ever would be threatened, we would oppose such action as strongly as we now support gun control measures in the interest of public safety.

[From the Allentown (Pa.) Chronicle, June 28, 1968]

FIDDLING IN THE U.S. SENATE

The cause for stricter gun control legislation suffered a setback when the Senate Judiciary Committee voted to delay until July 9 action on a bill requiring registration of firearms and licensing of those who use them.

With their hearts set on an Aug. 3 adjournment so they will have ample time for politicking in their own behalf and at the national conventions, it is conceivable that members of the Senate and the House will opt to close up shop regardless of the urgency of any unfinished business.

And nothing is more urgent than strict gun control laws in light of the wave of violent crimes with guns, including assassinations.

The story of Nero fiddling as Rome burned certainly has its parallel in the U.S. Senate where there is a stubborn refusal to respond in positive fashion to the will of the people, who are overwhelmingly in favor of strong gun laws, and an equally stubborn refusal to acknowledge the statistical evidence on the relationship between guns and crime in the United States.

[From the Batavia (N.Y.) News, June 28, 1968]

NOW IT'S HEAD-ON

What kind of a gun control law should this country have?

This is the question before Congress once again. It has been before Congress for years but the harsh fact of the matter is that Congress, in its omniscience, if you please, has never faced up to the realities.

Rather, it has ducked and dodged and approached the issue fractionally and with fractional legislation.

This year, Congress can not be quite so clever. It must meet its responsibilities head-on. That is what the vast majority of the people expect.

Anything short of that will be gross neglect of duty and could subject many officeholders to defeat the next time they come before their constituents.

The principle of licensing and registration must be upheld as a check and balance long overdue.

[From the Springfield (Mass.) Union, June 29, 1968]

GUN CONTROL IN PERIL

The prospect of federal legislation that would help reduce the annual death toll by firearms in this country is fading fast. The opposition is stampeding gun owners into a letter-writing campaign against what it calls the "hysteria" of those who want to make guns less available to criminals and incompetents.

The Senate Judiciary Committee, whose chairman is anti-gun control Sen. James O. Eastland of Mississippi, was expected to be a hurdle, but not a barrier, for the President's bill that would add rifles and shotguns to the list of weapons banned for interstate mail order sales. But important things happened after the bill was filed. The President decided to press further. He asked for a federal law requiring registration of all guns and licensing of all gun users. Then the mail to Congress, which had been decidedly in favor of strict controls, switched to a strongly anti-control character.

The President may have played straight into the hands of the National Rifle Association when he decided to parlay the heavy pro-control sentiment into support for a licensing and registration bill. Harold Glassen, NRA president, had already stated that the ban on interstate sales would be only a "first step toward registration, then licensing. He warned of a "fourth and final step in what appears plainly a plan to disarm American citizens . . ."

There is some question as to whether a congressman judges his mail on the basis of how well the point is made on one side or the other, or whether he simply adds up the pros and the cons and goes along with the majority. The NRA is adept at triggering a barrage of mail from its huge membership to Congress; the sheer volume is impressive, but it falls far short of representing the voice of the people at large.

The national revulsion at the assassination of Sen. Robert F. Kennedy is obviously more representative. This is not "hysteria," but a revival of conscience, a new awakening to the need of gun controls that might have saved John F. Kennedy and Dr. Martin Luther King, Jr.—and many of the 6500 American civilians who died last year by firearms.

Pressure on Congress for gun control should not be relaxed, as opponents hope. The states should be enacting stronger controls of their own. Lt. Gov. Sargent notes that of the 4506 guns taken from criminals in the last eight years in this state, 87 per cent had come in from Maine, New Hampshire and Vermont—each of whose gun laws are weaker than this state's. This speaks volumes for no-nonsense gun legislation.

[From the Seattle (Wash.) Post-Intelligencer, June 10, 1968]

TRAFFIC IN GUNS

President Johnson is justifiably angered at the failure of Congress to enact meaningful gun control legislation. Every American who gives the subject sober thought should share the President's indignation.

The need for effective gun controls existed long before the assassination of Sen. Robert F. Kennedy, but that tragedy is the latest to dramatize the need.

Police investigators have determined that the snub-nosed pistol used to kill Senator Kennedy had passed unrecorded through the hands of four different owners before it came into the possession of the suspected assassin. It first was purchased by a Los Angeles man during the Watts riots in 1965. He gave it to a housewife, who gave it to a next door neighbor, who in turn sold it to the brother of the murder suspect.

It is this sort of unrestricted traffic in guns that must be stopped!

Late last week Congress did pass an omnibus crime control bill with a provision banning the mail order sale of handguns. But much more stringent regulations are required, including a requirement for the registration of all hand guns when sold or transferred to new ownership, the barring of sales to irresponsible persons, and controls over all types of mail order weapons.

The President is expected to propose

amendments to the new crime bill, to control the mail order sale of rifles and shotguns as well. Only last month, the Senate killed a bill that would have accomplished this. Among lawmakers opposing the legislation was Washington Sen. Henry M. Jackson.

It is time for an aroused public to demand that its representatives in Congress stop bending to the pressures of such powerful anti-gun control bodies as the National Rifle Association.

If America is to be diverted from its present course toward an armed camp, it will, of course, require legislation on the state and local levels as well as the national level. The weakness of existing local controls is exemplified by the absurd situation in King County.

The City of Seattle has a basically sound gun control law, which requires a 72-hour waiting period during which time potential gun purchasers can be screened. But in King County outside the city limits there is no such waiting period, thus gun purchasers from the city have been flocking to gun shops in the county.

Sheriff Jack Porter has proposed that the county adopt requirements similar to those of the city. This would be an improvement but, even so, there is nothing to prevent a King County resident from stepping across the county line to buy his weapon. Obviously, statewide legislation is needed to supplement federal controls.

The ring of those fatal shots fired in Los Angeles, which symbolically echoed the explosions of assassins' bullets in Memphis and Dallas, will not fade away until our nation's lawmakers stem the insidious flow of our traffic in guns.

[From the High Point (N.C.) Enterprise, June 12, 1968]

CONGRESS TO BLAME

Caution with which the Senate is approaching stronger gun control legislation furthers the growing feeling that the legislative branch is more responsible for ugly conditions in this country than the judicial or administrative.

It seems safe to say that unless the people of America make felt their strong desire for more effective gun control, the Senate is going to thwart what poll after poll has made crystal clear is the desire of the great majority of Americans.

The Associated Press reports a turn-in-your-guns movement in wake of the assassination of Senator Robert F. Kennedy. And in the Midwest a chain of discount stores has stopped selling guns and ammunition. A spokesman for the firm says the action was taken "to remove the possibility of supplying anyone with the means to cause bodily harm, inadvertently or intentionally, not only to our dedicated public leaders, but to anyone."

Legislation as proposed won't deny guns, but it will require registration and responsibility in there use. What could be wrong with that, unless it be the desire of gun makers to profits from their unrestricted market that lets guns into hands unfit and unworthy to have them?

There is a powerful and well-heeled lobby moving to thwart the public will as to firearms control. Nefariously, it claims to represent sportsmen' protest when in reality it denies the nation a safety feature other civilized—and sporting—nations have used to such advantage that Britain had 19 gun deaths last year to this nation's 5,600.

The Senate needs to read more clearly the will of the people.

[From the East St. Louis (Ill.) Journal, June 18, 1968]

LETTER BARRAGE EFFECTIVE

The power of the pen—used in the past by the National Rifle Association with deadly effectiveness in its battle against gun control legislation—has been turned against the NRA and is beginning to break up the solid rock of congressional opposition to the demands for national gun control measures.

By last Friday some congressional offices were being flooded by 1,000 letters daily—almost all of which were demanding Congress to pass tough weapons control legislation.

In the wake of this unprecedented outpouring from the nation, at least three formerly uncompromising opponents of gun restrictions, came out in favor of such legislation, one being Senate Majority Leader Mike Mansfield who represents the heavily gun-owning state of Montana.

And the gun lobby itself seemed to be splitting. Three leading gun manufacturers—Winchester, Savage and Remington—announced they would support a compromised version of the administration's gun control proposal. The manufacturers said they would support a ban on interstate mail order sales of rifles and shotguns but wanted the bill to give the individual states the right to exempt themselves from the prohibition on mail sales.

Apparently, the manufacturers are able to see what the NRA is not—that reasonable controls of the sort suggested by President Johnson are better than what might eventually emerge if the present state of gun law anarchy is allowed to continue.

There is no doubt that the tough, articulate and highly-organized National Rifle Association will not take such developments lying down. Surrender is out of the question for the gun lobby and over the weekend the NRA had launched a drive to encourage its one million members to begin a mail campaign fighting the restrictions.

Their opposition will be formidable. In the past the NRA has bragged that it would be able within 72 hours to start a barrage of a half million telegrams, postcard and letters aimed at blocking gun control measures.

And in the past these mail campaigns have been tremendously effective. In 1964 the NRA's annual report stated that of the 350 state and 32 national gun control bills introduced that year, none was passed: "NRA members reacted promptly, firmly and in force. As a result none of the legislation deemed severe was enacted."

Time, of course, is on the side of the National Rifle Association. For it is doubtful the public, unorganized and reacting primarily from outrage at the assassination of Sen. Robert F. Kennedy, will be able to sustain its pressure on Congress.

Still, the situation is somewhat different this time. Mayors of U.S. cities, meeting in annual conference called for federal legislation banning the interstate mail order sale of all firearms and ammunition and all mail order sale of guns and ammunition to juveniles. It also asked Congress to make it a felony to fail to register firearms.

The Republican Governors Conference in Tulsa, Okla., called for stronger gun control legislation within constitutional limits.

Congress cannot ignore these calls for stronger controls, from both private and official sources. The climate for legislation has never been better and the need never clearer.

[From the Decatur (Ill.) Review, June 18, 1968]

LETTER BARRAGE ON GUNS

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[From the Appleton (Wis.) Post-Crescent, June 20, 1968]

WHAT IS THE GUN LOBBY?

Much has been written in recent months about the credibility gap which exists between the government and the citizens, particularly the press, of this country. A recent statement by the president of the National Rifle Association, however, shows that there is more than one credibility gap.

The NRA is considered by many to be the strongest opponent of more stringent federal gun control. Its most potent weapon has been the ability to persuade many of its 900,000 members to write to their congressmen and senators. NRA officials have said in the past that they can depend upon their members to flood Capitol Hill with up to 500,000 letters within 72 hours.

Such a deluge of letters certainly is a constitutional and legitimate expression of opinion. It is a practice which proponents of strong federal gun control will have to use if they hope to persuade their legislators to back tighter control legislation. But what is

bothersome is that NRA officials don't want to admit that their letter writing constitutes a lobby.

"All this talk about the gun lobby is baloney," NRA President Harold W. Glassen recently told the Associated Press. "We don't tell anyone to write to their congressmen."

Technically, Glassen may be correct. In every other sense, however, he is making himself and his organization look rather silly, for a letter he sent last week to NRA members stated: "Unless the sportsmen of America clearly express their views without delay to their senators and congressmen, individuals will be prohibited from acquiring long guns (rifles and shotguns) in interstate commerce and general firearms registration will become a reality." It would be interesting to check with NRA members to discover what they thought their president was suggesting by these words.

We feel the fears of the NRA are unfounded. We support stricter gun controls and registration. But we think the lines can be drawn much more clearly in this matter if the NRA closes its own credibility gap, stops using technicalities and admits to the methods which it uses to oppose such legislation. To do otherwise does not reffect well upon an organization which claims to be concerned with protecting a basic right of the American people.

[From the Hollywood (Fla.) Sun-Tattler, June 18, 1968]

A SENSIBLE COURSE ON GUN CONTROLS?

Mention gun legislation in a room of 50 people and chances are you will get 50 different opinions—but usually only two definite stands: Either for or against.

The question recently was aired before South Broward police chiefs and to the man they favor controls on firearms. To be sure, the type and scope of controls varied with the individual chief, but all support the proposal.

Had that been a meeting of so-called Great Hunters or a delegation from the National Rifle Association, the coin would have showed its other side.

The overriding question is: Would gun control laws be effective? That is, effective in cutting down murders and other crimes? Or would they be as useless as a snow shovel in the tropics?

To some, loose gun controls are solely responsible for, and stiff gun control laws are the only cure for, the problem of violence in America.

To others, restrictions over the purchase and ownership of guns is the first step toward disarming the American citizenry, which is the step before the take-over of America by "them."

There would seem to be a middle position.

There would seem to be a solution somewhere between the absolutely free and unfettered sale of dangerous weapons and the confiscation of all that exist in the country. There would seem to be enough collective wisdom among the 534 members of the U.S. Congress to write a law which would protect the rights of law-abiding sportsmen and gun buffs while making it extremely difficult for those who should not have guns to obtain guns.

Let it be granted immediately that laws mean little to the law-breaker. The man who needs a gun for an evil purpose will find a gun. But this no more argues against putting controls on guns than the high incidence of burglaries argues against putting locks on doors.

It is time to cease the weary refrain that "guns don't kill people; people kill people." Neither do automobiles kill people. Should we then do away with all controls over the ownership and operation of motor vehicles?

Forget the criminal. The fact is, guns may indeed kill people.

At least one psychological study has shown that, in tense emotional situations, such as an argument, the mere presence or accessibility of a weapon like a gun heightens aggressive feelings. The trigger, in a very real way, pulls the finger.

It is this which is perhaps the strongest argument for gun control legislation.

If a man under the influence of anger could not run down to the store and buy a gun at once, if he had to fill out an affidavit or go through a waiting period of a few days, lives might be saved.

If a mental defective or an underage youth could not send for a gun through the mail, lives might be saved.

If a panicky homeowner had to go through a little red tape before buying a gun to defend his house against "them," lives might be saved.

Even if only one life could be saved because someone who might have bought a gun didn't bother because he didn't care to go through the legal rigamarole, and thereby an accident that might have happened didn't happen, surely the sportsmen of America would be willing to put up with one more annoying inconvenience in this crowded world where no one's "rights" extend very far any more without bumping up against somebody else's.

[From the Missoula (Mont.) Missoulian, June 20, 1968]

CHANGE IN HEART ON GUN CONTROLS

"You keep after that gun bill," the senator said, "I'm with you."

The speaker was Sen. Mike Mansfield. He was speaking to Sen. Thomas Dodd, proponent of arms control legislation, shortly after President Kennedy's assassination.

A deluge of mail from anti-gun control advocates evidently changed many minds of congressmen, because nothing happened to Dodd's proposals.

More than four years passed. On May 16, 1968, Sens. Mansfield and Lee Metcalf voted against an amendment to the crime control bill. The amendment would have banned interstate mail order sales of rifles and shotguns.

Early on June 5 Sen. Robert Kennedy, was shot. He died June 6. That day President Johnson asked for a ban on interstate mail order sales of rifles and shotguns. He did not ask for gun registration, nor had anyone in a significant position of power asked for gun registration at that time.

On June 7 a New York Times News Service story said of Sen. Mansfield: ". . . the Montana Democrat, who has already been contacted by the White House, made clear in an interview that he remained opposed to controls over interstate sales of rifles and shotguns . . . . What is needed now, he (Mansfield) continued, is 'more control at state and local levels'."

On June 10 Sen. Mansfield said on the Senate floor: "I favor . . . the registration of all firearms, but I believe that it is basically a state function, and that the various states should accept this responsibility and not place it on the shoulders of the federal government. If the states will not act, then I think it will be the duty of the federal government to assume that responsibility . . . ." Sen. Metcalf concurred with Mansfield's remarks.

It indicated Sen. Mansfield supported controls even stronger than those the President asked for, but preferred the state and local governments to do the job.

On June 12 Sen. Joseph Tydings introduced a bill to require the registration of every firearm in the country and to require a license to buy any firearm or ammunition. The bill would encourage the states to do this job but, failing that, the federal government would do it.

On June 15 Sen. Mansfield endorsed Tydings' bill. On the day before the National Rifle Association had asked anti-gun control advocates to write Congress to counteract the pro-control mail. And shortly after that some leading gun manufacturers came out for stronger gun controls, though not as strong as those in the Tydings bill.

The outlook now is that some sort of stricter controls will be enacted. Sen. Mansfield's position has altered on the President's proposals concerning rifles and shotguns. Now the senator favors both it and something much stricter.

We support Mansfield in what appears to be a change in heart. He points out that gun controls will not be a cure-all to the problem of armed violence, and nobody pretends it will be.

But gun controls could reduce the incident of crimes of passion and of calculation in which shootings occur. They could help make America a safer place.

There is not one valid reason why guns should not be registered, and many reasons why they should be.

[From the Salisbury (N.C.) Post, June 16, 1968]

SENSIBLE COURSE ON GUN CONTROL

Gun control legislation is another one of those subjects it seems impossible to discuss dispassionately.

To some, loose gun control laws are solely responsible for, and stiff gun control laws are the only cure for, the problem of violence in America.

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would be willing to put up with one more annoying inconvenience in this crowded world where no one's "rights" extend very far any more without bumping up against somebody else's.

[From the Sheboygan (Wis.) Press, June 21, 1968]

THOSE PROPER GOALS

The difficulty and the danger in any gun control legislation is that simple solutions will be sought for a very complex problem.

It is fairly clear that Americans today agree that there should be controls on mail order sales of guns but probably disagree on just what these controls should be. Should the sales be banned entirely or should they be permitted wih proper safeguards? One early proposal was that the sales be permitted if the chief of police or sheriff in the buyer's jurisdiction did not object to the transaction. That proposal was better than no controls at all but we fear would have proved ineffective in the very large cities where law officers simply do not know nor could they easily determine the qualifications of their innumerable constituents.

Today there are pending before the Congress no less than four gun control bills ranging from modified control of interstate sales to universal registration of all firearms. Somewhere in the middle, the Congress will need to find the appropriate, workable and effective solution.

The ban on mail order sales does seem to be acceptable in the absence of a workable plan to enable the seller to have even the vaguest notion of the character and qualifications of the buyer. Two of the country's largest mail order houses have recognized this need for minimal identification and have discontinued direct mail order sales.

The effect of the ban on interstate sales of guns or sale of weapons through the mails will to some degree keep them out of the hands of those who are known in their communities to be unqualified under reasonable standards to possess a weapon. To that degree the country will be served by congressional approval of the measure.

It would be a mistake, however, to expect that our problems are solved or that they can effectively and reasonably be solved on the federal level. The use of guns is one phase of American life which varies so greatly from border to border that there is not one single effective, reasonable, overall solution. The restrictions in New York City, it would seem, should be more severe than would be appropriate in the mountains and plains of Wyoming or the northwoods of Wisconsin.

There is one proposal before the Congress which should be given cautious consideration. That is Sen. Dodd's wish that all guns be registered under a federal registration system. The registration files, we presume, would be labeled confidential but we wonder if any system to keep them confidential could be 100 per cent effective. The files would list those who own guns but by a very simple process would identify those who do not. The homeowner so identified would obviously be very vulnerable to the type of entries we have witnessed in Sheboygan and Sheboygan County in recent months. Under our present system of nonregistration, even the most daring burglar must have a nagging feeling, wondering whether his would-be victim has a weapon. Registration files would relieve him of that single handicap at the expense of the vulnerable citizen.

Human nature as it is, is difficult to anticipate. It is our belief though, that there would be a sharp rise in the sale of guns if registration were made a national policy. Mr. Average Citizen would recognize the situation, and we believe arm himself for the protection of his family. The result would be more guns in more American homes and the inevitable tragedy of more accidental gunshot deaths and crimes of domestic violence simply because the weapons were handy.

Licensing would be a better suggestion if we as a nation deem it possible to identify those citizens who may and those who may not own guns. The licensee would be entitled to own a gun, but would not be required to exercise that right.

There is another suggestion which would dampen the enthusiasm of the impulsive gun buyer, the owner who is inclined to impulsive use of his weapon. That suggestion is that the sale be delayed until the buyer's next of kin is advised of the intended purchase. This would not be a foolproof control either, but we do think it would enable families to take proper action when such action is warranted.

These are but a few of the avenues through which Americans will take action in the Congress and in their legislatures to control gun traffic. There is no single solution, but collectively a number of proper federal and locally oriented measures could vastly reduce the abusive use of guns in America.

[From the Fresno (Calif.) Bee, July, 8, 1968]

REGISTRATION IS NOT CONFISCATION

(From the Louisville Times)

In June, Congress enacted a measure which, among other things, banned interstate mail-order sale of handguns. It was a step toward realistic gun control in this country. Congress now has before it a bill extending that ban to rifles and shotguns. Passage of that bill would be another step toward the goal of reducing the risk of death by gunfire in the United States.

President Johnson has thrown his influence behind still another proposal that would take us a long way toward adequate gun controls. He called for federal registration of all firearms and licensing of all gun owners.

The predictable cries of outrage already are being heard. A couple of members of Congress reacted to the message by announcing, with what seemed to be an air of discovery, that what the nation really needs is better law enforcement. Apparently it has not occurred to them that registering guns and licensing owners would make it easier to enforce laws.

The national shock and revulsion that followed United States Sen. Robert Kennedy's murder have been reverberating in Congress. Perhaps that is why the first gun bill passed. Perhaps it is why the second one, relating to rifles and shotguns, has a chance to pass.

But the first shock is slowly receding. Those who oppose adequate controls have recovered and are swamping Congress with letters filled with their fears and their fantasies. They fear, or profess to fear, confiscation of all guns, although no legislator has proposed this. They protest that no gun law will keep guns out of the hands of determined criminals. This is true, of course, but it is also true that laws against murder have not eliminated murder, laws against robbery have not eliminated robbery, laws against rape have not eliminated rape. Should we, then, never have enacted laws against murder, robbery, and rape?

Adequate gun laws would reduce (not eliminate) the chances for the criminal, the psychotic, the irresponsible to harm himself or others—and they would make it somewhat easier to apprehend those who broke the law. The experience of other countries provides strong evidence that this is true. That is more than sufficient reason to enact such laws.

[From the Lebanon (Pa.) News, July 2, 1968]

GUN CONTROL

Gun control legislation is a subject it seems impossible to discuss dispassionately. Some persons believe loose gun control laws are solely responsible for the problem of violence in the United States. They feel that the only cure for the problem is stiff gun control laws, or absolute banning of all firearms.

Others see restrictions over the purchase and ownership of guns as the first step toward disarming the American citizenry, which is the last step before the takeover of the U.S. by subversive forces.

There is another group of people in this country that feel neither of these emotionally spawned attitudes mentioned above is valid.

There is a middle position, somewhere between the unfettered sale of dangerous weapons and the confiscation of all that exist in the country. Any gun law must protect the rights of law-abiding sportsmen and gun collectors as well as make it more difficult for those who should not have guns to obtain guns.

Laws mean little to the law-breaker. The man who wants a gun for an evil purpose will find a gun.

But this is not, in itself, a conclusive argument against putting reasonable controls on guns. Who would argue that the high incidence of burglaries makes it foolish to put locks on doors?

The accessibility of firearms in this country is undeniable, but to say that the mere accessibility of guns may heighten aggressive feelings that otherwise would have been eased if guns were difficult to obtain is hardly a reasonable assumption.

There are those who conjecture that if a man filled with anger were not able to run down to the store and buy a gun at once, if he had to fill out an affidavit or go through a waiting period of a few hours or days, lives might be saved.

This statement has little fact to substantiate it and smacks of emotional reasoning on an emotional situation better left to analysis by psychiatrists. For, a man so bent on carrying out an evil deed, would indeed carry out that deed with the use of whatever instrument was at his immediate disposal—perhaps a knife or an andiron.

Several states, including Pennsylvania, have state laws controlling the possession and use of firearms. These could be more strictly enforced.

Indiscriminate interstate mail ordering of firearms could be regulated as a means of insuring registered firearms in the hands of responsible people.

Making firearms more difficult to obtain and more expensive to own will not prevent crime and criminal acts in this country. The cold, calculating bank robber owns a gun as part of his professional gear—he will get one somehow and there is no effective legislation that can prevent this type of ownership. The bizarre, mentally and emotionally inflamed assassin will also get his gun, or knife or whatever weapon his twisted mind dictates.

Dealer registration of the sale of firearms and control of mail order sales as well as imported firearms is advisable and many states now have or will enact such regulations.

[From the Toledo (Ohio) Blade, Aug. 30, 1968]

HANDGUN SECURITY

As a leading opponent of Toledo's new handgun-regulation ordinance, attorney John Henahan told an American Legion audience that such laws could leave Americans as defenseless as the Czech people were against the Soviet troops that poured into their nation. The example is a timely illustration of what Councilman Andy Devine meant when, in urging passage of the local ordinance, he labeled that pet argument of pro-gun forces a "false sense of security."

Mr. Henahan's contention that the reason the Czechs offered minimal resistance was that the people were unarmed must surely be counted as among the most simplistic explanations of that complex situation. And certainly the silliest, too: Does he really expect Toledoans to believe seriously that

pistols and revolvers in the hands of individual Czechs could have halted the invasion by 200,000 Russian and other Communist-block troops, rolling in with tanks and other armored vehicles and armed with mortars and machine guns?

Moreover, the attorney appeared to contradict himself when he said that the first places the Russians captured were police stations and military armories where weapons are stored. What connection is there between weapons available to the designated defense forces and those in the hands of individual citizens?

There is, at least, a clear contradiction there with the purpose of gun-registration laws in this city and this country, which obviously put no restraint on weapons for the police, the military, or other duly constituted public defense forces. Indeed, the very point to be emphasized is that reasonable regulation of firearms among private citizens has nothing whatever to do with their collective defense against foreign invaders.

And this brings Mr. Henahan's argument around to his point about the alleged constitutional and unrestrictable right of citizens to bear arms. The Second Amendment in the Bill of Rights straight-forwardly refers to well-regulated militias—the organized defense agencies—and it has been repeatedly interpreted by the courts as placing no barriers on legislation to regulate the private sale, ownership, and use of firearms.

When the local attorney told the Legion members that such gun-control laws as Toledo's "encourage the contempt of law generally," he must have been referring primarily to those gun fans who have threatened to refuse to obey those laws. For the fact is that the essential purpose of every gun-control measure or proposal seriously advanced in this country is to define the legitimate use of firearms and to encourage their possession and use only in a law-abiding manner.

[From the McLean (Va.) Globe, Aug. 1, 1968]

THE BATTLE ISN'T OVER

"Husband Shoots Wife in 'I-Didn't-Know-It-Was-Loaded Accident'."

"Fatally Shot After Argument."

Thirty-one-year-old Husband Murdered by Wife's 48-year-old Lover."

Where did these headlines appear? A huge metropolitan daily? Big city press? A police gazette?

Where did these tragedies happen? Manhattan? Chicago? Los Angeles?

Those headlines appeared in the weekly and daily newspapers in our own area, and these tragedies happened right here in Fairfax County.

Firearms caused the deaths of 249 Virginia residents during the first four months of this year, according to a report by the Virginia Department of Health. The reports also added that the figure is expected to top 800 before the year ends.

Fatal shootings increased in 1966 to an incredible 19,815 for the year, or 54 each day. What the report will be for 1967 and 1968 is indeed frightening to contemplate.

Along with the reading of these statistics came the disconcerting, although half-expected, news that the aim of the gun lobby—that non-profit "educational" and still tax exempt National Rifle Association—has been won.

Once again, Congressional dislike of offending powerfully organized lobbies forced an anonymous vote on the part of the House of Representatives. The House decided in a non-recorded vote against requirement of registration of firearms.

In another anonymous vote, Congress voted down a proposal to require licenses for gun owners—the only effective means of keeping these murder weapons out of the hands of criminals, lunatics, drunkards, drug addicts and juveniles.

The fight to attain these reasonable protections will go on. Voters will continue to demand that their elected representatives act to protect the safety of America and Americans.

A great many people here in this country, and here in this County, are just becoming aware of the power of the gun peddler's lobby, just becoming aroused to the recognition that the National Rifle Association's tax exempt status is a monstrous fraud. Such citizens can be a powerful force toward the eventual passage of legislation for weapons responsibility.

We urge everyone who cares about private and public safety to write again to your Senator and your Representative advocating legislation to require the registration and licensing of all firearms. And while you're writing on the subject of gun control, chink the armor of the gun lobby by requesting that Congress investigate the tax-exempt status of the National Rifle Association!

[From the New Orleans (La.) States-Item, Aug. 28, 1968]

POLITICS AND CRIME

Crime is a major issue in this year's presidential campaign, and well it should be. For just how immediate a threat crime is to the voting public is made frighteningly clear in the FBI's annual Uniform Crime Report, just released.

For instance, if there are 100 people in your block, chances are, based on FBI statistics, that two of you will be murdered, raped, robbed or beaten in the coming year.

And, furthermore, if someone pulls a weapon on you, probably it will be a gun.

These are salient facts of the FBI report of immediate concern to most citizens. They are also of immediate concern to this year's presidential aspirants, as reflected in convention-floor oratory.

One of the most stunning figures—one which will give candidates and voters alike pause—is the figure on crime for the decade. That figure shows an 89 per cent rise in serious crime in the nation since 1960, with a 73 per cent increase in crimes of violence.

Serious crime rose 16 per cent in 1967, with more than 3.8 million serious offenses committed. Almost 500,000 of those crimes were violent.

The role of guns stands out in the crime statistics. In 1967, for instance, firearms were used in 63 per cent of all murders.

While crime was rising, police success in solving them dropped by 8 per cent; and 76 policemen—19 more than in 1966—were killed by criminals last year.

Between 1962 and 1967, the FBI reported, there were 59,015 murders, and 58 per cent were committed with guns.

Interestingly enough, the states with the lowest rates of murder by firearms—Rhode Island, New York, Massachusetts, New Jersey—have strict gun-control laws. Texas, without gun-control laws, had the highest number of homicides, 70 per cent of which were gun deaths.

The FBI report on crime is a most disturbing one and will not be lost, we trust, on candidates or voters.

[From the Houston (Tex.) Post, Sept. 2, 1968]

SHAMEFUL RECORD

Houston led the state and the state led the nation in the grim American race to kill as many human beings as possible with guns.

The new FBI report shows that 1,069 Texans were murdered in 1967—compared to California's 1,039 and New York state's 993.

Houston-Harris County recorded 293 murders, while Dallas tallied 151 and Fort Worth 99.

But no part of the country offers any particular safety from violence and gunfire. The FBI reports that crimes of violence were up 16 per cent in 1967 over the year before. Shootings were up 17 per cent.

That is the brutal picture: More murders each year, more murders by gun each year, little done to stop the slaughter.

Congress refused to enact legislation which would adequately register and license guns on a national basis.

The Texas Senate urged Congress not to enact gun registration laws.

And Houston Congressman Bob Casey wrote his constituents a self-congratulatory form letter about the part he played in downing the United States attorney general and his "liberal" colleagues in their efforts to keep guns out of the hands of known criminals, the mentally unstable and minors.

In the form letter which he sent to Houstonians who had favored gun registration as well as to those opposing it, he wrote pridefully about his amendment which would have made the federal gun legislation applicable to all crimes of violence. If all crimes of violence came under federal—rather than under state and local jurisdiction—federal law enforcement officers, federal courts and federal prisons would be hopelessly inundated. Any such amendment attached to any piece of gun legislation could only have compelled a presidential veto.

Where does all this leave the Houstonians? What does all this mean to a city which saw 244 murders within its limits in 1967?

It would seem that the City Council will have to act to protect its citizens.

The city of Miami, overriding protests of local gun associations, passed a strong gun registration and licensing ordinance of its own.

The city of Chicago has a new gun ordinance by which every owner must register every gun he owns, and in the city, 380,000 guns have already been registered.

Chicago has the support of the Illinois state government. Under a new Illinois law, gun owners must register their guns by Sept. 1 or face a year's imprisonment and $1,000 fine. By mid-August, guns were being registered at the rate of 15,000 a day.

Henceforth, anyone buying ammunition in Illinois must be prepared to present his firearm owner's identification card.

Polls have shown that a majority of Americans and a majority of Texans favor tight laws governing the registration and licensing of guns.

The Congress and the Texas Legislature have so far ignored that majority.

[From the Rhinebeck (N.Y.) Gazette, Aug. 1, 1968]

WE STILL NEED GUN LAW

The assassination of President Kennedy, for all its profound traumatic effects, was not a sufficient stimulous to counteract the work of the gun lobby and prod Congress into enacting strong gun control legislation. The assassination of his brother, Sen. Robert F. Kennedy, has now also failed to provide the necessary impetus to force passage of such law.

One might argue, perhaps with a touch of synicism, that this is as it should be—that isolated events of this kind do not in themselves warrant passage of effective federal law curbing the sale and possession of firearms. The argument has some merit if taken simply at face value. Clearly, the murderous acts of two men—political fanatics, psychotics, call them what you will—are not in themselves a satisfying argument for such legislation.

The essential point ignored in this outlook is that the assassinations—and additionally the shooting of Dr. Martin Luther King Jr.—cannot be considered out of context. They merely dramatize the atmosphere of violence which infects American society, and whose manifestation is fostered by the loose controls we exercise over the scores of millions of guns possessed by citizens. The point

made by the more reasonable advocates of firm gun control is that this would prevent political assassinations, but that in due time such law would tend to put a damper on use of the gun as the "great equalizer."

The phrase, significantly, is still advanced by gun control opponents as an argument for their viewpoint. The fact is that this concept tends to undermine the whole rationale of virtually uninhibited access to guns. For the gun is indeed the "great equalizer", in the unintended sense that it enables one madman to destroy a great leader and disrupt a nation. Congress has again, in large part, bowed to the will of the gun lobby. The matter must be taken up again early next year when the new Congress convenes. The need for firm, sensible gun controls remains.

[From the Norwich (Conn.) Bulletin Aug. 27, 1968]

CRIME IN THE UNITED STATES

The above caption is the title of a report on crime in the United States made by J. Edgar Hoover, FBI director, to Attorney General Ramsey Clark who releases the report today. It is a nationwide summary of police statistics at all levels of government, and it is not one of which we should be proud. There is every indication that crime is on the increase all over the country, both in rural and urban areas.

Mr. Hoover in his summary says: "Over 3.8 million serious crimes were committed in the U.S. in 1967, a 16 per cent increase over 1966. The number of violent crimes exceeded 494,500, a 16 per cent rise over the previous year. Crimes against property totaled more than 3,307,700 offenses, up 17 per cent over the previous year." This, certainly, is not something Americans can ignore.

In his report, Mr. Hoover continues: "In 1967 robbery increased 28 per cent; murder 11 per cent; aggravated assault 9 per cent and forcible rape 7 per cent over 1966. With respect to property crimes, auto thefts were up 18 per cent, larceny $50 and over in value 17 per cent and burglary 16 per cent." With rioting, burning and looting that has occurred during the first seven months of 1968 the record for the current year may be even higher.

Perhaps one of the most interesting facts in the Hoover report is the use of firearms in crime and should prove good ammunition for Sen. Thomas J. Dodd's fight for strict firearms control. Here are the facts presented by Mr. Hoover: "Firearms were used to commit over 7,600 murders, 52,000 aggravated assaults, and 73,000 robberies in 1967. Since 1964, use of a firearm in murder up 47 per cent, in aggravated assault up 76 per cent. Armed robbery during the same period up 58 per cent. In 1967 a firearm was used in 63 per cent of the murders, 21 per cent of the aggravated assaults, and over 63 per cent of the armed robberies. Firearms used in murder were 76 per cent handguns, 14 per cent shotguns, and 10 per cent rifles. Of the 411 police killings since 1960, 96 per cent involved the use of firearms, specifically, 304 handguns, 52 shotguns and 38 rifles."

It would be interesting to compare the United States record on crime with that of other nations. We fear that we would not stand too well in such a survey. The Hoover report is very comprehensive and is startling in its content and should be given thoughtful study, not only by law enforcement officials, but by the citizens themselves.

[From the Greensboro (N.C.) News, Aug. 29, 1968]

GUNS DO THE JOB

The FBI's crime report for 1967 is a gloomy document. In cold statistics, it reveals the sharp and continuing rise in serious offenses. There are no encouraging charts or tables. The crime rate is rising in every region and in every major category.

Since 1960, crime in the United States has increased at the appalling rate of 89 per cent, nine times the rate of population growth. Between 1966 and 1967, the crime rate increased 16 per cent. There were 3.8 million serious crimes committed last year, almost 500,000 of them violent in nature—murder, aggravated assault, forcible rape, and robbery.

The dreary roll of statistics goes on through 193 tightly-packed pages: auto thefts, policemen murdered, juvenile offenders, suburban arrest trends, burglaries. In table after table, the figures show increases of often staggering proportions. Nothing could more forcibly convey the need for improved crime prevention and detection procedures; for better cooperation between federal, state and local law-enforcement authorities; and for, as Mr. Hoover points out, better "social action" programs to reduce crime.

In the mass of statistics, we are struck by those having to do with the use of firearms in serious crimes. Inasmuch as the National Rifle Association persists in claiming that "people, not guns, kill people," it is interesting to note what gun-carrying people have been doing to help the crime wave grow:

In 1967, firearms were used in over 7,600 murders, 52,000 aggravated assaults and 73,000 robberies. In percentages, firearms were employed in 63 per cent of the murders, 21 per cent of the assaults and 63 per cent of the armed robberies.

Seventy-six per cent of the firearms used in murders were handguns; only 14 per cent were shotguns, and 10 per cent rifles.

Since 1964, the use of firearms in violent crimes has increased as follows: 47 per cent in murders, 76 per cent of the assaults, 58 per cent of the armed robberies.

Weighed against these facts, the claims of the gun-control opponents are exposed as fiction. The plain truth is that firearms are now far and away the principal weapons in violent crimes. Pistols, which are not included in the present gun-control law, are the principal firearms used in murder. In refusing to pass tough gun-control legislation—in bending to the heavy lobbying of the NRA and its allies—Congress is ignoring a principal tool of the criminal.

One final point. The NRA and its letter-writing friends make great sport of New York's Sullivan Law. They describe it as the toughest gun-control law in the nation. Yet, they say, New York is teeming with crime—proof positive of the inefficacy of gun-control legislation!

The crime report should make interesting, if lamentably awakening, reading for those of this persuasion. It shows that only 34.9 per cent of the murders in New York were committed with firearms—the third lowest rate in the nation. In North Carolina, the rate was 70.2 per cent—seventh highest in the nation.

[From the Meadville (Pa.) Tribune, Aug. 28, 1968]

GUN HOMICIDES RISE

Legislators at state and local levels who recently have rejected stricter gun controls will find no justification for their action in the new Federal Bureau of Investigation report on crime in the United States in 1967. Along with a tremendous increase in the over-all crime rate, the report shows that use of guns in the commission of serious crimes also is on the upswing.

The 12,090 murders committed in the nation last year represents an 11 per cent increase over the number of such crimes in 1966. Firearms were used in 63 per cent of the 1967 criminal deaths, a 17 per cent rise in the 1966 rate of gun use in commission of murder.

Since 1964 the number of murders has increased about 30 per cent, but the rate of homicides by firearms has risen by 47 per cent.

States imposing strict gun control laws were among those having the lowest incidence of murder by firearms. Among them were Rhode Island, 34.1 per cent; New York, 34.9 per cent; Massachusetts, 39.9 per cent, and New Jersey, 41.2 per cent. In contrast, the firearms incidence rate generally was higher in states having minimal control laws, including Texas, 70.7 per cent; Mississippi, 69.1 per cent; Nevada, 67.6 per cent, and Arizona, 66.3 per cent.

As gun control legislation opponents contend, stringent restraints would not prevent crime. But FBI statistics showing that states with strict gun controls are rated among the lowest in both homicide rates and the incidence of murder by firearms indicate that such controls do have a deterrent effect. The continued rise in the commission of murder and other crimes involving firearms suggests that steps be taken at both federal and state levels for reasonable and effective limitations on traffic in firearms.

[From the Chicago (Ill.) News, Sept. 16, 1968]

ANOTHER CHANCE ON GUNS

Congress is again debating a gun control law. The administration bill—to prevent the interstate mail order sale of rifles and shotguns—has already been so amended, in the opinion of the Justice and Treasury departments, as to weaken if not nullify its intent, and even that vitiated bill faces strong if not overpowering opposition from the gun lobby and its friends.

As Atty. Gen. Ramsey Clark told Congress recently, its most vocal advocates of law and order are often the very congressmen who oppose strict gun controls. "Those who stridently call for law and order," he said, "yet oppose or ignore gun control fail to face the issues, fail to protect the public and raise questions as to their own purposes."

We agree with those congressmen that support of the police is imperative. We suggest to them that they can help achieve this by adopting legislation that would help keep guns out of the hands of people who would shoot down the police if given the occasion and the opportunity.

On the wall of the Chicago police superintendent's office are exhibited the badges of 338 police officers killed since 1872, the vast majority of them with guns. Hundreds of others have been wounded. Last year, 24 police were shot, five of them fatally. At least 28 have been shot this year, two of them fatally. Chicago and Illinois now have a measure of gun control that should help eliminate some of the tragic and needless slaughter. But it continues elsewhere, and will continue so long as guns are murderously available to all.

[From the Houston (Tex.) Chronicle, Aug. 29, 1968]

HOUSTON AND HOMICIDE

In the matter of life and death, Houston over the past few years has earned for itself the reputation of being the city of paradox.

Few cities can match the brilliance of Houston's record for saving and prolonging human lives. At the same time, no other metropolitan area can contest the blackness of the shameful record for snuffing out the lives of its people.

Houston's medical geniuses have won heart-warming, world-wide acclaim for their scientific knowledge, technical skills and burning dedication. The sick and the lame from the earth's far corners look toward this city with hopes and prayers for relief of pain and physical handicap.

Yet Houston leads the nation in the rate of homicides with 9.8 murders for each 100,000 population.

While the highly skilled surgeon wields the scalpel and the needle with calm and tender care, the itching finger of a hot-blooded gunman, with brain inflamed by

alcohol or jealous rage, squeezes the trigger of a pistol or savagely lashes out with flashing knife blade. While the cool, tender hands of a white-clad nurse administers loving care to a suffering patient, some wild-eyed, self-pitying housewife or furious, scorned lover, yanks at a gun trigger to produce a hail of leaden death.

But Houston is not alone in its shame. Texas recorded the highest number of homicides in the nation in 1967 with 5104. Gun deaths accounted for 70 percent.

And another shocking statistic reveals that the increase of serious crimes throughout the country since 1960 was 89 percent.

However, the increase in the crime rate elsewhere offers no consolation or comfort for the citizens of Houston. The pride and the world renown for its medical success alone should stir the action necessary to earn for Houston a reputation for peace and safety, regardless of crime in other cities.

Many reasons and excuses have been offered for the city's murderous crime record. Stricter law enforcement, more stringent laws, more policemen, police training and education programs have been proposed. But thus far, nothing has worked effectively.

Ways and methods must be found to forcefully, or otherwise, cool the tempers and abate the murderous rages of those inclined to make other humans the targets of their violent emotions.

[From the Virginia Beach (Va.) Sun, Aug. 1, 1968]

GUN DOWN THE LAW

Gun lobbyists and pressure groups have succeeded in gunning down any comprehensive and effective firearms legislation in Congress this year, even in the face of the assassination of a U.S. Senator and a civil rights leader, to say nothing of the continued disorder in the cities.

It has been reported that the rioters are often better armed than police, yet Congress is afraid of infringing on our rights, a matter that has not always seemed to bother it in the past.

We need effective gun laws, if it means registration, confiscation or any other harsh means. Congress must eventually reconsider, so that an end to violence can finally be in sight.

[From the Harrisburg, (Pa.) Patriot-News, Aug. 29, 1968]

CRIME, GUNS LINKED

The FBI's Uniform Crime Reports, showing a 16 per cent increase nationally in serious crimes between 1966 and 1967, adds yet another spadeful to the mountain of evidence pointing to the immediate needs for stricter state and federal gun-control laws.

The statistics show a significantly higher incidence of murder by firearms in states without strict gun controls than in those few that have such controls.

This is not conclusive scientific evidence in itself, of course, but it is an optimistic trend that indicates crimes involving guns might very well be controlled by stiffer legislation. Or, to put it plainer, that fewer people will be murdered.

(Unfortunately, Philadelphia, with the state's stiffest gun laws, also has Pennsylvania's highest murder and manslaughter rate—6.3 per cent per 100,000—but there is no indication in the FBI report which weapons were used.)

There continue to be those skeptics, of course, who persist in parroting the non sequitur that if crimes were not committed with guns, they would be committed with other weapons. But the FBI figures eloquently attest to the apparent fact that this is not necessarily true.

If nothing else, this should provide food for thought for obstinate or still-unconvinced state and federal legislators.

[From the Honolulu (Hawaii) Advertiser, Aug. 28, 1968]

POTENTIAL FOR VIOLENCE

A study by Stanford Research Institute financed partly by two of the nation's largest arms manufacturers has provided further evidence, if it were needed, in support of strict fire arms controls.

The recently-completed SRI study focused on civilian use of firearms in urban riots. The study concluded that such use has been exaggerated but that reports led to a dramatic increase in purchase of guns by private citizens.

Said Arnold Kotz, leader of the SRI study team:

"Apparently many people believed the exaggerated press reports about civilians using guns during the riots. The sudden increase in gun sales indicates these people are arming themselves in anticipation of future riots. Tragic consequences could result from this widespread fear, coupled with widespread possession of firearms."

What the SRI study calls a "domestic arms race" appears sharp at three levels: private citizens, paramilitary groups and by police departments adding to their arsenals.

To support its contention that reported use of firearms by private persons in recent race riots was exaggerated SRI pointed to the statistics from the 1967 disturbances in Newark and Detroit.

In Newark, 1,500 persons were arrested but only seven were suspected of sniping. In Detroit, 7,000 were arrested but only 26 were suspected of sniping.

Since the Newark riot, applications for permits to buy pistols and revolvers have tripled. Since the Detroit riot, the rate of applications had doubled by last spring and is still rising.

The SRI study team concluded that the availability of firearms apparently contributes to human propensity for violence.

Kotz said that "given the current social tensions in America, the availability of firearms in large numbers increases the likelihood of their use in civil disorders."

"We must," he said, "take effective steps to correct the causes of these social tensions; but, meanwhile, we must do something to reduce the potential for violence represented by the easy availability of firearms."

The SRI's formal report of findings included these comments on gun control:

"The dangers of living in a society where violence by firearms has reached unacceptable levels clearly outweighs the inconvenience for those who would be required to register under an effective law . . .

"Registration and licensing of guns are minimum actions which must be taken to reduce firearms violence. More effective methods will require a careful weighing of public safety requirements against the individual liberties traditionally accepted as inalienable rights of American citizens."

Registration and licensing are the two points of gun control on which Congress has been unable to agree, largely due to the protests from the National Rifle Association.

It is pertinent that Winchester and Remington, who paid part of the SRI study costs, have helped develop convincing arguments in favor of controls. It is an act of corporate good citizenship.

[From the St. Louis (Mo.) Post-Dispatch, Sept. 12, 1968]

PLEA FOR GUN CONTROL

Attorney General Ramsey Clark was right to remind the Senate that much of the opposition to stronger firearms controls comes from conservatives who proclaim their devotion to "law and order." As Mr. Clark noted in a letter to each Senator, "Those who stridently call for law and order yet oppose or ignore gun controls fail to face the issues."

As Mr. Clark well knows, but did not say, law and order to the anti-gun control people means repression of riots by force. It is Mr. Clark who really supports law and order by upholding judicial processes and arguing for registration of firearms and licensing of their owners. But the "law and order" advocates oppose Mr. Clark's policies.

Mr. Clark told the Senators' who are considering a gun control bill, that if they were serious in their professions of concern about violent crime they would adopt sound firearms control legislation. They would indeed—that is, if they were really talking about law and order.

[From the Anderson (S.C.) Independent, June 18, 1968]

ARMS RACE CONTINUES—AND SO DO KILLINGS

In Detroit, as in other parts of the country, the arms race is going full blast, but in Detroit a group of concerned citizens is inserting newspaper advertisements to warn people of the explosive consequences.

One ad warns that "keeping up with the Joneses this summer could cost you your life," and another reads:

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

What will happen, of course, is what happens in thousands of lives every year: Death.

Someone—a child, a shopkeeper, a spouse, a policeman, an innocent bystander in a riot— "gets it," by accident or design, and not one but several lives are shattered as a result.

Why do we make it so easy for everyone to play this deadly game?

Why do we permit the hoodlum, the mental case, the swaggering revolutionary, the hysterical housewife, the convicted felon, even the ten-year-old child who has seen too many Westerns, to send away to a mail-order house and provide himself with an "equalizer"?

[From the Vancouver (Wash.) Columbian June 20, 1968]

WHILE IRON IS HOT

Sen. Eugene McCarthy apparently does not oppose gun control legislation, but he opposes passing such legislation in this period of high emotion over the assassination of Robert Kennedy.

The senator's point would be a good one except for one fact: Unless gun control legislation is passed while the horror of Los Angeles is fresh in public memory, there won't be any meaningful gun control legislation. The gun lobby's power to stop legislation can be overcome only when the general public is worked up. If proponents of gun legislation hope to succeed, they must strike now while the firearm which killed Kennedy is still hot.

Opinion polls show that, if gun controls were submitted to the public for a vote, they would carry handily. The Gallup Poll shows that more than 70 per cent of those interviewed favor gun controls. The Harris Poll shows 85 per cent in favor. But, when it comes time to make their views known in Congress, the gun enthusiasts, spurred by the National Rifle Association, win the contest hands down. Time and again, the association has demonstrated its ability to inspire thousands and thousands of letters from across the country. The Columbian has experienced a taste of this flow of letters in recent days.

The vehemence of these letters might suggest that proposals called for taking guns away from citizens. No one proposes denying responsible citizens the right to purchase and keep arms. All that has been suggested is a little more order in purchasing procedures.

The bill approved by a Senate Judiciary subcommittee Tuesday would stop mail order sales of rifles and shotguns. If the bill passes, a Lee Harvey Oswald using an assumed name

or an eight-year-old boy pretending he was an adult could no longer order deadly weapons through the mail. Such a law would not interfere with the right to keep and bear arms, but it unquestionably would deter youths and persons who want to hide their ownership of a weapon.

The Tydings bill which has the riflists so upset would require registration of all firearms and a license for purchase or possession. The bill would allow states to do the registering and licensing, but where states did not act the federal government would take over the task. Both the seller and the buyer would be required to notify proper authorities when a weapon changed hands. Persons who have been convicted of a felony, or a misdemeanor involving physical harm, would be denied firearms. So would alcoholics, narcotics addicts, mentally incompetents and aliens. Other persons would encounter delays in purchasing firearms, but their right to purchase would not be abridged.

The bill has some real teeth. We doubt if anyone would claim that passage of it would be a wasted effort. Tydings himself described it as the strongest gun control bill yet introduced in Congress, yet pointed out that "the bill does not subject firearms even to the stringent regulation to which we subject automobiles and drugs."

Most Americans don't object to licensing their cars. Why should they object to licensing their guns? For most law-abiding citizens, cars are more important than guns.

Can a tough gun law make a difference? Tydings cited figures that show a sharp contrast between five states with strong control laws and six states with weak laws. In the five, guns accounted for from 24 to 43 per cent of all murders. In the six, guns accounted for from 62 to 71 per cent of all murders. In the five, the overall homicide rate per 100,000 population varied from 1.4 to 4.8. In the six, the overall homicide rate varied from 6.1 to 10.6.

The figures suggest that there may be a connection between murder by gun and the ease with which guns can be obtained.

[From the Palo Alto (Calif.) Times, June 10, 1968]

GIVE US A STRONG GUN CONTROL LAW

"Each year in this country," President Johnson recited last Thursday, "guns are involved in more than 6,500 murders. This compares with 30 in England, 99 in Canada, 68 in West Germany and 37 in Japan.

"Forty-four thousand aggravated assaults are committed with guns in America each year. Fifty thousand robberies are committed with guns in America each year."

Those grim figures—the U.S. gun death toll since 1900 adds up to 750,000—make a powerful argument if not a prima facie case for what the President is asking: "a strong and effective gun control law governing the full range of lethal weapons."

The omnibus crime control bill passed by the House the same day, and by the Senate back in May, soon will be presented to Mr. Johnson. Since it contains some provisions he wants very much, plus a weak gun control section, plus some provisions he does not want, he faces a very hard decision as to whether to sign it or veto it.

As it stands, the bill bans interstate mail order sales of hand guns, limits counter sales to persons 21 or older who reside in the same state as the dealer, bars the import from abroad of all weapons not suitable for hunting and virtually prohibits, except to police, the traffic in mines, hand grenades, machine-guns and other heavy weaponry. It also defines certain bad gun risks—convicted felons and mental incompetents, for instance—and forbids them to receive, possess or transport guns and rifles.

The President wants to prohibit the sale of rifles and shotguns by mail and in any manner to persons under age 18.

He also wants to protect states with stringent laws from having their residents hop over to an adjoining state with lax regulations to buy rifles and shotguns.

We echo Mr. Johnson in conceding that tighter controls will not eliminate murder and gunpoint assaults—but with guns the instruments for 6,500 murders a year there is surely room for improvement.

He skirted the issue of registration, which the bill does not require even for hand guns. The Constitution protects the right to bear arms, but it also guarantees the right to vote—and yet registration is required before one can vote. Why should owning a gun be put on a touch-me-not plateau, when a registration provision would not handicap those who intend to use firearms for sports or other legal uses?

Congress should be confronted with a deafening demand from the people as well as the President to enact a really effective gun control law now.

[From the Redwood City (Calif.) Tribune, June 10, 1968]

AN OPPORTUNITY FOR POSITIVE LEAD

A well-stated, but grim reaction, to the assassination of Sen. Robert Kennedy, was made by a Stanford professor who retorted, "There'll be a week of catharsis . . . demands for more gun laws. But the catharsis will die as quickly as it began."

He will be right unless Americans can come up with a united and positive, rather than negative and varied, approach to the subject of gun control.

The reaction after each of the three tragic assassinations in the past five years has been a lot of finger-pointing of blame—to the National Rifle Association, to gun owners, to the government, to the "sick" society, to televised violence.

Beyond the blame, however, there has been little mass action toward rational solutions.

It's time to stop assigning blame. It's time to get busy on the American spirit of innovation and private enterprise. Let us put the challenge to the much criticized but legitimate National Rifle Association (NRA), with its large membership and private resources, to make the first plunge toward national gun control needs of registration, assignment of responsibility and safety factors in sales.

Few legitimate gun owners would protest registration free of political intimidation and high cost, a "waiting period" between sale and delivery of all guns, and a responsibility, as with cars and credit cards, for the whereabouts of the guns.

NRA, currently criticized for its opposition to the Sen. Dodd gun legislation proposal, could take the first positive step by volunteering to administer gun registration on a national basis. It could start this effort by asking its large membership to register its guns with NRA.

The venture could be done with federal government cooperation in initiating laws requiring registration with purchase and assigning the gun's responsibility to the purchaser.

If a gun is lost, stolen or sold privately to someone else, the original owner should bear responsibility of notifying the registering agency, as is the case with cars and credit cards.

Control of guns has to be on a uniform national level or not at all. Haphazard, varied controls of cities and states will only encourage illicit gun traffic; mail order guns are only one factor in gun control.

In the past, the NRA has been better known as an organization devoted to gun safety programs and gun sportsmanship. It has also worked to some degree with politicians on gun legislation. Now is its chance to take the positive lead, as a legitimate organization, to work with the government in moving ahead logically in the area of gun control.

The easiest thing one can do is criticize and point blaming fingers. The hardest thing to do is to establish a basis of communication and take the first step toward positive action for rational solution. The NRA is capable of taking a first big step, as each citizen could, in moving toward resolution of problems, such as gun control, for the good of the society.

[From the Redding (Calif.) Record-Searchlight, July 17, 1968]

N.R.A. NOT CONFIDENT ON "CONSTITUTIONAL RIGHT"

In a long and thorough discussion of gun control legislation and the lobbying for and against it, The New Yorker magazine rather effectively disposes of the "constitutional right of the individual to own and use a gun."

The article, by Richard Harris, appeared in the April 20, 1968 issue—two weeks before Sen. Robert Kennedy's assassination.

The National Rifle Association, says Harris, argued that "any bill that controlled guns in any way was unconstitutional because the Constitution guaranteed every citizen 'the right to keep and bear arms.' The reference was to the Second Amendment, which states, 'A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.' Usually, the N.R.A. quotes only the last half of the sentence. The courts, on the other hand, have always been more interested in the first half and have consistently interpreted the amendment to mean that the states have the right to maintain armed citizen militias. . . .

"Although the N.R.A. has asserted that it 'takes the bedrock stand that law-abiding Americans are Constitutionally entitled to the ownership and legal use of firearms,' it has never been confident enough of its footing to carry a test case to the Supreme Court, which has yet to knock down any local, state or federal law regulating firearms—with the exception of part of the 1934 federal law, which it faulted on the basis that it was an infringement of the Fifth, not the Second, Amendment.

"In the Court's own words, in its 1939 decision in the case of the United States vs. Miller, the Second Amendment applies only to those arms that have a 'reasonable relationship to the preservation or efficiency of a well-regulated militia.'"

SMALL TOWNS WANT FEDERAL GUN LAWS

Mr. DODD. Mr. President, there is a tendency of some Members of Congress to believe that it is only the large metropolitan newspapers, the television and radio networks, the national magazines, and the giant press services who strongly advocate better Federal firearms laws.

Nothing could be further from the truth.

Newspapers in the smallest communities, indeed papers in rural communities considered to be closest to the farmer and the sportsman, are frequently the most adamant and forceful in asking Congress to be more responsive to the people.

That should not be surprising.

It is the down-to-earth country publishers who best understand the firearm, its place in the community, and the need to control their sale.

They also best understand that the argument that gun laws would inconvenience the law-abiding citizen is a fiction, if not an outright lie.

I would like to quote some observations made on the subject of gun controls by

some of the smaller papers and at the conclusion of my remarks have printed in the RECORD the full text of the editorials.

I believe the opinion of the spokesmen for small-town America is of genuine interest to my colleagues in this debate on firearms controls.

Waynesville, N.C., Mountaineer:

The basic purpose of a gun, and it was ever thus, is to kill. There is no way, psychologically or otherwise to escape that fact . . . The gun lobby, one of the most powerful of all, knows full well that if it can avoid significant Federal controls then handling the issue in the several states will be a cinch. It needs but to fight a delaying action and wait for the people to tire of protests and then surrender to defeatism.

We can then, go back to sipping our morning coffee and sighing—sincerely, of course—as we read these one-column briefs about the dead children who were only playing "fast draw."

Lakeville, Conn., Journal:

The arguments have been prolonged for years. The evidence grows every day that strict gun laws are necessary and will not deny the rights of any civilized citizen.

Goleta, Calif., Gazette Citizen:

The right of "life, liberty and the pursuit of happiness" is the right we must be concerned with protecting; guns are a form of coercion and a means of taking away human life.

Brevard, N.C., Transylvania Times:

We can't see how a good law would be detrimental to the sportsmen, nor can we see how a properly written gun control law could challenge the right of a person to own a gun for personal protection.

Keokuk, Iowa, Gate City:

If ever there was a time for passage of an effective gun-control law, it is now!

Warrenton, N.C., Warren Record:

For four years the gun lobby has had Congress so well covered that it has been afraid to make a move. With increasing public support of stricter gun laws and growing evidence of the urgent need to act, perhaps Congress will at last dare to make its move.

Leavenworth, Kans., Times:

Even if only one life could be saved because someone who might have bought a gun didn't bother because he didn't care to go through the legal rigamarole, and thereby an accident that might have happened didn't happen, surely the sportsmen of America would be willing to put up with one more annoying inconvenience in this crowded world where no one's 'rights' extend very far any more without bumping up against somebody else's.

Greenville, S.C., Piedmont:

Forget the criminal. The fact is, guns may indeed kill people.

Chicago Heights, Ill., Star:

An interesting and perhaps disturbing aspect of the controversy over firearms regulation is the tendency of some observers to relate it to current political ideologies and even the matter of war and peace. It strikes us that the problem has existed for far too long to give substance to such reasoning. We incline toward the simpler theory that it makes sense to keep firearms, no less than firecrackers, out of the hands of those who are not qualified to have them. In any case, it should be more difficult to purchase a gun than a sparkler.

Burlington, Iowa, Hawk-Eye:

More controls are coming, just as more safety regulations for cars. Why not now?

Spartanburg, S.C., Herald:

To all arguments against gun control, one fact is not open to argument. Guns are for killing. Period. And the question naturally arises—if one would insist on keeping a gun, who would he, after due reflection, wish to kill?

Bennington, Vt., Banner:

The NRA's arguments that the availability of guns has no relationship with crime, assassination and violence are simply not widely believed any more.

San Bernardino, Calif., Telegram:

Even congressmen from western states, whose mail has opposed gun control in the past, report that their mail is now running the other way, says Congressional Quarterly.

Riverside, Calif., Press:

Prospects for tougher, more proper, gun controls have improved dramatically in the past few days, so that now there is a fairly good chance that the bill aimed at restricting sales of long guns, or an even stricter bill, may get through a once hostile Congress.

Rutland, Vt., Herald:

One of the signs of change was the statement of the state's largest gun dealer this week urging tighter controls of gun ownership. It is difficult to imagine this position being taken on the gun issue as recently as a year ago.

In the face of change perhaps the NRA may have to reassess its position or at least think up some new slogans.

Melbourne, Fla., Times:

. . . And the man who wants to help keep us in guns would do well to help get them all registered.

What's to be lost? Certainly not lives . . . and that's what it's all about.

Lansdale, Pa., North Penn Reporter:

. . . Balderdash, piffle and poppycock.

Registration and identification, in one form or another, are required for the operation of an automobile or a motorcycle, for fishing and hunting, for ownership of boats, dogs and bicycles, for voting, for military service, for social security, for health insurance plans. You must have a card to swim in a community pool, to borrow a library book, to get credit in most places.

Bar Harbor, Maine, Times:

. . . A program that won't take forever to implement is gun control, and Congress is certainly acting without responsibility by holding back on meaningful gun-control legislation.

La Grange, Ill., Surburban Life:

. . . It is a sorry state of affairs in this country when anyone can walk into almost any sporting goods store or other outlet and purchase a weapon with little or no question by the seller as to what the gun is to be used for or to the reason for the purchase.

Amesbury, Mass., News:

. . . Gun control is an attempt to reduce under the fiction that they are harmless the free trafficking of lethal weapons throughout society.

Decatur, Ala., Decatur Daily:

Our permissive tolerance of almost universal firearms ownership, and of promiscuous firearms traffic, is nothing short of scandalous. It has turned the public arena into a shooting gallery. It has helped put terror on the streets.

Newton, Mass., Newton Graphic Weekly:

. . . But even if the only thing the law accomplishes is to get fewer rifles and pistols into the hands of law-abiding citizens, it should result in a sharp reduction in murders and fatal and serious accidents, the number of which is staggering each year.

Lewistown, Pa., Sentinel:

The people of this nation, aroused by the senseless and wanton killing of public men and the slaughter by demented snipers, demand quick and courageous action by Congress on President Johnson's proposal.

Highland Falls, N.Y., News of the Highlands:

It's also doubtful that there'd be as many armed bank robberies, rapes or assaults if the weapons were taken away from the criminals. Can you see a bandit entering a bank full of people with a knife and saying "Stick 'em up"?

Dover, N.H., Foster's Democrat:

. . . But if abuses of the privilege of owning firearms are to be prevented, effective law must be enacted.

Lewiston, Maine, Journal:

. . . It is here, and in registration of weapons, that a gun control law might pay tremendous dividends. Many congressmen agree, and more should.

Bethesda, Md., Monitor:

For the life of us we can't understand why members of the National Rifle Association oppose a gun law that is meaningful. And we can't understand our representatives who are charged with the duty of enacting legislation which will protect life and limb of citizens. Why do so many of them seem brainwashed by NRA spokesmen?

Pittsford, N.Y., Brighton-Pittsford Post:

Have faith in America and American democracy. Let's not open the way to anarchy by accepting the half-baked idea that a lot of unregistered firearms are an effective means of preserving democracy.

Lewiston, Maine, Sun:

Those who own guns for legitimate purposes should have no more hesitation to register them than they do their automobiles. Those who would use them for illegal activities deserve no special consideration.

Parsons, Kans., Sun:

The rights of sportsmen, hobbyists, hunters and all other law-abiding citizens would be in no way jeopardized by the legislation proposed by the administration or the bills pending in the Senate.

Rutland, Vt., Herald:

Many hasty things are being said and done about guns at the moment simply because they were not done with deliberation over the years. How, we ask (along with the writer of a letter on this page), can a person who believes a driver should be licensed, believe a gun owner shouldn't be?

Portsmouth, N.H., Herald:

The Supreme Court has never thrown out a firearms control law on the grounds that it violated the Second Amendment. If the Second Amendment meant what Mr. Glassen says it does, we would not have our present scanty Federal firearms laws.

Portsmouth, N.H., Herald:

The absurdity of the gun lobby's position reveals itself on every count, including the one about devising punitive laws which affect the gun and not the gunman. That, too, is pure nonsense.

Great Falls, Mont., Tribune:

"The controls will not deprive the people of the right to own guns," Mansfield said. "But if they bring a reduction in deaths due to guns, it's a small price to pay."

Hastings-On-Hudson, N.Y., News Weekly:

This lobby has boasted that it can produce half a million letters against whatever it calls a threat to unfettered freedom to buy guns. Indeed, it has done so many times during the past 30 years whenever even mild controls have been proposed.

Crane, Mo., Stone County Republican:

Any man who owns or wants to own a gun ought have no hesitation or doubt about the need for the authorities to know who owns a gun and who does not. As we see it, gun controls are not intended to keep a gun away from anybody who has a legitimate reason for owning one.

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

[From the Bar Harbor (Maine) Times, June 13, 1968]

ANNIE, DON'T GET YOUR GUN

The majority of discussions we've encountered regarding the Robert Kennedy assassination has boiled down to a single point: "Is America sick?"

It's a question not easily answered. In fact, it really doesn't need an answer. Two political assassinations of national consequence within two months represent evidence that clearly cries out that something must be done.

Whether America is sick or not, whether the inner fabric of today's United States society is torn and tearing with declining morality and rising tensions is really an academic point. It's more practical to say that something sick, like violence, exists in America and something should be done now, now that U.S. citizens are shocked and shaken from the murder of Senator Kennedy.

Cures that have been recommended since the assassination by the nation's leading citizens have included elimination of hate and poverty. It's agreed that these goals are commendable, but who can properly implement the means. It will take centuries to loosen poverty's terrible grip, and it will take forever to make a sizable dent in hate.

A program that won't take forever to implement is gun control, and Congress is certainly acting without responsibility by holding back on meaningful gun-control legislation.

The bill Congress considered last week is a joke. It would merely cut down on the sale of handguns in interstate traffic while nothing would be done to curtail sales of all weapons within states. The bill as it stands now looks like nothing more than a token measure designated to placate a shocked American public. It's practically meaningless.

It's difficult to imagine that the lobby of the National Rifle Association is so strong that it overrides in power and political influence the outcry for help from a shocked America.

The situation is equally disturbing in view of the obvious help that a gun-control law would be in stemming the tide of violence.

[From the Leavenworth (Kans.) Times, June 20, 1968]

SENSIBLE COURSE ON GUN CONTROL

Any way you cut it, it's just too easy for anyone to buy a gun in Leavenworth—or elsewhere in this land of ours—and gun control legislation is one of those subjects it seems impossible to discuss dispassionately.

To some, loose gun control laws are sorely responsible for, and stiff gun control laws are the only cure for, the problem of violence in America.

To others, restrictions over the purchase and ownership of guns is the first step toward disarming the American citizenry, which is the last step before the take-over of America by "them."

There would seem to be a middle position.

There would seem to be a solution somewhere between the absolutely free and unfettered sale of dangerous weapons and the confiscation of all that exist in the country. There would seem to be enough collective wisdom among the 535 members of the U.S. Congress to write a law which would protect the rights of law-abiding sportsmen and gun buffs while making it a bit more difficult for those who should not have guns to obtain guns.

Let it be granted immediately that laws mean little to the law-breaker. The man who needs a gun for an evil purpose will find a gun. But this no more argues against putting controls on guns than the high incidence of burglaries argues against putting locks on doors.

It is time to cease the weary refrain that "guns don't kill people; people kill people." Neither do automobiles kill people. Should we then do away with all controls over the ownership and operation of motor vehicles?

Forget the criminal. The fact is, guns may indeed kill people.

At least one psychological study has shown that, in tense emotional situations, such as an argument, the mere presence or accessibility of a weapon like a gun, heightens aggressive feelings. The trigger, in a very real way, pulls the finger.

It is this which is perhaps the strongest argument for gun control legislation.

If a man under the influence of anger could not run down to the store and buy a gun at once, if he had to fill out an affidavit or go through a waiting period of a few days, lives might be saved.

If a mental defective or an under-age youth could not send for a rifle through the mail, lives might be saved.

If a panicky homeowner had to go through a little red tape before buying a gun to defend his house against "them," lives might be saved.

Even if only one life could be saved because someone who might have bought a gun didn't bother because he didn't care to go through the legal rigamarole, and thereby an accident that might have happened didn't happen, surely the sportsmen of America would be willing to put up with one more annoying inconvenience in this crowded world where no one's "rights" extend very far any more without bumping up against somebody else's.

[From the Crane (Mo.) Stone County Republican, June 27, 1968]

NO PANIC

Opponents of strict gun controls are trying to palm the whole thing off by saying they don't think anything should be done in "a spirit of panic," or "while emotions are high."

This is pure poppycock. If it were true that we are in a state of panic, that would be one thing—but this nation is in no state of panic. What is happening is that opponents of gun controls are mistaking the nation's determination as panic, and its disgust with foot-dragging legislators as emotion.

Any man who owns or wants to own a gun ought have no hesitation or doubt about the need for the authorities to know who owns a gun and who does not. As we see it, gun controls are not intended to keep a gun away from anybody who has a legitimate reason for owning one.

In Great Britain where the controls over firearms are very strict, the men and women who belong to gun clubs and use firearms for sport, say they welcome the restraints placed upon indiscriminate possession of firearms. They testify that their system works out very well.

This is an issue on which the presidential candidates should make their stand positive and well known—either for or against. In this regard it was surprising to read that Sen. Eugene McCarthy is one of those hanging back on the excuse that we should not rush into legislation in this area of gun controls. Thirty or forty years of effort to get this kind of legislation on the statute books can hardly be called "rushing into." His statement makes one wonder if he would hesitate in like manner on other vital issues of the day were he to be elected.

The National Rifle Association may have a million members who can be called upon to write their Congressmen but there are many more millions of American citizens who would heartily welcome sensible and "toothy" gun control legislation on the federal level.

An indication that Rhode Islanders join in the increasing numbers across the nation who support gun control was the petition taken this week to Washington, D.C. by local resident Mrs. Frank Toolan. Accompanied by Mrs. Patricia A. DeMeo of Riverside, the two collected 7,000 signatures which were presented to the Senate subcommittee presently debating legislation on gun control.

[From the Chicago Heights (Ill.) Star, June 30, 1968]

AS WE SEE IT: NEED FOR GUN CONTROL IS CLEAR AND EMPHATIC

For reasons which are not entirely clear, few issues become so supercharged with emotion as the simple—and we think entirely necessary and sensible—proposal that meaningful restriction be placed on the acquisition and possession of deadly weapons.

We are witnessing again a violent reaction to gun control legislation, this time at the federal level. People who readily accept the proposition that one must equip himself with driving skills and pass an examination before operating a motor vehicle, which in turn is licensed, lash out with unrestrained energy at the suggestion that gun control be legislated. Why?

Letter-writing campaigns initiated by the National Rifle association get the credit or blame, as the viewpoint may be, for influencing legislators and sidetracking effective gun control bills. But who writes all these letters? Random queries bring indications that NRA members are not easy to comeby, a fact which suggests that the association's lobbying influence is far out of proportion to the number of Americans who actually oppose strict gun control.

For our part, we are glad President Johnson has stepped forward to press for effective legislation; he has advanced valid arguments in its behalf.

Closer to home, Dr. Andrew Toman, Cook county coroner, has released statistics breaking down the 607 gunshot deaths which occurred in the county during 1967. Guns were used in 238 murders, 158 suicides, 49 manslaughter fatalities, 54 accidental deaths, 19 deaths due to undetermined circumstances and 89 justifiable homicide cases.

Nobody will deny that violent crimes, some involving firearms, will occur despite the most rigid controls of weapons. The argument against restrictions wears thin, however, in the face of needless gun accidents alone. And, as Dr. Toman points out, a number of suicides and even some murders result from panic or impulse on the part of a person who happens to have a gun handy.

An interesting and perhaps disturbing aspect of the controversy over firearms regulation is the tendency of some observers to relate it to current political ideologies and even the matter of war and peace. It strikes us that the problem has existed for far too

long to give substance to such reasoning. We incline toward the simpler theory that it makes sense to keep firearms, no less than firecrackers, out of the hands of those who are not qualified to have them. In any case, it should be more difficult to purchase a gun than a sparkler.

[From the Spartanburg (S.C.) Herald, June 29, 1968]

GUNS AND THE PUBLIC

The gun control law will not eliminate aggravated assault, murder, or crime. But it is one additional tool to help overburdened police, and a small, much-needed protection for the innocent bystander.

As it stands now, the Federal gun control law is a scrap of paper. It will be no better in solving problems arising from the gun, than have been a multiplicity of state gun laws. The key is first, public realization for the need and willingness to cooperate, and secondly, swift and certain enforcement.

There are a number of excellent examples for the U.S. to follow. England is one. There, violation of gun is considered a serious offense. A possible penalty is 10 years in jail. Despite all the emotion—much of it deliberately stirred by commercial gun interests—the proof of effectiveness of real gun control is in the British homicides rate by gun. They are rare.

There are some bad examples, too. Mexico has tight regulations governing sale of pistols and rifles. But there is a flourishing black market—and no real enforcement effort.

Canada has little sympathy for that nation's gun laws, and illegal guns are plentiful. In both nations, as well as in our own, there is a common denominator—a visible lack of public endorsement for gun control. The courts, too, handle violators in a wishy-washy fashion.

New gun laws must be coupled with police vigilance, court diligence, and public maintenance to produce the life-saving results that can come, in time, from the slow elimination of many of the two hundred million guns in this nation.

To all arguments against gun control, one fact is not open to argument. Guns are for killing. Period. And the question naturally arises—if one would insist on keeping a gun, who would he, after due reflection, wish to kill?

[From the Hastings-on-Hudson, (N.Y.) News, June 27, 1968]

WHO PULLS THE TRIGGERS?

Mail to members of Congress, heavily favoring strong gun control legislation after the assassination of Senator Robert F. Kennedy, is now reported to be going in the other direction since the National Rifle Association has urged its members to oppose it.

This lobby has boasted that it can produce half a million letters against whatever it calls a "threat" to unfettered freedom to buy guns. Indeed, it has done so many times during the past 30 years whenever even mild controls have been proposed.

The N.R.A.'s arguments against gun controls are a fraud against the intelligence of the 80 percent of the American people who want sanity introduced into this aspect of our sick culture. It's inconceivable that the Congress should even listen to the N.R.A. or read its whipped-up mail, but if the 80 percent who want action aren't willing to write one letter and the cause of gun control drowns in a sea of apathy, whose will be the fault?

In our highly literate communities, will the people turn away from their more interesting or more profitable pursuits for the few minutes it takes to write their Congressman and Senator, their State Assemblyman and State Senator?

Whose fingers will be on those triggers, that could have signed letters asking for this legislative action, but failed to do it?

[From the San Bernardino (Calif.) Telegram, June 18, 1968]

CONGRESS GETS THE MESSAGE

Citizens are speaking out in unprecedented numbers, and Congress is being flooded with letters, telegrams, telephone calls and petitions urging further gun controls.

Even congressmen from western states, whose mail has opposed gun control in the past, report that their mail is now running the other way, says Congressional Quarterly.

This has accounted for some key senators switching positions and prospects for passage of legislation regulating mail order and out-of-state sales of rifles, shotguns and ammunition are now bright.

However, one Senate source said, "If they're going to pass a law, they'd better do it quickly. The forces of the National Rifle Association and the like haven't gotten tooled up yet, and, when they do, you can bet the mail is going to change."

Nevertheless, congressmen can and should note that the reaction against guns has been spontaneous and from the heart of people who do not ordinarily write to their representatives. The mail favoring guns has in the past been an organized part of well-calculated campaigns.

The sad part is that it took the assassination of Sen. Robert F. Kennedy to rouse citizens to action. For years, law enforcement officers and a huge majority of the people have wanted gun controls, but only now are the people really speaking out.

Now that the gun control drive is well-launched, the public should not falter, but see it through to a successful end.

[From the Brevard (N.C.) Transylvania Times, June 20, 1968]

WHAT'S WRONG WITH GUN CONTROL?

Ever since the shocking assassination of President John F. Kennedy there has been some concern over the lack of gun control laws in America.

The concern came alive anew with the assassination of Dr. Martin Luther King, and then again this past week when Senator Robert F. Kennedy was shot by an assassin.

Obviously there are many, many people who are unalterably opposed to any kind of gun control law. They cite all sorts of reasons, including that it is an infringement on personal freedom.

Others want some kind of mild gun control laws, and a few, no doubt, would like to see it so tight that nobody could purchase a gun . . . for any reason.

We're in favor of some type of meaningful gun control legislation, and this would include complete elimination or strict regulation of guns sold via mailorder houses.

We can't see how a good law would be detrimental to the sportsmen, nor can we see how a properly written gun control law could challenge the right of a person to own a gun for personal protection.

What's so bad about requiring all guns to be registered? Why should people squak at not being permitted to purchase a gun from out-of-state? We can see no infringement here on any freedom.

The real danger, as we see it, is the indiscriminate arming of anyone who wants to own or use a gun. The freedom of too many people has been ended permanently by people who never should have had guns placed in their hands. And, we're not just referring to political assassinations either.

We're not suggesting that a new gun control law, regardless of how stringent, would completely eliminate crime. Everybody knows that. Nevertheless, some means must be devised which will attempt to deter violence.

A gun law, which would require that all owners must register fire-arms; a law, which would control the indiscriminate selling of guns, would be a step in the right direction.

How many more killings will there have to be before we wake up to the fact that not every person is capable of owning or using a gun?

[From the Bennington (Vt.) Banner, June 18, 1968]

THE NRA: LOADED FOR BEAR

While campaigning in Oregon late last month, Sen. Robert F. Kennedy arrived in Roseburg, a town about the size of Bennington, and found himself confronted with a crowd of local citizens who objected loudly to his support of gun control legislation. One man stepped forward and argued that the purpose of a pending Senate bill was to require registration of all guns. This, of course, was not true, and Kennedy pointed out that the bill was intended to keep guns out of the hands of madmen, criminals and children. The crowd was unconvinced, and one man shouted: "Nazi Germany started with the registration of guns."

This is just one example of the sort of hysteria whipped up by the National Rifle Association and various outdoor and sportsmen's groups in opposition to any proposal for gun control legislation, on either the national or local level.

Since the shooting of Sen. Kennedy in Los Angeles just a few weeks after his visit to Roseburg, there has been overwhelming, if belated, display of popular support for the enactment of federal gun controls. And the NRA, predictably, is once again driving its nearly one million members into a frenzy of opposition to any restrictions at all on the sale, distribution and use of guns. The NRA chiefs are spreading the word that "Communist-front groups support gun bills." They are talking about a conspiracy to disarm the American people. Once again, they are organizing massive letter writing campaigns to congressmen. In short, they are using the same tactics of distortion and intimidation that have prevented the enactment of virtually any sane and sensible gun laws in the United States.

This time, the NRA may just lose. The assassination of Sen. Kennedy has triggered a popular wave of revulsion against America's gun culture—a holdover from frontier days. President Johnson has called for a somewhat stronger gun law than the one included in the crime bill passed two weeks ago. He would now extend the ban on mail order sales of handguns to rifles and shotguns. Three gun manufacturers have even expressed limited support for such a measure. Some western congressmen, who represent heavily armed constituencies and have traditionally opposed gun laws, have indicated they have changed their minds. One senator, Joseph Tydings of Maryland, wants to go even farther and require registration of all guns and licensing of gun owners.

The gun controls proposed by Sen. Tydings would help keep guns out of the wrong hands. More important, they would reduce the number of lives lost in this country every year as the result of the misuse of firearms. They would serve as a powerful reminder to trigger happy Americans that guns are dangerous instruments, to be used only for special purposes under special circumstances. They would not disarm hunters and target shooters, any more than laws requiring the registration of autos and the licensing of drivers have demobilized the American motorist.

The NRA's arguments that the availability of guns has no relationship with crime, assassination and violence are simply not widely believed any more. About 17,000 Americans are killed by guns every year; of these 6,500 are murdered, the rest are victims of accidents and suicide. This is a total unmatched by other civilized nations—most of which have strict controls on the use and sale of guns. Statistics show that cities, and other countries, that have tough gun laws have much lower rates of homicide by gun than those without. FBI Director J. Edgar

Hoover says that the "easy accessibility of firearms is a significant factor in murders committed in the United States today."

It's about time that the NRA calmed down, admitted all this, and did the nation a service for once by agreeing that annual registration of his guns is a small sacrifice for a sportsman to make if it will help deny guns to the wrong people and reduce the fearful slaughter caused every year by privately owned weapons.

[From the Dover (N.H.) Foster's Democrat, July 8, 1968]

TO PREVENT FIREARMS ABUSE

A few days ago, House Democratic Leader Carl Albert of Oklahoma announced his opposition to major gun control bills now before Congress. On the same day, a news story out of Salt Lake City recounted the seizure of an arsenal of weapons—rifles, pistols, machine guns, cases of high explosives—at a suburban residence.

We do not thus juxtapose this confiscation and Albert's announcement with the intent of embarrassing him, or of singling him out for censure. It does strike us that the Salt Lake City episode aptly reaffirms once again—though reaffirmation surely is no longer necessary after all that has occurred since President Kennedy was murdered—the need for adequate gun control legislation.

It is all very well for Congressman Albert to say, "No dealer in his right mind would sell a gun to a child, a mentally retarded person or someone under the influence of alcohol or narcotics." It is all very well for him to say, "I do not feel it is my prerogative to tell a sane adult constituent of mine that he cannot buy a gun in another state if he wants to do so." But if abuses of the privilege of owning firearms are to be prevented, effective law must be enacted.

[From the Riverside (Calif.) Press, June 18, 1968]

PUBLIC OPINION AND GUN CONTROLS

Prospects for tougher, more proper, gun controls have improved dramatically in the past few days, so that now there is a fairly good chance that the bill aimed at restricting sales of long guns, or an even stricter bill, may get through a once hostile Congress.

Public opinion has been overwhelmingly in favor of gun restrictions, and this has increased markedly since Robert Kennedy's assassination.

An extraordinary amount of mail has been flowing into the White House and into Congress. Equally extraordinary is that most of this has been spontaneous, with no powerful organization sending postal instructions to its members. No longer are adherents of the National Rifle Association's philosophy the only ones writing.

This has had an obvious effect in Congress. Sen. Mike Mansfield, who will be valuable in guiding a law through Congressional roadblocks, suddenly supports even stricter controls, which would require registration of all guns and licensing of their owners. The Majority Leader joins six other Senators who have publicly changed their position.

Add to this the Administration's order for a new legislative push. Even the gun lobby is seemingly split with three major manufacturers coming out in support of a compromise measure which would prohibit mail-order sales of rifles and shotguns.

It is just possible that the grip the gun lobby has held over Congress for many years will be broken; that one of the several bills of varying strength, but all better than what is before the President now for signature, will go all the way; that Senator Kennedy's murder, unlike his brother's, will be marked by some positive legislation to limit what Mr. Johnson has called the "insane traffic" in guns.

Public opinion, in the main, is doing all of this. And public opinion can still be registered by writing to Congressman John Tunney, Longworth House Office Building, this district's representative, or to any Congressman or Senator, in Washington, D.C.

[From the Amesbury (Mass.) News, June 26, 1968]

GUN CONTROL LAWS—A MEMORIAL

It was heartening to learn that our congressman William H. Bates had received "well over 100" coupons as of last week from his district asking for stricter gun control laws. We reprint it below and urge you to send it.

Gun control is an attempt to reduce under the fiction that they are harmless the free trafficking of lethal weapons through our society.

Guns keep surfacing as tools of violence in America.

And while violence supposedly has been repugnant to most Americans, it has taken the murder of public figures to awaken the people to the need for action.

Why no one thought about gun control in the face of countless gangland slayings and accidental hunting and household deaths is a mystery.

Governments have long recognized that the proliferation of weapons poses a grave danger to the world. (Witness the recent U.S.-U.S.S.R. agreement to halt the spread of nuclear weapons). But the same analysis had not been made internally by many people in this country.

America has paid a dear price for its indifference in this area. The price has been the loss of some of its more relevant spokesmen for change.

Now comes the 900,000 member National Rifle Association and various fish and game clubs in an effort to mount a massive campaign against the current public outcry for regulated gun sales.

They claim that gun control laws will endanger their "sport" which is "protected" by the U.S. Constitution.

These groups always have had their strongest support from conservative elements in Congress. But the views of these Congressmen reflect are ironic in this case.

For those who are most agitated over the prospect of strong gun control are often the same ones who are for control of other aspects of our lives. They often lead the outcry against the portrayal of sex on television and in the movies. And they are some of our most vocal prudes when it comes to the use of four letter words in public places or in books and plays. They, too, will be seen opposing the study of Communism in the public schools as they will be against the use of educational institutions for the truly free interplay of ideas.

We are not saying that all members of the N.R.A. and the fish and game clubs who oppose gun control laws think in this way.

What we are saying is that there are too many pepole who view the constitution selectively—that is, they scream "unconstitutional" only when it pleases them.

We mean, for example, those who consider the property right paramount when measured against the right of a man to live where he pleases regardless of his color.

This selectiveness of rights—this narrow attitude is not unconnected with the slaying of Pres. John F. Kennedy, Martin Luther King, Sen. Robert F. Kennedy, Malcolm X and many others.

All these men stood up against this narrowness of mind—this selectiveness of rights that enslaves the black man today.

They stood for a new sense of priorities among Americans that honors basic human rights.

It is more than a nice sounding phrase, therefore, to say gun control laws are a memorial to these men.

[From the Newton (Mass.) Graphic, June 20, 1968]

GUN CONTROL LAW

A strong and sensible gun-control law which would apply to the 50 States of the Union should be enacted as speedily as possible by Congress.

It is difficult to understand how any member of Congress or of the National Rifle Association could offer any reasonable objection to the recommendations by President Johnson.

The President has proposed that the mail order sales of rifles, shotguns and ammunition be outlawed and that over-the-counter sales of long guns be limited to persons over 21 who reside in State where the purchases are made.

Those two recommendations, if enacted into law, would be a step in the right direction.

Actually, they would not go far enough, but they would help.

Some Congressmen and many members of the National Rifle Association argue that such actions would be too drastic. It is impossible for us to follow their reasoning. Their logic escapes us completely.

No gun law, however strict or rigid, will guarantee that a President or other public figure will not be assassinated in the future any more than will the assignment of Secret Servicemen to guard such public leaders.

A deranged would-be assassin may still be able to figure out how to buy or steal a rifle or pistol.

Professional criminals unquestionably will still be able to get the firearms they use in plying their nefarious trade.

But even if the only thing the law accomplishes is to get fewer rifles and pistols into the hands of law-abiding citizens, it should result in a sharp reduction in murders and fatal and serious accidents, the number of which is staggering each year.

Worthwhile gun legislation will not be a swift or certain panacea for violence made possible by firearms. However, with proper enforcement, it can offer the first long stride toward sanity.

The National Rifle Association comprising about a million members, virtually all of them respectable and respected citizens in their communities, apparently will oppose the enactment of even the most moderate gun control law.

While a sane gun control law may inconvenience gun and rifle collectors, the overwhelming evidence is that such a law is nedeed and that no small group, however well organized, can be permitted to keep it off the statute books.

[From the Decatur (Ala.) Daily, July 13, 1968]

DISGRACE TO NATION

A British journalist has written of us: "However much I may love and admire America, its gun laws come near to ruling it out of civilized society."

They do. Our permissive tolerance of almost universal firearms ownership, and of promiscuous firearms traffic, is nothing short of scandalous. It has turned the public arena into a shooting gallery. It has helped put terror on the streets.

No system of government, no civilized society, can long endure when the cream of its leadership keeps getting shot by crackpots and fanatics when some citizens regard the gun as a manly means of dissent; when a powerful and well heeled firearms lobby persists in distorting the facts about essential gun control legislation; when hordes of well meaning sportsmen swallow these distortions without bothering to inform themselves; when children of 12 can lug high powered rifles into the hunting field, as they can in Wisconsin and elsewhere; when the substantial majority of citi-

zens who favor sane controls fail to stand up and be counted.

"We make it easy for men of all shades of sanity to acquire whatever weapons and ammunition they desire," Robert Kennedy declared in mourning the rifle assassination of Dr. Martin Luther King Jr. Now Kennedy, like his president brother, like the civil rights leader, has been cut down by an assassin's bullets.

From 1900 to 1966 guns were involved in 280,000 murders, 370,000 suicides and 145,000 accidental deaths in the United States. Total: 795,000 victims of bullets since the turn of the century, or almost twice the battle dead in all of our wars since the Spanish-American War.

In 1962 there were 29 people murdered by gunfire in Great Britain, 20 in France, 9 in Belgium, 6 in Denmark, 5 in Sweden. United States total that same year: 4,954.

Nobody really knows how many firearms there are in the United States because controls are minimal. Estimates range from 50 million to 200 million. In Japan, by contrast, fewer than 100 citizens in a population of 100 million have licenses permitting them to possess handguns.

[From the La Grange (Ill.) Surburban Life, June 20, 1968]

A PRIVILEGE, NOT A RIGHT

Why all the hue and cry about a strong gun registration law by the National Rifle Association?

It should be the main force in favor of stringent regulations concerning the registration of firearms. And yet it carries on with mistaken fervor that rights of some sort are being infringed when rifles and other hand weapons are required to be registered.

In the first place the ownership of guns is a privilege, not a right. It is no different in principle than the privilege of driving an automobile.

It is a sorry state of affairs in this country when anyone can walk into almost any sporting goods store or other outlet and purchase a weapon with little or no question by the seller as to what the gun is to be used for or to the reason for the purchase.

Guns and other weapons are available to anyone, regardless of character, who has the price to pay for them. They can even be purchased by mail.

There's no argument here against the sportsman who purchases a gun for hunting purposes. And the proposed laws will not outlaw the possession of guns by hunters, targetshooters or those engaged in other sporting events.

We don't believe, as we've stated before, that guns should be kept around the home in firing positions, but this doesn't mean that we're against the possession of firearms by those who would use them legally.

We agree with the rifle association that registration of guns will not stop someone of nefarious character from buying, stealing or even constructing weapons themselves.

Laws regulating firearms will not stop killing or holdups, any more than traffic laws can stop all speeding by motorists. But the laws do have a deterring effect by virtue of the restrictions they bring.

In England, for example, where even the policeman on the beat is unarmed, there is far less murder and armed robbery, largely because of laws requiring firearms to be registered. One of the main British charges against the suspect in the Martin Luther King assassination is that the man was carrying a weapon which was not registered.

The days when it was almost a necessity for a man in this country to carry a rifle or sidearm to protect himself are long past. We are basically a non gunbearing society.

We don't think that most people are naive enough to believe that a federal law will stop violence or killing. But there must be some deterrent.

And let's stop all this nonsense about the rights of citizens being trampled on because they must register ownership of a weapon.

There is no right to carry a gun. If a person desires ownership he should be willing to accept the responsibilities that go along with gun ownership.

In our opinion, the proposed federal law is not strong enough.

[From the Bethesda (Md.) Maryland Monitor, June 20, 1968]

GUN CONTROL

For the life of us we can't understand why members of the National Rifle Association oppose a gun law that is meaningful. And we can't understand our representatives who are charged with the duty of enacting legislation which will protect life and limb of citizens. Why do so many of them seem brainwashed by NRA spokesmen?

We sincerely invite any local representative of the National Rifle Association to spell out precise reasons why this seemingly powerful organization opposes intelligent gun control. Perhaps, there are good and valid reasons. We haven't the foggiest idea what they could be, but we're willing to listen to both sides of any question.

[From the Highland Falls, (N.Y.) News of the Highlands, June 20, 1968]

GUN CONTROLS

A favorite saying with the anti-gun-law people is: "Guns don't kill people—people kill people". This is a neat play on words and ideas. However, if you were to take away guns from people, it's doubtful that you'd have as many homicides as this nation does today.

For one thing, it's highly doubtful that a man without a gun would have the opportunity to commit long-range murder, such as the assassins of President Kennedy and Dr. Martin Luther King. And it's doubtful that the murderer of Sen. Kennedy would have had the opportunity to use a knife or a club in the recent circumstances in California.

It's also doubtful that there'd be as many armed bank robberies, rapes or assaults if the weapons were taken away from the criminals. Can you see a bandit entering a bank full of people with a knife and saying "Stick 'em up"?

As a nation, we register our cars, our dogs, our businesses, our births, our deaths, our marriages, and infinitum. The idea is not to take away protection from anybody, but to make sure everyone is protected by law.

Speaking of those anti-gun-law adherents, it's time you put a more realistic twist to your saying—for example: "Guns don't kill people—people with guns kill people". That would be a little more accurate.

[From the Lewiston (Maine) Journal, June 12, 1968]

VALUE OF GUN CONTROL

The heated exchanges of the present day relative to the value, or lack of same, of a strong gun control law are changing few minds.

One either feels strongly that a gun control law is worthwhile and necessary, or that it is useless, and an unnecessary restriction on the rights of gun owners, including hunters.

Obviously, the person who feels that a strong gun control law would prevent a warped mind from planning, then carrying out, the assassination of a President or Presidential candidate is wrong.

No legislation which man can devise can keep a gun out of the hands of a determined killer.

What a gun control law might be able to do is to prevent killings on the order of those which are done in a moment of uncontrollable anger, stress, or panic. The person who is suddenly, unexpectedly, given cause to hate, or thinks such cause to hate and kill has been thrust upon him, may reach for a gun if he has one, and use it without thinking.

If he had no gun, he could not reach for one.

Obviously, he might still, and probably would, carry out an assault with fists or knife, or whatever other tool might be at hand, but a successful defense is far more likely in these circumstances, in comparison to the situation where a gun is available for lethal, lightning-like use.

It is here, and in registration of weapons, that a gun control law might pay tremendous dividends. Many congressmen agree, and more should.

[From the Portsmouth (N.H.) Herald, June 24, 1968]

THEIR OWN BRAND OF HYSTERIA

The "guns-for-everybody" proponents, while denouncing gun-control agitation born of "hysteria," are trying to create some hysteria of their own by warning against attempts to "disarm" the American people.

This is what would happen, they claim, if Congress dared to enter into legislation requiring the registration of firearms. They also say that present efforts in this direction are aimed at "punishing the weapon instead of the offender."

And in a further part of their campaign to frighten the country out of its current mood favoring sensible restraining laws, the gun lovers are raising the flag of despair by arguing that "criminals will get guns, anyhow, so what's the sense of regulating the sale of them?"

Anybody who considers these protestations in a thoughtful way should be able to perceive the falsity of them without difficulty. Therefore it would seem apparent that the advocates of unlimited freedom with guns aren't even trying to direct their appeal to thoughtful people, but instead are preying on the fears and imagination of non-thinkers.

What other motivation would guide activity behind the obivously trumped-up charge that confiscation of guns is an inevitable follow-up to any uniform gun registration law enacted at the federal level?

The gun advocates know very well that there is not the slightest bit of sentiment for taking guns out of the hands of hunters, target shooters or other sportsmen. Neither is there any desire or intention to prevent anybody else from obtaining or owning guns if such persons are equal to the responsibility.

The claim, then, that a movement is under way to "disarm" the populace is patently phony, but it is the kind of fakery which can be cleverly manipulated to rob well-meaning people of their reason. That, in fact, is the very purpose of the ruse which the gun lobby is now busily perpetrating.

As for the alleged futility of gun controls, would we want to abolish the laws against illegal traffic in drugs because these haven't proved completely successful?

The absurdity of the gun lobby's position reveals itself on every count, including the one about devising punitive laws which affect the gun and not the gunman. That, too, is pure nonsense.

[From the Portsmouth (N.H.) Herald, June 14, 1968]

WHAT "RIGHT TO BEAR ARMS"?

"We see Americans behaving like children, parroting nonsense, accepting unproved theory as fact and reacting as the German people did in the 1930's as the Goebbels propaganda mill drilled lies into their subconsciousness and dictated their every movement.

"We are witnessing the strange and masochistic spectacle of tens of thousands of normally proud and level-headed Americans

begging the federal government to take from them by force one of their basic rights, the right to keep and bear arms."

This wild statement was made in Washington on Wednesday by Harold W. Glassen, president of the National Rifle Association. It was not only insulting to every American who is concerned about violence in the nation, but it was—in typical NRA fashion—highly inaccurate besides.

When Mr. Glassen talks about the "right to keep and bear arms," he is bringing up a wholly bogus issue. No such right exists for the individual citizen. The serious legal scholar who thinks so is a rare bird indeed.

The Second Amendment of the Constitution, which Mr. Glassen quoted only in part, reads as follows:

"A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Over and over again the U.S. Supreme Court has interpreted this to mean that it is the people's right to maintain a state militia; that the Constitution does not give everybody the right to keep guns at home and carry them about.

In a 1939 case, "U.S. vs. Miller," for instance, it was argued that Miller, who had been convicted of carrying a sawed-off shotgun across state lines in violation of the National Firearms Act, was protected by the Second Amendment. The court upheld the conviction unanimously.

"In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than 18 inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia," said the decision, "we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument."

The Supreme Court has never thrown out a firearms control law on the grounds that it violated the Second Amendment. If the Second Amendment meant what Mr. Glassen says it does, we would not have our present scanty Federal firearms laws.

Mr. Glassen would do better by heeding the temper of those tens of thousands of citizens who want good gun laws rather than invoking the specter of fascism and talking about a "right" that is not written.

[From the Rutland (Vt.) Herald, June 21, 1968]

GUN CONTROL CHANGES

Protests against gun control legislation published in the nation's newspapers are likely to have much in common whether they appear in Vermont or New Mexico. Some of them might almost have been written by the same person judging from the similarity of the arguments.

Many of the letters will include the phrase "Guns don't kill—people do."

There will be an implication that laws requiring gun registration are intended to disarm law abiding citizens while the law breaker maintains an arsenal.

It isn't clear why one should be expected to believe that a gun license requirement would eliminate gun ownership by the law abiding when licensing doesn't prevent ownership of dogs or bicycles.

Nor is it clear why we should refrain from making the effort to keep guns out of the hands of law breakers and the mentally unstable.

These arguments, implications and fears in the field of gun control legislation have largely been inspired by the National Rifle Association whose anti-gun control lobbying is generally considered to be a model of effectiveness.

There have been some recent indications of change in public opinion and in Congress on this issue—changes that may have started even before the assassinations of Dr. Martin Luther King and Sen. Robert Kennedy.

One of the signs of change was the statement of the state's largest gun dealer this week urging tighter controls of gun ownership. It is difficult to imagine this position being taken on the gun issue as recently as a year ago.

In the face of change, perhaps the NRA may have to reassess its position or at least think up some new slogans.

[From the Lewiston (Pa.) Sentinel, June 28, 1968]

ACTION ON GUN CONTROL

Since recent polls have shown that about 85 per cent of the people favor strict gun controls, President Johnson's proposal is certain to meet with widespread approval.

The President's plan calls for national registration of all firearms. It calls for licensing of every person before he is entrusted with a gun.

Congress has already approved a ban on the mail-order sales of pistols and revolvers and a similar ban on the mail-order sale of rifles and shotguns seems certain of passage.

None of these laws will take a gun away from any responsible or law-abiding person.

For many years we have had registration of automobiles, of automobile drivers, of dogs, and of boats. In addition a license is a requirement for marriage. None of these are considered curbs to our freedom. And neither will gun registration.

Good police departments, the Regular Army and State and National Guard units provide protection. We need no bands of gun-carrying radicals either from the right or left wings of the country defending us.

President Johnson's figures showed that 7,700 murders were committed in this country last year with guns and guns were employed in 71,000 robberies and 55,000 assaults.

The people of this nation, aroused by the senseless and wanton killing of public men and the slaughter by demented snipers, demand quick and courageous action by Congress on President Johnson's proposal.

[From the Great Falls (Mont.) Tribune, June 23, 1968]

TIME FOR SOUND THINKING ABOUT GUN CONTROL LEGISLATION

There's great misunderstanding in Montana about the gun control provision in the crime bill President Johnson signed Wednesday and about gun legislation being considered in Congress.

The crime law includes a section forbidding mail order sales of pistols.

That law does not prohibit purchase or possession of pistols. It simply makes purchase more difficult for criminals, deranged persons and children by requiring that these deadly weapons be sold only by licensed dealers in the state where the purchaser resides, rather than by mail-order and only after careful identification of the purchaser in conformity with local laws.

The gun law does not interfere with any legitimate interest or activity of law-abiding citizens. Gun collectors, target shooters, householders or storekeepers desiring pistols for their own protection can continue to buy as many as they please.

Bills being considered in Congress call for a ban on mail-order sales of shotguns and rifles and tightening of controls on sale of ammunition.

Members of Congress are being swamped by letters and wires regarding gun legislation.

Sen. Mike Mansfield said he has never seen such an outpouring of opinion from Montana or the country at large on a single issue. He said he is being blistered for favoring gun controls—with letters running three to one against controls.

"The controls will not deprive the people of the right to own guns," Mansfield said. "But if they bring a reduction in deaths due to guns, it's a small price to pay."

Mansfield pointed out FBI Director J. Edgar Hoover wants tighter controls on guns as does Quinn Tamm, former Butte resident who is director of the International Association of Chiefs of Police.

Hoover has said "easy accessibility of firearms is a significant factor in murders committed in the U.S. today." He maintains that an available weapon enhances the possibility of "impulse" killings, particularly in family disputes.

The Gallup and Harris polls report that three-quarters of all Americans favor stricter gun control laws.

Pressure groups are trying to use emotionalism and fear tactics to rally hunters to fight gun legislation.

This is a time for sound thinking. Sane legislation that would control the sale of guns and ammunition will not interfere with the rights of Montana hunters. Such laws certainly may save many lives in the industrialized states—and in hunting states such as Montana, too.

[From the Rutland (Vt.) Herald, June 27, 1968]

COST OF PROCRASTINATION

When a controversial subject like the proprosals for gun controls gets started many rational debaters seem to abandon moderate ground in favor of strong pro and con positions that invite a further escalation of the debate. Unyielding principles appear to outweigh rational compromise on both sides. This tendency is particularly unfortunate since it drowns out thoughtful arguments that might in the cool of a quieter moment lead to sensible agreements acceptable to most if not all interested parties.

The crash program approach to changes is an inevitable result of procrastination. Adequate gun controls of some sort have been needed for generations and for generations successfully resisted by traditions and lobbyists. What is now happening in gun controls closely parallels what is happening in legislation aimed at correcting human injustices which have been overlooked for generations.

The highly articulate opposition to gun controls is evidence that a great majority of gun owners are law-abiding citizens jealous of their rights and privileges, and many of them loyal members of the National Rifle Association whose patriotism is not in question.

The extreme additional gun control proposals outlined Monday by President Johnson call not only for the licensing of gun owners but for the registration of all weapons. Many sportsmen, including Herald columnist Milford K. Smith, may reluctantly accept the idea of licensing owners, but balk at the idea of registering each firearm, including perhaps those in collections of antiques as well as modern sporting hand and long guns.

To us it seems the licensing of registration of gun owners should in modern times have been required just as routinely as the licensing of drivers and registration of motor vehicles. The lingering inconsistencies in state motor vehicle regulations soon will be eliminated by federal safety standards.

Why a gun owner who willingly obtains a license to hunt should object to obtaining a license to possess a firearm, we cannot understand, any more than we can see how such licensing or registration represents confiscation or even the threat of confiscation, so long as the person is qualified and the weapon legal in the first place.

The voluntary "surrender" of weapons now going on in many parts of the country is probably just as much due to personal desire to be rid of them as to any sense of moral compulsion.

Many hasty things are being said and done about guns at the moment simply because

they were not done with deliberation over the years. How, we ask (along with the writer of a letter on this page) can a person who believes a driver should be licensed, believe a gun owner shouldn't be?

[From the Parsons (Kans.) Sun, June 19, 1968]

DEAF EARS

"The right of sportsmen in the United States to obtain, own and use firearms is in the greatest jeopardy in the history of our country."

That sweeping, unqualified statement comes from the president of the National Rifle Assn., in a letter urging its nearly 900,000 members to write Congress on a massive scale.

"The rights of sportsmen, hobbyists, hunters and all other law-abiding citizens would be in no way jeopardized by the legislation proposed by the administration or the bills pending in the Senate.

"These bills would merely deny firearms to juveniles and criminals."

That statement comes from a member of the United States Senate, Joseph D. Tydings of Maryland.

You can make your choice as to who's right and who's wrong.

The Senate by its recent actions prefers the Tydings view, including an increasing number of members previously opposed in whole or in part to gun control legislation.

Misrepresentation carries the seeds of its undoing, and this is happening to the National Rifle Assn. It has issued so much hysterical propaganda in recent years against even the mildest of control legislation that continued distortion is beginning to fall upon deaf congressional ears.

Even major gun manufacturers have seen fit to disassociate themselves from the NRA's untenable position, by announcing their support of pending legislation. This development can prove the biggest blow of all to a lobby which has practiced all manner of irresponsibility for all too long.

[From the Lewiston (Maine) Sun, June 27, 1968]

REGISTERING ALL GUNS

The President's call for legislation to require the registration of all guns by their owners has blown up a veritable hurricane in Washington. And, as usual, spokesmen for the National Rifle Assn. prominently are identified with the opposition.

Yet, the registration of firearms is no more an infringement on individual rights, nor of constitutional guarantees, than the registration of automobiles. In fact, there is a close comparison between the two: Both are a menace to the public when in the wrong hands.

The registration of guns is for the protection of the general public. It need not become a revenue measure. While no amount of enforcement of any law fully can prevent tragedies such as the assassination of the Kennedy brothers and Dr. King, proper gun control legislation can make such violent acts more difficult to accomplish.

Certainly a gun restriction law, effectively administered, can curb the sniping which has accompanied the rioting in the cities, and help to keep down the amount of violence throughout the country.

President Johnson has taken a courageous stand in this controversial matter in which the opponents tend to wrap themselves in the American flag and claim they are defending the Constitution. The fact of the matter is that the public welfare requires legislation such as proposed by the President in order to prevent the purchase or possession of firearms by criminals, dope addicts, alcoholics, and the mentally ill, as the President pointed out in his message to both Houses of Congress.

Those who own guns for legitimate purposes should have no more hesitation to register them than they do their automobiles. Those who would use them for illegal activities deserve no special consideration.

[From the Burlington (Iowa) Hawk-Eye, June 25, 1968]

AMMUNITION APPROACH

In all the talk about controlling guns, a simple technique to restrict their use seems to have been ignored.

Gun registry is useful and just as valid as automobile registry. It will have obvious advantages in law enforcement and criminal detection.

For the next step, it is logical to borrow from the Germans. Control the ammunition.

A German friend reports that in his native land one may buy all the guns he wants, of any shape or size. What he can't buy is ammunition for these weapons.

When he wants to shoot, he must state the purpose of getting ammunition, which is then counted out to him and registered. If he gets six bullets this year, he must account for use of those six bullets in applying for the next ammunition purchase.

The controls extend to the "makings" of home-made ammunition, and to the ammunition manufacturers.

In the United States, such a system obviously would lead to some bootlegging and smuggling of ammunition. But this would be far easier to control than, say, liquor violations for the simple reason the vast majority of Americans would not only abide by the law but support it. Regardless of the violations, the system should sharply reduce crimes of violence and passion committed with guns.

More controls are coming, just as more safety regulations for cars. Why not now?

[From the Keokuk (Iowa) Gate City, June 24, 1968]

THE TIME IS NOW

If ever there was a time for passage of an effective gun-control law, it is now!

Congress rushed passage of the so-called Safe Streets and Crime Control Bill, an action spurred by the tragedy in Los Angeles. But that bill mocks the tragedy because some of its amendments mock justice.

The bill does have a gun-control provision, but the controls are weak in that they merely forbid mail order sales of handguns.

What is needed is a separate gun-control bill which would require registration of all firearms.

Would a law requiring registration of all firearms interfere with the citizen's so-called "right to bear arms?" Without getting into the argument about what that "constitutional right" means, we submit that such a law would not interfere.

We have yet to hear anyone suggest that laws requiring registration of motor vehicles infringe on the "right" to possess automobiles. So why not nationwide registration of firearms?

Any adult without a record of criminal violence or mental illness would still have the "right" to possess as many handguns, rifles and shotguns as he desired and could afford. He could have them, but we would be required to register them.

Such a law not only would aid the police in solving crimes in which firearms were used, it also would deter people with criminal records from having firearms in their possession.

If there was a gun law, the possession of firearms by such people would invite arrest and imprisonment whether or not any crime other than possession of an unregistered weapon were involved.

So, rather than take away anyone's right, a gun registration law applying to all types of firearms would give us more protection. It could even save your life!

[From the Greenville (S.C.) Piedmont, June 19, 1968]

SENSE AND GUN CONTROL

Gun control legislation is another one of those subjects it seems impossible to discuss dispassionately.

To some, loose gun control laws are solely responsible for, and stiff gun control laws are the only cure for, the problem of violence in America.

To others, restrictions over the purchase and ownership of guns is the first step toward disarming the American citizenry, which is the last step before the take-over of America by "them."

There would seem to be a middle position.

There would seem to be a solution somewhere between the absolutely free and unfettered sale of dangerous weapons and the confiscation of all that exist in the country. There would seem to be enough collective wisdom among the 535 members of Congress to write a law which would protect the rights of law-abiding sportsmen and gun buffs while making it more difficult for those who should not have guns to obtain guns.

Let it be granted immediately that laws mean little to the law-breaker. The man who needs a gun for an evil purpose will find a gun. But this no more argues against putting controls on guns than the high incidence of burglaries argues against putting locks on doors.

It is time to cease the weary refrain that "guns don't kill people; people kill people." Neither do automobiles kill people. Should we then do away with all controls over the ownership and operation of motor vehicles?

Forget the criminal. The fact is, guns may indeed kill people.

At least one psychological study has shown that, in tense emotional situations, such as an argument, the mere presence or accessibility of a weapon like a gun heightens aggressive feelings. The trigger, in a very real way, pulls the finger.

It is this which is perhaps the strongest argument for gun control legislation.

If a man under the influence of anger could not run down to the store and buy a gun at once, if he had to fill out an affidavit or go through a waiting period of a few days, lives might be saved.

If a mental defective or an underage youth could not send for a rifle through the mail, lives might be saved.

If a panicky homeowner had to go through a little red tape before buying a gun to defend his house against "them," lives might be saved.

Even if only one life could be saved because someone who might have bought a gun didn't bother because he didn't care to go through the legal rigamarole, and thereby an accident that might have happened didn't happen, surely the sportsmen of America would be willing to put up with one more annoying inconvenience in this crowded world where no one's "rights" extend very far any more without bumping up against somebody else's.

[From the Warrenton (N.C.) Warren Record, June 20, 1968]

TOO EASY TO ACQUIRE GUNS

Simply send your money through the mail. Whoever you are, you'll receive a deadly weapon by return post. That Congress allows this situation to continue is inconceivable. Yet it does.

Snipers in the recent New Jersey riots were apparently armed with mail-order guns. New Jersey's strict gun-control law counted for little when weapons were readily obtainable from sources outside the state. Police report that four out of five guns confiscated in

Newark in recent years came from outside New Jersey.

Attorney General Ramsey Clark recently testified that half of some 2 million firearms purchased in the United States last year were sold by mail-order houses, that "among the purchasers were known dangerous criminals, mental defectives, angry spouses, habitual drunkards, children and drug addicts." He complained that "the issue has been debated beyond reason" and asked, "When will we act?"

Public support for action is at hand. A Gallup Poll showed that the public overwhelmingly supports stricter gun laws.

The NRA speaks for the rural West where, as Sen. Frank Church (D) of Idaho put it: "Guns come close to the feeling of sovereignty itself among our people. This is an issue that cuts right to the bone." But in the urban East (and urban West) reasonable legislation to regulate interstate traffic in guns is one essential weapon in the war against crime and violence.

What then is preventing action? The gun lobby—notably the National Rifle Association (NRA) which has, by the way, never polled its own membership on the issue. The NRA misuses the 2d Amendment to the Constitution in its efforts to block constructive action. Proposed legislation will not infringe the right of the people to keep and bear arms. But it will regulate this right, as other rights have been regulated, in the interest of the public safety and welfare.

For four years the gun lobby has had Congress so well covered that it has been afraid to make a move. With increasing public support of sticter gun laws and growing evidence of the urgent need to act, perhaps Congress will at last dare to make its move.

[From the Melbourne (Fla.) Times, June 16, 1968]

IT'S OWNERSHIP (NOT GUN) WE NEED TO CONTROL

Gun control legislation is one of the subjects it is impossible to ignore and also is one which can not be treated dispassionately.

One faction considers lack of gun control . . . or lax enforcement of present legislation . . . solely responsible for violence in America.

The assassinations of John F. Kennedy, Robert F. Kennedy and various leaders in the civil rights movement caused emotional demands for curbs on gun sales. This is the type fire which dies down quickly.

Any law written in the heat of emotion or in the face of emotional demands is not a reflecting responsible consideration.

As opposed to the faction demanding tight gun controls there is a massive lobby against it, supposedly speaking for sportsmen and gun buffs but perhaps more accurately speaking for (and controlled by) the manufacturers and NRA, a national group sportsmen.

They'll vow that registering guns paves the way for easy confiscation and this in turn could lead to having America taken over by "them."

Any law written to provide token but without enough teeth to provide accurate law enforcement is not a law which reflects responsible consideration, either.

Isn't there enough wisdom and honest representation in the halls of the U.S. Congress for our 535 elected officials there to come up with legislation which would protect the rights of the lawabiding but yet make it more difficult for the undesirable and undeserving to obtain guns?

If the criminal prototype is bent on drug addiction, consumption of alcoholic beverages or murder he would steal as soon as he'd push a needle, pop a cork or pull a trigger.

Law means little to the man intent on breaking the law.

But confiscation of all firearms would create a police state composed of defenseless citizens.

Firearms mean much to the gun collector, target shooter, and sportsmen.

Both groups must be considered.

And the difficulty is going to arise from the arguments on personal rights.

However, Americans are becoming increasingly aware that no man's civil rights can be extended very far until they bump full tilt into the rights of another.

If the NRA, the manufacturers and the gun buffs are in earnest about wanting guns controlled sufficiently to avoid full confiscation, why don't they help draw up . . . and enforce . . . equitable gun legislation?

Why not register every gun? We register cars . . . and demand that ownership of a car also indicate responsibility for restitution for damages caused.

Why not demand that adults apply to a Commission to purchase a gun and obtain an operator's license, renewable at a nominal fee . . . say one dollar . . . per year. Criminal offenses occurring between renewal dates could be documented and punished as citations, suspensions and or revocations.

What about that would hurt a real sportsman?

Very few of them appear in criminal court as defendants charged with murder, it is claimed. But the hunter with the most trophies in town hasn't the right to kill human beings with a high powered rifle just because he is an able woodsman.

Frankly we are amazed at the verbiage in this battle of the factions over gun controls.

This nation may find it difficult at this late date to control guns.

What should be controlled is people.

Laws, if enforced, are enough to control—or intimidate—the offenders.

Why not include on job application forms the questions: Have you ever been charged with a felony? Acquitted? Sentenced? Do you own a gun(s)? Registered? Where? When?

If aliens, incompetents, registered felons or registered members of subversive organizations could not in turn register ownership of guns how much of the problem would be solved?

If a man retained liability of gun registration how apt would he be to lend it to a man who couldn't buy one in his own name? Not many auto owners lend their cars to people who have had driving privileges rescinded. But if this happened and an accident occurred the car's owner would carry responsibility. Even the homeowner who permits another to assume his mortgage payments does still have full financial responsibility if the buyer defaults on payments.

If we do nothing more than assign responsibility of each and every gun we can find now and absolutely each and every one sold hereafter, we will have done one thing: made the public acutely aware that guns are not toys and must be treated with the same respect we assign to automobiles, mortgages, notes which are co-signed, drugs available only on prescription—alcohol sold only after questionable age is established by proper identification, etc.

There's no argument to the claim we all have the right to defend our property and loved ones. A registered gun can be used in self defense just as efficiently as an unregistered one. The Constitutional provision wouldn't be violated by registering the gun. When the Constitution was written perhaps the founding fathers could not foresee that massive law enforcement agencies would not only come into being but would need full public support if the public were to be protected. At that time there was no one to defend property except the occupant. Now he pays taxes to get help in that direction.

And the man who wants to help keep us in guns would do well to help get them all registered.

What's to be lost? Certainly not lives—and that's what it's all about.

[From the Lansdale (Pa.) North Penn Reporter, June 28, 1968]

WHAT PRICE GUNSMOKE

Apart from the Vietnam war and taxes, no subject commands more attention from the people right now than that of gun control. Shall we be truly civilized and sternly regulate the firearms traffic or give way cravenly to those who would have us believe that primitive instincts are best? Alas, the reasoning of the gun partisans becomes increasingly hard to grasp.

One of the highest pitched arguments for a hands-off policy concerning the sale and possession of guns is that we need household arsenals for personal protection. In general, these arguments are specious, ignoring or glossing over the fact that among all the gun deaths the country over, in any given week or month, very few of the victims are thwarted wrongdoers brought down by a man or woman protecting the family hearth.

On this aspect of the subject we are pleased to yield the floor to a woman who is no stranger to danger, who is just as concerned as the next person about the rising crime rate across the land, the mounting risks of modern life and the obligation of every American to take all sensible precautions for his own safety.

"Since only a smattering of people in any community has any real skill in handling shooting weapons," she says, "guns in the house are more hazard than help, and when children are in the home the guns are a constant source of worry.

"In all that I have read about the so-called sacred right of the average man—and woman, too, naturally—to bear arms, one point is overlooked: Unless you keep a rifle with you as a soldier does, or wear a holster complete with pistol, how do you get your hands on a gun in time to do any good with it? Most guns in today's homes are in closets, the attic, a den, or the basement. Are we to answer every knock on the door, every sound of the chimes, with gun at the ready? Are we to drive by night with a gun as handy as a flashlight, even more so?

"In home or automobile a good, reliable dog is much better than a gun. For years we had two boxers, and they were as effective as a heavy weapons platoon. That was proved several times. A dog provides the added advantage of smelling out trouble before a human being can, and giving timely warning. Night after night, for many years, I traveled late, often in lonely places, and with a hefty dog or two in the car I felt quite safe. It was the same when I was alone at home, although the nearest neighbor was the equivalent of a city block and more away."

We also swear by the loyalty, courage and determination of the protective breeds of dogs, having had a good deal of experience with them in both war and peace.

How foolish can the gun lobbyists get? What's all the fuss about registering gun-owners and giving them ID cards?

"It's an insult to every law-abiding citizen," wailed a batch of gun zealots the other day, with echoes from certain congressmen panting to stay in office.

Balderdash, piffle and poppycock.

Registration and identification, in one form or another, are required for the operation of an automobile or a motorcycle, for fishing and hunting, for ownership of boats, dogs and bicycles, for voting, for military service, for social security, for health insurance plans. You must have a card to swim in a community pool, to borrow a library book, to get credit in most places.

It is absurd to argue that registering possession of a deadly weapon is more degrading than those other forms of certification that

are accepted practice in a sprawling and complex society.

[From the Goleta (Calif.) Gazette Citizen, June 13, 1968]

PROTECTING THE RIGHT TO LIVE

Just after research had begun on the third and final installment of our series of articles on the sale and possession of guns, we learned of the shooting—and agonizing death—of Senator Kennedy. One initial reaction was to drop the third story. There seemed little more to be said.

Yet as public debate picks up on the issue of guns it becomes increasingly clear that the point is not going to be made easily. We believe the American people can no longer afford the luxury of insisting on an archaic right to bear arms.

It is doubtlessly true that prohibitions on the sales and possession of firearms cannot make impossible searing tragedies like last week's, nor act as a final curb on generalized violence in the cities—which does not primarily rely on firearms in the first place.

Of course death by gunfire is a symptom and it is the cause we must ultimately control. And certainly there are hunters and sport shooters who will never employ their weapons in any other way and therefore should not be denied the right to follow their hobbies.

All this does not mean we should abandon attempts to end the circulation of guns. Because after all is said in defense of guns by enthusiasts, it remains too easy to kill people.

It is said that people have the right to protect their property and lives and that guns give them the best chance of doing this. But is a frightened housewife armed, with a .22 caliber revolver really the ultimate deterrent to real or imagined threats of violence?

Does a downtown businessman, perhaps overly sensitized to stories of looting, have the right to administer "instant justice" in the form of capital punishment, especially when it is merchandise and not lives which are taken by the rioter? The law says he does not have that right.

Hunters and target shooters need not feel threatened by drastic gun restrictions. They might only be required to check their guns with, for instance, the forestry service after completing their trip to be locked up until the next excursion for game hunting.

Target shooters could continue to enjoy that sport by using public ranges where they could rent guns to use. If they have special guns they enjoy, there could be ways to purchase them and facilities for storage at the range.

The sincere lobbyist need not be too alarmed by the prospects of far-going gun restrictions. These people have not been the problem anyway and would not be too severely restricted by legislation of the type suggested above.

As one person we interviewed put it, the problem lies in the purchase of guns by people who, before the last three years or so, have not had any interest in them.

For we are now seeing that guns are becoming an everyday possession in the hands of a great mass of our population. Something so specialized in purpose, so sophisticated in terms of handling and training and so very deadly should not gain the status of a common tool.

Even more disturbing, and a difficult point to make, is the tendency of arms to fulfill the very dangers they are meant to prevent; the loss of life.

As more guns are purchased, incidents involving shooting will increase. And as those incidents increase, more people will feel compelled to arm themselves in self-defense.

In the United States last year, over 5,000 murders by guns, were committed while in Great Britain, where guns are prohibited, there were just 30; in Belgium, just 12.

If in fact, the only meaningful solution to public violence is to eliminate the cause for discontent and hate, we are nevertheless under the obligation to take immediate steps, no matter that they do not reach the root causes.

The right to "life, liberty and the pursuit of happiness" is the right we must be concerned with protecting; guns are a form of coercion and a means of taking away human life.

When something so secondary as the "right" to bear arms begins to threaten the existence of public and private citizens we must begin to talk sense.

—R. M. D.

[From the Brighton-Pittsford Post, June 20, 1968]

TO THOSE WHO OPPOSE REGISTRATION OF GUNS

Why do you oppose gun control legislation?

For the past week we have been talking with people who oppose gun legislation. After one has pressed through all the superficial, false reasons, the answer is very clear:

The reason is fear.

Effective gun control legislation doesn't mean you can't have guns. It merely means that you would have to register your gun, and report its sale or transfer.

This might be a slight inconvenience, but it's hardly a real problem.

Why then do you oppose gun control legislation?

Because basically you are afraid that somehow, some day American democracy may collapse, and you fear a repressive government would take away the arms with which you might oppose it.

But stop and think a minute.

Has it ever occurred to you that the present free traffic in firearms is giving vicious anti-democratic elements exactly the weapons they need to try to bring the government down?

Did you ever consider it might be more efficient to try to save democracy while it still exists rather than to put your faith in the slim hope that a dictatorship could be overthrown by people who had hidden rifles in their attics? Do you think you and the neighbors on your street pack much military wallop? Could you stand up against tanks and rockets and planes?

For remember that today's America is not the America of 1775, nor is it Vietnam. Can you live on rice, or draw water from a nearby stream?

No. I think you'll agree that it's a much better idea to save a still-existing democracy than to try to revive a dead one.

Then why in the name of common sense do you support a firearms anarchy that is putting weapons in the hands of people whose admitted goal is to wreck American society?

Sniping, riots, assassinations, lynchings—is that what you like and support in today's America? With gun registration, you can keep your gun, but the criminal and lawless element would find it a great deal more difficult to carry on their wars against society.

No, the thing to do is to overcome your fears, and recognize that your interests and those of your family will best be served, indeed can only be served in a stable, law-abiding society.

Recognize that your understandable, but not well thought our fears are being exploited by perhaps the most conscienceless commercial lobby ever to operate in the United States.

Recognize that the sportsman or the man who wants household protection against burglars won't be affected in the least by gun registration.

See that everything you wish for yourself and your children can be brought down in a nation that puts ultimate faith in firearms, rather than the rule of law.

See that the connection you have made between firearms, freedom and the American way is simply a mistake, a mistake laden with danger for our society.

Have faith in America and American democracy. Let's not open the way to anarchy by accepting the half-baked idea that a lot of unregistered firearms are an effective means of preserving democracy.

FIREARMS LAW PREFERENCES

Mr. DODD. Mr. President, I ask that at the conclusion of my remarks a tabulation of the firearms law preferences of the residents of Minneapolis, Minn., be printed in the RECORD.

The tabulation is the result of a detailed study conducted by Congressman DONALD M. FRASER and represents the opinions of some 16,000 residents of that city.

I am happy to report that the findings of the study agreed almost uniformly with the findings of other readings of public opinion taken nationally and locally over a period of some 15 years.

The people of the city of Minneapolis are very much in tune with the rest of America in their agreement on the need for sensible, effective laws to disarm the criminal and others who are a threat to the community.

The findings show that 6 out of 10 see Congress as the most effective vehicle for adopting firearms laws; 8 out of 10 want some form of firearms registration; and 6 out 10 want licensing.

The study is more detailed and in each case the finding is consistent with the preferences of most Americans on firearms laws.

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

Fraser questionnaire results

[In percent]

1. Do you favor stronger gun laws?	
Yes	72
No	25
Undecided	3
2. Generally, which firearms should require stricter regulation?	
Pistols and revolvers	37
Rifles and shotguns	4
All treated the same	59
3. Which should enact stronger gun laws?	
State legislature	34
U.S. Congress	61
City	19
4. What kinds of gun should a new law require to be registered?	
Pistols and revolvers	18
Rifles and shotguns	4
Both	58
Neither	20
5. Should a new law require a gun owner to be licensed?	
Yes	63
No	32
Undecided	5
6. What should disqualify a person from obtaining a gun license?	
Alcoholism	72
Mental illness or incompetence	81
Narcotics addiction	77
Being under 21	31
Being under 18	45
Being an alien	36
Convicted of felony	72
Convicted of misdemeanor involving intent to injure another	46
Other	9

7. If a state gun law meets Federal standards, should a person with a state license have to get a Federal license too?

Yes	27
No	65
Undecided	8

8. Should the Federal Government operate a central gun registry for the entire United States for law enforcement purposes?

Yes	47
No	41
Undecided	12

9. If you favor a gun law, what do you believe it would accomplish?

Reduce the use of guns in crimes	59
Reduce accidental shootings	47
Reduce the danger of violence in the streets	56
Other	22

10. If you oppose new gun laws, is it because—

Existing laws are adequate if properly enforced	22
The proposed laws would infringe on the constitutional right to bear arms	22
Licensing and registration would be unduly expensive and inconvenient	20
New laws would be a first step toward an outright ban on gun ownership	25
Other	11

11. Should minors be permitted to carry a gun when accompanied by a parent or guardian with a license, and to obtain a license after completing a state-certified course in handling hunting firearms (similar to driver education)?

Yes	72
No	19
Undecided	9

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MOSS. Mr. President, I yield back the remainder of my time.

Mr. DODD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LAUSCHE. We are voting on the amendment of the Senator from Utah, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUSCHE. A yea vote will be in favor of creating the joint committee, and a vote of nay will be against creating it, as a part of this bill. Is that correct?

The PRESIDING OFFICER. That is correct. The question is on agreeing to the amendment of the Senator from Utah. [Putting the question.]

The nays appear to have it.

Mr. MOSS. Mr. President, I ask for a division.

On a division, the amendment was rejected.

Mr. McINTYRE. Mr. President, the heart of the problem which the Congress faces in its effort to enact firearms legislation is how to balance the interests of legitimate sportsmen and other citizens who need and use firearms with the public interest which requires a measure of safety to prevent illegal use of firearms. While attempting to strike this balance, I think it is important to remember that the millions of Americans who own and legally use guns are, of course, a part of the same public which requires protection from illegal users. The debate over this measure is not, and never was, a contest between people who use guns for sport or self-protection and people who would deprive them of such use. This legislation will be enacted in behalf of all our citizens. It should win the approval of all who have been deeply concerned by the mounting evidence, which would convince any reasonable man, that the unrestrained traffic in firearms has contributed to the high and increasing rate of crimes of violence.

The evidence is overwhelming that it is simply too easy, absurdly easy, for any individual to get his hands on a gun. Under present law any person can open a catalog choose the weapon he wants to own, and send away for it. The legislation now before the Senate would end that practice, and that is the heart of the legislation. I support this bill because it is a necessary step to control the unlawful use and possession of firearms, control that cannot be accomplished by the individual States acting alone.

It is an unfortunate fact in the conduct of public affairs, and in debate over public issues, that very often an issue can become clouded and confused and the public become misinformed about the facts concerning proposed legislation. I think that this has happened to some extent during consideration of the gun control bill. Fears have arisen in spite of the facts. The fear has arisen that any gun control measure will lead to confiscation or at least significantly interfere with the sportsman, the hunter, or the citizen who owns a gun for the protection of his family or property. This is simply not true, yet this unfounded notion continues to intrude into the debate and holds sway in some constituencies. I am confident that these fears will be proved groundless by experience when this legislation becomes law. But in the meantime, before those citizens in our constituencies who have opposed gun control learn what the actual effects of this legislation are and learn that it is to their benefit, it is our duty, as responsible public officials, to see that this necessary step to regulate the interstate traffic in firearms is taken.

The passage of S. 3633 is a modest step indeed in the regulation of the use of firearms. The job of providing methods whereby people who are incompetent to own a firearm are effectively prevented from doing so has been left to the States. But this is a job that must be done and I am hopeful that the action we take here today will encourage and stimulate State governments to pass the laws at the local level which will see to it that the job is done. It is unacceptable and we cannot afford to be so cavalier toward the present situation which allows any crook, any drug addict, any alcoholic, any person in a fit of passion to buy a gun without any control from the community in which that person lives.

Mr. President, bringing about the much discussed condition of law and order in this Nation will only be possible if the citizens of this country, acting through their local, State, and Federal governments act responsibly toward the realities of an urban society. One such responsible act is passage of the Senate bill on gun control. It is legislation that deserves the approval of the U.S. Senate, the Congress, and the American people.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1483, H.R. 17735.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 17735) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

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

Mr. BYRD of Virginia. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. MANSFIELD. I move to strike all after the enacting clause of H.R. 17735 and to insert in lieu thereof the language of S. 3633, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, may I have 1 minute under the bill?

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, for the information of the Senate, in addition to the schedule which was given when the distinguished minority leader asked the question earlier this afternoon, it is anticipated that following Thursday, we might take up the merchant marine subsidies, Calendar No. 1413, H.R. 17524, and Calendar No. 1467, S. 927, a bill to amend the Interstate Commerce Act. These are all probabilities. It is also anticipated that we might take up Calendar No. 1489, H.R. 18786, an act to amend the Central Intelligence Agency Retirement Act of 1964; Calendar No. 1521, H.R. 1340, the Blue Ridge Parkway bill; and Calendar No. 1551, S. 3406, the Alaskan lands bill.

It is hoped that it will be possible that the Defense appropriations bill will be

out in time so that it can be taken up on Monday.

If there is no objection on the part of the Senate to that request, that is what we will do. And that will be followed by the Fortas nomination.

GUN CONTROL ACT OF 1968

The Senate resumed the consideration of the bill (S. 3633) to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished senior Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

The bill clerk resumed and concluded the call of the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING], is absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Missouri [Mr. LONG], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Oregon [Mr. MORSE], and the Senator from Maine [Mr. MUSKIE], are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Alaska [Mr. GRUENING], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], and the Senator from Maine [Mrs. SMITH] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT] would vote "nay."

Also, if present and voting, the Senator from Maine [Mrs. SMITH] would vote "yea."

The result was announced—yeas 70, nays 17, as follows:

[No. 284 Leg.]

YEAS—70

Aiken	Griffin	Murphy
Allott	Hansen	Nelson
Anderson	Harris	Pastore
Baker	Hart	Pearson
Bayh	Hartke	Pell
Boggs	Hatfield	Percy
Brewster	Hickenlooper	Prouty
Brooke	Hill	Proxmire
Byrd, Va.	Holland	Randolph
Byrd, W. Va.	Hruska	Ribicoff
Cannon	Inouye	Scott
Carlson	Jackson	Smathers
Case	Javits	Sparkman
Clark	Jordan, N.C.	Spong
Cooper	Jordan, Idaho	Symington
Cotton	Kennedy	Talmadge
Curtis	Kuchel	Tower
Dirksen	Lausche	Tydings
Dodd	Magnuson	Williams, N.J.
Dominick	McIntyre	Williams, Del.
Ervin	Miller	Yarborough
Fong	Mondale	Young, Ohio
Goodell	Montoya	
Gore	Morton	

NAYS—17

Bible	Hayden	Mundt
Burdick	Hollings	Russell
Church	McClellan	Stennis
Eastland	McGee	Thurmond
Ellender	Metcalf	Young, N. Dak.
Fannin	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—12

Bartlett	Long, Mo.	Monroney
Bennett	Long, La.	Morse
Fulbright	McCarthy	Muskie
Gruening	McGovern	Smith

So the bill (H.R. 17735) was passed.

Mr. DODD. Mr. President, I ask unanimous consent that the Secretary of the Senate, in the engrossment of the Senate amendments to H.R. 17735, be authorized to make technical and clerical corrections.

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

Mr. LAUSCHE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1486, S. 3633, the Senate bill on the control of interstate traffic in firearms, be indefinitely postponed.

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

Mr. DODD. Mr. President, with a resounding vote the Senate has declared itself today on the side of law enforcement and prevention of gun crimes. The passage of this firearms control bill gives to law enforcement the legal tools to halt the secret, untrammeled flood of firearms across State and city lines in violation of State laws and local ordinances. It will also prevent the violation of a parent's rights to know what his children are purchasing and will curtail the violation of every citizen's right to safety of life and limb.

The Senate has acknowledged the increased use of firearms in an escalating crime rate. And it has acknowledged its responsibility to regulate interstate commerce for the benefit of the majority of this Nation's people. By admitting the growth of our Nation into an interdependent complex, this body has shown itself capable of resolving, within its legislative limits, contemporary problems while preserving our particularly American traditions. This is no small accomplishment and should be a source of pride to each Member here.

Mr. President, it was 8 years ago this month that I first talked about the gun problem with my colleagues on the Juvenile Delinquency Subcommittee and with the outstanding staff members of that committee. And it was a short time later, at the death of Senator Hennings, that I was assigned the chairmanship of that subcommittee.

I am sure my colleagues will understand that this day, after the passage of the firearms control bill in the Senate, is one that I shall not forget.

I am deeply grateful to my colleagues on both sides of the aisle for their great help in the long struggle to bring about a better and more sensible gun-control law.

The passage of this bill is not a partisan matter in any sense. It could not have been accomplished without the help of outstanding Senators on both sides of the aisle.

I am deeply grateful to our majority leader, Senator MANSFIELD; and to Senator ROBERT BYRD and Senator RUSSELL LONG, as well as to Senator EVERETT DIRKSEN and Senator THOMAS KUCHEL, for their sustained interest in this problem and their help with respect to it.

Senator ROMAN HRUSKA, of Nebraska, has truly made the passage of this bill possible. Without his diligent work, we never could have reached this hour. Through this association, my respect for him as a man of unusual intellectual capability and a man of great honor has grown immensely.

For the duration of subcommittee investigation, executive consideration, and now the floor debate, the issue of appropriate firearms control has been pushed forward and questioned thoroughly by our distinguished colleague from Nebraska. He has made this legislation better for his scrutiny. I thank him for his very real and valuable service.

Other members of the subcommittee, particularly Senator TYDINGS, Senator FONG, and Senator KENNEDY have made mighty efforts during the last several years to move this legislation onto the floor for debate. They have, on the two occasions of firearms control debate this year, made outstanding contributions. I commend them for their hard work, their continued support and cooperation.

This I must also say about all of the members of the subcommittee and the full Judiciary Committee, some of whom did not agree with all, or in some cases even any, of the aspects of this legislation, but who were always diligent and interested and helpful. I want to acknowledge particularly the courtesy and help of the chairman, Senator EASTLAND.

I shall never forget the friendship, the great work, the great talent, and the great devotion, of the members of the staff of the Juvenile Delinquency Subcommittee, in particular, the Staff Director, Mr. Carl Perian, Mr. William Mooney, Mr. Gene Gleason, Mr. Peter Freivalds, Miss Anne Ketcham, Miss Elizabeth DePaulo, Miss Nancy Smith, Mrs. Julia Frank, Mrs. Sandra Ganyon, Miss Marguerite Brase, and Miss Marilyn Engemann.

They really did the hardest work, and I am personally grateful to them. I believe I express the sentiments of the Senate and of the Congress in publicly thanking them.

To all who participated in this debate and in the work that led to it, I express my gratitude. Citizens of the United States have reason to be proud of this piece of legislation and to be proud of the men who represent them here. The Senate has enacted a strong affirmation of the Federal-State-local cooperation which makes possible safe communities, secure under law and confident of order.

Mr. MANSFIELD. Mr. President, the vote on final passage of this measure speaks abundantly for the splendid job performed by the principal sponsors of gun legislation. Leading the way on the

long-gun mail-order ban, of course, was the Senator from Connecticut [Mr. DODD]. His vast knowledge of the subject, his fine presentation, his long experience with the matter did so much to make Senate passage a certainty. Senator DODD deserves the highest praise of the Senate for this success.

The Senator from Maryland [Mr. TYDINGS] is similarly to be commended for his work on the bill and particularly for his strong effort to obtain registration and licensing provisions. He has joined the battle for effective gun legislation and we are grateful.

The Senator from Nebraska [Mr. HRUSKA] deserves our commendation for his splendid cooperation and his strong support of many features of the proposal. He too deserves our highest praise.

There are a number of other Senators who deserve commendation. Those who offered their views, their amendments, their suggestions are to be thanked. The debate reached the highest traditions of the Senate. The advocacy displayed by all participants was of the highest caliber. I wish to thank the Senate as a whole for such efficient, orderly, and outstanding action.

Mr. LAUSCHE. Mr. President, I wish to pay tribute to the Senator from Connecticut, the Senator from Nebraska, and the Senator from Maryland for the very complete grasp they had of the items contained in this bill. The presentations were made without acrimony. They obviously intended to inform all Senators who are not members of the committee of the merits and demerits of the various issues as they were viewed by these men.

The Senate has spent 3 days in the consideration of the bill. It was very complicated. As for myself, I can say with great certainty that I was fully informed on each of the measures that came before the Senate.

So I take off my hat to Senator DODD, Senator HRUSKA, and Senator TYDINGS for their very complete knowledge of the bill and the presentation they made, respectively, of their views on the separate measures.

ARTHUR RIKE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1315, S. 2214.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2214) for the relief of Arthur Rike.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

Mr. FANNIN. Mr. President, this bill, sponsored by Senator BURDICK, would confer jurisdiction upon the U.S. District Court for the District of North Dakota to hear, determine, and render judgment upon a claim by Arthur Rike. It would waive the defenses of the United States based on the statute of limitations, laches, or any previous proceedings in said district court.

The report of the Post Office Department on this bill to the Committee on the Judiciary states in part as follows:

Our records disclose that on February 23, 1967, Arthur Rike filed a civil tort action in the District Court, First Judicial District, Grand Forks, N. Dak., against David John Mersey a postal employee. The suit demanded damages of $37,905 for alleged injuries sustained by Mr. Rike as a result of a collision on December 24, 1964, between Mr. Rike's automobile and that of Mr. Mersey, who was acting within the scope of his Federal employment. At the request of the assistant U.S. attorney the action was removed to the U.S. District Court for the District of North Dakota pursuant to 28 U.S.C. 2679(d), and the United States was substituted as a party defendant in place of Mr. Mersey. The Government then moved to dismiss the suit on the ground that plaintiff's cause of action was barred by the 2-year Federal statute of limitations, 28 U.S.C. 2401(b). The court granted the Government's motion, dismissing the suit on November 19, 1967.

The Department opposes enactment of S. 2214. This bill would, in effect, nullify the above court proceedings and allow Mr. Rike an additional year within which to bring suit. In the 82d Congress this committee, in its report on Senate Joint Resolution 23, declared that it "would not relieve a claimant of a statute of limitations except for 'good cause' shown * * *." We see no evidence of "good cause" in this case to grant the relief which would be afforded by S. 2214.

The sponsor of the bill takes exception to the position of the Post Office Department that there was no showing of a "good cause" for extending the statute of limitations. He states:

I feel that I must take exception to this. Mr. Rike was lulled into believing that the U.S. Government was not a party to claims arising out of an automobile accident in which he and David John Mersy were the drivers. The only reason that action was not filed within the statute of limitations is a belief on the part of Mr. Rike and his attorney, supported by statements made by representatives of the insurance company and the U.S. Post Office, that the Government was not a party to this suit. In a deposition taken by Mr. Rike's attorney, the postal inspector did not deny that he had made such a statement.

I firmly believe that this is a good and sufficient cause for the Judiciary Committee to favorably report S. 2214. The only thing this bill would do is to give Arthur Rike the day in court which he has so far been denied.

The statement that Mr. Rike "was lulled into believing the U.S. Government was not a party to claims arising out of" this accident has been noted. However, a copy of the deposition of the postal inspector referred to by the sponsor of the bill has been made available by the Post Office Department. Its contents are relevant to this question. Therefore, I ask unanimous consent that the text of the deposition be printed at this point in the RECORD.

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

IN THE U.S. DISTRICT COURT FOR THE NORTHEASTERN DISTRICT OF NORTH DAKOTA, NORTHEASTERN DIVISION, ARTHUR RIKE, PLAINTIFF, *v.* DAVID J. MERSY, DEFENDANT

Deposition of Paul E. VanRossum, taken by and for the Plaintiff, pursuant to notice served upon the attorneys, under the Federal Rules of Civil Procedure for the United States District Court, District of North Dakota, Northeastern Division. The deposition was taken in the Grand Forks County Court House at Grand Forks, North Dakota on Monday, May 8th, 1967.

Appearances: Mr. Byron L. Edwards, On behalf of the Plaintiff, Mr. Timothy Davies, On behalf of the defendant, Mr. Richard V. Boulger, Assistant U.S. Attorney, On behalf of the Government.

STIPULATION

It is stipulated by and between counsel for the parties that the notice of filing of the deposition is waived, that the reporter may transcribe his notes out of the presence of the said deponent, Paul E. VanRossum, that the signature of the said deponent to the transcript of his deposition is expressly waived, and that said deposition is to have the same force and effect as though signed by the said deponent.

[Monday afternoon session, May 8, 1967]

Paul E. VanRossum being by the Notary first duly sworn, as hereinafter certified, deposes and says as follows:

DIRECT EXAMINATION

Mr. EDWARDS. Let the record show that the deposition of Mr. VanRossum is taken pursuant to notice, under the Federal Rules of Civil Procedure, and that notice of filing of the deposition is hereby waived.

Mr. DAVIES. That is agreeable to me.

Mr. BOULGER. Agreeable to the Government.

By Mr. EDWARDS:

Q. Will you state your name please?

A. Paul E. VanRossum.

Q. What is your age?

A. My age is 40.

Q. Where do you live?

A. 2528 Eighth Avenue North, Grand Forks, North Dakota.

Q. What is your occupation?

A. I am employed by the postoffice department as a postal inspector.

Q. How long have you been so employed?

A. By the postoffice department?, or as an inspector?

Q. Well, first by the postoffice department.

A. Since January 1948, and since around the first of or middle of April of 1964 as a postal inspector.

Q. And you are employed at the Grand Forks, North Dakota postoffice?

A. Well, my domicile is located in the Grand Forks Postoffice Building.

Q. And do you work out of some district or division?

A. Division headquarters at Saint Paul, Minnesota.

Q. How long have you been assigned at Grand Forks?

A. I believe I arrived here on December 27 or 28, around that period, in 1964.

Q. And was there a postal inspector at Grand Forks prior to your arriving here?

A. C. D. Ellington was here approximately eighteen months prior to that. The domicile had been vacant for about a year and a half.

Q. Where had you worked prior to coming to Grand Forks?

A. This was my first assignment as postal inspector.

Q. What was the nature of your postal work prior to being a postal inspector?

A. I started out as a city clerk and carrier, and then I went to assistant postmaster, in a town in Wisconsin.

Q. After arriving at Grand Forks, did you have occasion to investigate an accident involving David Mersy and an Arthur Rike?

A. Yes.

Q. When did you commence your investigation of this accident?

A. January 26 was the first day, 1965.

Q. And what did your investigation consist of at that time?

A. Well, the actual investigation is based upon a memorandum submitted by the postmaster advising the inspection service of the accident—when I receive the case—then I would make the investigation to determine that the employee involved in the accident was in his official capacity. And I attempt

to obtain statements from any of the parties involved or any witnesses.

Q. To whom do you report?

A. My report goes to division headquarters.

Q. And that is located where?

A. In Saint Paul, Minnesota.

Q. And when you started this investigation on January 26, did you take statements from the parties involved at that time?

A. I took a statement from David J. Mersy on May 8, 1965; and also a statement from Thomas M. Gilmour on the 6th of May '65.

Q. So was that the first part of your active investigation in this case?

A. No, not—I wouldn't say it would be the first part of it. To begin with, really, when you're informed of an accident a month after it happens, you're going to have to go to the police department to obtain some of their records because you have nothing yourself. I talked to the police department; and I talked to the supervisors at the post-office, who made an investigation of the accident at the time.

Q. Did you take statements from the supervisors?

A. No, I did not.

Q. I show you what has been marked as Plaintiff's Exhibit 9 and will ask you if you can identify this?

A. Yes, I would say that is the statement that I took from David J. Mersy on May 8th of '65.

Q. And this is a photocopy that you're examining at this time?

A. Yes, it was.

Q. And do you have a carbon copy of this statement in your files at this time?

A. Yes, I have.

Q. Is the photocopy which you have examined as Plaintiff's No. 9 a true and correct copy of the carbon copy that you have in your possession?

A. I would say it would be, without reading the whole thing altogether, but it appears to me it would be the same. It would be an exact copy of my statement that I took.

Mr. EDWARDS. At this time we will offer into evidence Plaintiff's Exhibit No. 9.

Mr. BOULGER. No objection by the Government.

Mr. DAVIES. No objection.

Q. (By Mr. EDWARDS) Now with reference to Plaintiff's Exhibit No. 9, Mr. VanRossum, I notice this is typewritten. Did you do the typing yourself?

A. I couldn't answer that for sure. Either I did it, or my stenographer did it.

Q. And then after it was typed, did you have Mr. Mersy read and sign this statement?

A. Yes.

Q. And I notice this is in the form of a sworn statement or affidavit, is that correct?

A. It is.

Q. And you took the acknowledgment?

A. Right.

Q. And does this statement contain all of the information which Mr. Mersy gave to you relative to the facts of the accident and relative to his employment at the time of the accident?

A. I would say it does.

Q. Had you questioned Mr. Mersy at all regarding the delivery of mail that he was making at the time of the accident, as to where he had come from immediately prior thereto, and where he was going, outside of what is in this statement?

A. Let's see—yes, I would say I questioned him. And the answer he gave me, according to the statement, he said that, "I had finished delivering the items on the south side of the town and he was going to the north side, as I had some items to deliver there."

Q. Did you question Mr. Mersy at all as to where his last stop was prior to the accident?

A. I don't recall.

Q. At any time did Mr. Mersy tell you that he had just been at his father-in-law's house on Maple Avenue?

A. No.

Q. Had you uncovered that information at all during the course of investigation?

A. No.

Q. Did you personally interview Mr. Mersy before preparing the affidavit-statement that is in evidence here?

A. Yes, I interviewed him, and he gave me a copy of the statement that he had either furnished his insurance company or your firm, and with the information that he gave me and a copy of this—this is where the statement actually came from. In other words, I reviewed the——

Q. From that——

A. —I reviewed the statement that he had made to the insurance company, item for item, and then this is where this one was drawn from—what he said in this statement here (indicating Plaintiff's Exhibit No. 9).

Q. Then, Mr. VanRossum, I will show you Plaintiff's Exhibit No. 10 and ask you if you can identify that?

A. This would appear to be an identical copy of the affidavit that I took, or statement that I took from Thomas M. Gilmour on the 6th day of May at Grand Forks.

Q. And do you have a carbon copy of this statement in your file?

A. Yes, I have.

Q. And is the exhibit, which is a photocopy, a true and correct copy of the carbon which you have?

A. I would say it is.

Q. Was this statement taken in the normal course of your business pursuits in connection with your employment?

A. Yes; this was taken in the normal course of the investigation of an accident.

Mr. EDWARDS. At this time we offer into evidence Plaintiff's Exhibit No. 10.

Mr. DAVIES. No objection.

Mr. BOULGER. No objection.

Q. (By Mr. EDWARDS) Mr. VanRossum, with reference to Plaintiff's Exhibit No. 10, was this affidavit-statement taken in the same manner in which the previous affidavit-statement was taken?

A. I think this statement was taken in my office. If I am not mistaken, I think that I typed this one out myself—I wouldn't say for sure—but I had Thomas Gilmour up in my office after school this 6th day of May, I think it was—unless it was in the afternoon or Saturday or something like that—I am not really sure.

Q. And in connection with your investigation herewith, did you at any time make personal contact with Mr. Rike?

A. I attempted to make contact with Mr. Rike through his attorney.

Q. So you had no personal conversation or contact with Mr. Rike?

A. No, I did not talk to Mr. Rike, I don't believe, at all. I talked to his wife at one time.

Q. Then was that conversation by telephone or personally?

A. This conversation was by telephone.

Q. And what was the date of that conversation?

A. I couldn't say.

Q. Was it through Mrs. Rike that you learned that Mr. Rike had employed an attorney?

A. Yes.

Q. And did she advise you as to who the attorneys were?

A. Yes.

Q. And after that you then made contact with the attorneys, is that correct?

A. Right.

Q. And in making that contact, you made that with myself?

A. Right.

Q. And you made that contact on May 7, 1965 at about 10:15 a.m.?

A. My records show May 5th, 1965.

Q. Do they show a time?

A. No, they do not.

Q. Was that a personal contact on your part?

A. Yes.

Q. At my office?

A. Yes, it was.

Q. And at that time it was when my office was located in the Red River National Bank Building at Grand Forks?

A. Right.

Q. And I believe you were at my office for a period of about 30 to 45 minutes, is that correct?

A. I would say that's about the length of time, yes.

Q. And at that time you made inquiry of me relative to the injuries sustained by Mr. Rike?

A. Yes. Our instructions contemplate that we will attempt to obtain a statement from any person involved in an accident with a driver of a vehicle employed by the post office department, and through—we're supposed to get it through the attorney, if we know that he's represented by an attorney.

Q. And at that time did you ask me if I had a statement from Mr. Rike?

A. I believe that I asked you if you would obtain one for me, and you stated that there would be a possibility of you getting a statement from Mr. Rike so that I could transmit it to the department.

Q. Mr. VanRossum, isn't it correct that, with reference to the matter of a statement from Mr. Rike, that I advised you that I had been contacted by his insurance company and that—because of their being involved in the matter—that I did not have a statement from Mr. Rike, nor did I contemplate giving any statements relative to his version of the accident and his personal statement as to what injuries he may have sustained as a result thereof?

A. I think you're going to have to repeat that one over for me.

(Question read by the Reporter).

A. I'm afraid I can't answer that. I can't remember, really. It's quite a ways back, and my records show that you had said that you would attempt to obtain a statement from him.

Q. Well, isn't it correct that we also further discussed the matter of medical reports, as to the injuries sustained by Mr. Rike?

A. That's correct.

Q. And I believe it's correct that I advised you that I did not have medical reports at that time, but that—if and when I should receive them—that I had no objection to medical reports in connection therewith?

A. According to my records, the medical bills from Doctor Helm and Doctor Gustafson, at the Fargo Hospital, were not available at the time that I talked to you.

Q. And that would be bills and also reports as to——

A. I would——

Q. ——to the nature and extent of the injuries, treatment, and any prognosis?

A. I would imagine so, yes.

Q. I believe I further advised you that Mr. Rike had been hospitalized twice in Fargo up to the time that you made the contact with me, is that correct?

A. Yes.

Q. And that's what your records of that contact so indicate?

A. My records indicate that Mr. Rike had two such injuries in previous automobile accidents.

Q. Well, as a result of this accident, did I advise you that he had been hospitalized twice in Fargo during the course of treatment?

A. I don't recall. I first knew of this hospitalization from his wife. And I would imagine that, if he was hospitalized in January when I talked to her—I don't recall whether he was hospitalized in May when I was talking to you.

Q. With reference to the date on which you contacted me, my daily office records indicate it to be May 7. Is it possible, Mr. Van Rossum, that May 7 is the correct date on your contact of my office?

A. I would have to check my daily record at the office in order to find out if that was the correct date—which I could do.

Q. It is possible, is that correct?

A. There's a possibility, yes.

Q. Well, at the time that you contacted me, do you recall my talking to you about having been contacted by Mr. Mersy's insurance company?

A. I don't recall.

Q. Then you don't recall whether or not I had stated that Mr. Mersy's insurance company wanted medical reports as soon as I was able to obtain them from the doctors, in connection with Mr. Rike's injuries?

A. This seems like I can remember something like that, but I wouldn't want to say that I definitely do recall this.

Q. All right. Do your records as such indicate anything of that nature?

A. Repeat that question again, please.

(The last two questions were read by the Reporter)

A. My record does not show anything on that order. My records show that, if and when the medical statements are received, they will be forwarded along with any other information, as a separate report.

Q. And at the time that you made contact with me at my office, you and I had not met prior to that time, is that correct?

A. That's correct.

Q. And when you came into my office, you exhibited your credentials as a postal inspector and introduced yourself?

A. That's correct.

Q. And you further advised me as to the nature of your contact with me at my office, that being the Mersy-Rike accident?

A. That's correct.

Q. I believe you also inquired about the passenger in the Rike vehicle being—

Mr. DAVIES. Mrs. Rike—that's his mother, isn't it?

Q. (By Mr. EDWARDS)—yes—being Mrs. Rike, the mother of the driver?

A. Mrs. Charles Rike?

Q. That's correct.

A. Yes.

Q. And you also inquired as to whether or not I knew if she was injured in any way as a result of the accident?

A. Yes.

Q. And I told you that I did not know for sure, because I was not representing her, but I did not think so from what I knew about the accident, isn't that correct?

A. I believe that's correct.

Q. And isn't it further correct Mr. Van Rossum, in making contact with me at this time, that you did advise that—as part of your investigation and in making your reports—that you wanted to get information relative to the nature and extent of injuries sustained?

A. Right.

Q. And isn't it further correct, Mr. VanRossum in mentioning to you that I had been contacted by Mr. Mersy's insurance company that I had stated that there was insurance on the vehicle, and I inquired of you as to whether or not the Government was involved?

A. As to the first part—let's just repeat that.

(The last question was read by the Reporter.)

A. Well, I'm not sure about what you said about his insurance company. But I would imagine that you did ask me if we were interested in, in the investigation of the accident, because he was—as we determined—an employee of the department at that time.

Q. And had you made that determination at the time that you talked to me?

A. I would say—if I talked to you on May 5th and did not take a sworn statement from Mr. Mersy until the 8th—the determination possibly could not have been made; although the records at the postoffice would indicate that he was employed at the time.

Q. But it is possible that you had not made any such determination at the time that you talked to me, in view of the status of your investigation?

A. I don't recall whether I had talked to Mr. Mersy prior to my talking to you.

Q. Do you remember—in response to my inquiry to you, after stating that Mr. Mersy had insurance, and I inquired about the Government being involved—that you replied to the effect that you did not know if the Government was involved, and further to the effect that the Government was not involved?

A. I would say that—if I had a case bearing on an accident that was reported by the postmaster, and division headquarters jacketed such case—that I would automatically consider that I was investigating an accident because the Government was involved.

Q. But do you recall whether or not you made that statement to me in my office at that time?

A. No, I do not recall that.

Q. After this contact on May 7, 1965, did you have one additional contact with me on June 7, 1965?

A. I believe I did, but my records do not show the date I contacted you the second time. I would have to again refer to my daily worksheet.

Q. And was that second contact by telephone?

A. I don't recall. I thought it was a personal visit.

Q. And it could be that it was a telephone conversation?

A. It could be, yes.

Q. And at that time you inquired if I had any further information on the Rike matter, and I advised you that I did not, that we had not received any further medical information, and I had no additional file information than from the time you first contacted me, is that correct?

A. I would say that I contacted you to obtain any information or any statements that you might have received from the Rikes. And they aren't in here, so I would say that you said you didn't have any.

Q. I believe the only other contact that we have had, then, Mr. VanRossum, was in the Fall of 1966 on a matter in my office which concerned other postal affairs outside of this Rike case, isn't that correct?

A. I believe it did have something to do with a member of the armed forces from the Grand Forks Air Force Base.

Q. Right. And that had no contact with the Mersy-Rike case at all?

A. No, it had nothing to do with the Mersy-Rike case.

Q. And in fact at that time we did not go into the Mersy-Rike case?

A. I don't believe we did.

Q. And outside of that then—having become acquainted with each other—the only other contact we have had is seeing each other a couple times socially and meeting on the street to say hello, is that correct?

A. That's correct, and a couple of times in the lobby of the postoffice.

Q. Right. And during those times we have not entered into discussion or conversations relative to the Mersy-Rike case?

A. Not that I can recall at all.

Mr. EDWARDS. I have no further questions.

CROSS EXAMINATION

By Mr. DAVIES:

Q. Mr. VanRossum, do you recall whether or not Mr. Edwards asked you on what basis the Government might possibly be involved in this claim?

A. No. I don't believe I did. I can't say that I could recall that.

Q. Did you have any conversation in regard to what Mr. Mersy was doing at the time of the accident?

A. I would say that—if I was making the investigation—that I did tell Mr. Rike that he was employed by the postoffice—

Q. "Mr. Rike" or "Mr. Edwards"?

A. "Mr. Edwards", excuse me—that he was employed by the postoffice, and that would be the reason that I would be making the investigation.

Q. Well then is it your feeling that you must have mentioned this to him at sometime during your conversation?

A. This is my normal procedure, yes.

Q. When you had your second contact in June of '65, did Mr. Edwards ask you why the Government (the postoffice department) was still involved in this claim?

A. I don't recall whether he did or not.

Q. Mr. Edwards has asked you about this statement—whether or not you said to him that the Government was not involved—did you ever make such a statement to him?

A. No, I didn't make a statement to him that the Government would not be involved. As long as I was making the investigation, it's automatic that they would be involved.

Q. At any stage of the investigation, was there ever any indication that the Government was not involved in this claim?

A. Not to my knowledge, no.

Q. In other words, any time he would have inquired—at the stage of the investigation—as far as you were concerned, the Government was still involved?

A. I would say yes.

Q. Did you ever discuss with Mr. Edwards the written statement that you had taken from Mr. Mersy?

A. I don't believe so.

Q. You never discussed this claim with any other members of this firm, have you, or their investigators?

A. I don't believe so.

Q. And you have never discussed it with anybody representing Mersy's insurance company, have you?

A. No, I don't believe so, either.

CROSS EXAMINATION (FURTHER)

By Mr. BOULGER:

Q. Mr. VanRossum, if there was a determination that the Government was not involved—using the language that Mr. Edwards used, but interpreting that as meaning that Mersy was not a Government employee—would it be your function to inform Mr. Edwards of that fact?

A. No, I would inform my division headquarters of that fact in my written report.

Q. And if Mr. Mersy were on the rolls but (for some reason or other) was not within the scope of his employment at the time of the accident, would it be your function to make that determination?

A. Yes, it would be, and to report that fact also.

Q. But would your determination be final and binding?

A. I would say it would almost have to be. The only thing I can do in my investigation—as long as it took place, say, a month after the accident, say from December 24th to the time the Postmaster advised division headquarters that there was a personal-injury accident—I would say that I talked to the postmaster, the assistant postmaster, and anyone else that possibly had anything to do with it, and I reviewed their accident records there, which were signed, and things like this, so I would say the determination was made by myself, that he was employed, and that would be the final determination.

Q. Well if for some reason he was employed, but at the time of the accident was doing something that was not considered as Government work, would it be your function to report the facts or to make the determination?

A. No, I would report the facts, whatever my investigation disclosed.

Q. And if you made—assuming you, in your call upon Mr. Edwards made the statement that the Government was not in-

volved—wouldn't you in effect be going beyond your function?

A. Absolutely.

Q. Now, Mr. VanRossum, you have almost 20 years with the postal service?

A. That's right.

Q. Would you detail for me the various positions that you have had? Are there others than clerk, carrier, and assistant postmaster? Or did you jump from there?

A. I went from carrier to clerk to assistant postmaster to postal inspector.

Q. And as a result of your experience in those capacities, are you familiar with the internal workings of a postoffice such as the size of Grand Forks?

A. I would say that I have enough experience to know the internal workings of the office, yes.

Q. What was the size of the postoffice that you worked in before you became an inspector?

A. It was a first-class office. It isn't the size of Grand Forks. It's smaller than Grand Forks in all ways, actually, but the functions of each first-class office—those under a million dollars—would be almost identical.

Q. Now in Grand Forks, under whom does the special-delivery messenger work?

A. I believe it's assigned to either the superintendent of mails or the assistant superintendent. They more or less have split duties down there, and they're required to know all phases of the operation. But I would imagine either one of those two would assign the special-delivery messenger.

Q. And Mr. Mersy was a special-delivery messenger?

A. As far as can be determined, yes.

Q. And furthermore he was a Christmas temporary special-delivery messenger?

A. As far as the records, the office records show, yes.

Q. And when a special delivery messenger goes out—particularly during the Christmas season—do you know what procedure they use as to delivery of mail?

A. I would say that practically at any time, that they are given these special deliveries to deliver, and it's more or less up to them on which route or which way they're going to take this. In other words, you can't just have somebody inside lining up these special deliveries and saying, "You take them this way." It would be practically automatic for him to do it himself.

Q. Now it's different with a city carrier? He's confined to a specific route?

A. Right.

Q. Is there a provision for a special delivery messenger to have lunch?

A. I would imagine there would be, the same as a city carrier.

Q. And what is that provision?

A. I might have to refresh my memory because I haven't really studied the provision or—if it's changed since I've left the postoffice that I come out of. But when a carrier leaves, say, in the morning at nine o'clock, he's out on his route and he can automatically have a half-hour for his lunch. And when he comes back in, it's just deducted from his time.

Q. He can have that any time and any place he wishes?

A. Well it's usually a set time, when he reaches a certain point of his route, this would be the time that he would take it. It's usually—they try to arrange it so it's close to his home or close to a place to eat. This is on a city carrier.

Q. Well what about those who work in a residential area and whose home is not on their route?

A. They've got what they call a "drive-out" agreement where they can have their car there, or come back to their car, or use their car to go home for lunch. Or if they're on a city mounted route, they would automatically take their car and drive home and drive back.

Q. And what is a mounted route?

A. It's a delivery to a rural box on the outskirts of town.

Q. And does Grand Forks have mailsters?

A. I believe they're all assigned at the air base.

Q. The reason I ask is that our carrier in Fargo eats his lunch in his mailster. Now assuming in this matter that Mr. Mersy had just come from Mr. Gilmour's house, would you have pointed that out in your report?

A. If my investigation would have disclosed that, yes.

Q. Would you have drawn any conclusions from that?

A. No, I don't believe I would have drawn a conclusion. In my conclusion I possibly would have said—in my conclusion in my report I would have pointed this out, that he was not in employment at that time. But the investigation—according to what I have here—did not reveal that he was on his lunch break. I haven't even looked to find out what time the accident happened, again—yes—1:43 P.M., I have.

Mr. BOULGER. Could I have that last answer, please?

(The last answer was read by the Reporter.)

Q. (By Mr. BOULGER) Well then would it be your interpretation that—if he had had lunch at the Gilmour home, but was in his car and on the way to the north side to deliver additional special delivery messages—that he had not again started employment?

A. I don't know how they handle these Christmas assistants but—say—if a city carrier has a half hour off for his lunch period (a specified half hour, say from 12:00 to 12:30), and he doesn't have to go into the office and punch out, he would be not employed at that period. But when he starts his route again—now, starting the special delivery route, this route could start wherever he left off. I mean, I would say that if he started going out to deliver specials again, he would be employed.

Q. In other words, as soon as he left the Gilmour house, assuming he had been there?

A. I would think so.

Q. You've never been able to get a statement from Mr. Hike, is that correct?

A. That's correct.

Mr. BOULGER. I have no further questions.

CROSS EXAMINATION (FURTHER)

By Mr. DAVIES:

Q. Mr. VanRossum, if some of Mr. Mersy's superiors in the Grand Forks postoffice testified that there was no set time for the lunch break for special delivery carriers, you wouldn't disagree with that, would you?

A. No, I wouldn't.

Q. And (if I understand you correctly) if a mailman has a prescribed route to follow, he is considered off duty from the time he deviates from that route to go out for lunch, till the time where he goes back to where he left off for lunch?

A. A city carrier has so much allotted lunch hour. His—with his last delivery, that's his breaking time for lunch. I would say that he's not employed until he makes, or starts, and picks up the mail, to the box, and goes again.

Q. And (if I understand your answers to Mr. Boulger correctly) it would be your position that a person, who was delivering special delivery and who had no prescribed route, would be back on duty as soon as he pointed himself in the direction of his next delivery after lunch?

A. I would say that is correct.

Mr. DAVIES. That's all I have.

REDIRECT EXAMINATION

By Mr. EDWARDS:

Q. Mr. VanRossum, with reference to your opinion here as to when a special delivery carrier goes back on duty, this is just merely your own personal opinion, is that correct?

A. I would say yes, it would be my personal opinion, until I look it up in the manual to see if there's anything specific about it.

Q. And with reference to the Federal Tort Claims Act, and more specifically if under the Federal Tort Claims Act the law of the state as to scope of employment applies, are you basing this opinion upon the laws of the state of North Dakota in connection with the scope of employment?

A. Repeat that again, please.

(The last question was read by the Reporter)

A. To be real truthful, I don't follow the question.

Q. (By Mr. Edwards) Well in other words, Mr. VanRossum: In making a legal determination as to scope of employment under the Federal Tort Claims Act, if the law of the state is applied to make this determination (rather than any Federal statutes), is your opinion based upon the laws of the state of North Dakota?

A. I don't believe I would use the law of the state of North Dakota. I would have to use the postal manual and any records at the postoffice, to determine if he was employed.

Q. And now when we talk about "employed" and "in the scope of employment," isn't it possible that we are talking about two different things?

A. I was using the term of—"scope of employment" and—my word, the "employment," would be the "scope of employment" in your words.

Q. So you're using the two terms synonymously or interchangeably, is that correct?

A. Right.

Q. And in effect you are not taking into consideration any of the laws of the state of North Dakota with reference to your opinion, that you stated, about the matter of employment or scope of employment, isn't that correct?

A. I would say that's correct.

Mr. EDWARDS. No further questions.

RECROSS EXAMINATION

By Mr. DAVIES:

Q. Just to clarify one thing for me: When we're talking about "scope of employment" and "employment," we are referring (are we not?) to a hypothetical situation, if he is returning from lunch or if he is returning from his lunch break?

A. I would say the questioning in the last little while has been whether he was returning from lunch. My investigation did not reveal that he was returning from lunch.

Q. As far as your investigation was concerned, your determination was that he was on his route at the time, is that true?

A. He was in the scope of his employment (nods head affirmatively).

Mr. DAVIES. Thank you.

RECROSS EXAMINATION (FURTHER)

By Mr. BOULGER:

Q. Mr. VanRossum, you know the difference between "employment" and "scope of employment", don't you?

A. Yes. I was just using the words loosely, I would say.

Q. In other words, you're a postal employee 24 hours a day, isn't that right?

A. Right.

Q. But in the evening, when you're home watching T.V. or drinking beer, you're not in the scope of your employment?

A. That's correct.

Mr. BOULGER. I have no further questions.

Mr. EDWARDS. No further questions.

Mr. VanRossum, you have the right to read and sign your deposition after the Court Reporter has transcribed his notes; or you have the right to waive the reading and signing of your deposition. I would suggest that you confer with Mr. Boulger and then give us your decision with reference to same.

The DEPONENT. Mr. Boulger?

Mr. BOULGER. If we may go off the record for a minute.

(Discussion off the record.)

The DEPONENT. We waive that.
Mr. EDWARDS. That's all.

CERTIFICATE

STATE OF NORTH DAKOTA,
County of Grand Forks, ss:

I, Edward Rafel, do hereby certify that I am an official court reporter of the First Judicial District of North Dakota and was such at the time of the taking of the deposition of Paul E. VanRossum on May 8, 1967; that the witness was duly sworn by the Notary, Norman Mark, before testifying; that the foregoing is a true and correct transcript of my stenotype notes taken at the time of the deposition and contains all the testimony given at said deposition; and further the reading and signing of said deposition was waived by the deponent, and further I am not related by blood or marriage to any of the parties nor am I interested directly or indirectly in the matter in controversy.

EDWARD RAFEL,
Official Court Reporter.

Subscribed and sworn to before me this —— day of May, 1967.

NORMAN E. MARK,
Notary Public.

My commission expires 4–7–72.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations, or lapse of time, or bars of laches or any proceeding, heretofore had in the United States District Court for the District of North Dakota, jurisdiction is hereby conferred upon the United States District Court for the District of North Dakota to hear, determine, and render judgment upon any claim filed by Arthur Rike against the United States for compensation for personal injury, medical expenses, and property damage sustained by him arising out of an accident which occurred on December 24, 1964, allegedly as a result of the negligent operation of a motor vehicle by an employee of the United States while acting within the scope of his Federal employment.

SEC. 2. Suit upon any such claim may be instituted at any time within one year after the date of the enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided herein, proceedings for the determination of such claim, and review and payment of any judgment or judgments thereon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1346(b) of title 28, United States Code.

CONVEYANCE OF LAND TO KENAI, ALASKA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1556, H.R. 17609.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 17609) to authorize the Secretary of the Interior to convey to the city of Kenai, Alaska, interests of the United States in certain land.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1554, S. 2752, a bill covering the same subject, be indefinitely postponed.

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

JUDGES OF THE DISTRICT OF COLUMBIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1355, S. 2439.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2439) to increase the number and salaries of judges of the District of Columbia court of general sessions, the salaries of the judges of the District of Columbia Court of Appeals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia, with amendments, on page 2, after line 18, strike out:

SEC. 4. Section 11–1701(a)(3) of the District of Columbia Code is amended—

(1) by inserting in the first sentence immediately after the phrase "such retired judge" the following: "who retires upon the expiration of his term"; and

(2) by inserting immediately at the end of the first sentence thereof the following new sentence: "Any judge retiring prior to the expiration of the term for which he was appointed shall be permitted to render such service for not more than one hundred and twenty days per year."

And in lieu thereof, insert:

SEC. 4. The first sentence of the second paragraph of section 2 of the District of Columbia Revenue Act of 1937, as amended (D.C. Code, sec. 47–2402), is amended by striking out "$23,500" and inserting in lieu thereof "$27,500."

And on page 3, after line 8, insert a new section, as follows:

SEC. 5. Section 11–1502(a) of the District of Columbia Code is amended by striking out "two" and inserting in lieu thereof "four".

So as to make the bill read:

S. 2439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 11–902(a) of the District of Columbia Code is amended by striking out "twenty" and inserting in lieu thereof "twenty-five".

(b) Section 11–902(d) of the District of Columbia Code is amended by striking out "$24,000" and inserting in lieu thereof "$28,000", and by striking out "$23,500" and inserting in lieu thereof "$27,500".

SEC. 2. Subchapter II of chapter 9 of title 11 of the District of Columbia Code is amended—

(1) by adding at the end thereof the following new section:

"§ 11–936. Attorney advisers; compensation.

"The District of Columbia Court of General Sessions may appoint and remove attorney advisers equal to the number of judges authorized to serve on such court, and shall fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates."; and

(2) by adding at the end of the analysis of such subchapter the following new item:

"11–936. Attorney advisers; compensation."

SEC. 3. Section 11–702(d) of the District of Columbia Code is amended by striking out "$25,000" and inserting in lieu thereof "$29,000", and by striking out "$24,500" and inserting in lieu thereof "$28,500".

"SEC. 4. The first sentence of the second paragraph of section 2 of the District of Columbia Revenue Act of 1937, as amended (D.C. Code, sec. 47–2402), is amended by striking out '$23,500' and inserting in lieu thereof '$27,500'."

SEC. 5. Section 11–1502(a) of the District of Columbia Code is amended by striking out "two" and inserting in lieu thereof "four".

Mr. BIBLE. Mr. President, the first purpose of S. 2439 is to authorize the expansion of the District of Columbia court of general sessions from 20 associate judges to 25 associate judges and the juvenile court of the District of Columbia from two to four associate judges.

The bill's second purpose is to increase the annual salaries of the judges of the local courts in the District by $4,000. Associate judges of the District of Columbia Court of Appeals would be raised from $24,500 per year to $28,500. The salary of the chief judge of that court would be increased from $25,000 to $29,000. Associate judges on the District of Columbia Tax Court would be raised from $23,500 to $27,500, and the chief judges from $24,000 to $28,000.

The five additional general sessions court judges, the two new juvenile court judges, and the improved judicial salaries recommended by the District Committee in S. 2439 are vitally needed to speed up the administration of justice, to help improve the quality of justice administered in the District of Columbia courts, and to provide the present judges a long overdue increase in salary.

Concerning the proposed salary increases, I want to point out that the compensation of the judges covered by this legislation has not been changed since 1964.

During the same time period, the average pay of classified civil service employees in the Federal and District of Columbia governments has risen almost 25 percent.

The $23,500 now received by these judges is substantially less than the $30,239 now paid to GS–18 employees in the classified civil service. It is also less than the salary range of $26,264 to $29,764 now paid to GS–17 employees. It is even less than the salaries paid many GS–16 employees whose rate ranges from $22,835 to $28,923.

The record before the committee shows that some 50 District of Columbia employees now receive salaries above those paid to our judges in the court of general sessions.

According to a survey conducted by a committee of the Judicial Council for the District of Columbia Circuit, judicial salaries in comparable courts in the other large urban centers across the country range from $25,000 to $37,000.

The $27,500 for trial judges and the $28,500 for appellate judges proposed by S. 2439 is well within the median of the salaries paid to judges on comparable courts elsewhere.

Mr. President, I think there can be no serious doubt that the proposed salary adjustments are needed at this time. This step is needed to produce better salary comparability between our judges and their counterparts in the classified civil service. And, what is more important, these improved salaries are essential if we are to attract experienced, well-qualified lawyers to service on the local courts of the District of Columbia.

The President's Commission on Crime in the District of Columbia recommended substantial increases in the salaries of our general sessions court judges. The Committee on the Administration of Justice of the Judicial Council also recommends the present increase as necessary to make service on the general sessions bench more attractive, and to give the judges of that court a status commensurate with their responsibilities.

Mr. President, turning to the matter of additional judges for the trial courts of the Nation's Capital, I want to say that however important salaries may be—and, as I have said, they are highly important—I think the need for additional judges is critical.

I think it serves little purpose to complain about and enact laws to combat crime here in Washington, if the Congress does not provide an adequate number of trial judges.

I have said before, and I say again, that if the criminal law is to deter crime, justice must be administered not only fairly but swiftly.

We must provide sufficient judges. The backlog of criminal cases in the court of general sessions must be eliminated. The delays between arraignment and trial must be drastically reduced.

And if justice is to be done across the board, the present intolerable backlog of civil cases must also be eliminated.

The District of Columbia court of general sessions handles 97 percent of all criminal and civil litigation in the District of Columbia. During the last full fiscal year, the court disposed of almost 12 percent more criminal jury cases than during the previous fiscal year.

Nonetheless, despite the court's best efforts, the criminal backlog increased. As of June 30, 1968, there were 2,031 criminal jury cases awaiting trial in the District of Columbia court of general sessions.

Despite a concerted effort by the court to reduce its calendar of pending criminal cases, they have not been able to keep pace with the rise in new prosecutions.

Also, the court's effort to make inroads into its backlog of criminal cases has been possible only at the expense of the court's civil calendar. On June 30, 1968, there were 5,365 civil jury cases pending in the court. It now takes some 2 years after joinder of issue before the average civil jury case in the court of general sessions can be brought to trial.

I submit that this kind of delay is intolerable, and may well result in a denial of justice in some cases.

Turning to the juvenile court, Mr. President, the situation is, if anything, even more urgent.

I dare say we are all agreed that in the case of juvenile offenders it is extremely important that they be brought before a judge as promptly as possible. Otherwise, the deterrent and rehabilitative effects of our system of justice may be lost on the child. This is particularly important in the case of a youngster's first brush with the law.

The unconscionable facts are that as of June 30, 1968, the District of Columbia juvenile court had a backlog of 994 cases awaiting arraignment or initial hearing. Four hundred twenty-two of these were youngsters awaiting their first hearing in court.

The present backlog is such that after a child is apprehended, if he is in the community, he must wait for 3 months before appearing before a judge. Those children who demand jury trials—242 as of June 30—are not having their trials scheduled for over 1 year. Such a delay is unconscionable. Especially when dealing with children, it is important that court action take place while the events are fresh in the child's memory. If the present rate of trials were to continue, it would take about 2½ years to dispose of the jury trials now pending, and the demand for jury trials is multiplying.

During the last few years, required procedures in juvenile cases have been changed by the Supreme Court and other appellate courts. In juvenile cases where there is a possibility of commitment, there is a right to counsel and a right to a hearing in accordance with due process. The right not to be required to incriminate oneself has been held by the Supreme Court to apply in juvenile proceedings, and with this have come all the problems of admissibility of evidence. Obviously, the increased procedural requirements and presence of lawyers have greatly expanded the time necessary to deal with each case.

Justice cannot be done in a vacuum. It takes judges to administer it, to assure it, and to protect it. To insist on changes in procedure and not to provide enough judges to administer it is fruitless gesturing.

The juvenile court does not deal exclusively with juveniles. This court has a large measure of adult jurisdiction, principally in the areas of paternity and criminal nonsupport. In cases dealing with abandoned or battered children and cases involving mental illness, the court must act speedily. It is clear that the juvenile court is urgently in need of the two additional judges that this bill provides.

Mr. President, the public justifiably demands order and obedience to law; and, with equal justification, individual defendants expect justice under law. The courts of the District of Columbia cannot fulfill their proper role in the fight for order and justice unless adequate judicial manpower is made available to dispose of litigation swiftly and fairly.

If the court of general sessions had the five additional judges, and the juvenile court the two new judges provided by the amended bill, each court would be better able to make deeper inroads on their backlogs of cases, and bring their calendars to a current basis.

Both justice and effective law enforcement in the Nation's Capital require that this be done, and added judicial manpower is needed to do the job.

Mr. President, improved judicial salaries and added judicial manpower for District of Columbia courts have the strong support of the District of Columbia government, the Department of Justice, the Judicial Council of the District of Columbia circuit, the bar associations, the Metropolitan Washington Board of Trade, and a broad spectrum of citizen groups in the District.

I think there can be no real questioning of the need that exists.

I recall that in our report accompanying the omnibus crime bill last December, the District Committee pointed out:

> No matter what may be done by legislation designed to control crime, unless the court system in the District of Columbia can adequately deal with the cases which may be prosecuted, most of our effort will be futile.

The additional trial judges provided by S. 2439 are urgently needed by the District of Columbia court of general sessions and the juvenile court. The improved judicial salaries recommended by the committee are also overdue and essential.

I commend the bill to the Senate for prompt passage.

Mr. President, this matter has been cleared on both sides of the aisle. It was reported from the Committee on the District of Columbia unanimously, and I have every reason to believe that legislation in this very vital field will be completely enacted at this session of Congress.

Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to increase the number and salaries of judges of the District of Columbia court of general sessions and the juvenile court of the District of Columbia, the salaries of the District of Columbia Court of Appeals and the District of Columbia Tax Court, and for other purposes."

THE FACTS ON CRIME

Mr. MOSS. Mr. President, the recent report on crime issued by J. Edgar Hoover's Federal Bureau of Investigation shows that my State of Utah was one of the two States in the Union where crime declined in 1967. Naturally, I am proud of the fact that while crime rose elsewhere in the country, we in Utah were able, through State and local efforts, to turn our crime curve downward.

The decrease was not great, but it was

significant. In 1966, the total Utah crime rate was 1,652 per 100,000 population. In 1967, that rate dropped to 1,622 per 100,000 population, well below the national average of 1,922 and far, far below the nationwide high of 3,208 in California.

Part of this decline was due, I am sure, to the crime prevention procedures and law-enforcement training programs developed in Utah by grants received under Public Law 89–197, the Law Assistance Enforcement Act of 1965. Since I was the author and sponsor of that act in the Senate, I am elated that its effects have been so exemplary in my own State.

Utah has received five grants under the act, totaling $108,170. Under the direction of our able Governor, Calvin L. Rampton, $23,583 was used for the development of a State planning committee on criminal administration. Some $10,600 was utilized by the University of Utah for testing a filmstrip on an in-service training program for law-enforcement personnel. Weber State College received $15,000 for a 2-year training program for enforcement personnel, leading to a 2-year college degree. The sum of $30,074 went to the Utah State Department of Public Safety to upgrade the statewide training of police officers. And $28,931 was used by the Salt Lake City Police Department to organize a crime and delinquency prevention unit. The report of the specific accomplishments of this latter unit is now available, and I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the close of these remarks, along with the city ordinance establishing a human relations commission, which grew out of the crime and delinquency prevention project.

The PRESIDING OFFICER (Mr. Byrd of West Virginia in the chair). Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. MOSS. Mr. President, I am confident that this very full discussion of what was done in Salt Lake City, and how it was done, will be helpful to other communities.

It is satisfying to me to remember that I wholeheartedly endorsed the Salt Lake City Police Department application for this crime prevention unit and to be able to see, in only a short 2 years, the tangible results of the work Salt Lake City has done, as well as what has been done in other fields in Utah with Public Law 197 funds.

Of course, we have many things going for us in Utah and we should be able to lower our crime rates. In Utah the moral and educational levels are generally high. Utah's population is relatively stable; our income spread is not great. We give our young people excellent training in most of our homes, our schools, and in our churches. We also set lofty standards of conduct for our public officials and our business and community leaders. All of this combines to produce a law-abiding atmosphere and a respect for authority.

We still have too much crime, of course, just as do all other States, but we are trying to find out what is wrong in our communities and doing what we can to correct it. While we are grateful for this Federal assistance to help us, we have no illusions—these are not anyone's problems except our own. Crime prevention and control is a State and local function.

Knowing what is happening in my own State, I cannot accept with equanimity the efforts of Mr. Nixon and Governor Agnew to blame the rise in crime, and the failure to do more about it, on the Federal Government. They would have you believe that the Democratic administration not only invented crime and violence but constantly fans its flames.

Governor Agnew has even gone so far as to call Vice President HUMPHREY "squishy soft" on crime, a term he now says he is not proud of having used.

Governor Agnew must know what has been happening in his own State of Maryland. According to the FBI report, Maryland is first in the entire country in violent crimes with a rate of 474.1 per 100,000 people.

This is almost double the U.S. average which is 250 violent crimes per 100,000 people. Furthermore, Maryland ranks second in robbery where its rate is 212.1 compared to an average of 102.1 for the United States. For aggravated assault it is also second in the United States with a 234.5 rate compared with 128.0 for the U.S. average. It is fourth in rape with a rate of 19.6 compared to the U.S. average of 13.7.

For property crimes it ranks sixth in the United States with a rate of 2,187 per 100,000 people. It is No. 4 in the United States in auto thefts with a rate of 489.1 compared to a U.S. average of 331.

Overall, Maryland, according to J. Edgar Hoover's report, is the No. 4 crime State in the United States with a total crime rate of 2,661 per 100,000 people.

In 1966 Maryland's crime rate was 2,062 and this was Governor Agnew's first year in office. In 1967, in his second year as Governor, Maryland's crime rate rose to 2,661 as it moved from the No. 8 crime spot to the No. 4 crime spot. In fact, the crime rate rise for Maryland was one of the highest in the United States.

Now, I do not think crime should be made a national political issue. It is a State and local responsibility. It is in the State's capitol that the basic laws controlling crime are written and that the State courts are financed. It is the Governor who nominated judges, and in some States he directly appoints them to the lower courts. It is State government that is the creator of cities and counties and it is State capitols from which they derive their powers.

Yet, I hear Mr. Nixon tell one of the wealthiest counties in the United States—Westchester County in New York—that he is going to return to them powers allegedly "usurped" by the Federal Government. However, in the next breath he promises to have the National Government wage a campaign against crime. But the fact is that in law enforcement the basic day-to-day responsibility rests with the Governors and with the States and their local subdivisions, cities, and counties.

The seven major crimes J. Edgar Hoover catalogs for the State and local governments are locally originated crimes. These violent crimes—murder, rape, aggravated assault, and robbery—are the individually committed type of crime. The property crimes, also—burglary, larceny, and auto theft—in the main, are individual lawless acts.

It is the 50 States of our Union which are now and must be the first line of attack on crime.

I think those who want to make the vague contention that someone is "squishy soft" on crime instead should be prepared to discuss this subject logically and constructively.

J. Edgar Hoover warns against drawing conclusions from direct comparisons of crime figures between individual communities without first considering the factors involved.

He cites the factors which in his experienced judgment affect the amount and type of crime that occurs from place to place.

A reading of his report shows some very significant variations among our 50 States.

Alabama is No. 1 in the number of murders committed with a rate per 100,000 people of 11.7; South Carolina is No. 2, with an 11.2 rate; Georgia is No. 3 at 11.1; while No. 4 is Nevada at 10.8. The U.S. average is 6.1. The lowest murder rate State on the other hand is North Dakota with a 0.2 per 100,000 rate. Alabama's rate of murders is 58½ times North Dakota's.

Maine is second lowest with a 0.4 rate. Alabama's rate is therefore 29 times Maine's and South Carolina's rate is 28 times Maine's.

Rape is the second violent crime J. Edgar Hoover's statistics cite. The No. 1 State is California with a rate of 25 per 100,000 people. At the low end of the spectrum is New Hampshire with a 3.4 rate. California's rate is eight times New Hampshire's and it is almost double the U.S. average rate of 13.7.

The third violent crime is robbery.

Here New York is the No. 1 State with a rate of 217.9 compared to Vermont where the rate is 1.9 and a U.S. average of 102.1 per 100,000 people. New York's rate is 114 times adjacent Vermont's.

The second State in robbery is Maryland with a rate of 212.1. Adjacent West Virginia has a rate of but 19.3, Virginia a rate of 50.9, Pennsylvania rate of 56.5, and Delaware a rate of 63.4.

The fourth violent crime is aggravated assault for which the U.S. average is 128.0 per 100,000 people. North Carolina is No. 1 with a 261.5 rate—double the U.S. average—while the lowest incidence again is in Vermont where the rate is 11.3. The No. 2 State is also Maryland with a rate of 234.5 followed closely by Florida with a rate of 233.6.

In the property crime group a major crime is burglary in which the U.S. average rate is 811.5 per 100,000 people. California ranks No. 1; its rate is 1,446 while North Dakota is No. 50 with a rate of 241.2. California's burglary rate is seven times North Dakota's.

Larceny under $50 finds Nevada No. 1 with a rate of 972.3 per 100,000 people compared to a U.S. average of 529.2 and Mississippi in the lowest incidence position with a rate of 146.6.

For auto theft, the U.S. average rate is 331 per 100,000 people and Massachu-

setts ranks No. 1 at 667.4 while Mississippi again is lowest with a rate of 56.7.

One can look at the States adjacent to both Massachusetts and Mississippi and find startling variations in the auto theft rate as well as in all of these other crimes.

Overall for 1967 the top five crime States and lowest five crime rate States are:

Rank	State	Rate per 100,000
1	California	3,208
2	New York	2,908
3	Nevada	2,763
4	Maryland	2,661
5	Arizona	2,658
	U.S. AVERAGE, 1922	
46	Maine	799
47	New Hampshire	707
48	West Virginia	658
49	North Dakota	596
50	Mississippi	575

Mississippi is, incidentally, the other State in the Union in addition to Utah where the crime rate declined in 1967.

These data demonstrate conclusively that despite a rising crime rate the rise is not uniform in every State nor is it uniform for every crime. Also the size of the State or the density of its population is not necessarily a determining factor. There are both large and small States among those with the highest crime rate.

If there is validity to the contention of some candidates that the Federal courts are soft on criminals one would not expect to find North Dakota and Mississippi with a crime rate one-sixth of California's. For when a matter comes to the Federal court level, then national policy is set. It may be appealing to lay crime on the Federal doorstep but this dodges reality.

I cannot detect that a "squishy soft" Federal policy can account for Governor Agnew's Maryland having an overall crime rate over three times higher than Senator ED MUSKIE's Maine or Governor Reagan's and Mr. Nixon's California having a crime rate double Vice President's Minnesota.

Some of the conditions which J. Edgar Hoover indicates affect the crime rate in each State and area include:

The administration and investigation efficiency of the local law-enforcement agency, including the degree of adherence to crime reporting standards.

Attitude of the public toward law-enforcement problems.

Policies of the prosecuting officials and the courts.

Standards governing appointments to the police force.

Effective strength of the police force.

Education, recreational, and religious characteristics.

Climate, including seasonal weather conditions.

Relative stability of population, including commuters, seasonal and other transient types.

Economic status and mores of the population.

Composition of the population with reference particularly to age, sex, and race.

Density and size of the community population and the metropolitan area of which it is a part.

All of these factors are directly related to the capacities of States and their local governments or to factors, such as weather, which are beyond the control of any level of government. Read these 11 factors and take those which are State government functions such as education, standards for appointment to the police force, policies of prosecuting officials and the courts—then lay these beside any one of the seven major crimes and you will find the paramount responsibility rests with the State and its local governments.

J. Edgar Hoover has properly called attention in his 1967 crime report to the Federal Omnibus Crime Control and Safe Streets Act of 1968. He terms it a "far-reaching act" and goes on to say that it "promises substantial financial and functional support to local and State law enforcement agencies." I point out it is an extension of my 1965 act.

Mr. Hoover describes the purpose of the 1968 act succinctly: "to improve the performance of law enforcement."

He correctly warns that achievement of this objective "will depend upon wise application of the funds available and sound implementation of the act's provisions by State and local agencies."

In each reference he speaks of the key role of State and local agencies.

In short, this act is an example of solid and constructive cooperation being offered by the Federal Government to each and every State based on its need. It does not inject the Federal authority into the States domain.

Rather it says to Alabama, "We will help you in your efforts to reduce your murder rate from 11.7 per 100,000 people to North Dakota's 0.2 per 100,000 people."

It says to Maryland with its aggravated assault rate of 234.5 per 100,000 people, "We will help you get down to Vermont's 11.3 rate."

And to the low crime rate States such as Maine, Vermont, and Mississippi it offers assistance in ways each of those States can further reduce even their rates.

Most of American citizens, young and old, abide by, respect, and live up to the spirit and the letter of the law. We have in this Nation—as there always has been in every nation—those who break the law. They are a very small minority. TV dramas and daily press stories to the contrary, most of American people are law abiding. We need to put the hard spotlight of facts on crime. But it serves no public use to put the spotlight of criticism on those who have proven themselves leaders in effective action to root out crime.

A few years back TV ran a series called "Car 54" which depicted peace officers as clowns and buffoons. Under the constitutionally guaranteed privilege of freedom of the press this was certainly within the prerogatives of TV programing. But as a matter of community and national responsibility I seriously question the wisdom of those who wrote such a program, those who elected to show it, and those who sponsored it. I do not think this sort of approach faithfully shows what a real peace officer is like nor does it give this most important career a proper image.

Likewise, dramatic as they may be, the mill run of crime programs do not have a useful role in reaching American society. The TV policeman or sheriff whose gun is also the judge and jury is hardly a fair and candid appraisal of law-enforcement activities. The heavy emphasis given crime and the lurid presentation of crime stories undoubtedly affects attitudes toward those who enforce the law and the law itself. But when one hoodlum breaks into one school and does a lot of damage, his single action gets heavy press coverage, but it is never related to what the hoodlum may have seen on his TV screen the night before.

And very seldom do police officers anywhere in America get honorable and proper mention for their often heroic efforts to serve their fellow citizens as friends and as humanitarians.

I raise these points because these are the two major areas—the public media and the public discussions where I feel we need to consider some basic changes in our national approach to the crime issue.

In the public media—the press, and TV, their associations—might want to consider a code of conduct as a guide.

In public life, we especially need to encourage responsible statements and even more responsive performance from our public officials.

History tells us that crime like all social diseases can only be reduced to levels that effectively contain it. Complete eradication is never likely—nor can we knock it down in one generation and never have it build up again. Thus a first line of responsibility is to fashion and apply procedures that control crime.

This is an area where our 50 Governors have a major opportunity to lead—each one giving crime the attention the situation in his State deserves. And I am certain that this is also an area where the Governor in each State can obtain the cooperation of his fellow Governor.

The "crunchy hard" realities are that crime in America will not be rooted out by soft and squishy vague indictments delivered from shaky political platforms. Crime in America can be rooted out by dedicated work done day after day in America's cities, towns, and countryside, backed up and supported by effective constructive leadership by each and every State official. And in this effort the Federal power and resources can and should be made available only on the basis of clearly enunciated needs set forth by clear evidence supplied by the 50 Governors.

And if Governor Agnew or any other Governor can show that increased levels in murder, rape, aggravated assault, robbery, burglary, larceny, and auto theft in his State is due to a blocking of State action by any of the three branches of the Federal Government—then let them come forth with facts.

EXHIBIT 1

CRIME AND DELINQUENCY PREVENTION UNIT: REPORT OF ACCOMPLISHMENTS, JUNE 1967 TO APRIL 1968

I. THE ESTABLISHMENT OF THE PREVENTION CENTER AT THE POLICE DEPARTMENT

The establishment of the Prevention Unit was accomplished by the hiring of the fol-

lowing personnel: Coordinator, Secretary, and two part-time caseworkers. The Director and Assistant Coordinator, employed by the Salt Lake City Police Department in other positions, became a part of this new unit.

Each Police Department personnel was briefed concerning the Crime and Delinquency Prevention Project. This was accomplished in the following manner: Prior to each briefing, handout information explaining the project was given to each officer and supervisory staff; the Chief of Police and the Divisional Commanders were then briefed in a staff meeting; and all other personnel were given a similar briefing within their separate divisions during their shift line-ups.

A questionnaire was distributed to each person briefed on this new unit. This questionnaire was used to get each person's opinion and attitude about the new unit. It was found that over 95 per cent of all personnel were favorably inclined towards the Crime and Delinquency Prevention Unit and expressed their willingness to cooperate with the new unit in helping it achieve its objectives.

II. IN-SERVICE TRAINING

During the first quarter, initial planning was carried out for an in-service training program for Youth Bureau officers and other interested police officers. In the process of this planning, questionnaires were distributed to Youth Bureau officers asking for their opinions on what subjects would be of most value to them.

During the second quarter, the policy and curriculum for in-service training was formulated. The in-service training was to be mandatory for all Youth Bureau Police Officers. Also, a special invitation was extended to all other divisions as well as the Sheriff's Youth Division.

The various subjects are taught by professionals in each area who donate their time free of charge. They have shown a real willingness to do all they can to make the in-service training program a real success.

The training sessions began officially on September 6. At this time Dr. Malcolm Liebroder was the guest lecturer. He did a tremendous job discussing several of the "signs" of pre-delinquency and "action" steps that might be taken by a police officer to help eliminate the source of the problems. Dr. Liebroder spent not only this session, but two other one and one-half hour sessions in this area.

Following Dr. Liebroder, on September 27, Sgt. Max Yospe, a recent graduate of Delinquency Control Institute, instructed a class on "Current and Future trends in Delinquency and Crime Prevention." His training and the general discussion by all officers provided both theoretical and practical insight in this area.

In the third quarter, nine in-service training sessions were held. These consisted of the following speakers and subjects: Sgt. Max Yospe (Head of counseling in Salt Lake City Police Department) Current and Future Trends in the Area of Delinquency Prevention; Dr. Frank Magleby (Professor of Social Work) Past, Present, and Future Programs Geared to the Prevention of Crime and Delinquency, Dr. Richard Soules (Psychologist at the State Industrial School) The State Industrial School for Youth; Gerold Gerber (Coordinator of the Crime and Delinquency Prevention Unit) The Prevention Unit; Larry Lunnen (Head of the Police Science Department at Weber State College) The Role of the Police Officer; Richard Lindsay (Administrator, Juvenile Court) Proposed Legislation in the Area of Crime and Delinquency Control and Prevention; and Judge Paul Keller (Chief Juvenile Court Judge) Current Legislation and Decisions affecting the Legal Process. In general, these men provided valuable information that could be used by the police officers in their work with juveniles. They gave a fresh perspective even to those areas of traditional procedures in working with youth having problems.

During the fourth quarter, ten in-service training sessions were held. These consisted of the following speakers and subjects; Judge Regnal Garff (Second District Juvenile Court Judge) Duties and Process of Juvenile Court; Robert Ashpole (Instructor, University of (Utah) The Probation, Parole, and Correctional Process; John MacNamara (Director Detention Center) Responsibilities and Functions of Detention Center; Gerold R. Gerber (Coordinator, Prevention Unit) Sociological Aspects of Deviant Behavior; Dr. Victor Cline (Professor of Psychology at the University of Utah) Basic Psychology; and Dean Rex Skidmore (Dean of Social Work, University of Utah) Techniques of Interviewing and Counseling. These men have been very cooperative in helping to assist the Prevention Unit to carry out the In-service Training Curriculum. They have been both interesting and informative in areas directly tied into the whole correctional system as well as providing insight into the behavioral patterns of law violators. Also, the last speaker, Dean Rex Skidmore, provided very useful insight into the dynamics and techniques involved in counseling and interviewing.

III. COUNSELING

The methods utilized in counseling are primarily as follows: (1) Counseling the family as a unit; (2) Counseling with the parents separate from the children; (3) Counseling the children by themselves; (4) Counseling, with their parents, all children involved in the same incident; and (5) A combination of the above.

In prefacing various statistics concerning the Unit's activity in this area, a few comments seem appropriate. First, all police cases refer to incidents that have occurred and may involve one or several persons. Hence, the number of families or individuals counseled or referred to other agencies is many more than so indicated by the number of police cases. Because the Unit works with both the pre-delinquent, who may not have an official police case, and the first offender, it seems preferable that we refer statistically to the number of juveniles being handled by the Unit. Second, the number of individuals referred to juvenile court by the Prevention Unit does not represent the number of failures. These are cases of recidivists or serious offenders that were referred to the Prevention Unit, but should have been referred to Juvenile Court by the Uniform Officer. These statistics are only important in showing a better picture of the activity of the overall counseling section and to indicate how many cases may not have been properly handled by the referring party.

The number of individuals handled by the Unit as pre-delinquents, first offenders, neglect cases, paper work and telephone counseling (no personal contact by Unit), unfounded, and multiple offenders are found in Table 1. This table records the number of individuals considered active, closed, or failure cases. The failure cases are those that have been counseled by the Unit and then committed another offense for which they were caught and handled again by the Police Department.

The active cases are those individuals referred to the Unit, but have *not* as yet received all the attention the Unit feels is warranted. Action by the Unit has not been completed. Closed cases are individuals counseled, referred or in other ways received all the involvement forthcoming from the Unit.

The various categories in Table 1 have already been mentioned, except for the category labeled "Single Offense—Juvenile Court." This category was added to include a number of cases that otherwise would have been left out of our statistical report. Those falling in this category are youth that are single offenders, but for one reason or another have been sent straight to Juvenile Court without any other action being taken by the Prevention Unit. The majority of these cases are either so serious that they should never have been referred to the Unit or else when contacted, the family would not respond to an invitation to settle the problem through a counseling session.

The counseling section has been very effective in the majority of cases. The youth and families involved have either resolved their problem in one or two counseling sessions with the Prevention Unit personnel, or through continued help by service agencies they have been referred to for extensive treatment.

Table 1 indicates the number of cases handled by the Prevention Unit since its organization in June, 1967. We feel that a running total of the activities best indicates the progress of the Unit in this area.

TABLE 1.—677 INDIVIDUALS HANDLED BY THE COUNSELING SECTION, JUNE 1967 THROUGH MARCH 1968

Offense	Active	Closed	Failures
Predelinquent	3	88	11
First offender	16	286	26
Neglect or delinquent parents	0	13	(1)
Paperwork and telephone counseling	0	73	(1)
Unfounded	1	26	(1)
Multiple	3	109	(1)
Single offense, juvenile court	0	59	(1)
Total	23	654	37

[1] The unit keeps no statistics on these offenders because they are cases outside of the unit's jurisdiction.

IV. WALK-IN CLINIC

Although the walk-in clinic has not reached its true potential, it can be stated that there has been some activity in this area. We have not publicized the walk-in clinic because the counseling unit has reached a near saturation point with officially assigned cases on first offenders and behavioral problems.

The Counseling Unit has received requests from parents, school authorities, and counselors to accept cases which can be considered behavioral in nature but have not yet become police problems. We have tried to schedule these requests for help in terms of priority according to their emergency nature. So far we have been able to absorb these cases without turning anyone away without assistance.

V. ELEMENTARY SCHOOL INVOLVEMENT

In the elementary school we have been working with the teachers, the principal, and the school social worker in an effort to accomplish three major goals. These goals have been: (1) identification of pre-delinquent students; (2) consultation to decide who can best help the pre-delinquent; and (3) counseling those children who seem to require authoritative counseling by the Prevention Unit.

In order to assist the school in identifying pre-delinquency, we reviewed with school personnel pamphlets and films dealing with delinquency and its prevention. In our conversations with different teachers, we feel they are striving to help make an early identification of children with problems. They have mentioned several children who they feel fit this category. Most of these referrals have gone to the principal and school social worker.

Weekly meetings have been held with the principal to obtain names of students that the principal and the school social worker have decided could best be helped by the Prevention Unit. This seems to be one area that can make or break this facet of the project. At the present time, the school involvement has not met with our expectations. This seems to be largely the result of two factors: (a) our contact with the school

social worker has not been often enough; and (b) the school principal has had to be overcautious in making referrals to a unit of the police department because some families fear the stigma of having policemen come to their homes. One of our major goals for the remainder of the grant is to improve our program within the school by helping the school staff relieve the parents' apprehensions towards counseling from the police department.

However, it should be noted that the school principal and teachers refer more cases to the social worker and others for help than they did prior to the Prevention Unit's involvement. This represents at least one measure of the Prevention Unit's success in being involved within the elementary school setting.

VI. ENVIRONMENTAL TROUBLE AREA ACTION

Perhaps the major area of emphasis over the past six months has been in formulating and carrying out a plan of action to get an entire community, the target environmental area, involved in a total crime and delinquency prevention program. Several meetings have been held with representatives from strategic agencies or groups within the community. This has been done to lay the groundwork for specific projects to be carried out by each of these interest groups. Those groups to be involved were: schools, churches, volunteer parents, teens, news media, business, social agencies, legal (police and juvenile court), and children (supervised by adults). The organization plan for the total program was as follows: Each of the nine groups was to be considered an action group. Each group was to organize their activities around one particular project. Each group would have a chairman to lead the group and represent the group on a Coordinating Council. The functions of the Council were to coordinate the projects of all nine action groups, provide information to each action group on what the others are doing, provide information and suggestions to each group on how they could best implement and sustain their respective projects, and solicit the mutual assistance of each group to help in carrying out specific projects undertaken by one action group. It must be kept in mind that the organization chart for the environmental delinquency and crime prevention program was outlined to be the final outcome of community action and not the initial or beginning phases of action.

The real beginning of community action began on January 24, 1968 in which a mass meeting of all adults and youth of the target area was held to put the above plans into operation. Over 300 persons attended the meeting. The major purpose of the meeting was to stimulate the entire community into taking action to prevent delinquency and crime. In order to facilitate the involvement of every major facet of the community, eight of the nine previously conceived action groups were formed by those in attendance. Each action group chose a chairman and secretary to head the group. They then discussed various crime and delinquency prevention programs that they could sponsor.

Since the mass meeting, several of the action groups have held weekly or bi-monthly meetings and activities. Although each group has its own leadership, a member of the Prevention Unit acts as advisor and consultant to each group. Through the combined efforts of the groups' leaders and advisors, four of the original action groups have been quite effective. These are: (1) Older teens (15–18); (2) Younger teens (12–15); (3) Legal; and (4) Church.

Older Teens. Although the planning group consists of only about 20 teens, the activities they plan are carried out by 75 to 100 teenagers. One of the most successful activities was a dance sponsored by the teen group. They obtained a teen band free of charge, the Catholic Father of the area donated the use of his church recreation hall, and the businesses of the area donated the refreshments. Admission to the dance was 50c per person. Nearly 100 teenagers attended the dance. The money obtained from this function was placed in the bank under the teens' action group name, T.A.C. (Teens Appeal to Community). These funds are to be used for future teen activities and delinquency prevention projects.

Younger Teens. The younger teens have been quite active. They have about 70 active members. Although they have their own chairman and secretary, one of the part-time Prevention Unit counselors has had to give them a great deal of guidance and help in planning prevention projects and recreational activities. With his guidance, they planned and sponsored a movie. Admission to the movie was 25c. Also, refreshments were sold during intermission. Through these means, they earned a few dollars to start a bank account for the group. Their funds are being used for activities and prevention projects.

Legal. The legal action group has an organization of chairman, co-chairman, and secretary. They have been meeting almost every week since the mass meeting of January 24. Although it has been difficult to get a large number of adults to consistently help in this action group, two specific projects have been planned. The first involves bringing information to everyone in the community on delinquency problems and how they might become involved in reducing and preventing the problems. Second, the program of Volunteer Home Units is in final stages of planning. It is hoped by the group that this can be put into operation within the next few months.

The major problem connected with this action group, as well as all other adult action groups, is maintaining and obtaining adults who are willing to become involved in delinquency prevention programs. Apathy and communication barriers seem to be responsible for a large amount of the above problem. Either adults are not concerned with their delinquency and crime problems or else they have not been reached with information on what they can do as citizens.

Church. The various churches of the area have been quite active in planning programs that they can sponsor to improve the community. The Church of Jesus Christ of Latter-Day Saints has launched a program specifically geared to work with youth and parents having problems. This program involves the calling, by church leaders, of five lay church members with specific training in home economics, psychology, nursing, sociology, and social work. These people are called to spend several hours a week working with families and youth having problems.

The Catholic Church is very interested in helping youth obtain part-time employment. They have acted as employment counselor and contact with business and industry. There is a strong feeling in the environmental trouble area that much of the delinquency is a result of inadequate opportunities for their youth to find employment. Therefore, they are putting forth a major effort to remedy this problem of unemployment.

The other action groups that were organized in January have become inactive. At the present time, follow-up activities are being planned in order to re-activate these groups. Their inactivity has made it very difficult to get a Coordinating Council in full operation. However, the leaders of the active groups have been able to meet together in a neighborhood council meeting and coordinate their projects and activities. We are looking forward to the time when the community organization will function completely. It is hoped that this will be in the near future.

VII. CONSULTANT TO THE COMMUNITY

The progress of the Prevention Unit as a consultant to the community consists of primarily three areas: (a) written material; (b) conferences; and (c) speaking engagements. There has been a great concentration of effort in each area.

Written material. The written material produced by the Prevention Unit for the general public and police department personnel has consisted primarily of a Monthly Bulletin and a Delinquency Alert Pamphlet. The Monthly Bulletin contained a summary of the past month's activities of the Prevention Unit and aspirations of the future months. The Delinquency Alert Pamphlet was printed by the Deseret News Press and was financed by the Exchange Clubs of Salt Lake City. One hundred thousand copies were printed and ready for distribution the first of December. This pamphlet was to be distributed by the boy scouts to every home in Salt Lake County and Davis County in Utah. The pamphlet is entitled "Signs of Delinquency" and contains information to parents on what attitudes, behavior, physical environment, and social environment factors may lead to serious delinquency. The parents are instructed to check those factors which apply to each of their children. It is suggested that parents checking many of these should seek professional help for the child involved.

The Prevention Unit published a Monthly Bulletin the first six months of the project. This Bulletin was circulated to each officer of the Police Department once a month. It contained an account of the Unit's activities for the preceding month and future aspirations to be worked toward in the current month. It was intended to help keep all members of the Police Department abreast on what was taking place in the Prevention Unit. The Bulletin was also used to help the Unit gain greater cooperation, assistance, and support from all divisions of the department, particularly the Uniform Patrol Division. This final reason for the Monthly Bulletin was never realized. In fact, most of the Police Department personnel resented the extra reading material. Therefore, the Monthly Bulletin was discontinued.

Conferences. Members of the Prevention Unit staff have participated in various groups within the community. Two major groups have been C.A.P. and a Family Court Committee. In working with C.A.P. organizations in the city, the major emphasis has been on creating good lines of communication. Through this communication, we hope to be able to understand better the people of the community and in turn give them a better understanding of the Police Department. It is hoped that we have laid the ground work for more understanding, cooperation, and assistance of all citizens in preventing crime and delinquency.

The Prevention Unit has worked with a Family Court Committee to develop more resources for family counseling. The Family Court Judge will now have more resources available to refer cases.

Speaking engagements. Members of the Prevention Unit staff have addressed several P.T.A. groups, women's clubs, sororities, and youth groups. The major emphasis of these talks has been centered around the prevention of delinquency and crime, what the police department is doing in the area of prevention, and what they as citizens can do to help alleviate or reduce the rate of crime and delinquency within the community. As a result of these meetings several people have volunteered to help the Prevention Unit accomplish its various objectives.

VIII. INVESTIGATIVE TRIPS

During the middle part of July, 1967, Gerold Gerber, Coordinator, and Sergeant Max Yospe, Assistant Coordinator, traveled to San Diego and Phoenix to gain information about their police departments and related community agencies. The concern was primarily with the Youth Division and Community Relations Division of the Police Departments and the utilization and number

of community resources in the two areas. Five days were spent in each city gathering this information.

A vast amount of information was collected. Some of this information, we feel, could possibly be utilized for the betterment of our own Police Department, while other information was either unfavorable or seemed not suitable for incorporation.

Overall, the trip was very worth-while. Understanding and insight into the operations and functioning of other Police Departments were greatly increased. It also provided the opportunity for us to develop a channel of communication with the Police Departments visited. This communication can help both police departments reap the benefits from the experiences and problems each has had in the past. The programs and procedures found to be most effective by one department may be put into operation by the other. The reduction in trial and error time and costs facilitated by applying the experience and insights of each other can be tremendous.

During the last two weeks of March, Captain Wilford Stoler (Director) and Gerold R. Gerber (Coordinator) toured the police departments of Denver, St. Louis, and Cincinnati. Each police department had both commendable and questionable procedures and programs. Areas investigated in considerable depth were: (a) Juvenile Divisions; (b) Crime and Delinquency Prevention Programs; and (c) Police-Community Relations Programs.

Juvenile Divisions. The Denver Police Department has an excellent formal organization within its Juvenile Division. It consists of three bureaus—Crime Prevention, Investigation, and Youth Services. The Crime Prevention Bureau impressed us the most. Here, several officers are assigned to work closely with the schools. They lecture, show films, and try to establish a good liaison with all of the schools and pupils. In the same bureau, other officers are assigned to patrol various juvenile "hang-outs" and problem areas. Their job is to decrease the opportunities for juveniles to break the law.

The Cincinnati Police Department Juvenile Division is very similar to our own. Some of the outstanding qualities of their division are as follows: First, they have a very excellent staff of female police officers to work with youth and families having problems. Second, the lines of authority are well defined. Here, both the personnel of the juvenile division itself and other divisions know what their functions and responsibilities are in relation to their division and the whole police department. Third, the juvenile division has an excellent working relationship with the Juvenile Court. Finally, the use of School Resource Officers seems to have tremendous benefits. A Resource Officer is assigned to each high school. He works not only in a particular high school, but in all the schools (elementary and junior high) that send students on to the high school to which he is assigned. This program appears to have such benefits as prevention of delinquency; communication channels being established between children, parents, schools, and police department; and the establishment of a better police image and respect for law and order.

Delinquency and Crime Prevention Programs. In general, there are several programs that will either suppress crime or indirectly prevent it, but few programs are geared specifically to prevent crime and delinquency. The programs that are most impressive are as follows:

1. The use of fourteen officers by the Denver Juvenile Division to patrol teenage problem areas. This program seemed to be a major step in the suppression of crime and delinquency, if not its prevention.

2. The program in St. Louis of a group identification squad whose function is to identify gangs and keep tabs on their activities by the use of field cards and computers. This program helps to inhibit problem gangs from getting in trouble with the law and also might aid in dispersing the members of the gangs into constructive groups.

3. Finally, the school Resource Officers utilized by the Cincinnati Police Department appear to be one of the best programs to combat the increase in crime and delinquency. It seems able to get information and influence young people prior to their development of habitual patterns of unlawful behavior. It has the potential for facilitating the actual prevention of crime and delinquency.

Police Community Relations Programs. In two of the cities visited, the police community relations programs are very sparse and only in their infancy stages. However, in St. Louis the Police Comunity Relations Program is being launched in several areas. The major program consists of store-front operations. Here people can come to four locations and make complaints about the police department or any problems they might be having with plumbing, garbage collection, etc. The officers assigned to these store-front operations attempt to give the people assistance in overcoming their problems. Another noteworthy program in St. Louis involves lay citizens of the city. Here every police district has a citizen group organized to better the communications between the police department and the general public. These groups range from 30–200 people. They are composed of all age groups and minorities. Finally, all news media are utilized by the Police Community Relations Division of the St. Louis Police Department in advertising and sponsoring their programs. The complete cooperation of the news media seems to be a tremendous asset in making the police community relations programs a real success in St. Louis.

The programs and operations taking place in the above cities can be used as models to improve our Prevention Project. They can also help indicate our strengths as well as our weaknesses.

IX. ADVISORY COUNCIL, BUSINESSMEN'S EXECUTIVE COUNCIL, AND NEWS MEDIA

The Prevention Unit established an Advisory Council during the month of June, 1967. This Council is represented by various minority groups, agencies, and church organizations. Some of the functions of the council are: (1) Establish guidelines to help the Prevention Unit accomplish its major objectives; (2) Advise and counsel the Prevention Unit; (3) Work towards uniting all agencies in a team effort to solve or alleviate the problems of delinquency, crime and environmental trouble areas; (4) Work towards decreasing the amount of overlapping of agencies' functions and cases; (5) Discuss each other's problems and try to work out solutions for them; and (6) Provide the facilities for opening various avenues to help the Prevention Unit accomplish its objectives.

The first meeting for the Advisory Council was held on August 4, 1967 at 3:00 p.m. in the Youth Bureau squad room on the seventh floor of the Hall of Justice Building, Salt Lake City, Utah.

From that time until now, the Advisory Council members have been instrumental in helping the Prevention Unit carry out specific functions, especially the initial plan of action in the environmental trouble area. They acted as temporary chairmen in organizing each action group at the mass meeting held January 24. Their cooperation and assistance made the meeting a real success. All people who attended expressed a strong desire to better their community. This feeling seemed to be largely the result of the influence of the Advisory Council members in conducting the various action groups.

During the past three months, three additional organizations were included in the Advisory Council. These are: Business and Industry; News Media; and Northwest Community Action. These new organizations added tremendously to the total representation of important groups of the community. It is felt that the Advisory Council can provide the Prevention Unit with a more complete and inclusive channel of communication with all strategic organizations of the community. This should help the Unit in at least two important ways. First, all of the programs and activities of the Prevention Unit can be coordinated with the functions and programs of all other groups in the community. Second, the cooperation and assistance of these strategic and influential groups of the community can be solicited to help make the crime and delinquency prevention programs a real success.

Businessmen's Executive Council: Members of the Prevention Unit staff have held several meetings with businessmen. The first initial meeting with businessmen was held on February 7, 1968. At this meeting a brief outline of the Crime and Delinquency Prevention Project was explained to all in attendance. Following this presentation, Mr. Gerold Gerber, Coordinator, and Sgt. Max Yospe, Assistant Coordinator, discussed several possible ways that business and industry could help prevent crime and delinquency. The businessmen were very enthusiastic about helping in this area. They wanted to read over the material circulated to them, discuss it with their respective companies, and meet again in two weeks.

The second meeting centered around various ways that individual businesses and industries might be able to participate in the prevention project. This led to the formulation of several action goals. In order to accomplish these goals, it was decided that a Businessmen's Executive Council of fifteen representatives from the various sectors of business and industry be formed.

In response to their suggestion, a Businessmen's Executive Council was formed which meets every two weeks. Their primary function is to involve the businesses and industries of Salt Lake City in crime and delinquency prevention programs. Three specific goals have been formulated by the Executive Council. These are: (1) Establishment of a film library at the Police Department; (2) A fund to help officers attend various special institutes and other training courses; and (3) Work towards obtaining more jobs for youth.

News Media. The Prevention Unit has held several conferences with the News Media. Three conferences were held with representatives of each news medium in Salt Lake City. Each radio station, television station, and newspaper sent a representative to these meetings. The primary purpose of the meetings was to arrive at tangible ways in which each medium could participate in a delinquency and crime prevention project. A tentative list of projects that might feasibly be undertaken was prepared and discussed. All News Mediums expressed the desire to do all they could to undertake one or more of these projects. They felt a responsibility to help the community in any way possible to overcome the problem of delinquency and crime.

X. MISCELLANEOUS AND COMMENTS

Through the united participation of all officers of the police department and the total community, a more effective delinquency and crime prevention program seems to be forthcoming. All our efforts to accomplish this seem of utmost importance in making the Salt Lake community a better place to live.

The Prevention Unit is striving to coordinate the efforts of all agencies, churches, schools, and the total community in the area of crime and delinquency prevention. It is hoped that this coordination will help

eliminate overlapping of prevention programs, services, and functions of all involved citizens and groups. It can provide a much needed unified approach to the prevention of crime and delinquency instead of the splintered effort that now exists, to some extent, in Salt Lake City and other communities. Only by coordinating the efforts of all community groups and individuals can real progress be made in this most vital area. Crime and delinquency must be seen as a total community problem. Thus, the elimination or alleviation of this major problem becomes a common challenge of every law abiding citizen of the community. The Prevention Unit is attempting to both coordinate and stimulate the entire community into taking preventive action. Crime and delinquency can be decreased only by the united effort of the whole community.

The Prevention Unit has produced significant results in most areas of involvement during its establishment. There have been considerable time and effort expended in all areas, but the Environmental Trouble Action Area has received the major emphasis. At the present time we are on the brink of total community involvement. There are many adults and teenagers who are already involved in action groups to make their community a better place to live. They are formulating and carrying out specific programs aimed towards this end. The action of this community may well be a model for other communities throughout the city and nation. It represents the united cooperation of churches, adults, teenagers, and social agencies working together to resolve community problems, specifically crime and delinquency.

EXHIBIT 2

AN ORDINANCE

An ordinance amending title 30 of the Revised Ordinances of Salt Lake City, Utah, 1965, relating to the Police Department by adding thereto a new chapter to be known as Chapter 5, providing for a Human Relations Commission and defining the nature, personnel and duties of such commission.

Be it ordained by the Board of Commissioners of Salt Lake City, Utah:

Section 1. That Title 30 of the Revised Ordinances of Salt Lake City, Utah, 1965, relating to the Police Department, be, and the same hereby is amended by adding thereto a new chapter to be known as Chapter 5, providing for a Human Relations Commission, defining the nature, personnel and duties of sucn commission, said Chapter to read as follows:

"CHAPTER 5

"HUMAN RELATIONS COMMISSION

"Sec. 30–5–1. Creation, title, composition, qualification. There is hereby created an official body of the city to be known as 'Human Relations Commission,' which body shall consist of the Commissioner of Public Safety, the Chief of Police and twelve representative residents of the city of Salt Lake City.

"Sec. 30–5–2. Appointment, Oath of office. The resident members of said commission shall be appointed by the Board of Commissioners, which Board shall receive and give due consideration to persons recommended for appointment to said commission by the Chief of Police. The resident members of said commission shall take and sign the oath of office required by law to be taken and signed by city officers to be filed in the office of the City Recorder.

"Sec. 30–5–3. Term of office. Vacancies. The resident members of said commission shall be appointed for the following terms: four for two year terms, four for three year terms, and four for four year terms, provided that after the initial terms of two, three and four years, all subsequent terms of office shall be for a period of four years. The terms of office of each member shall commence on the 15th day of April, 1968, and he shall serve until his successor is appointed and qualified, unless the appointment is to fill a vacancy, in which case he shall hold office for the unexpired term of the person he succeeds. A vacancy shall occur when a member of the commission removes his residency from Salt Lake City. Vacancies in the commission shall be reported to the board of commissioners by the chief of police. The chief of police shall be a continuing member of said commission.

"Sec. 30–5–4. Organization. Quorum. The members of said commission shall meet within ten days after receiving notice of their appointment and organize by electing a chairman and vice chairman from their own members and shall designate a secretary who may be either a member of the commission or another suitable person. Seven members of the commission shall constitute a quorum for the transaction of business at any stated meeting or meeting regularly called. A meeting of the commission may be called by the chairman, or in his absence or disability, the vice chairman, the chief of police or any four members of the commission.

"Sec. 30–5–5. Powers and duties generally. The said commission shall have the following powers and duties:

"(a) To seek out racial discrimination and potentially explosive racial problems and assist in resolving difficulties before they erupt into disorder.

"(b) Seek and encourage compliance with Civil Rights laws before resort is made to legal enforcement rights.

"(c) Be a clearing house of information for the community, supplying up-to-date data on housing, employment, education, welfare and recreation.

"(d) Cooperate with such police-community relations squad, or other special squads, as may be established within the police department personnel.

"(e) As far as practical and within the scope of local problems and aims cooperate with the National Council on Crime and Delinquency.

"Sec. 30–5–6. Appointment of personnel to perform special services. The commission may, with the consent and approval of the board of commissioners, appoint one or more persons to perform special or professional services for the commission to assist in the performance of its duties. Remuneration for such services shall be determined by the board of commissioners.

"Sec. 30–5–7. Remuneration. Resident members of the said commission shall receive no compensation for their services as members thereof or for any personal expense they may incur as such members. The chief of police shall receive no additional compensation for serving as a member of said commission.

"Sec. 30–5–8. Meetings. The commission shall meet at least once during each calendar quarter and at such other times as may be called as provided in Sec. 30–5–4.

"Sec. 30–5–9. Removal from office. Any member of said commission except the chief of police, may be removed from the office by the board of city commissioners for cause, prior to the normal expiration of the term for which he was appointed."

Section 2. In the opinion of the Board of Commissioners it is necessary to the peace, health and welfare of the inhabitants of Salt Lake City, Utah, that this ordinance become effective immediately.

Section 3. This ordinance shall take effect upon its first publication.

Passed by the Board of Commissioners of Salt Lake City, Utah, this 2nd day of April, 1968.

[SEAL] J. BRACKEN LEE,
Mayor.

HERMAN J. HOGENSEN,
City Recorder.

Published April 5, 1968.
Bill No. 29 of 1968.

DESIGNATION OF CERTAIN LANDS IN NEW JERSEY AS WILDERNESS

Mr. HARRIS. Mr. President, on behalf of the distinguished Senator from Washington [Mr. JACKSON], I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3379.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3379) to designate certain lands in the Great Swamp National Wildlife Refuge, Morris County, N.J., as wilderness which was, strike out all after the enacting clause, and insert:

That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Great Swamp National Wildlife Refuge, New Jersey, which comprise about three thousand seven hundred and fifty acres and which are depicted as wilderness units on a map entitled "M. Hartley Dodge Wilderness and Harding Wilderness—Proposed" and dated September 1967 are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Bureau of Sports Fisheries and Wildlife, Department of the Interior.

SEC. 2. The area designated by this Act as wilderness shall be known as "The Great Swamp National Wildlife Refuge Wilderness Area" and shall be administered by the Bureau of Sports Fisheries and Wildlife under the supervision of the Secretary of the Interior in accordance with the provisions of the Wilderness Act.

SEC. 3. Except as necessary to meet minimum requirements in connection with the purposes for which the area is administered (including measures required in emergencies involving the health and safety of persons within the area), there shall be no commercial enterprise, no temporary or permanent roads, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of motorized transport, and no structure or installation within the area designated as wilderness by this Act.

Mr. HARRIS. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

LANDS HELD IN TRUST FOR PAWNEE INDIAN TRIBE—CONFERENCE REPORT

Mr. HARRIS. Mr. President, on behalf of the distinguished Senator from Washington [Mr. JACKSON], 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. 5910) to declare that the United States holds certain lands in trust for the Pawnee Indian Tribe of Oklahoma. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of September 19, 1968, p. 27645, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

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

Mr. HARRIS. Mr. President, as originally passed by the House, H.R. 5910

declared that approximately 726 acres of excess school lands, together with improvements, in the former Pawnee Indian agency, Oklahoma, would be held in trust for the Pawnee Tribe. The Senate, at the recommendation of the Bureau of the Budget, amended the bill to delete two 20-acre tracts and provided for a fee title rather than trust status for the remaining 686 acres.

At the first conference meeting in February 1968 on the differences in the two versions of the bill, the House conferees agreed with the Senate position that the two 20-acre tracts should be deleted from the bill. The issue of fee or trust title could not be resolved.

At the second conference on September 12, a majority of the Senate conferees were persuaded to the House position on a trust title to these lands.

Although the Pawnees have no other tribal land, the acreage which is the subject of this bill is surrounded by some 26,000 acres of Pawnee allotments, still held in trust by the United States. Moreover but for a legal technicality these excess school lands, which the tribe has not been compensated for, would now be held in trust for the tribe and this legislation would not be necessary.

Two conflicting decisions of the U.S. Court of Claims have cast a cloud on the title to the reserved lands and raise a question of whether or not title to these lands is to be held in trust by the United States for the Pawnee Tribe of Oklahoma. A decision by the Court of Claims in 1920—56 Ct. Cl. 1—held that the lands reserved for school and agency purposes continued as tribal property and therefore the tribe was entitled to compensation for only 45 acres of the lands so reserved.

Thereafter, the U.S. Court of Claims upheld the opinion of the Indian Claims Commission dated July 14, 1950—docket No. 10—which held that title to the lands reserved for school and agency purposes passed to the United States at the time of the cession, *Pawnee Indian Tribe of Oklahoma* v. *United States* (109 F. Supp. 860).

Since 1874, the tribe has continuously used these lands and except for the portions conveyed, the tribe has always regarded the land as its property.

When the United States needed lands from the tribal estate for administrative or school purposes, it reserved the land, and when the land was no longer needed, the Secretary of the Interior revoked the reserve and restored the land back to tribal jurisdiction in trust. Except for the conflicting court opinions this land would have been restored to the Pawnees in trust. It seems unfair and unjust to force a fee title on the Pawnees, and, therefore, the majority of the conferees have agreed to recede from the Senate amendment and accept the House position on this issue.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

ORDER OF BUSINESS

Mr. WILLIAMS of Delaware. 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 (Mr. Harris in the chair). Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OF THE UNITED STATES DURING ADJOURNMENT OF THE SENATE THIS EVENING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate this evening, the Secretary of the Senate be authorized to receive messages from the President of the United States.

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

DUTIABLE STATUS OF ALUMINUM HYDROXIDE AND OXIDE, CALCINED BAUXITE, AND BAUXITE ORE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1411, H.R. 7735, relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7735) relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business at this time.

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

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF DEPARTMENT OF COMMERCE ON COMMISSARY ACTIVITIES OUTSIDE THE CONTINENTAL UNITED STATES

A letter from the Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, a report of the Department on commissary activities outside the continental United States for the fiscal year 1968 (with an accompanying report); to the Committee on Commerce.

REPORT ON REVIEW OF ADMINISTRATION OF UNITED STATES ASSISTANCE FOR CAPITAL DEVELOPMENT PROJECTS IN BRAZIL

A letter from the Director, Congressional Liaison, Agency for International Development, State Department, transmitting, pursuant to law, a secret report on "Review of Administration of U.S. Assistance for Capital Development Projects in Brazil"; also a copy of the Agency's reply to the Comptroller General (with an accompanying report and paper); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the activities of the Federal Aviation Administration in its Europe, Africa, Middle East Region, Department of Transportation, dated September 18, 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 examination into the control over procurement, use, and disposition of magnetic computer tape in the Department of Defense, dated September 18, 1968 (with an accompanying report); to the Committee on Government Operations.

CONVENTION AND RECOMMENDATIONS OF INTERNATIONAL LABOR ORGANIZATION

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, for action the Senate considers appropriate, a convention and three recommendations of the International Labor Organization (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITION

The PRESIDING OFFICER laid before the Senate the petition of Ray Meholchick, Huntington, Pa., praying for a redress of grievances, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ELLENDER, from the Committee on Agriculture and Forestry, without amendment:

S. 3986. A bill to amend the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, to expedite retirement of Government capital from Federal intermediate credit banks, production credit associations and banks for cooperatives, and for other purposes (Rept. No. 1573).

By Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, with amendments:

S. 2671. A bill to provide for the control of noxious plants on land under the control or jurisdiction of the Federal Government (Rept. No. 1574).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

H.R. 16175. An act to authorize the transfer, conveyance, lease, and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for the Organization of American States, as sites for governments of foreign countries, and for other purposes (Rept. No. 1575).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. BIBLE, from the Committee on the District of Columbia:

George R. Gallagher, of Maryland, to be associate judge of the District of Columbia Court of Appeals.

By Mr. ELLENDER, from the Committee on Agriculture and Forestry:

Ted J. Davis, of Oklahoma, to be an Assistant Secretary of Agriculture.

By Mr. EASTLAND, from the Committee on the Judiciary:

Edward D. Re, of New York, to be judge of the U.S. Customs Court.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 4053. A bill for the relief of Clarence H. Machart; to the Committee on the Judiciary.

By Mr. NELSON:

S. 4054. A bill for the relief of Anthony Smilko; to the Committee on Post Office and Civil Service.

S. 4055. A bill for the relief of Charles C. S. Ching, Kwun Sue Chim, Wo Wa Cheng, Heung Mau, Sik Leung Kei, Hok Kwong Lam, Siu Hung NG; to the Committee on the Judiciary.

By Mr. ERVIN:

S. 4056. A bill for the relief of Dr. Yoshiaki Kitani; to the Committee on the Judiciary.

By Mr. BREWSTER:

S. 4057. A bill for the relief of Leung Man Shin; to the Committee on the Judiciary.

By Mr. DIRKSEN (for himself and Mr. MANSFIELD):

S. 4058. A bill to amend title 18 and title 28 of the United States Code with respect to the trial and review of criminal actions involving obscenity, and for other purposes; to the Committee on the Judiciary.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 18, 1968, he presented to the President of the United States the enrolled bill (S. 1004) to authorize the construction, operation, and maintenance of the Colorado River Basin project, and for other purposes.

NOTICE OF RECEIPT OF NOMINATIONS BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, as acting chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the following nominations:

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Parker T. Hart, of Illinois, a Foreign Service officer of the class of career minister, to be Assistant Secretary of State, Vice Lucius D. Battle.

In accordance with the committee rule, these pending nominations may not be considered prior to the expiration of 6 days of their receipt in the Senate.

PRESIDENT AND CONGRESS IN FOREIGN POLICY: THE THREAT TO CONSTITUTIONAL GOVERNMENT

Mr. CHURCH. Mr. President, this year the national debate topic on college campuses concerns the role of the Executive in the formation of U.S. foreign policy. This is a topic which is deserving of probing consideration, not only by our college students, but by our people in general.

On October 9, 1967, I spoke before the Idaho Press Club in Boise, Idaho. At that time, I set out in some detail my our concern over the tremendous power which has been gathered into the President's hands in the field of foreign relations, and the urgent need for restoring the balance of responsibility as between Congress and the President, that the Constitution intended.

Due to the number of requests which I have had for copies of this speech, "President and Congress in Foreign Policy: The Threat to Constitutional Government," I ask unanimous consent that it be printed in the RECORD.

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

PRESIDENT AND CONGRESS IN FOREIGN POLICY: THE THREAT TO CONSTITUTIONAL GOVERNMENT

(By Senator FRANK CHURCH)

So preoccupied have we been with the effects of the Vietnamese war on Ho Chi Minh, on China, on Russia and on all the rest of the world that we have neglected what history may judge to be its most important effect of all: the effect of our life and government here at home. It is one of the great ironies that a nation which only thirty years ago had turned its back on a dangerous world and cultivated the illusion that it could live safely in isolation is now so preoccupied with interests and images abroad that the happiness of the American people and the quality of their democracy have been reduced to secondary status in the minds of our national leaders.

So anxious is the Administration to justify its policy in Vietnam that its spokesmen have taken to denouncing, as "neo-isolationists," those who question the necessity of so large an American participation in this Asian war. In a speech at the University of Kansas on October 17, the Under Secretary of State for Political Affairs, Eugene V. Rostow, said that the current debate turns on "whether the United States should abandon its whole post-war foreign policy." In a speech at the University of Connecticut on the same day, Under Secretary of State Katzenbach said that he was "puzzled as to why so many liberals who supported President Truman in a policy of limited war in Korea now oppose a parallel policy in Vietnam."

I, for one, am puzzled by the puzzlement. Surely Mr. Rostow must know that, far from wanting the United States to "abandon its whole post-war foreign policy" and return to isolation, the critics want only to find an honorable way to extricate ourselves from a war which the Administration has shown itself unable either to win or end. Surely Mr. Katzenbach must recognize that there are differences between the Korean war which was precipitated by a sudden attack from without, and the Vietnamese war, which originated as an insurrection from within. The question at issue is not one of isolationism but of selectivity. I think our policy makers know that; their charges of isolationism are no more than an effort to discredit the critics of a policy which cannot be defended convincingly on its merits.

It is, of course, inconceivable that the United States can find safety in isolation; the experience of two world wars proved that. But it is equally inconceivable that we can find safety, or happiness, in alienation from ourselves; and that, I fear, is exactly what is happening. In their anxiety over foreign wars and crises, our leaders are becoming alienated from the American people and their needs.

Clearly, a reassessment of our priorities is in order. A new balance must be devised—one which will enable our government to play its necessary role in the world while also meeting its responsibilities to its own people. The latter warrants first priority, if only because a nation's foreign policy in the long run can be no stronger than its domestic base. More important than that, however, is the fact that foreign policy is not an end in itself but only a way of conducting business between nations; it is in the internal affairs of their countries that people find meaning and purpose and human satisfaction. The object of our foreign policy is neither to run the world nor to reform it; even if we wanted to do those things, they are patently beyond our resources—material moral and intellectual.

Our involvement in Vietnam represents an effort to implant American values in inhospitable soil. Not only have they failed to flourish there, but our prolonged distraction with the war has had the effect of eroding the fertile soil here at home in which American values have taken root and flourished and in which their promise for further growth remains almost incalculable. It is time, therefore, that we look to the effects of the present war, and indeed of all of the global involvements which have so absorbed our energies for the last twenty-five years, on the life of our people here at home.

One of the least noticed but, in the long run, most important of these effects has been the unhinging of constitutional processes in our government, particularly in the making of foreign policy. As crisis has followed upon crisis in these last twenty-five years, more and more power has accumulated in the hands of the President while the Congress has been reduced to virtual impotence in the making of foreign policy.

The cause of this change has been the long series of crises, each of which necessitated—or seemed to necessitate—decisive and immediate action. As each crisis arose, the President assumed, and the Congress usually agreed, that the executive alone was capable of acting with the requisite speed. No one thought very much about the constitutional consequences of Presidential dominance in foreign policy; we tended to think only of the crisis we were dealing with, of the need for speedy action, and of the importance of national unity in a time of emergency.

Now, however, we have got to think about constitutional problems because nothing less than the survival of constitutional government is at stake. Our democratic processes, our system of separated powers, checked and balanced against each other, are being undermined by the very methods we have chosen to defend these processes against foreign dangers. There is no end in sight to the era of crisis which began some twenty-five years ago. We cannot safely wait for quieter times to think about restoring the constitutional balance in our own government.

I should like, therefore, in the remainder of these remarks, to review some of the current methods of our foreign policy, to point out the discrepancy between these methods and those contemplated by our Constitution, and to suggest some ways in which the discrepancy could be closed.

1. COMMITTING OUR COUNTRY ABROAD

There is, first of all, a striking discrepancy between the ways in which some of our foreign commitments have been made in recent years and the treaty process through which they were meant to be made. Article II, Section 2, of the Constitution states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur . . ." Keeping this clear language of the Constitution in mind, consider the following:

On August 25, 1966, Secretary of State Rusk told the Senate Preparedness Subcommittee that "No would-be aggressor should suppose that the absence of a defense treaty, Congressional declaration or U.S. military presence grants immunity to aggression." The statement was meant to convey a stern warning to potential aggressors. It does that, and that is all to the good, but it also puts the Congress on notice that, with or without its consent, treaty or no treaty, the executive will act as it sees fit against anyone whom it judges to be an aggressor, and that is not to the good. It is indeed nothing less than a statement of willingness on the part of the executive to usurp the treaty power of the Senate.

The denigration of treaties goes back at least to 1940, when the current era of world crisis began. In the summer of that year, when France had fallen and Britain was in imminent danger of German invasion, President Roosevelt made an agreement with Great Britain under which fifty over-aged American destroyers were given to her in exchange for certain naval bases on British territory in the Western Hemisphere. The arrangement was made by executive agreement despite the fact that it was a commitment of the greatest significance, an act which, according to Churchill, gave Germany legal grounds for declaring war on the United States. It is unlikely that President Roosevelt wished to usurp the treaty power of the Senate; he acted as he did because he thought the matter to be one of the greatest urgency and he feared that Great Britain might be invaded and overrun before the Senate could act on a treaty. In retrospect this seems unlikely but, granting that the danger may have seemed real at the time, the constitutional effects of President Roosevelt's action would have been mitigated if he had frankly stated that he had acted on an emergency basis in a manner which may have exceeded his constitutional authority. Instead, he had the Attorney General prepare a brief contending that the President had acted entirely within his constitutional powers. Instead, therefore, of a single incursion on the Senate's treaty power, acknowledged to be such, the act was compounded into a precedent for future incursions on the constitutional authority of the Congress.

The destroyer deal was the first of a long series of significant foreign commitments made by executive agreement or simple declaration, each one of which has constituted an added precedent for the taking over by the President of the treaty powers meant to be exercised by the Senate. So far have things gone that treaties are now widely regarded, at least within the executive branch, as no more than one of a number of available methods of committing our country to some action abroad. We have even come close, in some instances, to reversing the traditional rule that minor or routine arrangements with foreign countries can be made by executive agreement while significant ones must be made by treaty. Some months ago, for example, the Senate was asked to ratify, as a treaty, an agreement with Thailand concerning taxes.[1] It was, of course, entirely proper that the tax agreement be referred to the Senate, but when the matter was under consideration by the Foreign Relations Committee, I was struck by the ironic fact that the United States now has 35-thousand troops in Thailand, some of whom are engaged in military support operations against the guerrillas in northeast Thailand, and that this far more significant commitment was never referred to the Senate for its advice and consent.

One of the favorite devices used to circumvent the treaty power of the Senate is the Congressional resolution, framed in such sweeping language as to give advance consent to unspecified Presidential action. As used in recent years, these resolutions are not specific and carefully considered grants of power but blank checks on the constitutional authority of Congress written in an atmosphere of contrived emergency. As the executive has made increasingly extravagant use of these resolutions—about which I shall comment further in a few minutes—Congress has begun to develop a belated but healthy wariness of vague and hasty grants of authority.

Early last spring, for example, the Senate was asked to adopt a sweeping resolution promising large new sums of aid money for Latin America. The Senate was asked to adopt this resolution in great haste so that President Johnson would be able to carry it to his meeting with the American Presidents at Punta del Este. The Foreign Relations Committee judged that it simply could not assess the merits of the proposal in the short time that was allowed and, since the proposed measure was not urgent, the Committee declined to act on the President's request and instead adopted a substitute resolution promising to give due consideration, in accordance with its normal procedures, to any proposals for increased aid to Latin America which the President might choose to submit. The substitute resolution, which the Committee adopted by a vote of nine to nothing, was rejected by Mr. Walt Rostow as "worse than useless." The President went to Punta del Este without his resolution and the effects, I think, were salutary. Having no gifts to dispense, the United States was obliged to deal with the Latin Americans as a friend rather than as a patron; having no new bauble dangled before them, the Latin Americans were obliged to deal with the United States as equals rather than as suppliants.

The significance of the Foreign Relations Committee's rejection of the proposed Latin American resolution had much more to do with executive-legislative relations at home than with the Committee's attitudes toward Latin America. The Committee was exhibiting a new but well-founded reluctance to grant the executive any more blank checks. The executive is being put on notice that its account with Congress is overdrawn, not only in matters affecting treaties but even more in matters of deciding on war or peace, to which I now turn.

2. THE WAR POWER

Unlike the treaty power, the Constitution did not divide the war power equally between the two branches of government but vested it predominantly in Congress. Article I, Section 8, of the Constitution states that Congress shall have the power to declare war; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the armed forces; to provide for calling forth the militia to execute the laws, suppress insurrections and repel invasions; to provide for organizing, arming and disciplining the militia; and to make all laws necessary and proper for executing the foregoing powers. Article II, Section 2, of the Constitution states that the President shall be commander-in-chief of the army and navy.

The language of the Constitution is clear and the intent of the framers beyond question: the war power is vested almost entirely in the Congress, the only important exception being the necessary authority of the President to repel a sudden attack on the United States. Only in recent years have Presidents claimed the right to commit the country to foreign wars, under a sweeping and, in my opinion, wholly unwarranted interpretation of their power as commander-in-chief.

The framers of the Constitution very deliberately placed the war power in the hands of the legislature, and did so for excellent reasons. Again and again, the American colonies had been drawn, by royal decree, into England's wars with other European countries. The leaders of the newly independent republic resolved to make certain that their new country would never again be drawn into war at the direction of a single man; for this reason they transferred the war power to the legislative branch of the newly created government. In so doing, they recognized that the President might sometimes have to take defensive action to repel a sudden attack on the United States, but that was the extent of the warmaking power they were willing for him to exercise.

The intent of the framers is made quite clear in the proceedings of the Constitutional Convention and in the subsequent writings of the founding fathers. In a letter to James Madison in 1789, Thomas Jefferson wrote:

"We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay."[2]

Alexander Hamilton, who generally favored extensive Presidential power, nonetheless wrote as follows concerning the President's authority as commander-in-chief:

"The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and admiral of the Confederacy, while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature."[3]

During the first century of American history most of our Presidents were scrupulously respectful of Congress's authority to initiate war. When President Jefferson sent a naval squadron to the Mediterranean to protect American commercial vessels from attack by the Barbary pirates, he carefully distinguished between repelling an attack and initiating offensive action. When he thought the latter necessary, he sent a message to Congress asking for the requisite authority. Acknowledging that he himself was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense," he requested authority to take offensive action, acknowledging that such authority was "confided by the Constitution to the legislature exclusively."[4]

The Monroe Doctrine is often cited by proponents of unrestricted Presidential power as a precedent for executive authority to commit the country to military action abroad. In fact, President Monroe himself regarded his declaration as no more than a policy statement. When the Government of Colombia inquired, in 1824, as to what action the United States might take to defend the newly independent Latin American states against European interference, Secretary of State John Quincy Adams replied:

"With respect to the question, 'in what manner the Government of the United States intends to resist on its part any interference of the Holy Alliance for the purpose of subjugating the new Republics or interfering in their political forms' you understand that by the Constitution of the United States, the ultimate decision of this question belongs to the Legislative Department of the Government. . . ."[5]

In 1846 President Polk sent American forces into disputed territory in Texas, precipitating the clash which began the Mexican war. Abraham Lincoln, then a Republican member of the House of Representatives from Illinois, was certain that the President had acted unconstitutionally, and he wrote:

". . . Allow the President to invade a neighboring nation whenever *he* shall deem it necessary to repel an invasion, and you allow him to do so, *whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at

Footnotes at end of article.

pleasure. Study to see if you can fix *any limit* to his power in this respect, after you have given him so much as you propose. . . .

"The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention undertook to be the most oppressive of all kingly oppressions; and they resolved to so frame the Constitution that *no one man* should hold the power of bringing this oppression upon us." [6]

By the end of the nineteenth century, precedents had been established for Presidential use of the armed forces abroad for certain limited purposes, such as suppressing piracy and the slave trade, "hot pursuit" of criminals across frontiers, and protecting American lives and property, as well as for repelling sudden attack. But in the early twentieth century, Presidential power over the armed forces was greatly expanded. Presidents Theodore Roosevelt, Taft and Wilson, acting without authority from Congress, repeatedly intervened militarily in Mexico, Central America and the Caribbean. The Congresses of that period, most unwisely, failed to resist these Presidential incursions on their constitutional authority, with the result that they became precedents for the further and much greater incursions that were to follow during and after World War II.

We have already noted how President Franklin Roosevelt usurped the treaty power of the Senate in making his famous destroyer deal with Great Britain; he also went further than any previous President in expanding executive power over the armed forces. In the course of the year 1941, he committed American forces to the defense of Greenland and Iceland, authorized American warships to escort, as far as Iceland, convoys which were bound for Britain and ordered American naval vessels to "shoot on sight" against German and Italian ships in the western Atlantic. Well before Congress declared war on the axis powers, President Roosevelt had already taken the country into an undeclared naval war in the Atlantic. Few would deny that he did these things in an excellent cause, that of assisting Britain in those desperate days when she alone stood against the tide of Nazi aggression. But in doing what he did for a good cause, President Roosevelt enabled his successors to claim the same authority in the furtherance of causes much more dubious.

After World War II, the trend toward Presidential dominance accelerated greatly and the real power to commit the country to war is now in the hands of the President. As one historian, Professor Ruhl Bartlett, has pointed out, "the positions of the executive and legislative branches of the Federal Government in the area of foreign affairs have come very close to reversal since 1789. . . ." [7] In other words, the intent of the Constitution has been virtually negated.

In 1950, President Truman committed the armed forces of the United States to the Korean war without any form of Congressional authorization. The President himself made no public explanation of his action, but an article in the *Department of State Bulletin*, which is the official record of State Department policy, asserted that "the President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof." [8] No one in Congress protested at the time, but some months later, in January 1951, Senator Taft asserted that the President had "simply usurped authority" in sending troops to Korea.[8A]

When the Korean war went badly, President Truman's political opponents, who had supported him at the outset, charged him with responsibility for the war and accused him of exceeding his authority. In order to protect themselves from this kind of accusation, subsequent Presidents have adopted the practice of asking Congress for joint resolutions when they contemplate taking military action in some foreign country. Presidents Eisenhower, Kennedy and Johnson all have requested such resolutions and Congress has readily complied. Resolutions were adopted pertaining to Formosa, the Middle East, Cuba and, finally, Southeast Asia. Couched in the broadest of terms, these resolutions have generally expressed Congress' advance approval of any military action the President might see fit to take in the area concerned.

The most important and fateful of all these was the Gulf of Tonkin resolution adopted by Congress in August, 1964, after only two days of hearings and debate. The resolution expressed Congressional approval of any measures the President might choose to take to prevent aggression in southeast Asia and further stated that the United States was prepared to take any action the President might judge to be necessary to assist a number of southeast Asian states including Vietnam.

The Gulf of Tonkin resolution has been cited, again and again, as proof of Congress' approval of the war in Vietnam which we have now taken over. Unfortuntely, both the language of the resolution and the very brief discussion which took place in Congress at the time of its adoption lend themselves to that interpretation, although I feel certain, having participated at the time, that Congress neither expected nor even considered that the President would later commit half a million American soldiers to a full-scale war in Vietnam.

How did it come about that Congress permitted itself to be so totally and disastrously misunderstood? How did it come about—and this is the more fundamental question—that on so many occasions in recent years Congress has tamely yielded to the President powers that, beyond any doubt, were intended by the Constitution to be exercised by the Congress?

A number of possible reasons come to mind:

First, in an atmosphere of real or seemingly emergency, Congress, like the country, tends to unite in back of the President. Because the United States has been a world power for only a short time, we have not really gotten used to dealing with emergencies and, more important still, to discriminating between genuine emergencies and situations that only seem to require urgent action. Lacking experience in dealing with such situations as the Gulf of Tonkin crisis in 1964, we have tended to act hastily and with insufficient regard for the requirements of constitutional procedure, assuming, quite wrongly, that it would somehow be unpatriotic to question the President's judgment in a moment of apparent emergency.

Second, in the case of the Gulf of Tonkin resolution, Congress failed to state its intentions clearly and explicitly because it believed that those intentions were widely understood. A national election campaign was then in progress and President Johnson's basic position as to Vietnam was that ". . . we are not about to send American boys 9,000 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves." [9] In adopting a resolution supporting the President on Vietnam, the great majority in Congress believed that they were supporting the position of moderation which President Johnson was taking in his campaign. The failure of Congress to make its intentions clear was nonetheless a serious failure of legislative responsibility.

Third, for a number of reasons Congress has developed an unfortunate tendency in recent years to underrate its own competence to deal with foreign relations. The executive branch of our government is populated with specialists and experts in foreign policy. These men have added greatly to our government's competence in the conduct of foreign relations, but they have also demonstrated a certain arrogance, purveying the belief that anyone who is not an expert, including Congressmen, Senators and ordinary citizens, is simply too stupid to grasp the problems of foreign policy. Modesty and self-effacement are not characteristics that we usually associate with politicians but, curiously enough, many Congressmen and Senators seem to have accepted the view that foreign policy is best left to the experts. This view is patently false: Clemenceau said that war was too important to be left to the generals; similarly, the basic decisions of foreign policy are too important to be left to the diplomats. As Professor Bartlett has said, ". . . there are no experts in wisdom concerning human affairs or in determining the national interest, and there is nothing in the realm of foreign policy that cannot be understood by the average American citizen." [10]

As a result of the passing of the war power out of the hands of Congress, perhaps the most important of our constitutional checks and balances has been overturned. For the first time in our history, there has come into view the possibility of our President becoming a Caesar, because, as Gibbon wrote in *The Decline and Fall of the Roman Empire*, "The principles of a free constitution are irrecoverably lost, when the legislative power is nominated by the executive." [11] It is no exaggeration to say that the President of the United States now holds the power of life and death for two hundred million Americans and, indeed, for most of the human race. No human being on the face of the earth can safely be entrusted with such enormous powers over his fellow man. Even the wisest and most competent of Presidents is still a human being, susceptible to human flaws and human failures of judgment. The greatest insight of our founding fathers was their recognition of the dangers of unlimited power exercised by a single man or institution; their greatest achievement was the safeguards against absolute power which they wrote into our Constitution.

Belatedly, recognizing these fundamental truths, the Senate Foreign Relations Committee has been considering a most significant and unusual resolution. It would express the sense of the Senate that any decision to commit American armed forces to foreign territory for any other purpose than immediate self-defense in response to a sudden attack on the United States should, without exception, be made in accordance with constitutional procedures, which require the consent of Congress.

The resolution, if adopted, will not, of and by itself, restore the constitutional balance which has been lost. It will not, of and by itself, restore to Congress the war power, now abdicated away. The resolution is, however, designed to initiate that process; it is designed to remind Congress of its responsibilities and to help create a new state of mind.

What, one may ask, could be expected to come of a new Congressional attitude toward foreign policy. First, one may hope that it would encourage the Congress to show the same healthy skepticism toward Presidential requests pertaining to foreign relations that it shows toward Presidential recommendations in the domestic field. One may hope that the Congress hereafter would exercise its own judgment as to when haste is necessary and when it is not. One may hope that, in considering a resolution such as the Gulf of Tonkin resolution, the Congress would hereafter state as explicitly as possible the nature and purpose of any military action to be taken and, more important still, that it would make it absolutely clear that the resolution was an act of authorization, granting the President specific powers which he would

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not otherwise possess. One may hope, finally, that the Congress would never again forget that its responsibility for upholding the Constitution includes the obligation to preserve its own constitutional authority.

One hears it argued these days—by high officials in the executive branch, by foreign policy experts, and by some political scientists—that certain of our constitutional procedures, including the power of Congress to declare war, are obsolete in the nuclear age. This contention, in my opinion, is without merit. Nothing in the Constitution prevents—and no one in Congress would ever try to prevent the President from acting in a genuine national emergency. What is at issue is his authority to order our military forces into action in foreign lands whenever and wherever he judges the national interest to require it. What is at issue is his right to alter constitutional processes at his option, even in the name of defending those processes. I do not believe that the Constitution is obsolete; I do not believe that Congress is incapable of discharging its responsibilities for war and peace; but, if either of these conditions ever should arise, the remedy would lie in the amendment process of the Constitution itself. As George Washington said in his farewell address, ". . . let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed."

FOOTNOTES

[1] Executive E, 89th Congress, 1st Session.

[2] *The Papers of Thomas Jefferson,* 17 vols. (Julian P. Boyd, ed., Princeton: Princeton University Press, 1955), vol. 15, p. 397.

[3] *The Federalist,* No. 69 (Henry Cabot Lodge, ed., New York and London: G. P. Putnam's sons, 1908), pp. 430–431.

[4] U.S. Congress, Joint Committee on Printing, *Compilation of Messages and Papers of the Presidents,* 20 volumes (James D. Richardson, ed., New York: Bureau of National Literature, Inc., 1897), vol. 1, p. 314.

[5] John Quincy Adams to Don Jose Maria Salazar, Aug. 6, 1824, quoted in *The Record of American Diplomacy* (Ruhl J. Bartlett, ed., 3rd edition, New York: Alfred A. Knopf, 1954), p. 185.

[6] Letter to William H. Herndon, Feb. 15, 1848, in *The Collected Works of Abraham Lincoln,* 9 vols. (New Brunswick: Rutgers University Press, 1953), vol. 1, pp. 451–452.

[7] "U.S. Commitments to Foreign Powers," *Hearings Before the Committee on Foreign Relations,* U.S. Senate, 90th Cong., 1st Sess., on S. Res. 151 (Washington: U.S. Government Printing Office, 1967), p. 20.

[8] *Department of State Bulletin,* vol. 23, No. 578, July 31, 1950, pp. 173–177.

[8A] *Congressional Record,* 82nd Cong., 1st Sess., vol. 97, January 5, 1951, p. 57.

[9] Remarks in Memorial Hall, Akron University, Akron, Ohio, October 21, 1964.

[10] "U.S. Commitments to Foreign Powers," p. 20.

[11] Edward Gibbon, *The History of the Decline and Fall of the Roman Empire,* 3 vols. (New York Random House, Modern Library Edition), vol. 1, p. 54.

WEAPONS AND EQUIPMENT FOR DEFENSE OF ISRAEL

Mr. SCOTT. Mr. President, in the past year I consistently have urged that the United States provide Israel with weapons and equipment necessary for her defense. I have stressed particularly Israel's need of Phantom jets, and was responsible in large measure for the language in the 1968 Republican platform which urged that the United States provide supersonic jets to Israel.

This week I again urged President Johnson to sell F–4 Phantom jets to Israel. In a letter to the President, I said:

I was dismayed to learn this weekend that your Administration had apparently decided against selling F–4 Phantom Jets to the State of Israel.

Throughout your term of office, Mr. President, you have always been concerned with maintaining peace and protecting the national security of the United States. Let me point out how this additional military equipment for Israel would meet your carefully-considered criteria.

A you know, when the gallant Israelis defeated their Arab neighbors in the six-day war in 1967, both sides lost men and equipment. Since that time, the Soviet Union has replaced virtually all the military hardware the Arabs lost in the war. Some of it is more effective than that which was destroyed.

Israel, on the other hand, has lagged behind in replacing its defensive weapons. One of its greatest problems has been the replacement of aircraft, since the French Government, under President DeGaulle, has turned a deaf ear to the pleas of Israel which wanted to add new Mirage aircraft.

The United States recently either sent, or agreed to send, to Jordan 54 Patton tanks, 2 squadrons of F–104 Starfighters, and approximately $100,000,000 in additional arms.

The most serious threat to Israel in the air are the MIG–21s. Our F–4 Phantom Jets are the only aircraft that can compete successfully with the MIG–21s.

I share your concern, Mr. President, that there should be mutual disarmament and permanent peace in the Middle East, but the Soviet Union has escalated the Arab Nation's military arsenal. We cannot help the situation by denying to Israel weapons it needs to defend itself. We can help to stabilize peace in the Middle East by supporting Israel.

I share your deep commitment to strengthen United States national security. We can further that end by helping to keep strong our important friend and ally—the State of Israel.

I urge that you sell Israel the F–4 Phantom Jets.

NEW YORKER EXPERIENCES THE BEAUTY AND THE TRAGEDY OF THE BIG THICKET, NOW IN DIRE NEED OF PROTECTION

Mr. YARBOROUGH. Mr. President, Berton Roueche describes his travels through the Big Thicket area of Texas in the August 31, 1968, issue of New Yorker magazine. The article discusses his journey to the famous "witness tree" located deep within the thicket. Mr. Roueche describes with color and clarity the character of the people and the land which make up the Big Thicket. His experience seems to culminate at the giant stump known as the "witness tree"—a thousand-year-old magnolia which is claimed had been deliberately poisoned by persons opposed to the efforts to protect the resources of the Big Thicket.

Mr. Roueche has contributed a factually accurate description, beautifully written, to the literature of the Big Thicket. The article illustrates the need for immediate action on S. 4, my bill to establish a Big Thicket National Park. For that reason, I ask unanimous consent that the article, appearing on page 56 of New Yorker magazine, entitled "A Reporter at Large: The Witness Tree," be printed in the RECORD.

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

A REPORTER AT LARGE: THE WITNESS TREE

The highway ran on and on between two walls of trees. The trees were mainly white oak and beech and loblolly pine, with here and there a Southern magnolia, and they rose from the roadside sixty, eighty, a hundred feet into the hot blue morning sky. This was the Big Thicket of East Texas. It was the remains of a bog-and-bayou wilderness that once—before sawmills and oil wells and pipelines and subdivisions and water-ski resorts—spread over more than three million acres of land in the counties of Polk, Tyler, Hardin, and Liberty. At the urging of local conservationists, the National Park Service had recently proposed that some thirty-five thousand acres of this remainder be preserved as a National Monument, and we—Ernest Borgman, superintendent of Padre Island National Seashore, at Corpus Christi, and I—had driven up to spend a day in that part of the Thicket.

The wall of woods moved back from the highway, and an old frame house appeared on the left, and then, on the right, a field of grazing cattle with cattle egrets following underfoot. At the edge of the field was a sign: "Saratoga." Saratoga (pop. 806), a village founded by a nostalgic upstate New Yorker, lies close to the heart of the Big Thicket, and it was here that we had arranged to pick up our guide, a local naturalist named Lance Rosier. The highway became a street. There was a Texaco station on one side of the street and a Fina station on the other. Then came a block of houses, and then a block of one-story buildings with covered sidewalks: "Crouch Coca-Cola Gro.," "Wimpy's Carnation Fresh Milk Gro. & Mkt.," "Crawford's Have-a-Pepsi Café," a barbershop with a wooden barber pole, a Gulf station, a brick post office. Rosier was waiting for us on a bench in front of the post office. He was a small man with a big nose and big ears, and he had on a faded blue work shirt and a little cotton golf hat. Borgman pulled in to the curb, and Rosier got up and came across to the car. He looked to be about seventy. He gave us each a limp, country handshake, and got into the back seat and sat there with his hands folded in his lap.

"Well, Lance?" Borgman said.

"Sir?" Rosier said.

"Where to?" Borgman said. "Where do we start?"

"Do you know the old Ghost Road?" Rosier said.

"I've heard of it," Borgman said. He swung the car around, and we headed back out of town. "It's on the way to Big Sandy and Tight-Eye and all up there."

"Yes, sir," Rosier said. "Turn right, please."

We turned off the highway and onto a narrow sandy road. It ran between fields of grazing cattle and greening corn for half a mile, and then the woods rose up and we were back in the Thicket. The woods were deep and dense and dark, and there was standing water under most of the trees. In the water along the roadside were spiky clumps of scrub palmetto. Up ahead, a buzzard hung over the road. It was a spooky-looking place.

"This must be the Ghost Road," I said.

"Yes, sir," Rosier said. "It is. And do you notice how straight it runs? It runs as straight as an arrow for nine miles—all the way to Bragg. Bragg is a ghost now, too. This used to be a branch line of the Gulf, Colorado & Santa Fe Railway. They tore up the tracks in 1934. But that's only partly why they call this the Ghost Road. There's supposed to be a ghost in here. A man was jacking deer in here one night, and he was drinking and he got himself drunk. So he lay down on the railroad tracks to rest. He was still laying there when the train come along, and it cut off his head. The ghost is his lantern. People still see it burning here at night."

"Have you ever seen it, Lance?" Borgman said.

"No, sir," Rosier said. "Now, do you notice that right along here you don't see any hardwood? The lumber company—one of them—sprayed about seven thousand acres to kill off the hardwood and get a pure stand of pine for lumber. It was a hormone spray, and they did it from a helicopter. That was about three years ago. So you don't see any hardwood at all. Or any birds, either."

We drove on down an endless aisle of loblolly pine. After a couple of miles, the woods deepened and darkened, and another buzzard hung over the road. We were out of the pine desolation. Rosier leaned forward. There was something moving on the road ahead. The movement took form—a big brown sow and eight tumbling little pigs. But a glimpse was all I got. There was another commotion, and they all were gone.

Rosier laughed. "Now you know we're out of the sprayed area," he said. "Those wild pigs are a sure sign. They live on acorns. They live right well, too. They can get up to three and four hundred pounds. There are all kinds of animals gone feral in the Thicket. There are pigs like those, and cats and goats, and even some cattle. And about a year ago a man I know got tired of a herd of jackasses he had, and he turned them loose in here. I believe there were twenty-six of them. They're all in here somewhere."

"What about real wild animals?" I said.

"Yes, sir," he said. "We have those, too. Including rattlesnakes and copperheads and water moccasins. We've got deer and coons and possums and skunks and otters and foxes and opossums and skunks and otters and foxes and flying squirrels and bobcats and cougars, and there used to be some jaguars. I know there are still some bear—black bear. I've seen them. And there are plenty of armadillos. I don't know about alligators. I think the poachers have just about killed them all. But there may be a few still left in places where even those fellows don't like to go."

"Don't forget the ivorybill, Lance," Borgman said.

"The ivory-billed woodpecker?" I said. "I thought that was supposed to be extinct."

"Yes, sir," Rosier said. "That's what everybody thought. But it isn't. There are still a few of them here in the Thicket. That's one reason why I'd like to see the Monument go through. You have to go deep to find them, though. The first confirmed sighting in many years was a couple of years ago, and there have been several more since then. They tell about one fellow that saw one, and to prove it, he shot it and brought it in. I don't know how true that is."

"No," Borgman said. "But I do know there are people like that."

The Ghost Road came out on a gravel highway. Beyond the highway was the main line of the Gulf, Colorado & Santa Fe, and on a siding were six flatcars loaded with loblolly logs. The logs were the length of telephone poles and at least two feet in diameter. Beyond the railroad tracks the Thicket began again.

"Turn left, please," Rosier said. He cleared his throat. "You know, this is right nice. I'm right happy to go out with you fellows today. I always like to get back in the Thicket. It's where I've spent most of my life. I started when I was just a boy. I never was big enough to play ball or anything, so I took to going back in the Thicket. I wanted to learn what was there—what was growing there. The other fellows, they called me crazy. They called me sissy, too. That's the way it was in those days. If a man even planted a rosebush in his front yard they called him henpecked. But I didn't pay any mind to that. I used to leave home—I was living with my auntie then—with a bag for specimens and a sweet potato in my pocket for lunch, and spent the day in the Thicket. I liked wild flowers, but I didn't know but a very few. There weren't any books—any field guides—in those days. What I did was this. When I found a flower I didn't know, I'd wrap it up and send it off to one of the colleges, and by and by they would write me back and give me the name—both names—for it. There are over a thousand species of flowering plants in the Thicket, and I learned them all, and that's the way I did it. I learned them the hard way."

"The best way," Borgman said.

"Yes, sir," Rosier said. "I think so, too. Now, if you'll turn right, please—at that little dirt road up there. I want to show you one of the most historic spots in East Texas. Then we'll go on to Big Sandy."

The dirt road took us across the railroad tracks and into another deep woods. A cardinal blazed out of the trees and down the edge of the road. But that was only the first one. This was a haven for cardinals. In not much more than a mile, I counted eleven of them. It was also agarden of wild flowers. The roadside grass was bright with crimson clover and blue vervain and yellow buttercups. Even the air was sweet with some rich and blossomy scent. I looked back at Rosier.

"Hawthorn," he said.

We crossed a little brown creek on a bridge of old crossties. A column of dust rose up ahead, and we came up behind a heavy truck.

"That looks like a well-pulling rig," Borgman said.

"Yes, sir," Rosier said. "They've got a lot of oil fields around in here, and he's probably going in to pull out some wells that have given out and gone dry. You'll see where he's going directly. You can't very well miss it. And if you listen you can hear a power saw over yonder. That's some of what's happening to the Big Thicket. They tell me the Thicket is going at the rate of fifty acres a day."

We dropped back out of the dust and followed the truck at a distance. We followed it for a couple of miles. Then the road took a turn, and when we came around the bend the truck was gone. And so were the woods. On both sides of the road lay a waste of mud and puddles and rotting stumps and a few palmetto saplings. This was the remains of an oil field. It covered forty or fifty acres, and off to the right, through a screen of skeleton trees, I could see the scar of a second field and the truck moving on toward another.

"What did all that?" I said, "Spilled oil?"

"No, sir," Rosier said. "They don't waste anything that valuable. It's the salt water they have to pump out of the wells that does the damage. It does a right good job, too. They abandoned this field at least five years ago."

"It's gone," Borgman said.

I looked at the poisoned land. It couldn't be helped: this was the look of the twentieth century. I supposed it couldn't be helped. But it made me feel sick, and I was thankful when the woods sprang up from the ruins and we were back again in the green of the Thicket.

Rosier leaned forward. "Here we are," he said. "Pull over, please—up there by that big sweet gum. This is the history I want to show you. I'm going to take you back in the woods and show you the Keyser Burnout."

Borgman pulled off the road and under the big gum tree. We got out, and Rosier led the way across the road and onto an overgrown wagon-track trail. The trees arched and mingled overhead, and some of them were hung with pink-flowered honeysuckle. It was hot and damp and dim and still, and there were mosquitoes everywhere. And birds. The birds were hidden in the trees, but I could hear them calling—a crow, a cardinal, a white-eyed vireo, a warbler of some kind, a Carolina wren.

"The Keyser Burnout goes back to the War Between the States," Rosier said. "The first residents of the Big Thickets were what they called jayhawkers. They were draft evaders. They were people who didn't own no slaves, so they didn't see no reason to fight, and to keep from being drafted they hid out in here. There were whole families of them. I don't know exactly how many. Different people tell it different. But there must have been anyway two hundred. They lived very careful. They split up into two groups, and each group had its own well, and they came and went through the Thicket without even breaking a twig. But they lived right well. They lived on game and wild honey. They didn't need for anything but coffee and tobacco, and they traded game for that. The government was against them, of course, and finally it sent a man named Captain Keyser up from Galveston to root them out. He come up the Trinity River with his troops and sent word into the Thicket that they either give up or he would burn them out. The jayhawkers wouldn't give up, but there are two different stories about what happened next. One story is that when Captain Keyser set the woods on fire, the jayhawkers all run off and he never did find them. The other story is that they all burned up in the fire. The only thing I ever heard people agree on about the jayhawkers was where Mr. Lilly was shot. Mr. Lilly wasn't a jayhawker, but he was out in the Thicket hunting one day, and Captain Keyser's soldiers mistook him for one, and they shot him. The bullet hit him right where his galluses crossed."

"He must have been running away," Borgman said.

"Yes, sir," Rosier said, "I reckon he was scared." He slapped a mosquito. "And this is where the Keyser Burnout starts. You notice here on the right the woods is all slash pine. That's where the Burnout was. It's all pine for over two hundred acres."

There was a crossroads up ahead, and Borgman slowed the car. Just beyond the crossing, in a clearing on the left, was a little white store with a big red sign: "Williams Dr. Pepper Gro." A dirt track led around the store and across the clearing and into the woods behind. A man on a horse came out of the woods. But it wasn't a horse. He was riding a saddled mule.

"This is Segno," Rosier said. "If you want to see Big Sandy Creek, we can park right here and walk in. It isn't but a couple of miles."

We left the car near the store and walked up the track. It climbed through the woods and around the slope of a hill to an open grove of big magnolia trees. There was a long, low building under the trees with a corrugated-iron roof and a sign above the door: "Welcome to Magnolia Hill Assembly of God Church." On one side of the church were three long, rickety picnic tables.

"My God," Borgman said. "Look at those old tables. They really bring back memories."

"They used to have a saying," Rosier said. "'Dinner on the ground, preaching all around.'"

"I never heard that," Borgman said. "But that sure is the way it was."

We walked on beyond the church and down past a burying ground. Pink phlox and bluebonnets were growing together between the gravestones, and I could see bees working among the flowers. There was still wild honey in the Thicket. Magnolia Hill was the end of the track. Beyond the burying ground was a limp barbed-wire fence, and then the woods began again. It was an open woods of beech and loblolly pine, and it was cut by deep cattle trails. We walked single file down a downhill trail. Some of the beeches were as big as New England village elms, but there was very little underbush and very few understory trees, and almost no grass at all. That was the work of grazing cattle.

"I don't know," Borgman said. "This does not look too bad. It's all been cut over and it's all been overgrazed, but I'm hopeful. The Monument could save it. It can still come back.

"It's better on down by the creek," Rosier said. "It's wilder down there in the bottom. But these woods are still alive. Hear that over

yonder? Hear that paup-paup-paup? That's a pileated woodpecker sounding off. He isn't quite as shy as the ivorybill, but he's another bird that only likes deep woods."

"I think he's worth saving, too," Borgman said.

The cattle trail led down and down. The underbrush began to thicken, and the trees reached high overhead. We were in the creek bottom now. The air was hot and heavy, and there were puddles here and there in the mud of the trail. We skirted a grove of bony cypresses standing knee-deep in a black bayou. A little black skink twisted across the trail, and behind us a bullfrog croaked and gulped. Rosier stopped and looked around. We left the trail and broke through a stand of brush and briar and came out on the bank of Big Sandy Creek. It looked like a spring-fed creek. The water was brown and clear, and the sandy bottom was orange in the sunlight. I squatted down and put in my hand. I could feel the tug of the current, and the water was as cold as spring water.

"Big Sandy Creek," Borgman said. "You were right, Lance. This is real great. I like this rough topography. I certainly want to see some of this in the Monument."

"It's a right nice creek," Rosier said. "That hole down yonder is always full of channel cat. Big ones, too. They'll average two or three pounds."

"What about mushrooms?" Borgman said. "There ought to be mushrooms in here."

"Yes, sir," Rosier said. "There are—plenty of them. Every kind there is, almost. Or so they tell me. Mushrooms are something I never did learn. I tried one time. I sent away for a book. It cost me twenty-five dollars, and when it came I went out in the Thicket down near home, and I searched around, and pretty soon I found a nice-looking mushroom. It was a big old thing, and I remember it was all white. I dug it up as careful as I could and started home, and I hadn't got very far when I began to feel sick to my stomach. And then my head began to ache. I thought my head was going to bust open. But I finally got home and got out my book and looked up my mushroom, and I found it there, and I read what it said, and it said this was a mushroom that had a smell that would make a man sick. That was the end of me and mushrooms. I even gave up eating mushroom soup."

"I wonder what kind it was," Borgman said:

"I don't remember," Rosier said. "I gave the book away."

We walked on along the bank of the creek. I looked down into the catfish hole, but I couldn't see any fish. They were probably back under the bank. We followed the wandering course of the creek for about a hundred yards and then turned off. The undergrowth was too much. We cut across the bottom and found another cattle trail and started back up the hill. We came through a patch of mulberry brush and into a glade of flowers and soaring, pairing, mating butterflies. They were brown with bright-blue dots on the wingtips—mourning cloaks. The flowers were mostly the usual flowers of the Thicket, but there were some I didn't know. One was a little white flower with a fresh, old-fashioned look, I pointed it to Rosier.

"That's a sundew," he said. "*Droscra rotundifolia*. It's a pretty little thing. Look at those little hairs on the leaves. Look how they shine. You'd swear they were drops of dew. They even fool the bugs. A bug comes along and he see that shining dew and he comes down to have himself a drink of water. But the hairs aren't dew, and they stick to him and he can't get away. He's caught. And then the sundew eats him."

It was one o'clock when we got back to the Williams Gro., and time we had some lunch. There was no place to eat but where we were, and we bought what we could—yellow cheese, Vienna sausages, bread, Dr. Pepper—from a barefooted woman in the store, and took it outside and ate at a table in the shade of a live-oak tree. It was good to sit down, and somewhere up in the tree a mockingbird whistled like a cardinal and called like a wren. The ground under the table was paved with a thousand bottle caps—soda-pop caps. This was a bone-dry county.

We finished lunch, and Borgman lighted a thick cigar. "I guess we ought to get going," he said. "I'd like to take a look at Tight-Eye before we call it a day."

I'd like to show it to you," Rosier said. "I'll take you in and show you the Witness Tree. Maybe you've heard of it. The Witness Tree is a big magnolia tree that marks the corner where Liberty County and Hardin County and Polk County all meet. The experts say it's a thousand years old. I want you to see it."

"Why do they call it Tight-Eye?" I said.

"I reckon because it's so thick," he said. "You can't walk through it with your eyes wide open. The branches and brambles would put them out. It's the thickest part of the Thicket."

We dropped the remains of our lunch in a box in front of the store and got in the car and circled back to the crossroads and headed down another gravel highway. There was a big "No Dumping" sign on the right, and piles of trash and garbage, and the trees for a hundred yards around were plastered with windblown papers. We passed the endless gash of a pipeline right-of-way. We passed two miles of forest marked with the sky-blue blaze of a lumber company, and then a mile blazed in orange. We passed a billboard: "Model Homes." We passed a sudden pasture and a fallen-down log cabin. Then we turned off the highway and onto a narrow, potholed asphalt road. The trees came together high overhead, and the asphalt road gave way to sandy mud. We were well into Tight-Eye now. We drove for another ten or fifteen minutes. The only car we met was a station wagon with Louisiana plates.

Rosier sat up and cleared his throat. "I reckon this will do," he said. "We'll get out here and walk in to the famous Witness Tree."

A track that had once been a logging road led into the Tight-Eye woods. The track was overgrown with red oak and sweet-gum saplings, and hedged with broomstick pine. It wasn't much more than a crack in the forest wall.

"This is real Thicket," Borgman said. "This is the best I've seen today. This is what we want for the Monument."

"Yes, sir," Rosier said. "And we'll be right in the middle of it in just about a minute. This track doesn't go where we're going." He had his eyes on the trees ahead on the right. He hesitated, moved on again, and stopped. "This is it," he said. "There's the old survey blaze. We go across country now."

We broke off the track and into the flanking woods. It *was* real Thicket—a forest floor of fallen trees swamped with brush and briar, an understory of holly and dogwood and gum and oak and maple and hawthorn trailing vines and Spanish moss, and a soaring, pillared canopy of beech and magnolia and loblolly pine. There was no sky, no sun, no sense of direction. We climbed over logs and circled sloughs and ducked under hanging branches, and every log and every slough and every branch looked very much like the last. There were no landmarks. There were only the double welts of the old blazes. We picked our way from blaze to blaze—missing a blaze and circling back and finding it and moving on to the next. We walked for a mile and a half. Then a kind of clearing appeared. It was a grassy clearing with a big gray stump full of woodpecker holes and a tumble of big vine-covered logs. Rosier stopped and kicked around in the grass at the edge of the clearing and uncovered a wooden stake—an iron-clad boundary stake.

"Here we are," he said. "This is the county corner. Ernest is standing in Hardin County, and you're in Polk County, and I'm over here in Liberty County." He turned and pointed at the stump. "And that's the famous and historic Witness Tree."

"That *stump?*" I said. It was a very big stump. It was fifty feet high and at least four feet in diameter. But still it was just a stump. "That stump is the Witness Tree?"

Borgman was staring at it, too. "What happened, Lance?" he said.

"That was it three years ago," Rosier said. "They pumped it full of lead arsenate. I can show you the holes they bored to put in the poison. I came in with the experts that made the investigation. We found the holes stopped up with little wooden pegs."

"But why?" I said. "Why would anybody do a thing like that?"

"It sounds crazy," Borgman said.

"Yes, sir," Rosier said. "But there isn't any mystery about it. They did it for a warning. They were some of the folks that don't want the Monument."

—BERTON ROUECHÉ.

ADDRESS BY CHARLES A. GLENDAY, PRESIDENT, GREATER NASHUA, N.H., CHAMBER OF COMMERCE

Mr. COTTON. Mr. President, the Greater Nashua, N.H., Chamber of Commerce installed Mr. Charles A. Glenday as its new president on July 15, 1968.

Mr. Glenday, who is an executive of Sanders Associates, an outstanding electronics firm which has become the largest corporate employer in my State, was a wise choice indeed to lead the chamber activities of New Hampshire's second city in size. He is a man of energy, ability, vision, and complete integrity. His leadership will prove invaluable and provide an additional strong bond between the city of Nashua and Sanders Associates, with its thousands of skilled and dedicated employees.

Mr. Glenday's remarks on the occasion of his election as president of the chamber display a forward-looking approach to the solution of community problems which should be widely read. I ask unanimous consent that they be printed in the RECORD.

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

REMARKS MADE BY C. A. GLENDAY, PRESIDENT, GREATER NASHUA CHAMBER OF COMMERCE, AT A BOARD OF DIRECTORS MEETING, JULY 15, 1968

Good evening, gentlemen. It is a pleasure for me, as a representative of Sanders, to be here tonight as the newly elected President of the Greater Nashua Chamber of Commerce.

I'm reminded at this time of the young lad who came home from school and asked his dad, "Father, was the white man superior to the Indian?" The father thought for a moment and said, "Well, when the Indians were running things, they had no taxes, they had no debts, and the women did all the work. How can you improve on that?"

I think we have a pretty good community here in Greater Nashua, but I think you will all agree that we can certainly improve upon it.

I want to state at the very beginning that I do not intend to take my responsibility to the Chamber and to the community lightly.

As a representative of Sanders, I intend to devote all the possible time, energy and resource of myself and my company to doing the best job possible. I also intend to rely heavily upon the wealth of talent, energy,

and experience represented in this room tonight.

Just like every other American community, Greater Nashua has its problems. But I think you will agree with me that never before in the history of our nation has American business been in such an advantageous position to bring to bear our talents, manpower and other resources to help solve these problems.

Private enterprise must become more deeply involved if we are to achieve our goals.

The solution to Greater Nashua's problems cannot be achieved by business leaders, government and community leaders alone—but we certainly can make more of a contribution than we have in previous years.

In addition, we can help to bring into the picture labor, civil rights, religious, educational, cultural and other organizations to help build the best possible community.

In the electronics business we have what we call "The Systems Approach." What this means is that when we are trying to develop a new electronic system, say, for example, a television set, we consider all the factors involved before we start to design the product.

Quality control, cost reduction, manufacturing engineering, human factors, and many other techniques and disciplines are carefully applied in the laboratory before the final decisions are made to manufacture the product in a certain size, weight, color and for a certain cost.

I think that the techniques involved in the "Systems Approach" should be applied to a much greater extent than they are now to the determination of the solutions to our community problems.

One of the reasons for the tremendous success and rapid quality growth of Sanders has been the concept of teamwork. Sanders was formed by a team of eleven men who worked together very closely.

As the Company grew, the concept of teamwork was carried forward. Designers worked closely with manufacturing and production people. Plant engineers worked closely with personnel people. As a result potential problems were anticipated and possible solutions were proposed before problems occurred.

The degree of teamwork that we can achieve within the working structure of the Greater Nashua Chamber of Commerce will have a direct relationship to the accomplishment of our goals and will determine to a large extent how rapidly we can achieve these goals.

I don't mean to imply in any way that businessmen should slack off in their competitiveness, which is certainly a basic tenet of the free enterprise system, but I do mean that as community leaders, as members of the Chamber, we should, and indeed we must, work together as a team for the benefit of our fellow citizens.

With the state of American technology today and with the fantastic rate of progress we now see around us, it can be taken for granted that the more aggressive and bolder our effort, the better.

There is nothing worse in my mind than to see elements in any job or project pulling in different directions, blocking progress and depriving everyone of the enjoyments and comforts that could easily be achieved for everyone simply by teamwork.

So I think with these two tools, the systems approach and teamwork, we can achieve our goals for 1968 and we can also achieve the higher goals which each of us wants.

I think there has been a tendency in the past for Americans to judge progress only in terms of growth. Many of us in Nashua tend to use mere growth as a standard, looking at it only in terms of more industry, more jobs, more purchasing power and more prosperity.

The lessons of the past have shown that we were wrong.

We should be thinking in terms of the total quality of Community life.

It is a foregone conclusion that growth will continue naturally.

Our population in this country is growing at the rate of 3 million per year—but it is following a new pattern. People are attracted by quality living conditions suited to their higher incomes and their leisure time. They now want the less fortunate to have more opportunities for sharing the better times.

Let's ask ourselves, "what does the high quality city offer?"

The answer is, "very little that cannot be found anywhere with a dedicated group of community leaders making a concentrated effort."

Growth with quality required several things.

For example—orderly dependable transportation. Good planning results in a unified approach to traffic in the entire area with a plan bold enough to meet tomorrow's needs. The Everett Turnpike extension is a good example in Greater Nashua. You leaders of the community have it in your power to avoid tomorrow's traffic congestion by planning today.

Quality growth also requires clean air and water. And this in turn requires the cooperation of all the community with business and industry taking the lead. Local government, motorists, householders, and others have direct repsonsibilities in these areas.

Quality growth means a revitalization of building codes and zoning and revenue codes with a strong enforcement by law and government, especially in the slum areas.

If outmoded state laws, and even state constitutions, stand in the way of progress then they must be modernized.

Quality growth means a growing educational system, with the implementation of the necessary methods for financing the growth of such a system.

Quality growth means the modernization, where necessary, of local government.

The urban crises has taught us that "the bigger the better" is no longer the watchword.

We must be careful that as the community grows, its quality must grow along with it.

The role of the businessman, as I see it, is to cooperate fully with all segments of the community leadership and to extend leadership and offers of our talents where needed.

The role of the Chamber, as I see it, is to accomplish our stated goals as quickly as possible and to act as a forum for the further discussion of plans and programs for the quality growth of our community.

The job ahead of us is certainly important enough for each and every one of us to participate as actively as possible.

I ask your support and I pledge you mine.

Thank you.

NATIONAL HISPANIC HERITAGE WEEK

Mr. TYDINGS. Mr. President, the particular and distinctive contribution to the Nation of people who bear Spanish surnames has been given special recognition by House Joint Resolution 1299, authorizing the President to proclaim annually the week including September 15 and 16 as National Hispanic Heritage Week. I think it is important that we take a moment to reflect upon the great breadth and significance of the contributions which we are recognizing.

In the past, assimilation of immigrants into the American mainstream has tended to eradicate the ancestral minority culture, by majority rejection and disdain. It is remarkable and perhaps tragic that from the abounding diversity of languages and cultures that people of a hundred origins brought to this country, virtually nothing remains except in scattered enclaves of senior citizens who are often viewed as objects of curiosity rather than with respect. Perhaps a more egregious repercussion of the assimilation process has been that the second and succeeding generations of the immigrants grow up rejecting their background as a thing to eschew rather than as an heirloom to prize. These normal rules of assimilation notwithstanding, a distinctive Spanish-Indian-Mexican culture survives in the United States.

The strain of the Spanish Conquistador and the Aztec warrior lives in America today, particularly through our Mexican-American population. Living predominantly in the southwestern United States, the land settled by their forefathers, this segment of our American population perpetuates the continuum of cultural contributions which pervade our everyday lives. This indelible Hispanic influence is not limited to names of our great States: Colorado, Nevada, California, Arizona, Texas, Florida; and our great cities: Los Angeles, San Francisco, San Diego, San Rafael, San Antonio. There are today, and there have been throughout America's history, prominent Hispanos in every walk of life—from the erudite fields of technology and medicine to the worlds of politics, sports, and business. Let me mention but a few of these contributors.

In 1959, Dr. Severo Ochoa, a Spanish-born biochemist, was the corecipient, with one of his former students, of the Nobel Prize for his synthesis of RNA—ribonucleic acid—the key for decoding the genetic alphabet.

Hector Garcia, a doctor of medicine in Corpus Christi, Tex., as an alternate U.S. Ambassador to the United Nations, was the first person representing the United States to address the General Assembly in a language other than English.

From my own personal experience, I can testify that one of our most effective diplomats is Frank Ortiz, the political officer in our Embassy in Peru.

The Hispanic influence in the humanities is also impressive. Connoisseurs of sculpture revere Octovio Medellin whose work was admired by thousands at the World's Fair of 1939. More recently such Mexican-American artists as Porfirio Salinas and Manuel Acosta from Texas, have been internationally acclaimed for their genius. The HemisFair in San Antonio proudly exhibits the fine work of these and other of her bicultural celebrities.

The Spanish surname is also commonplace in many of our sports: baseball, horseracing, boxing, tennis, and, most recently, golf. Few athletes have won the honors and respect in their particular sport that Pancho Gonzales has earned in tennis. Long the most respected American tennis star, Gonzales again won headlines for his fine performance in the U.S. Open Tennis Tournament. Also, particular note should be taken of the winner of the U.S. Open Golf Tournament, Lee Trevino, a young man so proud of his ancestry that upon winning the celebrated tournament, he exclaimed:

Today, I'm the happiest Mexican-American alive.

I am proud to relate that the history of my own State of Maryland has felt the Hispanic touch. In the middle of the 16th century Pedro Mendes Marques, Governor of Spanish Florida, became the first European to explore our famous Chesapeake Bay.

Patriotism, courage and bravery are sacrosanct in the Hispanic culture. These characteristics have not been lost by the Americans with Spanish surnames. Eighteen young Mexican-American soldiers were posthumously awarded the Medal of Honor in World War II. Vietnam has witnessed also the bravery of Daniel Fernandez, a young Mexican-American and the bravery of Euripedes Ribio, Jr., both of whom received Medals of Honor. Young Ribio was the first Puerto Rican to receive this honor.

Hard work is another value which Hispanos prize. It is interesting to take note of what too many citizens take for granted. Forty-three percent of the Nation's fruits and vegetables come from California where 70 percent of the farm labor force is comprised of Mexican-Americans who toil long hours in the hot sun for meager, below minimum standard wages.

I have mentioned but a few of the many contributions to our American society by men of Spanish surnames. The contributions of the Hispano should be a source of pride to every American. As new generations of people with Spanish surnames reach maturity and take their place in our society they can do so with a real sense that they are but the latest in the long line of contributors. They can be proud of what their ancestors have given, and what their contemporaries are giving. They can prepare to make their own meaningful contribution.

Let this new generation of Hispano-Americans recognize that the American culture truly is an amalgam of many and variegated cultures. In so acknowledging, let us accelerate the effort to nurture an environment which not only recognizes but invites cultural exchange among our many American cultures.

THE FORTAS FUND

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Fortas Approved by Senate Panel—Filibuster Looms," published in the New York Times of today; and an article entitled "Judicial Propriety: The Fortas Case," published in the Wall Street Journal of today, September 18.

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

[From the New York Times, Sept. 18, 1968]

FORTAS APPROVED BY SENATE PANEL—FILIBUSTER LOOMS—COMMITTEE VOTE IS 11 TO 6—POSSIBLE OBSTACLE ARISES OVER FUND FOR SEMINAR

(By Fred P. Graham)

WASHINGTON, September 17.—The Senate Judiciary Committee approved today, 11 to 6, the nomination of Justice Abe Fortas to be Chief Justice of the United States.

The action set the stage for a filibuster on the Senate floor next week.

Prospects for Senate confirmation remained doubtful. Even the supporters of the nomination have expressed doubt that they can muster the two-thirds vote necessary to cut off debate on the floor.

Meanwhile, another possible obstacle for Mr. Fortas arose in connection with the $30,000 fund raised by five wealthy contributors to pay for the weekly seminar course conducted by Justice Fortas this summer at American University here.

BEFORE APPEALS COURT

It was learned today that one of the contributors, Troy V. Post, a Dallas insurance executive who is a former business associate and friend of Mr. Fortas, is the father of a man who is appealing a conspiracy and fraud conviction through the Federal courts.

The son, Troy V. Post Jr., has appealed his 18-to-24-month sentence to the Court of Appeals for the District of Columbia. From there, his only appeal would be to the Supreme Court.

Before he became a justice, Mr. Fortas was a director of the Greatamerica Corporation, a holding company. The elder Mr. Post was its chairman and president.

Friends of Justice Fortas have said that he was not told that Mr. Post was one of the contributors, and they pointed out that he has routinely excused himself from consideration of all cases involving former clients or business associates.

FREE PENDING DECISION

The younger Post was convicted of conspiracy and 12 counts of mail fraud in Federal District Court here on June 20, 1966. He and two other men were found guilty of collecting $1.5-million by selling memberships in a proposed new golf club in nearby Rockville, Md., and of siphoning off much of the money into their own pockets.

The appeal was argued before the Court of Appeals on Dec. 5, 1966. Post, a 38-year-old former lawyer in Texas and the District of Columbia, is free pending a decision on the appeal. He is employed by an insurance company in Birmingham, Ala.

It was disclosed before the Senate Judiciary Committee last week that Justice Fortas was paid $15,000 plus secretarial expenses for conducting a nine-week seminar on law and the social environment.

The money was paid by American University from a $30,000 fund raised last winter by Paul A. Porter, a former Washington law partner of Justice Fortas, from the elder Mr. Post and four other wealthy businessmen who were friends of Mr. Porter or Mr. Fortas.

According to Judiciary Committee records, Mr. Post contributed $5,000 to the fund. Neither Justice Fortas, Mr. Porter, Mr. Post nor any of the other contributors is an alumnus of American University.

Although a justice in Mr. Fortas' position would routinely excuse himself from the case if the appeal reached the Supreme Court, the incident is expected to provide ammunition for Senator Robert P. Griffin, the Michigan Republican who is leading the effort to block the Fortas nomination.

Senator Griffin said yesterday that one of his main arguments against the nomination on the Senate floor would be "Justice Fortas' failure to comply with the proper standards of judicial ethics."

He quoted from the Canons of Judicial ethics of the American Bar Association several sections that he said Justice Fortas might have violated. One of these was Canon 32, which reads:

"A judge should not accept any presents or favors from litigants, or from lawyers practicing before him or from others whose interests are likely to be submitted to him for judgment."

The majority and minority forces within the Judiciary Committee have until midnight Friday to file their formal reports on the nomination. This will probably keep it from reaching the Senate floor until Monday or Tuesday.

GRIFFIN TO SPEAK FIRST

There it will be met with a lead-off filibuster speech by Senator Griffin, followed by speeches by Senator Howard H. Baker Jr. of Tennessee and others among the 18 Republicans who have joined in the anti-Fortas effort.

Spokesmen for Mr. Griffin said today that the Republicans expected to consume four days in their first round of speeches. None of the Southern Democrats who oppose the nomination have been recruited for the filibuster effort, the spokesmen said, but most of them are expected to contribute long speeches later.

The Senate Majority leader, Mike Mansfield, said today that he would probably let the debate continue all next week and would probably move to cut it off after Sept. 30.

The Montana Democrat has previously said that if such a move was defeated, he would probably wait a few days and try once again, then give up. On other occasions he has threatened to call the Senate back into session after the November election if the nomination is not approved by then.

An Associated Press survey released today found 47 Senators favoring confirmation of Mr. Fortas and 27 opposed. Twenty-two described themselves as uncommitted and four were not reached.

Opponents of the nomination say that some of those who favor the nomination would not vote to cut off debates, as a matter of principle. If all 100 Senators voted, 67 votes would be necessary to end the debate. Those voting for the nomination in the Judiciary Committee were:

Democrats—Thomas J. Dodd of Connecticut, Philip A. Hart of Michigan, Edward M. Kennedy of Massachusetts, Birch Bayh of Indiana, Quentin N. Burdick of North Dakota, Joseph D. Tydings of Maryland and George A. Smathers of Florida.

Republicans—Everett McKinley Dirksen of Illinois, the minority leader; Roman L. Hruska of Nebraska, and Hugh Scott of Pennsylvania.

Senator Edward V. Long, Democrat of Missouri, was absent but was permitted to record a vote in favor of the nomination.

Those voting against the nomination were:

Democrats—James O. Eastland of Mississippi, John L. McClellan of Arkansas and Sam J. Ervin, Jr., of North Carolina.

Republicans—Hiram L. Fong of Hawaii, Strom Thurmond of South Carolina and Senator Baker.

[From the Wall Street Journal, Sept. 18, 1968]

JUDICIAL PROPRIETY: THE FORTAS CASE

(By Jerry Landauer)

WASHINGTON.—Every so often some judge doffs his black robe and becomes entangled in a matter that requires a new look at prevailing expectations of judicial behavior. One such matter is Supreme Court Justice Abe Fortas' recent and most rewarding series of lectures at American University.

The implications of Mr. Fortas' summer services are being disputed, but the facts seem plain: He was paid $15,000 for a series of nine law school lectures and for preparing materials for future seminars. His fee came from a $30,000 kitty solicited by Paul Porter, Mr. Fortas' former law partner. The remainder went for expenses including tuition for the 17 students and the salary of a researcher hired to help the Justice prepare.

Except for its exceptionally handsome size (approaching 40% of his $39,500 annual salary), the fee would hardly be questioned if it had been paid by the university or by a large group of anonymous donors. But former partner Porter raised the money from a se-

lect circle—Gustave Levy, chairman of the New York Stock Exchange and partner in Goldman Sachs & Co.; Troy V. Post, chairman of Greatamerica Corp.; John L. Loeb, partner in Carl M. Loeb, Rhoades & Co.; Paul D. Smith, general counsel of Phillip Morris Inc., and Maurice Lazarus, vice chairman of Federated Department Stores.

FACULTY LUSTER

To be sure, B. J. Tennery, the law school's youthful dean, was simply seeking to enhance his faculty's luster and to offer top students a rewarding experience. Mr. Porter raised the money as he saw fit at the school's request, and Dean Tennery says he sent the $15,000 upon conclusion of the series and without consulting lecturer Fortas. "He left the amount entirely to me," the dean explains, telling interviewers, "We made a conscientious effort not to let him know the names of the contributors."

Aside from embarrassing his Supreme Court star, Dean Tennery harbors no regrets or doubts. Enlisting the Justice's teaching skills was a truly rewarding experience, he says. But Sens. Robert Griffin, Sam Ervin, Strom Thurmond and other foes of the Fortas nomination to become Chief Justice are seizing on the lucrative lectures as another reason for denying Senate confirmation. "This is the last straw," Sen. Griffin asserts, suggesting a violation of judicial ethics.

More likely, though, the extra Fortas earnings pose questions more of propriety than of ethics. In part this is because Justice Fortas wouldn't in any event participate in Supreme Court cases involving the five contributors. Most are or were regular clients of Arnold, Fortas & Porter (now Arnold & Porter), and in such circumstances judges invariably withdraw. Hence conflict of interest in the classic sense appears remote.

But the conduct of any judge to say nothing of one on the highest court, surely should be measured against more exacting standards—ones sensitive enough to assure not only the avoidance of wrongdoing but the avoidance of suspicion.

Admittedly, such standards can't neatly be codified in some handy manual to which a judge can turn when in doubt. So, though the Fortas fees are bound to figure in the Senate struggle over confirmation, their propriety ought really to be resolved in calmer deliberation, using traditional techniques that have helped the judiciary maintain a reputation for rectitude.

Over the years and case by case, bench and bar have gradually developed informal yet widely accepted codes of conduct to help judges steer clear of trouble and to shore up confidence in the impartiality of the courts. From time to time the United States Judicial Conference, composed of the chief Federal circut judges and the Chief Justice, issues rulings that though lacking the force of law are nonetheless generally obeyed. Thus in 1963, when this newspaper discovered judges sitting as officers and directors of profit-making enterprises, the conference promptly prohibited the practice.

Justice Fortas' fees don't transgress the letter of that resolution. But the conference might consider whether such payments from businessmen do breach the spirit. (The question is magnified by the size of the Fortas payment; according to Dean Tennery, $2,000 is the normal fee for American University guest lecturers.)

Certainly by inference, the Canons of Judicial Ethics, fleshed out by advisory opinions of the American Bar Association's Committee on Professional Ethics, already discourage acceptance of such fees. According to Canon 25, judges should avoid giving ground for suspicion that they're wielding the prestige of office to persuade or coerce contributions for charity. Bar association opinions dating to 1942 further urge judges even to discourage use of their names on fund-raising pamphlets for such civic causes as art museums.

POSSIBLY UGLY PRECEDENT

Implicit in all these is a prohibition against a judge himself benefiting outright from gifts to a non-profit university—gifts solicited, moreover, by a former associate. Just as ignorance of the law is no legal excuse for breaking it, so purity of motive or even ignorance of the circumstances is no protection against possibly ugly precedent.

Justice William O. Douglas' off-the-bench earnings emphasize the need for clearer, tighter standards. Late in 1966 the Los Angeles Times discovered that Mr. Douglas was receiving $12,000 a year from the Albert Parvin Foundation, "largely as an expense account," the Justice explained, but one which he wasn't required to itemize. The foundation holds a large mortgage interest in a Las Vegas casino, plus stock in companies employing gamblers who've become involved in celebrated "bugging" cases—of the kind that frequently reach the Supreme Court docket.

Inevitably, permissible conduct by members of the Supreme Court tends to affect the rest of the judiciary. Chief Judge William J. Campbell of Federal District Court in Chicago served with Justice Douglas on the Parvin Foundation (without pay, however, Judge Campbell says). Similarly, Justice Fortas' backstage advising of old friend Lyndon Johnson finds parallels in the lower courts. In Missouri, a district judge who in 1967 struck down the state legislature's plan for Congressional redistricting later met quietly with Gov. Warren Hearnes and with legislative leaders. The Supreme Court subsequently stayed the decision on other grounds, but the impropriety remains—the judge talked with participants about a political matter that will likely wind up again in his court.

Such lapses do seem exceedingly rare. For the most part the judiciary has avoided scandal and warded off Congressional interference by moving quickly to suppress public doubts and by clearing up ambiguities in the evolving body of judicial standards. The bench has resisted initiatives in Congress, by Democratic Sen. Joseph Tydings of Maryland among others, that would require disclosure of financial interests to judicial superiors. "Regardless of the merits," the Judicial Conference successfully argued on Capitol Hill, "Federal judges should not be singled out from other officials of the Government to make such reports."

CONFIDENTIAL STATEMENTS

Since then, however, Congress has begun requiring high officials in the Executive branch to submit confidential statements of assets and income. This year, too, both the Senate and House, in adopting codes of ethics, compelled legislators to file similar statements, part for public inspection and part for examination only by Congressional ethics committees if the need arises. Perhaps judges oughtn't to be excluded from similar efforts to impose additional self-restraint.

If the judiciary's established methods fail to resolve questions about the highest judges in the land, the Supreme Court itself should exercise its broad rulemaking and supervisory powers. As author Joseph Borkin suggests, the nine Justices could begin requiring financial reports from the 469 Federal judges, refining standards of conduct—including their own—when indicated.

If the bench doesn't police its own members, it will inevitably invite the scandals it wants most to avoid.

PRESIDENT'S COMMISSION FOR HUMAN RIGHTS SHOULD BE MADE PERMANENT

Mr. PROXMIRE. Mr. President, the Commission for the Observance of Human Rights Year has performed magnificently under very difficult conditions to bring the cause of human rights to the attention of every sector of American life. The various distinguished members of the Commission have each had a constituency, as it were, to which they spoke in behalf of ratification of the Human Rights Conventions and the cooperative creation of international procedures and mechanisms that would truly internationalize the protection of the basic human rights of all men.

For various reasons—some of them very difficult to accept—the Committee on Foreign Relations has been virtually deaf to the Commission's continued calls for the ratification of the various conventions. Even within the administration, it must be admitted, support for ratification has been embarrassingly spotty. This is true particularly in regard to the Convention Against Genocide.

Through no fault of its own, the Commission's vital mission remains to be completed. Ratification of the conventions has not been achieved. American leadership has yet to be reasserted in the field of human rights. International factfinding and adjudicative bodies have yet to be created. Even the tremendous task of basic education in this area has not yet been realized for Americans, much less for the rest of the world community. Certainly the work of the Commission is more than to preside over the celebration of a basically hollow festival.

Clearly much needs to be done. And what remains to be done is so vital that the various functions of the President's Commission must be continued. Indeed, they should be expanded if events in Nigeria-Biafra and Czechoslovakia have taught us anything about the ease with which human beings revert to uncivilized treatment of their fellows.

Mr. President, I urge the President and the Commission to consider various means for continuing the work of the Commission. We have had a number of international conferences during this International Year for Human Rights. All have unanimously called for continued efforts in the field of human rights.

The United States must reassert its leadership in this single, most important area. The work of the Commission must be continued and intensified. Unless the area of basic human rights for all men is made secure, nothing else, including a truly inviolable national sovereignty for all nations, will ever be secure.

DEATH OF FORMER SENATOR WILLIAM H. McMASTER

Mr. MUNDT. Mr. President, it is my sad duty to inform the Senate of the death of Hon. William H. McMaster, former Governor of South Dakota and U.S. Senator from 1925 to 1931, at the age of 91, in Dixon, Ill.

Born in Sioux City, Iowa, Senator McMaster moved to Yankton, S. Dak., in 1901, where he entered the banking business. He served in the State house of representatives in 1911 and 1912 and in the State senate from 1913 to 1916. He was elected Lieutenant Governor of South Dakota in 1917 and Governor in 1921.

The people of South Dakota honored him with every office he sought, and William H. McMaster in turn always worked for the best interests of "his people."

I ask unanimous consent to have printed in the RECORD an article published in the Washington Evening Star of September 17 and an article published in the Washington Post of September 18, relating to the death of former Senator McMaster.

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

[From the Washington Evening Star, Sept. 17, 1968]

W. H. McMASTER, FORMER SENATOR FOR SOUTH DAKOTA

William H. McMaster, 91, a retired banker who served in offices ranging form state representative to U.S. senator from South Dakota, died Sunday at his home in Dixon, Ill.

A native of Iowa and a 1899 graduate of Beloit College in Wisconsin, he moved to Yankton County, S.D., in 1901 and began his banking career.

Mr. McMaster, a Republican, held elective offices beginning as a state representative in 1911 until 1931 when he was defeated for re-election to the U.S. Senate.

He was also a state senator, lieutenant governor and governor before election to the Senate in 1924.

He moved to Dixon in 1933 and continued his banking career, retiring several years ago as president and board chairman of the Dixon National Bank.

Services were to be today in Dixon.

[From the Washington Post, Sept. 18, 1968]

SOUTH DAKOTA EX-GOVERNOR AND SENATOR

DIXON, Ill., September 17.—William H. McMaster, former Governor of South Dakota and U.S. Senator from that State, died yesterday in his home in Dixon at the age of 91.

Mr. McMaster, a Republican, was Governor of South Dakota for two terms from 1920 to 1924. He was Senator from South Dakota from 1926 until 1932. Previously he had been a banker in South Dakota.

From 1933 until his retirement several years ago, Mr. McMaster was president and board chairman of the Dixon National Bank.

MONDALE ASKS YOUTH FOR CRITICISM WITH AFFECTION

Mr. NELSON. Mr. President, the junior Senator from Minnesota [Mr. MONDALE] helped to welcome new students to the University of Minnesota in Minneapolis earlier this week. I believe his remarks are worth noting.

Senator MONDALE described a Nation of opportunity and despair, of power and impotence, of free criticism and irrational rage, of human rights and growing racism, of dedication to peace and immense waste in war, of compassion frustrated by rigidity and persecution.

He remarked on the growing gap between what we want and what we are willing to do, and our disappointing tendency to seek easy excuses for our failures.

Then Senator MONDALE spoke of the hope so many of us have that the bright, committed young people of today will help us to do better. Simply living a decent and humane life is not enough, he told them; achieving political power is essential.

Senator MONDALE also spoke directly to the questions of protest and violence that are before us so much today. He said:

The right to demonstrate, protest, picket, and in other peaceful ways to dramatize one's viewpoint—including peaceful civil disobedience if one is willing to pay the price imposed by law—ths right must be an accepted and protected part of American life. And those few law enforcement officers who disagree must just learn to live with this indispensable right of a free people. . . .

But there is another tactic I hope you will reject; that is, the effort to impose opinion by force. Some will tell you that violence will more quickly and effectively achieve your goals. They tell us that "democracy is in the streets"; meaning that issues must be settled by violent conflict. They would substitute the law of force for the force of law.

Those who resort to such tactics will not only lose personally but will greatly injure their cause. Undoubtedly the growing strength of the right-wing repressive movement in this country is partly attributable to the violence we have seen.

For I do not believe that a society can be both free and violent. A free society must maintain itself in love and hope, not hate and fear.

Mr. President, Senator MONDALE'S appropriate remarks deserve the attention of all Senators. I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF SENATOR WALTER F. MONDALE AT THE WELCOME WEEK CONVOCATION, UNIVERSITY OF MINNESOTA, MINN., SEPTEMBER 16, 1968

I am delighted to participate in Welcome Week, particularly since your theme is "When no one is aware." By now you know that you are welcome; let us pray that you are also aware.

We always begin speeches like this one by saying that youth has never been more needed; the only difference is that right now it is undeniably true. If there was ever a generation of American adults who should feel the need for the help of the young, it is ours.

What a strange, confused, disoriented, and in some ways embittered nation this is! Indeed, we may be on the verge of being two Nations, as one official report puts it: one white, one black; separate and unequal.

For most of us—for almost all of us in this auditorium this morning—this is a Nation of unprecedented wealth, employment, and opportunity. But for millions of other Americans this is another nation—impoverished, under and unemployed, poorly housed, ill and undernourished, and, perhaps worst of all crippled by frustration, despair, and rage.

We have produced a nation of unparalleled power, but we have proved our impotence in our cities and in Vietnam.

We have produced a nation whose devotion to liberty and justice and free criticism is both fundamental and historic, and yet we recently saw, as one analyst put it, "a sudden convulsion of irrational rage directed by some of us against others of us, a devastating tantrum of armed and uniformed adults against a youthful, helpless, and largely innocent rabble."

Our nation, proud of its commitment to human rights, reads public opinion polls which show one of our top racists building such a following for President that he could conceivably become a fundamental force in setting the future direction of this country.

While we declare our commitment to peace, more than 27,000 Americans have died in Vietnam and the cost of the war—now near $30 billion annually—sharply diminishes our capacity to deal with our human problems here and abroad.

I believe we have tried for peace and sincerely want peace. But I do not believe we have been willing to take as great a risk to achieve a settlement as we once took to win the war through escalation.

We are a nation proud of our institutions—churches, schools, governments, and business, labor, and other cooperative organizations. But for all they have done, our institutions have still too often become, as one of our chief social critics puts it, an "enormous potential source of arbitrary impersonal power which folds, bends, spindles, and mutilates individuals but keeps IBM cards immaculate."

We are a nation proud of our compassion—the story of the good Samaritan is almost an American folk tale. But we have built and maintained a deeply entrenched welfare system that shatters pride and discourages effort. It provides so little help for so many that what should be their temporary need for assistance and hope has become a permanent dependence and despair.

Whether the acknowledged objectives be decent education, housing, nutrition, health, or employment, there is a growing gap between what we want done—what we favor, the dreams we endorse, the hopes we arouse—and what we are willing to do. The gulf between our goals and our willingness to spend to achieve them has created a political environment that enables a critic to claim: "The rhetoric of public men . . . abounds in big ideas with small price tags. Or big ideas with no price tags at all."

And, ominously, some are now intensifying the old attempt to portray the human problems of this nation as the result of one single, simple cause: the lazy attitude of the mythical man who is able, but unwilling, to work.

Since the problem is so simple, so is the proposed solution: more "law and order" (whatever that means); a change in attitude that is free because it requires only an act of will; a willingness by courts and police to get tough.

Despite our commitment to human improvement, we defend Khesanh and abandon Job Corps camps; we head for the moon while men cannot afford to commute to work.

We say we oppose violence, and yet we cannot pass legislation to reduce the toll of 18,000 lives a year lost by gunfire. In the past five years, the victims have included President Kennedy, Martin Luther King, and a young man who entered the freshman class of the Senate with me—Robert Kennedy, a man who truly did "dream of things that never were and wonder why not?"

If I sound disappointed, I am. If I sound discouraged, I am not.

I am not discouraged for many reasons, but none is more important than my faith in you and the other young people of this country.

Many of us hope we are correct when we say we believe you are different; that something new is afoot; something qualitatively different is occurring.

Your generation appears to us to be more idealistic, more human, more concerned with personal honesty and commitment than any previous generation.

The quality of personal relationships seems to concern you more than it did the activists of my campus days, or than it does those in my political environment today.

I sense in you a healthy reaction from the impersonality of the institutions facing you; I see a strong desire for a society which is humane.

If this observation is accurate, then I hope you never grow up. I hope instead that you are able to infect the rest of us with your kind of maturity.

Having said this, I must add that I see some disturbing tendencies among some of your generation—disturbing in that they are wasteful.

The first tendency is perhaps best illustrated by a long and frustrating conversation I had in Washington with one of our nation's most gifted student leaders. I was trying to discover what it was that caused him to believe that existing institutions, particularly government, could not be reformed.

Finally in despair I asked him what he thought I could do as a United States Senator to help. I'll never forget his answer. He said, "There isn't much you can do here."

I believe this comment reflects a belief that, first of all, it is impossible to reform the system very much from the top, and second, that the fundamental problems of our society are those involving person-to-person relationships, which can only be dealt with at a level closer to the people.

The conclusion seems to be that politics at the center—particularly in Washington but also in the state capitols and city halls—isn't really that important or relevant to the major concerns of your generation.

One result of that conclusion appears to be that some of the brightest of your generation are "opting out" of the political process. Many young people organized brilliantly to change our national life in the area of civil rights. Many of you organized brilliantly to change our national policy in the area of foreign relations. And you have won.

But others now seem to be limiting their actions to the range of their perceptive selves.

What bothers me is the fear that the young may be threatening their high values with some lousy strategy.

Working out one's identity and trying to live as a decent human being is a crucial goal. But I believe that the political system is such that it cannot forever be ignored; it must be used, molded, wrenched, or even fought.

And if you don't make the effort to influence or capture political power at the center, then I just don't see how the plan of simply living a decent and human life will work.

You won't be able to climb a hilltop and enjoy the flowers—or even the grass—because we will have polluted the air and killed practically everything that grows.

You won't have a view from that hill, because we will have blocked it off with billboards.

And you won't be left in peace by a hungry world that we won't help feed.

And the process of dehumanization will continue as our institutions and our society pass entirely out of your control.

What I'm saying is this: I'm glad you are experimenting, both organizationally and personally, to solve problems in ways more imaginative than before and on many more levels than before. I am simply suggesting that these experiments should not be accompanied by rejection of the effective use of political power.

If you accept my suggestion that you are important to the political process, may I make a few closing observations about the tactics and attitudes I believe to be needed.

The right to demonstrate, protest, picket, and in other peaceful ways to dramatize one's viewpoint—including peaceful civil disobedience if one is willing to pay the price imposed by law—this right must be an accepted and protected part of American life. And those few law enforcement officers who disagree must just learn to live with this indispensable right of a free people. The objective here is to persuade, to make one's point of view more visible and dramatic.

But there is another tactic I hope you will reject; that is, the effort to impose opinion by force. Some will tell you that violence will more quickly and effectively achieve your goals. They tell us that "democracy is in the streets"; meaning that issues must be settled by violent conflict. They would substitute the law of force for the force of law.

Those who resort to such tactics will not only lose personally but will greatly injure their cause. Undoubtedly the growing strength of the right-wing repressive movement in this country is partly attributable to the violence we have seen.

For I do not believe that a society can be both free and violent. A free society must maintain itself in love and hope, not hate and fear.

Long ago William Butler Yeats described a declining society in phrases that should haunt us today:

"Things fly apart; the center cannot hold. The best lack all conviction, and the worst are filled with passionate intensity."

He was describing another time, and another kind of passionate intensity. But his words are a warning to us now.

Let us turn away from that kind of passion, and let me close with some final thoughts about this society. One of the exciting things about living now is that John Gardner, former Secretary of Health, Education, and Welfare, is living and writing, too. He must be one of America's great citizens.

In his commencement address this year at Cornell University, Gardner reported on his discovery of a system by which one could look three centuries ahead and evaluate the quality of life today by hindsight.

His 23rd century scholars discovered that in the last third of the 20th century "the rage to demolish" American institutions succeeded "beyond the fondest dreams" of the "dismantlers."

Following the destruction of our culture, "there followed less than a century of chaos and disorder," unlike the long dark years of the Middle Ages.

When society had rebuilt, a study was commenced to determine what caused the downfall of civilized society in our time. They asked: "Why did men turn on their institutions and destroy them in a fit of impatience?"

They found that our "demands for instant performance led to instant disillusionment, for while aspirations leapt ahead, human institutions remained sluggish—less sluggish to be sure, than at any previous time in history, but still inadequately responsive to human needs."

The 23rd Century scholars, looking back on us, made a very telling osbervation, Gardner reports.

"They pointed out that 20th Century institutions were caught in a savage crossfire between uncritical lovers and unloving critics. On the one side, those who loved their institutions tended to smother them in an embrace of death, loving their rigidities more than their promise, shielding them from life-giving criticism. On the other side, there arose a breed of critics without love, skilled in demolition but untutored in the arts by which human institutions are nurtured and strengthened and made to flourish.

"Between the two, the institutions perished."

And then the scholars concluded something which I would like to make my conclusion, too. I do so as one who has spent his entire adult life trying to reform our institutions; one who has been privileged to be your Attorney General and one of your Senators; one who believes with Gardner that our institutions desperately need reform *and* affection.

The scholars decided this:

". . . where human institutions are concerned, love without criticism brings stagnation, and criticism without love brings destruction."

What we need are loving critics; persons "sufficiently serious to study their institutions, sufficiently dedicated to become expert in the art of modifying them."

The 23rd Century scholars discovered that in our time there were men who tried to "redesign their own society for continuous renewal."

But no one was listening. In words that fit the theme of Welcome Week, no one was aware.

May those 23rd century scholars learn instead that you here matched your idealism with your learning at this great University and that you not only became aware but committed yourselves to a lifetime of service in the cause of "continuous renewal of human institutions."

May they learn that because of you both the advice of the uncritical lovers leading to stagnation and that of the unloving critics leading to destruction, was rejected, and that in this place at this time we developed a nation of loving critics who so reformed human institutions that freedom, hope, opportunity, and fulfillment became a reality for all of our people.

Or, finally, to come back once more to what it means to be aware in the 20th Century, let us work in all our ways—let us work together above all—so that all of us might be remembered "simply as (good and decent men), who saw wrong and tried to right it, saw suffering and tried to heal it, saw war and tried to stop it.

Welcome to the University of Minnesota.

NOMINATION OF JUSTICE FORTAS

Mr. BROOKE. Mr. President, the distinguished Senator from Michigan [Mr. GRIFFIN] and I do not agree on the merits of the pending nomination of Mr. Abe Fortas as Chief Justice of the United States. However, we are close associates and friends in the Senate, and I know that some of the attacks which have been leveled against the junior Senator from Michigan are very unfair. For that reason, I believe a recent article published in the Baltimore, Md., Jewish Times should receive public attention.

Mr. President, I ask unanimous consent that the Baltimore Jewish Times article, written by editor Lewis Fields, be printed in the RECORD.

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

[From the Baltimore Jewish Times, Sept. 6, 1968]

AN INTERVIEW WITH SENATOR ROBERT P. GRIFFIN

I was plagued with a feeling of tension and eagerness as I looked for a parking spot in front of the Old Senate Office Building in Northeast Washington.

The confronting situation emitted the atmosphere similar to a crowd-filled stadium looking down at a three and two count on the clean-up hitter, with two out, bases loaded, a tie ball game, and the pennant at stake. Both hitter and pitcher aim to do what is right for all parties concerned. In the case of my quickly-approaching interview with Senator Griffin of Michigan, it didn't matter what position he was placed in. Batter or pitcher, he believes he performed ethically and positively as his conscience dictated in the Fortas issue.

I was greeted in the receptionist's office by Mr. Holland his executive assistant and told that the Senator would be a few moments. A couple of minutes later, Senator Griffin came out and we were introduced.

The tense atmosphere was broken with coffee for all and we kidded a bit while our photographer, Bill Clinton took some pix.

Your columnist spent many hours in the

Library of Congress doing research on the Senate Judiciary hearings; Congressional Records, and news clips from all over the nation to assess the reaction and impact of the Fortas case.

There were mountains of material to look through and after sifting the reality from the chaff, I concluded the best way to conduct the interview would be with questions and answers rather than discussion on specific points. The time element allotted us also served to determine this tack.

It might serve well to realize at this point that the Senate Judiciary hearings are still open and many questions could not be completely answered. I would also like to make a correction on my own behalf. I stated in a previous column that the Honorable Mr. Griffin was a member of the Judiciary Committee. The Senator is not a member.

To conserve space, we took the meat out of each answer and did away with insignificant elaboration.

The first two questions were used as a warm-up and a basis to acquaint each other with approach.

Question 1: Do you think the performance of the Democratic Convention will aid GOP election chances in November, notwithstanding past circus performances which have become an integral part of the Democratic Party image?

Senator Griffin: "Only time will tell. On a broader aspect, it has served violence more than our disagreements. It emphasized and underscored the deep divisions in our country and how difficult it will be for the next President—whether it is Nixon or Humphrey—to unify the country and to reestablish the needed respect for government. Our institutions of government and institutions of political processes are deteriorating. The young people are disillusioned. This is the real challenge."

Question 2: With Senator Muskie almost as "unknown" as Governor Agnew, what is your assessment of the election now that the race has logically narrowed to Humphrey and Nixon?

Senator Griffin: "Your question is well-worded . . . Humphrey and Nixon. Regardless of who is in the VP slot, the people will vote for the Presidential candidate. My strong suspicion is that what happened did not help Humphrey, but there is a lot of time left in the campaign. It is possible that some dramatic move or dramatic happening could change the situation drastically."

Question 3: The Senate Judiciary Committee used the technicality of a letter of resignation written by Chief Justice Warren as an emphatic indication that no vacancy exists. Am I right?

Senator Griffin: "Some members of the Judiciary Committee take that position, but I don't know what the Judiciary position is because the hearings are still open. They will go into executive session, when they close testimony to take a vote within the committee. When they issue their report, we'll know what they have decided."

Supplementary question: I understand. But, what I want to know is whether the letter written by Justice Warren constitutes or does not constitute a vacancy?

Senator Griffin: "If you are asking my opinion, I don't think there is a vacancy at this time. I think it's pretty clear at this time. Mr. Warren's letter to the President was clear in stating, 'I will retire at your pleasure, Mr. President,' and Mr. Johnson replied 'that I will accept your declaration to retire effective when your successor has qualified'. There would be a vacancy if Mr. Fortas is confirmed by the Senate. It is also interesting to note there was never a resignation by a Justice of the Supreme Court in this manner. All vacancies in the past have occurred because of death or through absolute retirement. The exchange of letters reveals a charge of suspicion that some sort of manipulation or political operation is going on where the Chief Justice and the President are trying to determine a particular appointment. I believe very strongly that this is not the function of the Chief Justice and that he should either serve or retire."

Question 4: Then how do you account for the statement in your speeches and those of your colleagues quoted in newspapers, and other media, and the Congressional Record in which you state there is a vacancy, i.e. I would approve of Ambassador Goldberg filling the vacancy?

Senator Griffin: "Let me review the history leading to the statement. June 14: an item appeared in the Wall Street Journal stating Chief Justice Warren may quit to have a voice in the selection of his successor. June 21: many newspaper stories said, 'authoritative sources' said that Mr. Warren submitted his resignation to Mr. Johnson. The reports did not really state whether it was a letter of resignation. During the five-day period all we had were reports. I appeared at the Michigan Press Association in Sault Ste. Marie, Mich., on June 22. Before I knew anything, I indicated disagreement with the retirement and its purpose. I did not approve of the maneuver and I stated I would oppose the nominee under those circumstances regardless whom President Johnson might name. I made reference to the President as a lame-duck President and I know now how inappropriate it seems to some people; but with the two parties having nominated their Presidential candidate, the term now seems more and more appropriate. However, someone asked me what I would do if Ambassador Goldberg were named to fill the vacancy. I said he would be the one exception to my statement. The reason is that in the minds of most people whether you agree or disagree with his philosophy, he has been on leave from the United States Supreme Court to serve his nation in the United Nations. People expect him to return to the court—and I expect him to return to the Court. If President Johnson made this nomination, I would not oppose it. Now, this is the context."

Question 5: A feeling there is bigotry on the panel of the Judiciary Committee exists. Some people feel that Senators Thurmond and Eastland and Erwin are the biggest offenders. It is an unkind thing to say, but some people are judged by the company they keep. A refusal to confirm has snowballed. Senator Javits said he would approach Mr. Nixon to calm the waves. Do you think the southern bloc will maintain their present objection even if you reverse your attitude?

Senator Griffin: "No, I'll not change my position and it does not only relate to Mr. Fortas, but to Mr. Thornberry as well. But I would like to make a statement which you have not questioned yet. All of the Senators in the negative or positive do not base the situation on religious affiliation. Senator Jake Javits who is a very close friend of mine and with whom I work on the Labor and Welfare Committee made it clear. I would like to refer to a speech made to the National Press Club. I was disappointed in that Mr. Johnson named Mr. Thornberry, a close personal friend of his for many long years, but also a person that some leaders of the Bar Assoication do not support enthusiastically. He is also from Texas. In naming a Texan, Mr. Johnson followed an old practice which ought to be discredited in this day and age. For a number of years we have had one Catholic judge, one Jewish judge and one Texas judge on the Supreme Court. And when, he nominated Mr. Thornberry, he perpetuated that practice. I don't know why it wouldn't be acceptable, proper, and indeed, commendable to have done what I indicated would have met my approval. That is to name Mr. Goldberg to the 'vacancy'. Why can't we have two Catholic justices; why couldn't we have two Jewish justices; why must we have a Texas judge on the Supreme Court? When people raise religious thinking with Senators, they should remember 1959. A Democratic majority led by Senator Lyndon Johnson who was Senate Majority leader rejected the nomination of Lewis Strauss to be President Eisenhower's Secretary of Commerce. It is easier to confirm a nominee for cabinet appointment, because he serves only with the President. When the President's term is up, he goes out. It is almost inexcusable to deny an appointment of the President to the Cabinet. Strauss, I think, was chairman of the National Council of Christians and Jews and an outstanding lay leader. There wasn't any reason for his being rejected by Mr. Johnson or any other person because he was a Jew. They did not like his philosophy and there were many other positions taken, such as the Tennessee Valley Authority. It didn't have anything to do with his religion; and I hope that the vast majority of people in the Jewish community do not feel this is the case here either."

Question 6: Other than being an esteemed member of the Senate, how do you qualify your judgment that Associate Justice Fortas is not an adequate candidate for the higher office, and for what reasons do you do so?

Senator Griffin: "I indicated before that I took the position after the notice in the Wall Street Journal of Mr. Warren's resignation and before Mr. Johnson named anyone, that I would oppose the nominations under those circumstances regardless of who he would nominate. The question of Mr. Fortas' or Mr. Thornberry's qualifications aren't really a part of the issue at the present."

Question 7: The Washington Post had an article which stated in part, "Among objections to Griffin was the complaint already made in Jewish communities, that the Griffin led campaign has stirred antisemitic sentiment. Although not accepted by most at the meeting, the party could not risk a man who might provide unwanted controversy. Are they saying they entertain some doubts you might be anti-semitic?

Senator Griffin: "It's more difficult for me to interpret that than it is for you. Of course the language is ambiguous. I wasn't sitting in on the meeting of my fellow Republicans where some of them discussed the possibility I might be a part of the ticket. There is no question among my colleagues that my position has no relationship to the religious affiliation of either nominee. My good friend, Jack Javits asked me, if anybody in or out of the Jewish community raises the question on my motives; to let him know who they are as he would like to contact and talk to them about it. Jack Javits has been very helpful in that respect. Let's recognize the fact. Regardless of my reasons, I suspect they are misunderstood by some segments of the Jewish community and that is unfortunate. Reporting has not been confined to the facts. It has been more of the editorial commentary type, and whether or not it has been fair, the fact is the question has been raised and I commend you, and the Baltimore Jewish Times, for being here in my office today to give me the opportunity to at least present my views. I also want to emphasize I was never a candidate running for the office. But I suspect others were eliminated because they were controversial for other reasons.

Question 8: Many outstanding citizens, including Abe Goldberg, endorsed Abe Fortas as being most qualified. The Judiciary Committee insists he is not. What I would like to know is: Is he or isn't he?

Senator Griffin: "The Judiciary Committee has really not passed judgment. Some members of the Committee have, individually. I feel most people believe when the Committee takes a vote, a majority will report favorably on the nominations.

Supplementary question: The American Bar Assn. issued a statement on the Supreme Court and criticized methods used by op-

ponents of Abe Fortas for Chief Justice. They also considered it "inappropriate" for Senators "to interrogate a nominee for judicial office as to the rationale or motivation of particular judicial decisons, whether or not the nominee participated therein." And, they have also approved of Fortas.

Senator Griffin: "The US constitution doesn't say that appointments shall be made to the Supreme Court by the President with the advice and consent of the ABA; it says with the consent and advice of the US Senate. The Justice Dept. does call upon the ABA, which delegates responsibility to its Judiciary Committee, to pass on legal qualifications of an appointment. It's important to keep in mind that the ABA standards do not satisfy the Senate's responsibilities which are broader. There are few instances where the Senate rejected anyone with adequate legal qualifications. A Mr. Parker was rejected in the '30's for his views on economic and social issues. It is proper and appropriate for the Senate to take these factors into account, whereas the ABA would not, to emphasize the ABA has only a limited responsibility here. In the case of Mr. Fortas, he probably not only meets them, he far exceeds them. He is recognized, I think, as a brilliant lawyer. But that's not the question as far as the Senate is concerned."

Question 9: Allow me to refer to Aug. 12. I can't expect you to answer for someone else; but since you are a part of the company you may be able to. On a radio program, Jack Anderson said Senator Thurmond met with Nixon weeks prior to the GOP Convention. Nixon promised to discuss all nominess to the Supreme Court with Thurmond. On Aug. 22, Drew Pearson stated he had evidence about this too. And said Fortas would resign shortly after being rejected by the Senate Judiciary Committee. At the convention, I think it was Sandor Vanocur who interviewed Thurmond who said he had a veto on Supreme Court nominations and quickly retracted the statement. How would you assess the impact evolving therefrom, and the possibility that forces may weld to defeat you for any future public office?

Senator Griffin: "I do not believe and I reject any report, suggestion or charge that Senator Thurmond is going to have some sort of veto power. He is one of the U.S. Senators and would certainly have all the prerogatives of any Senator. But in my own mind, I do not accept any insinuations indicated in the reports you quoted. As for the political impact, I don't know what it would be. I'm sure if I discharged my responsibilities on the basis of political impact, I might be the spineless person who never took a position on anything because it would be the easiest way for reelection. The history of my involvement, position, and participation is a matter of public record. I've taken a position and I've pursued this course because I think it's right. I think if we do prevail, future Presidents will not send up cronies for appointments; and we may see people like Justice Cardoza and Justice Brandeis being appointed simply because they are the best available for a particular position. These tainted appointments do not help build respect for the institutions of government at a time when we need to restore respect to the courts and the Supreme Court, for the Presidency, and for the Congress. We have to reject these nominations for the reasons that are on the record."

Question 10: Senator. What is your stand in the Middle East issue and how do you project your stand for Israel, if you do?

Senator Griffin: "I've jointly sponsored a resolution (S. Res. 383—July 29, 1968) calling for the President to expedite the sale of Phantom jets to Israel. If I may, I'd like to go back to a question which I do not think was completely answered. You referred to Sens. Thurmond and Eastland being on my side and the type of company I keep. This matter is always difficult in the Senate. This is a good question because it's on people's minds, but it suggests the concept of guilt by association. Many people and liberals deplore this. In almost any major issue that comes up in the Senate, someone is on either side of me whom I differ with and who may be in public disfavor, but I have to vote, and either way I am encamped with someone I wouldn't want to be in camp with. The fact is some southerners are on my side for different reasons; perhaps against the Warren court as much as Fortas and some of his decisions. I have voted for every civil rights issue in the last 12 years and on the other hand, I've disagreed with some of the decisions in the area of crime. And in the same sense, I don't base my objections to the nominations on a review of Supreme Court opinions. There action might be weighed in the light with Mr. Fong of Hawaii who also agrees with me. You must look at each Senator and weigh his issues alone."

Senator Griffin impressed me as a person with a high standard of ethics. His integrity projects the courage to do the right which his conscience dictates without wavering one iota. Our conversation continued beyond that which the tape consumed, and if the Jewish community ever had a friend in the Senate, they could not overlook the junior Senator from Michigan.

TOWARD A SECRETARY OF PEACE

Mr. HARTKE. Mr. President, yesterday I was happy to ask unanimous consent that the Senator from West Virginia [Mr. RANDOLPH] might be listed as a cosponsor of my bill S. 4019 to establish a new Cabinet-level Department of Peace.

I invite attention to the fact, which does not appear in the request, that as a Member of Congress in 1945, the then Representative JENNINGS RANDOLPH offered a similar bill for a Department and a Secretary of Peace. He also introduced such a bill in 1959 after becoming a Senator, and by coincidence he served in August as chairman of a Democratic platform committee panel before which I appeared to urge the inclusion of such a proposal as a platform plank.

As I noted in introducing the bill 1 week ago today, the history of such proposals in this country goes back to Dr. Benjamin Rush, a signer of the Declaration of Independence, who wrote a short essay on "A Plan of a Peace-Office of the United States" in 1799. More recently, legislative proposals have been offered for the same basic purpose in one form or another by such persons as Senator EVERETT DIRKSEN while a Member of the House of Representatives; Senators Alexander Wiley, of Wisconsin; Matthew Neely, of West Virginia; and Chapman Revercomb, of West Virginia; and Representatives HARLEY STAGGERS, CHARLES BENNETT, and MELVIN SNYDER. Senator HUBERT HUMPHREY also offered such a bill in 1960.

Twice, in 1945 and 1947, hearings on the subject were held in the House, and one of the bills considered at the earlier date was that of Senator then Representative RANDOLPH.

Since Representative SEYMOUR HALPERN also introduced such legislation last week in a parallel bill which now has 25 cosponsors, I trust that many more Senators will join me when I offer this bill again in the 91st Congress, and that Senator RIBICOFF's Government Operations Subcommittee will schedule it for serious hearings. I hope that in the meantime a great number of citizens across the Nation will learn of the Hartke-Halpern Department of Peace bill and will make their support heard in the offices of every Senator and Representative, so that this vital proposal may become a reality.

FORTAS AND THE CLAIM OF EXECUTIVE PRIVILEGE

Mr. GRIFFIN. Mr. President, earlier in the week, two officials of the Johnson administration refused to appear and testify before the Committee on the Judiciary concerning reports that Justice Abe Fortas had helped the White House in drafting legislation this year.

In letters to the committee, Treasury Undersecretary Joseph W. Barr and W. DeVier Pierson, associate special counsel to the President, based their refusal on the claim of "executive privilege."

In hiding behind the claim of "executive privilege," they and the administration repudiated an explicit policy established by the late President John F. Kennedy and adopted by President Johnson. Both Presidents assured Congress in writing that information would not be withheld on the ground of "executive privilege" unless the President himself invoked it.

In a letter dated March 7, 1962, to Chairman JOHN MOSS of the Special Government Information Subcommittee of the House Committee on Government Operations, President John F. Kennedy wrote:

> As you know, this Administration has gone to great lengths to achieve full cooperation with the Congress in making available to it all appropriate documents, correspondence and information. This is the basic policy of this Administration, and it will continue to be so. *Executive privilege can be invoked only by the President and will not be used without specific Presidential approval.*

In a letter of April 2, 1965, to Representative Moss, President Johnson wrote:

> Since assuming the Presidency, I have followed the policy laid down by President Kennedy in his letter to you of March 7, 1962, dealing with the subject. *Thus, the claim of "executive privilege" will continue to be made only by the President.*

To my knowledge, the refusal this week by Messrs. Barr and Pierson is the first outright violation of that sound policy. If there have been other instances, I am not aware of them.

While I served in the House, I was a member of the Moss subcommittee, which fought long, hard, and successfully against efforts by the executive branch to restrict and withhold information from Congress and the public. I was very active in that struggle, which had the strong support of the press.

I wonder what the reaction of the Nation's press will be to the sudden junking this week of the sound policy which was so difficult to obtain.

Although we have seen no evidence yet in the newspaper of an outcry, I am confident that the press will not remain silent.

Congress and the public are indebted to Mr. Samuel J. Archibald, of the Washington office of the Freedom of Information Center, for his warning that: The principle of congressional access to executive branch information is too important to let stand the informal claim of "executive privilege." To do so will establish a dangerous precedent as a new administration is about to take office and conflicts over access to information can be expected between Congress and the executive branch.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD at the conclusion of my remarks: the text of President Kennedy's letter of March 7, 1962, and of President Johnson's letter of April 2, 1965, to chairman JOHN E. Moss of the House Government Information Subcommittee; the text of Under Secretary Barr's and Mr. Pierson's letters of refusal to the Senate Committee on the Judiciary; and the text of a September 17 letter to Chairman Eastland of the Senate Judiciary Committee from Samuel J. Archibald, of the Freedom of Information Center.

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

THE WHITE HOUSE,
Washington, March 7, 1962.

Hon. JOHN E. MOSS,
Chairman, Special Government Information Subcommittee of the Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of last month inquiring generally about the practice this Administration will follow in invoking the doctrine of executive privilege in withholding certain information from the Congress.

As your letter indicated, my letter of February 8 to Secretary McNamara made it perfectly clear that the directive to refuse to make certain specific information available to a special subcommittee of the Senate Armed Services Committee was limited to that specific request and that "each case must be judged on its merits."

As you know, this Administration has gone to great lengths to achieve full cooperation with the Congress in making available to it all appropriate documents, correspondence and information. That is the basic policy of this Administration, and it will continue to be so. *Executive privilege can be invoked only by the President and will not be used without specific Presidential approval.* Your own interest in assuring the widest public accessibility to governmental information is, of course, well known, and I can assure you this Administration will continue to cooperate with your subcommittee and the entire Congress in achieving this objective.

Sincerely,

JOHN F. KENNEDY.

THE WHITE HOUSE,
Washington, April 2, 1965.

Hon. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee of the Committee on Government Operations, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I have your recent letter discussing the use of the claim of "executive privilege" in connection with Congressional requests for documents and other information.

Since assuming the Presidency, I have followed the policy laid down by President Kennedy in his letter to you of March 7, 1962, dealing with this subject. Thus, the claim of "executive privilege" will continue to be made only by the President.

This administration has attempted to cooperate completely with the Congress in making available to it all information possible, and that will continue to be our policy.

I appreciate the time and energy that you and your Subcommittee have devoted to this subject and welcome the opportunity to state formally my policy on this important subject.

Sincerely,

LYNDON B. JOHNSON.

[From the Washington (D.C.) Post, Sept. 17, 1968]

TEXTS OF BARR, PIERSON LETTERS

(NOTE.—*Following are letters to Senate Judiciary Committee Chairman James O. Eastland (D.-Miss.) from Treasury Under Secretary Joseph W. Barr and White House aide W. De Vier Pierson declining to appear at Committee hearings on the nomination of Abe Fortas as Chief Justice of the U.S.*)

BARR'S LETTER

I have your invitation to appear before the Committee on the Judiciary to testify in the hearings on the nomination of Mr. Justice Fortas to be Chief Justice.

My understanding is that the Committee wishes my testimony concerning the development of legislation authorizing Secret Service protection to Presidential candidates, which was enacted on June 6, 1968 on an urgent basis following the assassination of Senator Robert F. Kennedy. The legislation had been in preparation for some time as a cooperative effort of the Appropriations Committee and the Executive branch. In the development of this legislation, I participated in meetings with representatives of the White House and discussed the matter directly with the President.

Based on long-standing precedents, it would be improper for me under these circumstances to give testimony before a Congressional committee concerning such meetings and discussions. Therefore, I must, with great respect, decline your invitation to appear and testify.

PIERSON'S LETTER

I have received an invitation from the Chief Counsel of the Senate Judiciary Committee to appear at hearings being held to consider the confirmation of Mr. Justice Fortas as Chief Justice of the United States. I understand that the Committee wishes to interrogate me regarding the drafting of legislation authorizing Secret Service protection for Presidential candidates.

As Associate Special Counsel to the President since March of 1967, I have been one of the "immediate staff assistants" provided to the President by law. (3 U.S.C. 105, 106.) It has been firmly established, as a matter of principle and precedents, that members of the President's immediate staff shall not appear before a Congressional committee to testify with respect to the performance of their duties on behalf of the President. This limitation, which has been recognized by the Congress as well as the Executive, is fundamental to our system of government. I must, therefore, respectfully decline the invitation to testify in these hearings.

FREEDOM OF INFORMATION CENTER,
Washington, September 17, 1968.

Senator JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I hope the Senate Judiciary Committee will not accept the claim of "executive privilege" by two government officials in direct violation of policies established by Presidents John F. Kennedy and Lyndon B. Johnson.

In a letter of March 7, 1962 to Congressman John E. Moss, chairman of the House Government Information Subcommittee, President Kennedy stated that "executive privilege can be invoked only by the President and will not be used without specific Presidential approval." This policy was continued by President Lyndon B. Johnson in a letter of April 2, 1965 to Congressman Moss when he stated that "the claim of 'executive privilege' will continue to be made only by the President."

Treasury Undersecretary Joseph W. Barr and White House Aide W. DeVier Pierson in letters to your Committee have refused to provide information to the Congress on the basis of "precedents," harking back to a Presidential letter of May 17, 1954 which became the basis for dozens of refusals by Executive Branch officials, without specific Presidential authority, to ignore Congressional requests for information.

As Staff Director of the Moss Committee, I supervised the studies of the problem of "executive privilege," drafted the letters from Congressman Moss to Presidents Kennedy and Johnson and negotiated the answers with White House officials. Since Presidents Kennedy and Johnson established the policy that "executive privilege" is a Presidential prerogative, not one single claim of "executive privilege" has been allowed to stand in the face of a formal Committee request for information.

Regardless of the absurdity of some of the issues discussed at the hearings on the nomination of Associate Justice Abe Fortas, the principle of Congressional access to Executive Branch information is too important to let stand the informal claim of "executive privilege." To do so will establish a dangerous precedent as a new administration is about to take office and conflicts over access to information can be expected between the Congress and the Executive Branch.

At the very least, the Senate Judiciary Committee should decide whether or not the informal claim of "executive privilege" by Undersecretary Barr and Mr. Pierson should be accepted. If not, the Committee should insist that President Johnson either support their claim or reject it.

Sincerely,

SAMUEL J. ARCHIBALD,
Washington Office, FOICUM.

"THERE IS A LESSON"—DISCUSSIONS ON VIETNAM

Mr. HARTKE. Mr. President, today a number of Senators, some members of the press, and staff members of the Foreign Relations Committee and of some Senators who could not attend, joined me in discussions on Vietnam at a luncheon arranged by my staff with the cooperation of the Vietnam Education Project of the United Methodist Church.

Our guest speakers were Richard Berliner, who returned only Sunday from 2 years with the International Voluntary Service in Vietnam, and Dr. David Marr, of the University of California. Other Vietnam-speaking persons present included Tran Van Dinh, Washington journalist, and former Ambassador from Vietnam; Gene Stoltzfus, former deputy director of IVS in Vietnam; and Stuart Bloch, a Harvard Law School graduate who spent several months in the same capacity in 1967 and 1968.

I bring this to attention particularly because of a brief but compelling analysis written by Dr. Marr of the lesson we should learn from Vietnam, a copy of which each person attending received. Before asking consent for its inclusion in

the RECORD, I want to note the remarkable background of Dr. Marr. A 1955 Dartmouth Phi Beta Kappa graduate in international relations, he followed his ROTC training with service in the U.S. Marines, where he learned Vietnamese and became a Marine intelligence officer. He was among the first contingent to serve in Vietnam in 1964 under the new policy which allowed American troops to go beyond advisory duties and shoot back if shot at. Following his discharge as a captain, he undertook graduate work on a defense foreign language fellowship for Japanese and East Asian studies. His master's thesis, based on research in Vietnam, dealt with the attitudes and activities of South Vietnam's "young urban intellectuals." There followed doctoral study under a Fulbright-Hayes fellowship, again on the scene, which produced a dissertation on the anticolonial movements in Vietnam against the French from 1885 to 1925. In all, he spent 5 years in Vietnam and is also married to a Vietnamese. Now a recognized historian specializing in Vietnam and Asian problems, he returned from Vietnam at the first of this year to begin his university teaching.

With these qualifications, military as well as academic, Dr. Marr speaks of our Vietnam situation with unusual knowledge and the objectivity of the scholar. Consequently, I wish to share the material he has written, entitled "There Is a Lesson," with Senators who were unable to accept my invitation to join us.

Mr. President, I ask unanimous consent that the analysis be printed in the RECORD.

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

THERE IS A LESSON

Regardless of political affiliation, every American must hope that we will learn something from our Vietnam experience. If, shall we say, the United States were to be granted one single oracle on this subject, no more, it might go about as follows:

A nation may be the most powerful on earth, but it cannot possibly know what is happening everywhere, everytime. On the other hand, it is tragic folly to commit one's blood and treasure without learning the history, politics and sociocultural background of the area involved and, equally important, conveying this knowledge to men at all levels charged with implementing policy. In short, *priorities must be established*, both as to strategic interests and serious, long-term studies.

U.S. power was applied in the politics of Indochina as early as 1944 and by 1955 we had taken on major commitments of which most Americans, including many in government, simply were not aware. By 1962, when we were being forced to back up our commitments with thousands of men and hundreds of aircraft, the man in the street was still completely unconcerned, and his government was doing little to enlighten him. Enlisted men arriving in Vietnam by air from Okinawa or Clark Field were still asking the briefing officer whether they were closer to Japan or France. Helicopter pilots, while mostly college educated and well aware of geographical locations, knew absolutely nothing about the people of Vietnam. The result: everyone grabbed for quick stereotypes—"slopeheads," "money-grabbers", "shifty-eyed" "dirty." The men hung on to these images and, worse yet, soberly conveyed each of them to their replacements six months or a year later.

At command and staff levels, where decisions were being made everyday, regardless, the situation was almost as grim. There were only a dozen or so Vietnamese linguists and not one American on the spot really familiar with the history and culture of the country. Whatever was provided on such subjects had been culled from a few, highly generalized French texts. Staff intelligence briefings stressed enemy numbers, weaponry, locations of main units, but had almost nothing on political motivation of the enemy, local cell structure, or the relationship of the mass of the villagers to the conflict at hand.

In 1963–64, when U.S. military and civilian echelons began to involve themselves in day-to-day attempts at governing the country, it was still only the CIA that maintained a sizable active file on Vietnam's political personalities; and most of this was gathered from old French files or from local informations who had been playing this game, for money, well back into colonial days. Top-level generals being briefed in Hawaii hardly concealed their impatience at the mention of Vietnam's turbulent politics and insisted on calling major Vietnamese personalities by nicknames, rather than learning correct pronunciations. An enterprising Marine Sergeant and intelligence specialist developing a personality file for future reference was ordered to cull out all but high-ranking officers and cabinet officials.

Back in the U.S. in late 1964 and 1965, where decisions were made to bomb North Vietnam and commit hundreds of thousands of American combat troops, there still was not an acceptable book in English on the history of Vietnam. Journalists and a few scholars rushed books into print to feed the demands of an increasingly concerned American public. Such efforts, while generally sincere, often served only to demonstrate how minimal was our store of hard, primary data on Vietnam.

Today, in 1968, there still is not a center for Vietnamese studies at any American university. Our top echelon in Saigon, the U.S. "Mission Council", still does not include a single person who speaks fluent Vietnamese. Considerable gains have been made in the collection of intelligence, but only at the expense of a general encroachment on parallel Vietnamese organizations. We still do not know what motivates various segments of the NLF and North Vietnamese apparatus, finding it easier to simply point in horror at examples of terror and coercion, or talking ourselves in circles as regards their amazingly complex organizational system.

It may well be that such questions, at least as they relate in a policy sense to Vietnam, are rapidly losing their obvious cogency. After, all, America's registered voter in Summer, 1968 does not have to read a book, much less study Vietnamese or research the psychology of the Vietnamese peasant, to know that something is radically wrong. He doesn't necessarily have to know how we got into this mess in order to decide that we must extricate ourselves, soon.

Nevertheless, our concern here, beyond events of the moment, is that enough Americans will come to understand the sequence, the manner in which we reached today's sorry situation, in order that they will know better what to do when similar circumstances arise elsewhere. This will not bring back the tens of thousands of Americans and hundreds of thousands of Vietnamese who have died. But it may save our children and grandchildren, perhaps all humanity, from a similar fate.

AUGUST 19, 1968.

CHEMICAL AND BIOLOGICAL WARFARE

Mr. CLARK. Mr. President, on July 30, 1968, I spoke on the floor of the Senate about the rising concern of scientists and other responsible citizens over the chemical and biological warfare program now being carried out by the Department of Defense. This concern has been heightened by the tragic events which occurred near the Dugway Proving Grounds in Utah when 6,000 sheep died from a nerve gas associated with military tests taking place at the time. On August 20, 1968, the Department of the Army agreed to pay compensation for the loss of these sheep, but because of the secrecy surrounding the military interest in this area of warfare, few details are known, and Defense Department officials refuse to assume responsibility for this accident.

This incident and other aspects of chemical and biological warfare are examined in some detail by Seymour Hersh in an article published in the New York Times magazine, of August 25, 1968. Mr. Hersh reviews the policies which have led to a budget of an estimated $300 million for the research, development, and employment of chemical agents, including a $70 million investment for defoliation in Vietnam.

Mr. President, because of the interest by members of the 18-nation Disarmament Conference in promoting a treaty to outlaw the use of such weapons, this subject deserves our serious attention. I ask unanimous consent that the article, entitled "The Secret Arsenal," be printed in the RECORD.

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

CHEMICAL AND BIOLOGICAL WEAPONS: THE SECRET ARSENAL

(By Seymour M. Hersh) [1]

WASHINGTON, D.C.— The Dugway Proving Grounds, main weapons-testing center for America's chemical and biological warfare (C.B.W.) research program, is a well-isolated military base; most of its one million acres are spread across the Great Salt Lake Desert in western Utah. The base's eastern edge—and the only access road to it—is about 80 mountainous miles west of Salt Lake City. In between are some small mountain ranges and sparsely inhabited valleys, where ranchers control vast acreage and thousands of sheep graze.

Until this spring, most Americans had never heard of the proving grounds, although Dugway has been testing chemical and biological weapons since World War II. The base's obscurity ended in March.

At 5:30 P.M. on Wednesday, March 13, an Air Force jet flew swiftly over a barren target zone and sprayed 320 gallons of a highly persistent, lethal nerve agent known as VX during a test of two new high-pressure dispensers for the gas. The test site was about 30 miles west of Skull Valley and about 45 miles west of Rush Valley, two large sheep-grazing areas. The site also was about 35 miles south of U.S. 40, one of the nation's most heavily traveled highways and a main link between the Midwest and California.

The winds were blowing from the west that day, with gusts reaching 35 miles an hour. Testing in strong winds was nothing new to the Army researchers; since the early nineteen-fifties millions of dollars had been spent on meteorological equipment and gauges at Dugway, and the scientists had long been able to predict accurately the dispersal of the killer gases—or so they thought.

[1] Seymour M. Hersh, a Washington-based freelance, wrote "Chemical and Biological Warfare: America's Hidden Arsenal."

On Thursday the sheep began to die in Skull and Rush Valleys. By Sunday more than 6,000 sheep were dead, and the top command at Dugway was informed of the outbreak by the ranchers. Veterinarians began inoculating thousands of sheep that day, but found that none of several vaccines used had any effect.

A week after the secret test flight, the Salt Lake City newspapers published dispatches telling of the mysterious sheep deaths and linking them to "some kind of poison." A spokesman for Dugway told the newspapers that tests on the base "definitely are not responsible" for the deaths. "Since we first found out about it," the official said, "we checked and found we hadn't been running any tests that would cause this."

How long the Army would have gone without telling the ranchers of the nerve gas tests is problematical; when the facts became known, it was by accident. On Thursday, March 21, the Pentagon responded to a request for more information from Senator Frank E. Moss, Utah Democrat, by sending a fact sheet to his office marked "For Official Use Only," an informal security classification intended to prevent public release. A young press aide in Moss's office promptly made the fact sheet public; the Army's attempt hours later to retrieve the document was too late.

The military quickly canceled all aerial spray tests at Dugway and spent the next three weeks issuing denials that nerve gas from Dugway had anything to do with the death of the sheep—even in the face of medical reports directly linking them to organic phosphate compounds (nerve gas is one such). On April 18, the Army acknowledged that "evidence points to the Army's involvement in the death of the sheep." By this time, the case of the poisoned sheep received little attention in the press.

The military's performance in the Dugway affair was consistent with its long-standing avoidance of public discussion of the controversial chemical and biological warfare program. Yet C.B.W. is a major effort, as can be seen in this partial catalogue of America's arsenal.

CHEMICALS: Odorless, colorless nerve gases that paralyze the nervous system and kill in minutes . . . strong anesthetic or psychochemical gases that produce temporary paralysis, blindness or deafness and can cause maniacal behavior . . . tear gases, one of which has the scent of apple blossoms, that can incapacitate in 20 seconds and, in heavy concentration, cause nausea . . . improved versions of World War I gases like adamsite (headache, nausea, chest pains) and mustard gas (lung and eye burns, blisters) that can kill in heavy doses . . . defoliants (for trees) and herbicides (for food plants) that in low dosage are not toxic to man—though heavy concentrations cause illness and, in the case of those with arsenic base, may cause arsenic poisoning.

BIOLOGICALS: Specific agents are unknown, but the military is known to have studied the following highly contagious diseases with C.B.W. intent—anthrax, fatal within 24 hours if it attacks the lungs . . . bubonic plague (the Black Death) and pneumonic plague . . . Q-fever, acute but rarely fatal, caused by an organism that can remain alive and infectious for years on end . . . encephalomyelitis, ranging from debilitating to fatal . . . brucellosis, also known as undulant fever. Using genetic knowledge and techniques developed within recent years, Army scientists have been able to devise subtle new strains of some of these diseases, changing their cellular make-up so that they become resistant to known antidotes.

When asked why the United States is developing its C.B.W. arsenal, military men at the Pentagon refer to a statement made by then Deputy Secretary of Defense Cyrus Vance stockpile consists of about one-sixth chemical munitions. Russian leaders have boasted that they are fully prepared to use new

After explaining that the United States seeks international agreements to curb the spread of C.B.W., Vance added: "As long as other nations, such as the Soviet Union, maintain large programs, we believe we must maintain our defensive and retaliatory capability. It is believed by many that President Roosevelt's statement in 1943, which promised 'to any perpetrators full and swift retaliation in kind,' played a significant role in preventing gas warfare in World War II. Until we achieve effective agreement to eliminate all stockpiles of these weapons, it may be necessary to be in a position to make such a statement again in the future."

The U.S. and the U.S.S.R., at any rate, are not alone in developing C.B.W. arsenals. Since World War II at least 13 other countries—Britain, Canada, Communist China, Nationalist China, France, West Germany, Poland, Sweden, Spain, Egypt, Cuba, Israel, and South Africa—have either publicly revealed that they are doing C.B.W. research, reluctantly confessed that they are doing "defensive" C.B.W. research, been accused of using such weapons or actually have initiated gas warfare in combat.

There have been, over the years, international efforts to curb chemical and biological arms production and use. A treaty prohibiting gas warfare was signed by Germany, France and other nations (not including Britain or the U.S.) at The Hague in 1899. It didn't stop gas warfare in World War I. Similar treaty negotiations failed in 1921, but four years later at the Geneva Conference a treaty was signed outlawing the "use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices." The U.S., Japan, Czechoslovakia, Argentina and Brazil did not sign. The United Nations passed a resolution in 1966 urging all countries to abide by international law affecting C.B.W. And just this month the British Government urged that a new international convention be drafted to update the Geneva ban. Meanwhile the weapons race has gone on.

American officials have made it plain that this nation considers itself bound by the Geneva treaty; they insist that the use of crop-killing chemicals and riot-control gases in Vietnam does not violate the treaty's ban. But critics here and abroad take strong issue with the U.S. interpretation of the treaty language—less than two weeks ago the Soviet Union charged that American use of chemicals in Vietnam violated international law. Critics also point out that American use of nonlethal gas in Vietnam has already escalated. Initially tear gas was used to control crowds or to clear bunkers—the intent being to prevent unnecessary loss of civilian and military lives. Now the South Vietnamese and American forces deploy nausea gas to clear out enemy bunkers—the intent being to set the enemy up for bombing missions. Fear of such escalation has historical precedent. As Elinor Langer noted in a series on C.B.W. in Science magazine last year, most of the World War I gas warfare deaths resulted from mustard gas, which was not introduced into combat until after both sides had tried tear gas.

The controversy over C.B.W. has elements in common with those that accompanied the development of nuclear weapons. Thus, proponents warn that other nations are ahead of the U.S. and speak of a chemical-biological "gap." Opponents insist that the American program is fostering a proliferation of C.B.W. weapons. But the whole subject has overtones of horror and revulsion that far outstrip the world's fears of a nuclear holocaust.

During World War II, chemical and biological warfare was a top-secret area of research in America. The research was continued after the war, but on a reduced level—during much of the nineteen-fifties, at between $50-million and $75-million a year, enough only to sustain existing programs. But in the last years of the Eisenhower Administration, C.B.W. spending increased, and in the fiscal 1962 budget, the one inherited by President John F. Kennedy, nearly $100-million was recommended. Over the next three years, as the Kennedy Administration moved from an overreliance on nuclear weapons toward a more flexible defense posture—with an emphasis, for example, on counterinsurgency methods—C.B.W. spending climbed to nearly $300-million a year with as much as 30 per cent of its budget earmarked for the manufacture of delivery systems such as bombs, shells and spray devices.

The last C.B.W. budget made public, for fiscal 1964, included a total of $157.9-million for research into C.B.W. agents, most of it for the Army Chemical Corps, and $136.7-million for the procurement of delivery systems. It is not known if maintenance and construction costs and wages are included in these totals. Today procurement costs are still classified, but Pentagon officials say spending on research has dropped by 5 per cent each year since 1964. It seems clear, however, that the overall investment in the C.B.W. program has grown with the advent of the Vietnam war. More than $70-million will be spent in the fiscal year that began July 1 on the purchase of defoliants.

The Army is generally responsible for the nation's C.B.W. work. The Navy and Air Force both have rapidly expanding programs but must conduct much of their research at Army installations on a pay-as-you-go basis. The Army operates five high-security C.B.W. bases and has leased another to a private firm; according to statistics made available by the bases, more than 3,750 officers and men and 9,700 civilians are employed in the system. The total value of the bases is about $1-billion; all have ambitious building programs.

The huge increases in research spending in the early nineteen-sixties enabled the Pentagon to turn more and more to the aerospace corporations and the multi-universities for aid in solving the complex meteorological and biochemical problems involved in spreading germs and gases in air and/or water. By 1964 all of the military's C.B.W. research facilities were fully computerized, and expensive research into such fields as biomathematics was making it possible to know beforehand how the agents could be most effectively dispersed.

The result was inevitable: major advances along the entire spectrum of chemical and biological warfare. Scientists—working at military bases, at more than 70 universities around the world at an even greater number of private and nonprofit corporations—have perfected a massive array of deadly agents. Complex delivery systems have been evolved: germs and gases have been successfully tested in guided missiles, hand grenades, bomb clusters, artillery shells and aerosol sprays. It is known that gas-carrying weapons have been distributed to U.S. forces throughout the world. There is no evidence of any similar distribution of germ-bearing weapons, but they are known to be stored in this country.

The military has consistently refused to make public many of the facts about C.B.W., including details about the Soviet program. When I asked one military man the reason for this policy, he said there is "very little one can say because it reveals our intelligence sources." Yet Pentagon officials have, on occasion, when seeking additional funds for C.B.W., talked on the record about the Russian effort.

In 1960 Lieut. Gen. A. G. Trudeau, then Chief of Army Research, told a House subcommittee on Defense appropriations that "we know that the Soviets are putting a high priority on development of lethal and nonlethal weapons, and that their weapons stockpile consists of about one-sixth chemical munitions. Russian leaders have boasted that they are fully prepared to use new

chemical weapons of great significance, and we know Soviet forces are trained in their use."

The generals have consistently told Congress that Russia is ahead in C.B.W. development. Former Defense Secretary Robert McNamara testified at House hearings on the 1969 Department of Defense budget that America's C.B.W. position was "adequate at the present time." He added: "The Soviets probably continue to do more than we do in this field, however."

A 1960 Army report to Congress stated that the Russians had within each military division "a specific unit devoted to the field of chemical warfare" and that they had large stockpiles of nerve gas. The report added that "Soviet medical and technical reports . . . show that they are equally well versed in biological warfare." And a Soviet general was quoted as saying: "Many of our scientists . . . regard research on the actions of poisons and on the development of antidotes to be their patriotic duty." In this report and elsewhere, mention has been made of a nationwide C.B.W. civil defense program in Russia; yet the importance of protecting the public against C.B.W. has certainly not been a preoccupation in this country. Neither the Defense Department nor any civil defense agency has made any significant attempt to inform the American public about the possible threat of such an attack; few gas masks are available for civilians; government warehouses have only a limited supply of the antibiotics and other antidotes that would be needed.

The need for what defense officials call "retaliatory capability as a deterrent" is only one of the arguments the U.S. military presents for continuing or even expanding the C.B.W. program. Another, as expressed in an interview with a high-ranking Pentagon officer: "In order for us to develop defenses against the tactical use of C.B.W. weapons, it's necessary to know what their offensive capabilities are. We've got to push the offensive as much as possible." Masks and protective shelters, plus antidotes for germ agents, are the only defense mechanisms now available. Large-scale programs dating back to the early nineteen-fifties have sought to evolve an early-detection system, but no substantial progress has been reported.

For many military planners, the appeal of C.B.W. lies in what they term its "humaneness" and "efficiency." "It can be just as disagreeable as any of the other forms of destruction in vogue in the world," an Army presentation admits, "yet it also offers some rays of hope for a more sane approach to an activity which we wish could be classified as irrational." Thus C.B.W. can be practiced over "a whole graduated spectrum of degrees of severity, and at the milder end of the spectrum may represent a far lesser evil than many presently accepted forms of warfare." The report goes on to cite the taking of Iwo Jima in 1945, with the loss of 28,000 Japanese and American lives: "If the new incapacitating agents had been available, it is conceivable that neither side would have lost any appreciable number of men."

Air Force Col. Jesse Stay, deputy director of information at the Pentagon, told me bluntly: "We're using herbicides and riot control agents in Vietnam. Everybody knows we're using them. They're serving a good purpose. Nobody's hiding the fact that they're being used—and nobody's ashamed of that fact."

The use of riot-control gases and defoliants in Vietnam has, however, seemed inadequate to some military men. In October, 1966, two retired generals had their say on the subject. The director of chemical warfare research in the nineteen-fifties, Brig. Gen. J. H. Rothschild, called for the use of mustard gas in clearing land and rendering Vietcong bunkers useless; it would, he added, save lives, not only of Americans and of our allies but also of the enemy." And Maj. Gen. John Bruce Medaris, former commander of the Army Ordnance Missile Command, advocated the use of nerve gas.

In a recent letter to The New York Times, General Rothschild summed up many of the arguments for the C.B.W. program:

". . . if the United States is forced into a large-scale war against superior manpower, e.g., a nation such as Communist China, we cannot afford to meet on a man-to-man basis, as we did in the Korean war, when we took large numbers of unnecessary casualties. . . . [We] will have to use weapons of advanced technology. These include the nuclear weapons, chemical weapons or biologicals. We don't want to use nuclear weapons certainly, because of the danger of worldwide involvement with the completely unacceptable physical damage which would result, the great loss of life and the possibility of genetic effects. The use of chemical weapons could eliminate all of these dangers but still give us the means of successfully combating the superior manpower. Furthermore, it could result in the saving of large numbers of civilian lives."

Criticism of America's C.B.W. program has come primarily from two groups—scientists, both within and outside the military, and students. Criticism ranges from those who, as one top Pentagon planner expressed it, want "restraints" on the program and an emphasis on defensive techniques to those who call for a complete and total phasing-out of C.B.W. activities. In recent months the Federation of American Scientists has urged discontinuance of C.B.W., which it said is not in the nation's interest. Member protests have led the American Society of Microbiology to poll its membership on the question of continuing its long-standing agreement to serve Fort Detrick in an advisory capacity. In April at least 16 scientists refused to take part in a symposium on genetics at Fort Detrick. A two-year protest by students at the University of Pennsylvania led to the university's cancellation of two secret C.B.W. research projects, worth $845,000 a year, and similar protests are underway at dozens of other campuses.

Inevitably, the arguments against chemical and biological weapons have a strong emotional overtone; the subject is almost too horrible for rational debate. This distaste for C.B.W. even pervades parts of the Pentagon; some military men I spoke with conveyed the impression that the use of gases and biologicals isn't manly: it isn't the kind of warfare that cadets learn about at West Point; it's "sneaky."

But the criticism is by no means limited to emotional appeals. Some opponents, for example, are concerned that by advancing the C.B.W. state of the art the U.S. is handing small, possibly irresponsible nations a deadly weapon. Matthew Meselson, a prize-winning Harvard University biologist, last year told an interviewer for the Harvard Alumni Bulletin that the C.B.W. program places "a great premium on the sudden, unexpected, hopefully decisive blow, on the order of Pearl Harbor. So we have here weapons that could be very cheap, that could be particularly suitable for attacking large populations, and which place a premium on the sudden, surprise attack. . . . If you look at the engagements in which the United States has been involved in the past, or try to think of those in which we might in the future, it seems to us that these are just those characteristics which we should not want in weaponry—you could almost not ask for a better description of what the United States should not want to see happen to the art of war."

Other critics look upon the American use of C.B.W. weapons in Vietnam as a violation of the spirit, if not the letter, of the Geneva Convention—and most believe that the letter, too, has been violated. They listen to the arguments that the chemicals used in Vietnam are humane, and they ask questions such as those posed by Prof. William V. O'Brien, international law expert at Georgetown University, during a 1966 campus debate:

"Is it opening . . . Pandora's box? Is it getting into a category of things hitherto banned which, once opened, can go on and on and on? You say, well, it's not too bad to make people cry. Well, perhaps the next argument is it's not too bad to give them the three-days' flu. And then you work your way up from that to something else, and after a while you get into countermeasures and pretty soon the thing is really spiraling out of hand."

THE PLAGUE AS WEAPON: ONCE SPREAD, CAN IT BE CONTROLLED?

Of great concern to many scientists is another unanswered question of biological warfare: Can disease, once spread, be controlled? Dr. Theodor Rosebury, a Chicago bacteriologist who did biological warfare work during World War II, has written that "it is next to impossible to know beforehand what to expect from a strategic B.W. [biological warfare] attack; there is no satisfactory way of testing it in advance." Thus, some argue, to initiate the use of plague or anthrax, diseases that can kill more than 90 per cent of their victims, would be to set in motion a doomsday machine on the planet—striking down attacker and defender alike. The Pentagon consistently refuses to discuss such questions with newsmen, but it is well aware of the unpredictability of B.W. Writing in a medical journal in 1964, Dr. Leroy D. Fothergill, former director of the laboratories at Fort Detrick, offered this assessment of the effects of a major B.W. attack:

"It is possible that many species would be exposed to an agent for the first time in their evolutionary history. We have no knowledge of the range of susceptibilities of these many species of wildlife to specific micro-organisms, particularly through the respiratory route. . . . What would be the consequences? Would new and unused zoonotic foci [animal transmitters] of endemic disease be established? Would it create the basis for possible genetic evolution of micro-organisms in new directions, with changes in virulence for some species? Would it create public health and environmental problems that are unique and beyond our present experience?"

These sorts of ecological and epidemiological problems are being studied intensely at Fort Detrick and the Dugway Proving Grounds. Scientists there believe that with enough study it will be possible to predict accurately the effects of a biological attack. Many knowledgeable C.B.W. critics have their doubts.

An indication of the complexity and importance of C.B.W. considerations is to be found in the varying views on the question of possible unilateral disarmament by the U.S. in the C.B.W. field. Critics of the program argue that nuclear weapons provide all the deterrent needed to forestall any enemy C.B.W. attack. Their opposite numbers in the military claim that reliance on nuclear retaliation alone would, in fact, seriously weaken the deterrent to biological attack. They point out that some of the possible biological warfare diseases have three- or four-day incubation periods before they break out. Would the United States be willing to unleash nuclear missiles, they ask, four days after a biological attack was confirmed, and tell the world it was "retaliating"? If not, it is argued, a policy resting only on a nuclear deterrent could encourage C.B.W. attack, rather than deter it.

ALL SIDES AGREE THAT CBW ARMS RACE MUST END

Though the controversy over America's C.B.W. program is bitter, there is general agreement on at least two points: it is essential that the world never be exposed to the ravages of a chemical-biological war; a

de-escalation of the C.B.W. arms race, followed by international disarmament agreements, is a possible means to that end.

Once again the situation has elements in common with the nuclear arms race. If there is to be any meaningful international accord on C.B.W., many Administration experts feel, there must be some scientifically valid procedure for policing it. Studies of detection systems are being conducted by scientists, including some Americans, working with the Stockholm International Police Research Institute. But progress has been slow. Last year the Johnson Administration allotted the Federal Arms Control and Disarmament Agency only $100,000 for research into C.B.W. control and detection.

What is desperately needed, if the world is to move toward an answer to the C.B.W. problem, is an open, rational public debate of the political and military implications involved. The Vietnam war, the campus protests over military research contracts, the trouble at Dugway Proving Grounds, the disenchantment of large segments of the scientific community—all these have set the stage for such a debate in this country. But it cannot begin until more information is made available. The Pentagon should immediately re-evaluate its security restrictions about C.B.W. If Russia is indeed engaged in a major C.B.W. build-up, this information should be made known. The types of agents, their possible effects and the national policy surrounding actual deployment of chemicals and biologicals should be released for public evaluation.

Americans—and Russians—know a great deal about the horrible consequences of atomic attack; this knowledge is as significant a deterrent as the I.C.B.M. rockets shielded deep in their silos. If the world knew more about the potential horror of nerve gases and deadly biologicals, the drive for de-escalation and disarmament would be increased. And the United States, as one of the leaders of C.B.W. research and development, would have an obligation to lead that drive.

CBW BASES AND WHAT THEY DO

Because of the secrecy surrounding the C.B.W. program, it is impossible to detail completely the functions of the military bases involved. What follows is necessarily a capsule summary.

Fort Detrick, Maryland: This base, about 50 miles northwest of Washington, D.C., serves as the headquarters for the nation's biological warfare research program. Detrick controls the procurement, testing, research and development of all biological munitions and products, including all defensive approaches (such as masks and vaccines). The emphasis at Detrick, however, is on the offense. The fort was set up during World War II and has been one of the world's largest users of laboratory animals since—perhaps as many as 720,000 mice, rats, guinea pigs, hamsters, rabbits, monkeys and sheep a year. Most of the nation's military work on anticrop devices and defoliants is conducted in a corner of the base where, behind high wire fences, scientists work in a cluster of greenhouses.

Pine Bluff, Arkansas: This arsenal usually is described in military organization charts as serving primarily as a chemical munitions base. Indeed, it was opened in 1942 as a chemical facility and still serves as an important packaging and production point for smoke bombs, incendiary munitions and riot-control agents (including CS, the potent tear gas used in Vietnam). But Pine Bluff does its most important work for the biological laboratories at Fort Detrick. It is the main center for the massive production and processing of biological agents. The germs are not only brewed in heavy concentration there but are also loaded into bombs, shells and other munitions, most of which are in cold storage depots, known as igloos.

Dugway Proving Grounds: This base tests biological as well as chemical agents and is also an important research center. Studies in ecology and epidemiology have been under way for years to determine just what happens to an area after many years of testing with highly infectious biologicals. (Similar test projects are sponsored by Dugway at other locations in the nation.) The problems are incredibly complex: more than 10,000 species of life are known to exist on the huge base.

Edgewood, Maryland, Arsenal: Edgewood is the oldest of the C.B.W. bases; it dates back to World War I, when it served as a manufacturing site for shells containing phosgene and other gases. It was the central plant for the production and filling of gas munitions until the end of World War II, when it was switched to research and development. Edgewood's first major job in this area was to study the nerve agents, produced by the Germans, that Allied intelligence had shipped home. A pilot plant to produce one such—Sarin, otherwise known as G.B.—was built and in operation on the base by the late 1940's. The arsenal is now the management and final inspection center for all chemicals and chemical weapons.

Much time and money are invested at Edgewood in the quest for the perfect incapacitating agent, presumably a psychochemical or anesthetic weapon. The only such agent known is BZ, and it has yet to see combat use. The chief problem with the incapacitating agents is the requirement for a uniform dosage level—that is, they must be capable of being spread evenly; otherwise, they might kill in areas of high concentration and have no effect at all in areas of lower concentration.

Rocky Mountain Arsenal: This 17,750-acre base is 10 miles northeast of Denver and served as the main production facility for the nerve gas Sarin after initial tests at Edgewood demonstrated its feasibility as a weapon. Production of the gas was halted in 1957 after three years of furious, around-the-clock activity (insecticides are now manufactured here), but the arsenal has remained busy filling rockets and bombs with it.

The Newport Chemical Plant: This installation in farm country on the western edge of Indiana, near Danville, Ill., is the Army's main production plant for VX, an improved nerve gas that did not enter the military's arsenal until the early 1960's. (VX, unlike Sarin, does not evaporate rapidly or freeze at normal temperatures. Its low volatility makes it effective for a longer period of time.) The plant was built by the Food Machinery and Chemical Corporation (F.M.C.) under a 1959 Army contract and has been operated ever since by that company. Newport produced VX nerve gas on a 24-hour schedule until late 1962, when production was slowed.

S. M. H.

NOMINATION OF JUSTICE FORTAS

Mr. HARTKE. Mr. President, Marshall McNeil, a Scripps-Howard newspaper writer, recently wrote a notable column entitled "Decision on Fortas." In particular, he praises the manner in which the distinguished Senator from Virginia [Mr. BYRD] has contributed to this important senatorial debate.

I ask unanimous consent that the article be printed in the RECORD.

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

DECISION ON FORTAS

(By Marshall McNeil)

WASHINGTON.—Some of the reasons stated in the Senate against confirmation of Abe Fortas as chief justice of the United States are phony, shallow or trivial.

Senators are foolishly challenging the right of the President, because he has decided not to run again, to nominate men to the Supreme Court. Others are crying "cronyism," or profess to be perturbed about decisions on pornography, or claim the nominee has violated the doctrine of separation of powers by advising the President while sitting on the court.

There also doubtless is some anti-Semitism in the opposition to Fortas. And some of his opponents, perhaps unconsciously, peg their position to his views on civil rights.

But what is important in Senate consideration of the Fortas nomination—of any Supreme Court nomination—is the philosophy of the nominee, his implementation of that philosophy in decisions to which he is a party, and the prospects of his further making his philosophy effective as chief judge of our highest court.

For this reason the speech made this week by Sen. Harry F. Byrd, Jr. (D., Va.) on Fortas and on the Supreme Court under Chief Justice Earl Warren is important because it deals with the philosophy of the court and of the nominee.

Others may not agree with him, but Byrd—not a lawyer but a businessman and newspaper owner—stated a case that has widespread support, for the mystique of the court is vanishing and in many quarters it is held in low repute.

"At a time when government should be closer to the people, the Warren court is determined to centralize more and more power in Washington," said Byrd.

"The Warren court (and by this he said he meant a majority not the total membership of the court) has usurped power to which it is not entitled . . . has established itself as a super legislature . . . has shackled the people's elected representatives as well as the law enforcement officials of our nation . . . has thrown precedents out of the window and has said, in effect, that the law is whatever five present lifetime appointees say it should be.

"During the time Mr. Fortas has been a member of this court," Byrd continued, "he has established himself as a disciple of Chief Justice Warren and has embraced wholeheartedly the Warren philosophy."

Byrd quoted Justice John Marshall Harlan, a present member of the court, who said:

"This court can increase respect for the Constitution only if it rigidly respects the limitations which the Constitution places upon it, and respects as well the principles inherent in its own processes. In the present case . . . we exceed both, and . . . our voice becomes only the voice of power, not of reason."

That, Byrd said, has often been the hallmark of the Warren court: "The voice of power, not of reason."

Byrd's views may well be credited to his heritage as a conservative Virginia Democrat. Indeed, he said:

"As a Senator from the state of Virginia, as one who believes deeply in the fundamental constitutional principles upon which our nation was founded and developed—and on which our liberties are based—how can I vote to give the chief judgeship to one who follows a policy of judicial oligarchy; to one who espouses a philosophy of concentrating more and more power in Washington, when I feel that the great future danger to the liberties of our people is big government?"

But there is no hint of anti-Semitism in his position. He reminded his listeners that as a young newspaperman in Virginia he supported the nomination of Felix Frankfurter, and further said:

"I believe strongly that members of the Supreme Court should be of a caliber and in the tradition of Oliver Wendell Holmes, Louis D. Brandeis, Charles Evans Hughes,

Harlan Fiske Stone, Benjamin H. Cardozo and Felix Frankfurter."

Agree with him or not, Byrd has put his opposition to Fortas on a broad philosophical base, where it belongs.

The Senate, exercising its own constitutional authority, should decide the confrontation of Fortas on the same base, and promptly, without allowing those who fear our democratic processes to evade or avoid a showdown through filibuster.

THE PANAMA CANAL

Mr. TOWER. Mr. President, the questions and problems of the Panama Canal loom before us today as great as ever before. The answers to this complex situation are not easy and require a profound understanding of the history, both diplomatic and social, of the isthmian situation.

In this vein, I wish to recommend to Senators and other interested persons a book that has recently been released in a new edition, "Cadiz to Cathay," written by Capt. Miles P. DuVal, Jr. I ask unanimous consent that a review of this book by Brig. Gen. James H. Banville, published in a recent edition of the Retired Officer, be printed in the RECORD.

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

["Cadiz to Cathay." By Miles P. DuVal, Jr., Publisher, Greenwood Press, New York]

ISTHMIAN CANAL

(Reviewed by Brig. Gen. James H. Banville)

History seldom repeats itself to suit the convenience of authors. A notable exception is that of the interoceanic canal situation in which is now being reenacted, in a different form, the old argument over the choice of site for an Isthmian Canal, known as the "battle of the routes." This debate has led to the publication, under arrangements by Stanford University Press with the Greenwood Press of New York, of the third edition of *Cadiz to Cathay* by Captain Miles P. DuVal, Jr., distinguished former director of the Retired Officers Association.

This edition of *Cadiz to Cathay* supplies a comprehensive record of the diplomatic background and history of the Panama Canal. Starting with a brief historical summary of the agitation for a canal from the time of Columbus, Captain DuVal presents, without bias or partiality, the essential features of the long diplomatic struggle for an Isthmian waterway. In so doing, he gives credit to each of the nations and leaders involved, with an extensive account of the crescendo of stirring events that led to the grant in perpetuity by Panama of the Canal Zone territory to the United States, all of which is carefully documented.

Now that the operation, administration and jurisdiction of the Panama Canal and Canal Zone have become fundamental issues between the Governments of the United States and Panama, Captain DuVal's *Cadiz to Cathay* is indispensable for all who wish to understand the questions involved and to protect the security of the United States; and particularly important for these purposes are the documents quoted in the volume's appendix, which include the tests of the key Canal treaties.

INTERSTATE AND DEFENSE HIGHWAYS FEDERAL TRUST FUND PAYMENTS

Mr. HANSEN. Mr. President, much to the chagrin of officials in the 50 States, the administration once again has frozen Federal trust fund payments to the States for construction of the National System of Interstate and Defense Highways.

Since this is not the first time the funds have been cut off without warning or valid explanation, officials of the various highway departments and governments in the States might well have anticipated the Federal Government's most recent move in this area.

Nevertheless, each time a freeze on funds has been ordered—this most recent instance included—many of us are dismayed anew that the executive branch would play politics with a vital program that was clearly intended, by its very design, to be immune from such tactics.

Each time the word comes that no more bids are to be advertised or contracts let for federally-financed highway construction, those of us concerned with the completion of the highway system and with the stability of State economies largely dependent on the well-being of the construction industry, are forced to trot out the old arguments against such action.

Even though these arguments have been made over and over, they remain valid and clearly supported by the intent and purpose of the law which governs the development of a national interstate and defense highway system.

Because Congress acted, and rightly so, to reduce Federal spending by $6 billion to head off inflation and avert a fiscal crisis, the executive branch seems to have chosen to demonstrate its dislike for this action by throwing the highway program into a state of chaos.

We who voted for the spending cut did so with the clear understanding that it would affect nearly all Government agencies and would have an adverse impact on many popular programs.

Cuts that must be imposed in order to achieve the $6 billion expenditure reduction are bound to inconvenience many citizens and slow down or stretch out many meritorious programs.

But this is the price we must pay to combat inflation, which had the same effect last year on Wyoming taxpayers as would have resulted if an additional 5-percent sales tax had been levied on top of the existing 3-percent tax. We had to stop the kind of inflation that strikes hardest at those with the smallest incomes—those who receive social security benefits or retirement funds, and who have to make ends meet in the face of higher medical expenses and the higher cost of living.

But the $6 billion spending cut in the budgets of the executive agencies has no connection with the freeze on highway funds, because the highway money is not a part of general revenues and is not subject to the provisions of the spending cut order.

The Federal Aid Highway Act of 1956 authorized establishment of a special trust fund—the only one of its kind in Government—consisting solely of fees and taxes paid by highway users.

The act specifies that these moneys cannot be used by the Government for any other purpose or program than the one for which they are intended—the construction of a National System of Interstate and Defense Highways.

Thus, the administration's claim that the withholding of some $200 million in highway funds will help achieve the goal of reducing spending from the general fund is clearly false.

There is enough money in the fund to pay for the necessary construction to complete the planned system in the required amount of time, which is set by law.

When Congress passed the 1956 law, it contained safeguards to see that the States received their fair entitlements, and to insure that the States would fulfill their obligations toward the ultimate objective of completing the system.

But Congress failed to foresee that the trust fund would become a political tool which could be used to punish Congress or the public under the guise of reducing Federal spending.

Such manipulation of these trust moneys as has occurred too regularly these past several years has an unfair and adverse impact in the States, where careful long-range planning is suddenly disrupted by the fund cuts.

In my own State of Wyoming, five major roadbuilding projects which have already been through the preliminary study and planning processes, are in a state of limbo as a result of the most recent freeze.

Some $8 million in funds for Interstate Highway construction and more than a million dollars for primary and secondary road construction is involved in this freeze. This, of course, means that $8 million to be paid to contractors, who in turn pay it to their employees, who spend it in Wyoming, is being withheld from my State's economy with serious consequences.

It means that several small contracting firms who have continuous payments to make and who need to know what contracts they will be working on in advance are faced with possible bankruptcy.

And it means that highway planning and construction in Wyoming and the rest of the States will be thrown behind schedule, making it more and more unlikely the national system will be completed by 1972, as specified in the law.

Mr. President, I invite Senators whose State economies and construction industries are also adversely affected by this move to join with me in an effort to persuade the administration to abandon this false attempt at economy and to restore immediately these vitally needed funds to the States.

CONNECTICUT RIVER PLAN PRAISED

Mr. McINTYRE. Mr. President, last week the Bureau of Outdoor Recreation released a report that recommends the creation of a 125,000-acre Connecticut River Recreation Area to stretch from the Canadian border to Long Island Sound. The large recreation and conservation area will include land under Federal, State, and local administration in the great State of New Hampshire, as well as the States of Vermont, Massachusetts, and Connecticut.

The rapid implementation of this imaginative study will protect an area rich in natural beauty, and colorful with

history. For instance, the area will include Old Fort No. 4, in Charlestown, N.H., where Robert Rogers, leader of the famed Roger's Rangers, ended his heroic flight from marauding Indians in 1759. The people of New Hampshire, under the direction of the New Hampshire Federation of Women's Clubs, are now restoring the site of famous Old Fort No. 4.

An editorial published in today's New York Times asks that the Federal Government and the State and local governments concerned set to work on implementing this plan as soon as possible.

The editorial also mentions that the bold plan is primarily the work of the distinguished Senator from Connecticut [Mr. RIBICOFF]. The Bureau of Outdoor Recreation report is the product of his vision.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the New York Times, Sept. 18, 1968]

THE MOST BEAUTIFUL CESSPOOL

Long regarded as among the world's most beautiful rivers, the Connecticut meanders 400 miles from the Canadian border to Long Island Sound through the mountains and plains, fields, forests and marshes of four New England states. But this scenic setting—like that of many other once-beautiful New England rivers, such as the Housatonic—is increasingly threatened by encroaching industrial and residential growth. The river itself has been transformed into a foul sewer —"the world's most beautifully landscaped cesspool," as one aggrieved New Englander has put it.

To preserve the natural beauty of the Connecticut Valley and to develop this "main stream" of New England as a source of solace and recreation for forty million Americans who live within easy reach of its banks, the Federal Bureau of Outdoor Recreation has proposed a master conservation plan.

The plan calls for creation of a series of Federal and state parks and for federally protected open spaces running through all four states; for establishment of a 300-mile Connecticut Valley Trail for hikers, and for designation of a winding tourway, a network of existing roads crisscrossing the river for its entire length.

This bold scheme to save a lovely river, for which Senator Ribicoff of Connecticut and many dedicated private individuals and groups have labored, depends on and deserves the support of Federal, state and local governments and private landowners in the valley. They cannot begin too soon to work together to make its recommendations a reality.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 747. An act for the relief of Dr. Earl C. Chamberlayne;

S. 772. An act for the relief of Dr. Violeta V. Ortega Brown;

S. 905. An act for the relief of John Theodore Nelson;

S. 1327. An act for the relief of Dr. Samad Momtazee;

S. 1354. An act for the relief of Dr. Bong Oh Kim;

S. 1470. An act for the relief of the Ida group of mining claims in Josephine County, Oregon;

S. 2250. An act for the relief of Dr. Hugo Vicente Cartaya;

S. 2371. An act for the relief of Dr. Herman J. Lohmann;

S. 2477. An act for the relief of Dr. Fang Luke Chiu;

S. 2506. An act for the relief of Dr. Julio Epifanio Morera;

S. 2706. An act for the relief of Yung Ran Kim;

S. 2720. An act for the relief of Heng Liong Thung;

S. 2759. An act conferring U.S. citizenship posthumously upon S. Sgt. Ivan Claus King;

S. 3024. An act for the relief of Richard Smith (Noboru Kawano);

S. J. Res. 185. Joint resolution to grant the status of permanent residence to Maria Mercedes Riewerts;

H.R. 8953. An act to amend the act of November 21, 1941 (55 Stat. 773), providing for the alteration, reconstruction, or relocation of certain highway and railroad bridges by the Tennessee Valley Authority; and

H.R. 18763. An act to authorize preschool and early education programs for handicapped children.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 26 minutes p.m.) the Senate adjourned until tomorrow, Thursday, September 19, 1968, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 18 (legislative day of September 17), 1968:

DIPLOMATIC AND FOREIGN SERVICE

Parker T. Hart, of Illinois, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State, vice Lucius D. Battle.

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

EXTENSIONS OF REMARKS

POLICE WIVES UNITED EXPRESS SUPPORT OF H.R. 14430

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 17, 1968

Mr. BROYHILL of Virginia. Mr. Speaker, I recently received a letter from an organization known as Police Wives United, expressing solid support for my bill H.R. 14430, to establish a commissioner of police for the District of Columbia and consolidate the five separate police departments now operating in the District under a single commissioner.

Attached to the letter were petitions signed by 360 persons, which read:

The undersigned petitioners hereby request the passage of H.R. 14430, a proposal sponsored by Representative JOEL T. BROYHILL, regarding the establishment of a Commissioner of Police for the District of Columbia and the consolidation of all District of Columbia Police Departments under this Commissioner.

Mr. Speaker, I am proud to have the support of these many fine citizens, and welcome this opportunity to call their support for my legislation to the attention of my colleagues.

I insert the text of the letter in full, as it describes the difficulties this group is having in making its campaign known and may encourage others who have not had an opportunity to sign their petition to make their support for this measure known.

The letter reads as follows:

LANHAM, MD.,
August 1, 1968.

Representative JOEL T. BROYHILL,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BROYHILL: We enclose herewith the petitions in support of H.R. 14430 in the hope that the members of the House District Committee can understand the difficult situations under which these petition signatures were gathered.

We met with the problem of lack of cooperation by the news media to publicize the locations where the petitions were available for signature. In many instances we were told that "the issue was too controversial for public service announcements, but it could be handled as a news item." After releasing the information as a news item we found, *as usual,* that the item wasn't "newsworthy" enough.

Also, understandably, many men were reluctant to let their wives collect petition signatures in the Washington, D.C., area for fear of their safety. We feel it is essential to inform you that the response from the people contacted netted almost a one-hundred percent response. Many of these people came forth with their own story of having lived in the District of Columbia and of having to move because of their own personal fear for life and property.

There are still petitions due to be mailed directly to your office from various other states. Since the Nation's Capital belongs to all of us in the United States, we should all be concerned with its problems. Thus, we have mailed to friends and relatives copies of this petition and have asked their support.