ORDER OF BUSINESS

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT TO 11 A.M.

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the previous order that the Senate stand in adjournment, as in legislative session, until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 5 minutes p.m.) the Senate adjourned, as in legislative session, until tomorrow, Friday, March 20, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 1970:

U.S. DISTRICT JUDGE

Andrew W. Bogue, of South Dakota, to be U.S. district judge for the district of South Dakota, vice Axel J. Beck, retired.

U.S. MARSHAL

Donald D. Hill of California to be U.S. marshal for the southern district of California for the term of 4 years, vice Wayne B. Colburn, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, March 19, 1970*

The House met at 11 o'clock a.m.

The Right Reverend Protopresbyter Nikolaj Lapitzki, Byelorussian Orthodox Church of St. Euphrosynia, South River, N.J., offered the following prayer:

In the name of the Father, and the Son, and the Holy Ghost.

Almighty God, and our Father, the source of justice, on this day commemorating the anniversary of independence of Byelorussia, we humbly bow our heads and pray that Byelorussia, and all other captive nations, may soon receive a new birth of freedom.

O, all generous God, the source of wisdom, bless and instruct the leaders and legislators of the United States of America, so that they would arrive at the decisions which would lead to peace and freedom for all mankind in the world.

Almighty Father, the source of love and kindness, shorten the days of misunderstanding among nations, and give peace and Your blessings to all the people on the earth.

Thou art the Saviour and Protector, and we glorify Thy name today and shall forever. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2882. An act to amend Public Law 394, Eighty-fourth Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Ariz.

The message also announced that the Vice President, pursuant to Public Law 91–213, appointed Mr. TYDINGS and Mr. PACKWOOD to the Commission on Population Growth and the American Future.

THE RIGHT REVEREND PROTOPRESBYTER NIKOLAJ LAPITZKI

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTEN. Mr. Speaker, it was our privilege to hear the opening prayer by the Right Reverend Monsignor Protopresbyter Nikolaj Lapitzki of the Russian Orthodox Church of South River, N.J.

I would like the Members of the House to know that the Byelorussians consider themselves a separate nation. They have long been in the forefront for real freedom and religious liberty.

They consider their people in Russia as one of the captive nations. You would love these people. They love America. They love freedom, and they love their God and their church.

Mr. Speaker, it was a pleasure to hear one of their leaders, the Right Reverend Protopresbyter Nikolaj Lapitzki give the opening prayer here today.

MINE OFFICIALS SYMPATHETIC TO COAL MINERS ARE BEING FIRED

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute.)

Mr. HECHLER of West Virginia. Mr. Speaker, an article by Mike Causey in yesterday's Washington Post indicated that the White House, in its attempts to "purify" the staff of the Bureau of Mines, is firing or planning to fire certain employees who have been associated with the United Mine Workers. If such a step is being taken because of the recent turmoil within the United Mine Workers, I would like to state that this is a cruel, tragic development. Bureau of Mines officials who have had experience as coal miners probably were good, faithful, honest, and efficient members of the United Mine Workers. If there are prejudices being exercised against them, the administration of the Bureau will be lopsided. What about those with past experience as coal operators?

Mr. Speaker, this practice must stop, and honesty, objectivity, and fairness be restored to the Bureau of Mines.

DISTRICT OF COLUMBIA OMNIBUS CRIME BILL

(Mr. HOGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOGAN. Mr. Speaker, today we are taking up one of the most important pieces of legislation ever considered for the District of Columbia.

I would like to try to correct some of the misconceptions in circulation about the so-called no-knock provision in the District of Columbia omnibus crime bill, H.R. 16196.

The most important point I wish to make is that the police already have no-knock authority. H.R. 16196 provides an additional protection to the citizen and clarifies the doctrine for the policeman.

The U.S. Supreme Court in Ker against California upheld the constitutionality of an entry without notice and recognized the existence of the doctrine of exigent circumstances under which an officer may dispense with notice. The 29 States that have confronted the issue have allowed entry without notice either through express statutes or judicial application of the common law exceptions to the general rule requiring notice.

The second misconception is that entry without notice is an unwarranted and unconstitutional invasion of the citizen's right to privacy. This is also totally inaccurate. The provision deals only with the method of entry into premises. It has nothing to do with whether the entry is legal.

The misconceptions pertaining to entry without notice make it clear that some definite standards should be enacted to govern when police must announce and when they need not. If Congress does not set out guidelines, how can we expect our law enforcement officers to know what to do on the spur of the moment in a dangerous situation?

Unfortunately, dangerous robbers, rapists, and murderers in the Capital City consider an identifying policeman at their door an appropriate shooting target. We cannot tolerate this. We must give the police a method of avoiding injury and death by enacting this no-knock provision.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORTS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight tonight to file certain reports.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CONSUMER AFFAIRS, COMMITTEE ON BANKING AND CURRENCY, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Affairs of the Committee on Banking and Currency may be permitted to sit today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. HALL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. McMILLAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16196) to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16196, with Mr. CORMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from South Carolina (Mr. McMILLAN) will be recognized for 1 hour, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 1 hour.

The Chair recognizes the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the House District Committee presents to the House today H.R. 16196 which is the product of numerous studies, reports, and recommendations which have been developed by commissions, judicial and legislative groups, and special consultants, as a result of the concentration of attention to the crime problems in the National Capital for the past few years.

I want to say that this is a bipartisan effort. The members of the House District Committee have devoted long hours to the consideration of this bill—they are a dedicated group to whom the citizens of this country and of this city are indebted for bringing out such a splendid bill. I also wish to thank the Department of Justice for the invaluable assistance which its attorneys have given to the committee, and to thank, too, the members of the staff of the District Committee and legislative counsel's office, who went "beyond the call of duty" to make this as good a bill as possible.

The bill brings together in one single measure essentially the best of the suggestions that have been developed. Numerous bills dealing with some facet of court reorganization or dealing with the crime problem were introduced and referred to the District Committee. The committee has labored with the proposals for many months. Extensive public hearings have been held. Special conferences and consultations have been held. Two subcommittees under Congressman ABERNETHY and Congressman DOWDY worked diligently in executive session to assemble the respective parts of the pending bill for which each subcommittee was responsible. They and the members of their subcommittees are to be commended for their diligence and accomplishments.

The bill was reported by the full committee by a vote of 20 to 4. The committee strongly feels that it should be enacted as introduced and reported to the House.

The sense of this bill is one of great urgency and necessity. Your committee is not aware of any period in the Capital's history when crime was so rampant as now, when the police have been so shackled, when prosecutors because of technicalities, and courts because of unrealistic philosophies, and failure to go full speed ahead, have contributed to a major breakdown of law enforcement, and there has been such shocking failure in large part of the machinery of justice to bring to punishment admitted murderers, rapists, and others guilty of aggravated assaults and robberies. This is a crime infested city; let there be no ignoring that fact.

This is the fifth consecutive Congress wherein your committee has brought a major anticrime bill to the House, and each time the House has responded by the passage of remedial legislation by overwhelming majorities.

However, no pretense is made that this bill, of itself, is a panacea for all problems related to crime, or for all other ills in the Nation's Capital.

The bill is an extensive one. Two whole titles of the District of Columbia Code are amended and codified by this bill—one completely reorganizes the local court system, and another revises criminal procedure in the District of Columbia.

Another revision changes what is juvenile proceedings in existing law. The new law will cover proceedings for almost all family matters.

There are amendments to certain criminal laws and new criminal law.

The present legal aid agency is replaced with a public defender office with more extended services.

The District of Columbia Department of Corrections facilities at Lorton are transferred to the Federal Bureau of Prisons.

Provision is made for the payment of attorney fees for Metropolitan Police officers who are sued for wrongful arrest.

The Commission on the Revision of the Criminal Laws of the District of Columbia is abolished—the work on this bill indicates the effectiveness of making such revisions within the respective and responsible committees of the Congress.

The bill will provide for the first time a genuinely separate and local system of courts of the District of Columbia. All existing trial courts will be merged into a single new superior court. The jurisdiction of the present local trial courts transferred on the effective date of the legislation and the jurisdiction over local matters now within the U.S. district court will be transferred at intervals until the separation of jurisdiction is completed. The highest court for the District will be the District of Columbia Court of Appeals.

One of the proposals considered by the committee deals with investigative detention, the so-called stop and frisk law. It was suggested that the District needs a statutory scheme delineating the rights and powers of law enforcement officers to investigate suspicious circumstances of a criminal nature, although there is no probable cause to make an arrest, and, when necessary as an aid to their investigation, to detain both suspects and witnesses for a short period of time. On August 27, 1969, the Metropolitan Police Department of the District of Columbia issued an extensive, detailed memorandum to the police force, setting forth guidelines for the exercise of authority to stop and frisk. The memorandum was promulgated following the Supreme Court decision in *Terry* v. *Ohio*, 392 U.S. 1, and represented an attempt by the Police Department to conform its stop and frisk and investigative detention authority to the standards set forth in that decision. The committee was urged by the Department of Justice at the hearing to defer action on H.R. 14335 on the grounds that the administrative guidelines issued by the Police Department provided the police satisfactory law enforcement guidance and represented a more flexible and therefore appropriate response to the Supreme Court decision in Terry than would legislation which is more difficult to amend. The committee, while strongly in favor of the principles of stop and frisk and investigative detention enumerated in H.R. 14335, has accepted this recommendation and has deferred action on H.R. 14335 to await developments under the administrative guideline promulgated by the Metropolitan Police Department.

The committee has had the benefit of the most expert assistance and advice possible. Among members of the committee there is no difference of opinion as to the seriousness of the problems of the District or for the need of legislation to provide means for dealing with the emergency situation. I hope that the minor differences on some issues may be resolved for the best interests of the Nation and that the House will give overwhelming support to the bill on final passage.

Mr. NELSEN. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman and Members of the House of Representatives, this is probably the most important bill we have dealt with in a long time. The role I am cast in gives me some concern, not being a lawyer, since this bill deals with court

reform and many legal implements for law enforcement.

I think of the story of the two cows munching the grass in the pasture. A milk truck goes by, and the sign on it says, "Grade A Milk, Homogenized, Vitamin A Added, Pasteurized." One cow looks at the other and says, "It does make you feel rather inadequate, doesn't it?"

I want to say, as we are dealing with legal provisions of a bill of this kind, being laymen perhaps we are a little inadequate; but looking at the need for the legislation, I take no backseat to anyone in presenting the fact that this bill is needed in the interest of our Nation's Capital.

As I look out on the floor, I see people from all over the United States, representing their districts. Regardless of whether they are from California, Alaska, Puerto Rico, or wherever it may be, this is our Nation's Capital.

As I pointed out in the Rules Committee, this city is being torn apart by crime. What we are trying to do here is to protect the people of this district and to protect our Nation's Capital, to restore the necessary image so that the United States of America will not be judged by its own Federal city.

I should like to call attention to the speech which was made by Sterling Tucker, the Vice Chairman of the City Council. He pointed out that the ghetto areas of this city were damaged the most by the plundering and by the criminals who feed on crime and dope addicts, and that they have actually made subjects and made servants out of the people by what they are doing here in the District of Columbia.

I want to compliment both sides of the aisle for the atmosphere that existed in our committee in dealing with this bill. Democrats and Republicans joined hands in working on this bill from the very beginning. It is a 439-page bill.

At one time there was some criticism because we were not moving. We heard some comment even from the White House. We heard some comment from the Justice Department. We arranged to meet with the President. We arranged to meet with the Justice Department. As a result, communications were established, and a proper atmosphere for getting things done prevailed.

We then moved on with the drafting of this bill, which I believe is most important. I want to say to all Members here that the District of Columbia Committee is not a particularly sought after prize for any Member in the House of Representatives, but many of us who serve on that committee feel that we need to do everything we can to make our Nation's Capital a model city.

This bill is a comprehensive, balanced bill.

Our hearings developed considerable facts about the operation of the local courts. We found, for an example, that the caseload in the general sessions court was about 16,000 cases a year with a large backlog. We found in the juvenile court there were 6,000 juvenile cases awaiting trial, and 3,600 adult cases awaiting trial in that court.

Under the terms of this bill, a new superior court of general jurisdiction will be set up, and the general sessions court will be phased out, and the local appellate court will be expanded. Ten new judges will be added to that court immediately, and three appellate judges will also be added.

We intend to add more judges as the needs are evidenced. This is the intent of the committee, but we thought we should permit the courts to operate with their 10 trial and three appellate judges and provide an increase later in a couple of years.

Mr. Chairman, a public defender agency is provided for as well as bail reform. I might point out that in 1966 the Bail Reform Act at that time removed from the crime enforcement officials in this city some of the instruments they needed for the dealing prior to trial with known criminals roaming the streets who are repeat offenders. There are those who talk about pretrail detention as being something brand new, and which is way out of line. Let me call your attention to the fact that in the city of New York they have a money bail statute which does the same thing. They recently found their jails in New York were clogged by prisoners. Accordingly the New York City officials relieved the pressure in New York by suggesting the judges release arrested defendants on their own recognizance only to find a storm of protest arising from the people in New York itself. In fact, New York City had only a few days taste of what the district has "enjoyed" for 4 years.

We are not here asking for pretrial detention in any different manner than prevails in many parts of the country. We know we have recidivists on the street repeating with one crime after another who are being released prior to trial, and they are released to commit further crime. As a result, this city is being plundered by known criminals.

Now the "no-knock" provision. When I read about it as a farmer I thought it sounded pretty bad. Then I learned to my great surprise under the common law of the land that the no-knock provision is presently permitted by the U.S. Supreme Court. Many States by statute set up by statute and decision the very provisions that we have in this bill. About 17 or 18 States by case law are doing what we provided for here. This is nothing new.

There are those who seem to think this is a brandnew idea. I want to make that very clear to the Members of this House, that it is not, and I am sure that you would be interested in this observation.

Now we come to the wiretap provision. Again we find that people think this is brand new. This body in 1968 in the Safe Streets Act provided for wiretap provisions for Federal law enforcement under careful court supervision. May I call your attention to the fact that recently we have had some convictions or arrests in serious dope traffic cases in the District of Columbia. The Federal law was followed in this case; and I think that in loosely patterning this after the Federal law we have a good wiretap law.

Again referring back to the pretrial detention provision, let me call your attention to the fact that many of us were called to the White House where the Speaker, CARL ALBERT, our majority leader, GERALD R. FORD, our minority leader, the representatives of the Committee on Interstate and Foreign Commerce, and all of the leaders of the various committees were assembled. It was called to our attention by Chief of Police Jerry Wilson that we had about 300 known violators on the street who were hardcore drug addicts and were contributing greatly to crime here. Chief Wilson said that if they could only detain these persons and get them off the street, we could improve the crime index here by as much as 50 percent.

One further point I want to make here is this: This meeting was attended by Art Linkletter. His daughter became the unfortunate victim of dope—LSD. Mr. Linkletter related the story of his own daughter who went on one of these trips then had recurrences of hallucination periods. Finally, she thought she was losing her mind and committed suicide.

The no-knock, wiretap, and pretrial detention provisions in this bill are to a great extent there because of the dope traffic here in the District of Columbia.

Now, I want to call your attention to the fact that many of us on the committee felt that we could make a contribution to protect the youth of this city from the pusher which in my opinion is the most heinous criminal in our modern-day society where the young people of this community, including our schools, are becoming slaves to the dope pusher. The tools exist in this bill to combat this type of crime.

Mr. Chairman, it seems to me we ought to look carefully before we say "no" to a committee provision that is going to make it possible to move in the direction of giving protection to the youth of this community.

So, actually, "no knock" is not new, wiretapping is not new and pretrial detention is not new, and this city needs help and it needs it now. The White House, the Department of Justice, and the prosecutors, and the police department have pleaded for the provisions which we have inserted in the bill.

Now, Mr. Chairman, I compliment those who want to be sure that we are not violating the Constitution of the United States in any way. I think we should always be careful to adhere to the Constitution and be careful that we are doing that. But I have confidence in the courts that if there is any provision here that in any way is said to violate the Constitution, it will be considered promptly on appeal.

Again, may I say that it is no prize to be on the District of Columbia Committee. There is no political advantage to be gained anywhere as the result of serving on this committee.

However, I think the situation is so serious now here in the District of Columbia, and I know the quiet majority, whether they be black or white, I know they are pleading for protection here in our Federai City. I can conscientiously say without the least equivocation or mental reservation whatsoever that in

my considered judgment every provision of this bill meets the constitutional standards. it is a good, well-rounded, balanced bill. It has the endorsement and cooperation of the Justice Department, the White House, and the majority of our committee.

So, I plead with the House of Representatives to enact this bill.

Now, Mr. Chairman, I have been in government one way or the other since 1935. In my judgment this bill is the most important piece of legislation that I have ever had anything to do with.

I live in Minnesota 1,200 miles from our Federal City yet I want to say that this is my Federal City, this is your Federal City, and I am firmly convinced that this piece of legislation is needed to make it a safe decent place to live and visit. I think it is good legislation and I hope the House of Representatives will adopt promptly.

Mr. Chairman, the House today in considering H.R. 16196, the District of Columbia Court Reform and Criminal Law and Procedure Act of 1970, with its accompanying report No. 91–907, has before it the most comprehensive bill effecting the court system and criminal law and procedure in the District of Columbia that has come out of the District of Columbia Committee since I have been a member of that committee. Contained within this District of Columbia omnibus crime bill are the following bills which I introduced on the behalf of the administration and which were cosponsored by a large number of my fellow Congressmen: H.R. 12854, a bill to reorganize the courts of the District of Columbia; H.R. 14189, a bill to provide a new code for juvenile procedure; H.R. 12856, a bill which would expand the District of Columbia Legal Aid Agency into a Public Defender Service, and, H.R. 12855, a bill which would amend the District of Columbia Bail Agency Act so as to increase the effectiveness of the Bail Agency. The administration also supports the pretrial detention aspects of H.R. 14334 which was introduced by Chairman McMillan of the District Committee and the several bills introduced by Congressman Hogan relating to criminal law and procedure designed to assist crime enforcement officials in this city as well as the prosecutors and trial judges.

While I am not a lawyer and I do not pretend to have any particular great knowledge of the law, I strongly support those bills mentioned above which are incorporated in this omnibus bill. I believe it has strong support from the majority of the citizens of this community, from its civic leaders, its church groups, the District of Columbia Bar Association, and others. The results of a referendum conducted by the District of Columbia Bar Association covering many of the more controversial topics included in the omnibus crime bill, indicate majority support for such provisions as wiretap, codification of the no-knock entry, impeachment of defendants by use of prior convictions, enlargement of the Government's right to appeal, and the provision concerning resisting arrest.

After listening to considerable testimony in the hearings on this bill, and after discussing it in executive session and reading many of the statements, pro and con, concerning certain of its controversial issues, I am of the opinion that the District of Columbia omnibus crime bill is a balanced piece of legislation. Where objections were raised as to the constitutionality of certain of the provisions in the bill, such as pretrial detention, the committee was careful in obtaining decisions on such matters from the Attorney General, the U.S. Attorney for the District of Columbia, and others who are knowledgeable in such matters.

For instance, we have available here at my desk for the information and guidance of each Member a Virginia Law Review article authored by Attorney General John N. Mitchell, addressed specifically to the constitutional questions raised by pretrial detention.

This omnibus crime bill is not only a balanced piece of legislation because of the way it was treated in committee, but, perhaps more importantly, because it protects the interests and rights of the individual while at the same time preserving and promoting the integrity of the entire judicial process. The bill thus attacks the problems of crime in the District of Columbia in a number of different ways, but admittedly one of its principal purposes and primary objectives is to bring some peace and tranquillity to the streets of this city. This city is about to be torn apart by crime with all its attendant problems, such as the constant fear of assault, robbery, and so forth, in the homes and on the street, the costs to the victims of crime in pain and suffering, loss of earnings, losses by theft, and so forth.

The first and initial step taken by this bill is to reorganize the court system so that ultimately, but on a timely schedule, all of the common law criminal and civil jurisdiction will be removed from the Federal court system into the local District of Columbia courts. It thus puts the District of Columbia more or less on a footing with the State courts. In addition, title I of this bill will add 10 trial judges to the superior court as soon as they can be appointed and their nominations cleared with the Senate, and in addition, three appellate judges are being added to the District of Columbia Court of Appeals.

What this means is that for the next 2 years, while certain of the civil and criminal jurisdiction cases are being transferred from the Federal courts to the local trial and appellate courts, 10 additional trial judges and three additional appellate judges will be working on the backlog both criminal and civil that may exist in the courts of the District of Columbia. This cannot help but result in speedier trials for defendants. At the same time, hopefully, it will have a deterring effect on crime in this city by effecting swifter and surer justice. Title I of the bill also provides for an executive officer to be appointed for the local courts. This officer would receive the same salary as the judges; and it would be his job to see to it that the Superior Court and the District of Columbia Court of Appeals would be operated much more efficiently and effectively. It would introduce into the local court system the concept of court administration in the truest and most professional sense of that word.

The registrar of wills and the probate court would also, 2 years after the date of enactment, become part of the local court system. The U.S. District Court for the District of Columbia is the only Federal court in the country that operates as a local probate court. The bill would also eliminate the Coroner system as it has been known in the District of Columbia and replace it with a modern Medical Examiner system. Also the District of Columbia Court of Appeals would set the rules and regulations for admission to the local bar whereas the U.S. Court of Appeals for the District of Columbia Circuit now performs that function.

There is established in the omnibus crime bill provision for a family division of the newly proposed Superior Court for the District of Columbia. The family division would be composed of a domestic relations branch and a juvenile court branch. As many of you may know from your acquaintanceship with District matters generally or from reading the newspapers, the Juvenile Court for the District of Columbia has been experiencing a considerable number of problems over the last few years. There are those who would say that several of these problems arise by reason of the fact of certain conflicts in personality or otherwise which may exist between certain members of the bench of that court. Whether or not this is a contributing cause, one thing is crystal clear and that is that there is a tremendous backlog existing on the dockets of the Juvenile Court for the District of Columbia which have reached a number of 6,200 juvenile and 3,600 adult cases and constitute a backlog of up to 3 years. This bill would eliminate the independent Juvenile Court for the District of Columbia 6 months after enactment. Initial relief is provided for the backlog by a provision which would permit the chief judge of the court of general sessions to assign judges newly appointed under the provisions of this bill, to the juvenile court as now constituted so as to assist that court in working down that backlog.

There are a number of procedural safeguards accorded juveniles which are contained in the revision to the Juvenile Code for the District of Columbia, such as the right to counsel, forms of petition, and jurisdiction over intrafamily quarrels.

Perhaps one of the more innovative measures of the bill is that the jurisdiction of the juvenile court over individuals 16 to 18 years of age is revised. The term "child" is defined in the bill as meaning an individual who is under 18 years of age except that it does not include an individual who is 16 years of age or older and who is charged by the U.S. attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit such offense or assault with a dangerous weapon or any such offense as noted above, and any offense properly joinable with such offense. Also, jurisdiction of individuals 16 years of age or

older charged with traffic offenses will be handled by the superior court.

These provisions are explained in part by the fact that we are dealing today in our highly populated center city areas with youngsters who, though they may be 16 years of age, are sophisticated and dangerous. In recent months, individuals aged 16 and 17 were charged with approximately 10 percent of all the rapes and homicides committed in the District of Columbia. This is greatly disproportioned in their relation to the total population. As will be brought out later, the narcotic addict is a compulsive criminal and must rob and steal in order to feed his habit. We know, generally speaking, that narcotic addiction can almost never be cured. While there is some hope for the methadone treatment, what we are dealing with when we have a 16- or 17-year-old individual who is a narcotic addict is someone who may be virtually committed to a life of crime and someone for whom there is little hope of rehabilitation. It does not make good sense to me to handle a 16- or 17-year-old individual in the juvenile court system who has been involved in a serious felony such as murder, rape, or robbery, and then turn that individual out on the streets at age 21 whether or not he has been rehabilitated, and whether or not he constitutes a danger to the community at age 21.

In an earlier day when children received a high standard of guidance and direction in the home and in the church and in the community, there was less need for us to deal with an individual, as an adult, who was 16 years of age. Indeed the statistics indicate that when that kind of home and community discipline existed for the juvenile, he was not committing felonies and crime to the extent he is today. But we do not have that kind of home situation or environment in the inner city areas today. On the contrary, what we have is a large impersonal city, parents who are working, children who are exposed to narcotics, and all kinds and types of temptations on television, in the streets, and elsewhere. As a result, we find ourselves with a crime explosion by juveniles. We have to draw the line somewhere and I think realistically in this bill the line has been properly drawn at a point consistent with several State laws.

There are also provisions in the bill calling for life sentences for multiple offenders, and increased penalties for those who commit crimes of violence while armed. There are provisions on resisting arrest, competency of witnesses, and other criminal law procedures which will be handled independently by other members of the District Committee to whom I will yield time in this debate.

There are also revisions of the District of Columbia Uniform Narcotic Drug Act contained in this bill. In this regard, I wish to remind the members of this body that Chief of Police Wilson, in testifying before the House District Committee, is quoted as saying that if he could get 200 or 300 hard-core narcotic addicts off the streets, he believes he could reduce crime in the District of Columbia by 50 percent. The relationship of narcotic addiction to crime is perhaps best presented as it was by Dr. Murray Grant, the then director of the District of Columbia Department of Public Health, before the Senate District of Columbia Committee in March of last year when he said that in the District of Columbia it costs from $40 to $60 a day to maintain an average drug habit.

In the District of Columbia it costs from $40 to $60 per day to maintain an average drug habit. The addict obtains these funds largely through crime against property or, in the case of women, by prostitution. We are reliably informed that in the District, or in Baltimore where much of the merchandise ends up, a fence will pay only around $50 for merchandise valued at $250 to $500. Thus, to maintain a $50 habit, an addict must each day steal merchandise, which on an annual basis, must have a valuation of $100,000 to $150,000.

There are 1,076 drug addicts known in the District of Columbia; in addition, there is little question that there are a considerable number of others not so registered. It is clear, therefore, that the total amount of merchandise stolen by these addicts to maintain themselves on the habit is obviously very large. Thus, there is sound basis for the conclusion that much prostitution and a considerable number of street crimes in the District are a direct consequence of the enormous cost of the drug habit to the addict. It has also been said that a number of the recent bank robberies are by addicts and that this is an approach especially likely to be used by younger addicts including teenagers. Older addicts look with scorn on this because the "con" games they have developed, check passing and especially crimes against property, reflect their more developed criminal skills. We are seeing not only a very large number of young adult addicts in our program, but an increasing number of teenagers, including some 13- to 14-year-old adolescents with an established habit.

It seems fair to say that in terms of the cost of crimes to "feed" narcotic habits in the District, the figure may reach, or extend beyond, $150 million each year.

As to pretrial detention, there are in this Chamber on the desk before me copies of a law review article from the University of Virginia Law Review written by Attorney General John N. Mitchell, which I referred to earlier. It is not a particularly long article and I suggest to those Members who are here and have an interest in this matter that they spend the few minutes it would take to read that article because I feel sure that it will answer all the objections made by those who oppose this measure as written into this bill. There is no sense in my standing here repeating the repudiations of the eighth amendment, the due process and the presumption of innocence arguments, used by opponents to pretrial detention, which are so logically and persuasively stated in Mr. Mitchell's article. In my own view, after listening to the hearings on this bill and the arguments in the markup of this bill, which such provisions as court reorganization, increased judges, and the public defender system will help effect speedy trials and aid the indigent defendant in obtaining justice from the courts, this particular provision of pretrial detention is balanced so as to meet the need to protect the community from those who might otherwise be released back on the street after having once been apprehended so as to permit them to commit other and further crime. The opponents to this measure will say that they have statistics to show that only 5 percent of the individuals who have been released without bail have been convicted of other crimes within 60 days.

First, from my own reading, I do not believe that there are adequate statistics to prove that claim and that in fact it may support pretrial detention if pursued in argument. Second, I think it is wrong for most of us in our own States to have a bail system that as a practical matter is used for pretrial detention and deny it to citizens of the District of Columbia. I believe pretrial detention is important for the safety of this community; I believe it is important as a deterrent to crime; I believe it is important to the morale of the police department; and, I believe it is important for the effective prosecution of crime in the District of Columbia.

No one can convince me that the pretrial release of a known hoodlum on the streets, one dangerous to the community, or a hard-core narcotic addict, does not have a devastating effect on the citizen respect for the police, the courts, the judicial system, and perhaps more importantly this Congress, especially if it votes today not to permit pretrial detention.

A public defender service is provided for in this bill that would expand what is now known as the District of Columbia Legal Aid Agency. It would provide a small cadre of experienced, effective counsel for indigent defendants in the District of Columbia who could not otherwise afford counsel. This public defender service will provide up to 60 percent of the counsel needed by these indigents and the other 40 percent will come from members of the local bar who are paid under the Criminal Justice Act.

There are those who object to the use of the wiretap in the District of Columbia for certain common law crimes. However, the Safe Streets Act of 1968 authorized each of the States to adopt their own local wiretap laws, as permitted by State law, and these provisions in the bill are merely in conformity with that act. I do not agree with those who express great fear that every individual in the District of Columbia can expect to have his telephone tapped. First, it is designed to catch criminals and it is already being used for Federal crimes in the District for that purpose. Those who are informed in the area of wiretap know very well that wiretapping is a very expensive and complicated proposition. The recent narcotics raids in the District that resulted in the arrest of approximately 46 individuals involved, I understand, surveillance costs that were well in excess of $50,000. As the ranking minority member of the District of Columbia Committee, if the indications are that there is a request for revenue to cover excessive or unwarranted electronic surveillance, I am go-

ing to be one of the first to know about it and object to it. Accordingly, I just do not buy the scare tactics of all those who say that everyone's telephone in the District of Columbia is going to be subject to wiretap.

The District of Columbia Bail Agency is strengthened and expanded under this bill for those individuals who can qualify for release prior to trail on their own recognizance. Sufficient authority is placed with this agency and it is given additional employees so that it can effectively supervise those who are so released. Pretrial release for indigent defendants who do not constitute a danger to the community has proved successful and may in fact be expanded under the provisions of this bill.

The foregoing is a general overview of what I consider the most important provisions of this bill. I hope that it has been informative and useful.

However, I might add before closing that certain studies have been conducted in recent years that yield results of interest in considering this legislation. For instance, the report of the President's 1967 Commission on Law Enforcement indicates that if your income is under $3,000, your chances of being robbed are five times greater than if your income is over $10,000; your chances of being raped four times greater; and, your chances of being burglarized almost double. In addition, the report reveals that if you are black, the chances that you will be robbed are more than triple those if you are white; and the chances of your being burglarized or having your auto stolen are more than double for the black citizen.

I am sure that I need not draw a picture for my colleagues in order that they may recognize that the description of the group provided by the President's commission as most victimized by crime applies with equal, if not greater, force to this city than any other city in the Nation. Councilman Sterling Tucker of the District of Columbia City Council noted these kinds of statistics in a recent speech exhorting the black leaders of the District to speak out against crime and help lift the shroud of fear that it places on this city for all its citizens.

In conclusion, may I again state that I am not a lawyer and that I will yield time to those on this side of the aisle to answer those technical, legal questions which some of you might have regarding this bill. But for those who are not lawyers, and many who are, I feel sure that the application of commonsense and logic to the arguments regarding the provisions in this bill will convince you of the need and appropriateness of this legislation as reported to you today.

The majority of the District Committee, in a truly bipartisan vote and action, favored the speedy enactment of this bill. The President's interest in passing his crime package was forcefully stated in his letter to the minority leader yesterday. When enactment is accomplished, and I hope we pass this bill today, I believe you are going to see a change in this city for the better as far as crime is concerned. The change will not be overnight, but I hope to see results by summer or early fall.

My friends, we have a duty in this city to combat the crime we see on every hand. We have a challenge in this Chamber today to stand up and be counted in favor of this legislation that will give our police, prosecutors, and courts the necessary tools to accomplish the task. The residents of this community, our constituents, and the Nation as a whole, look to us today to pass this balanced anticrime package for the District of Columbia.

Mr. McMILLAN. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi (Mr. ABERNETHY).

Mr. MacGREGOR. Mr. Chairman, will the distinguished gentleman from Mississippi yield to me at this point?

Mr. ABERNETHY. I shall be happy to yield to the gentleman from Minnesota.

Mr. MacGREGOR. Mr. Chairman, I would like to say to my distinguished colleague from the State of Minnesota, as a farmer he has done a better job in outlining this bill than most Philadelphia lawyers could do.

I was particularly pleased that he placed the emphasis which he did on the threat of the narcotics pusher. I think it is significant to note that the very limited use of the wiretap authority contained in the 1968 omnibus crime bill in the District of Columbia pursuant to very careful court order resulted in some 60 indictments in the narcotics field from only three taps. This limited wiretap provision is very necessary for the District of Columbia, and it is obviously highly effective.

I thank the gentleman from Mississippi for yielding.

Mr. ABERNETHY. I was very happy to yield to the distinguished gentleman from Minnesota and I would like to join with the gentleman and agree with the comments he just made.

Mr. Chairman, it has been my privilege to serve as a member of this committee for almost 28 years. There are not many rewards that come from this service back in our districts, but the opportunity for reward is here today—the reward being the saving of this capital of the civilized world which can come to us today through the passage of this legislation.

This is a beautiful city. It has been the envy of people around the earth. It is the center of all of the activities of this world—commercial, cultural, government, business, and so on. I have traveled a little in my life—not to much—but I have been to numerous countries on other continents. I have visited many lovely cities, but there is no city in the world as beautiful as Washington, D.C. Even so, it is dying. In fact, there is not much life left in it. It is very close to death at this very moment. It is dying of a disease—crime—that is rapidly expanding not just in Washington, but elsewhere in our country.

Much of this crime is committed by the youth of our land, and more particularly of this city. I am not one who wishes to be critical of our youth, not at all. In fact, I should be critical—and I am—of the adults who have had the responsibility of training these youngsters, and failed to do their job.

Mr. Chairman, this city is a jungle. I do not say that because I like to say it. It hurts me to say it, but I know it is true—it is a jungle.

Some of us have been pointing to this situation for a number of years. Even though most everyone in the city and in the Government here knew it was true, there are some who denied it and who continue to deny it. We sometimes read editorials occasionally that say that crimewise Washington is no worse than any other city. In some respects it is not, but overall we know it is.

Most of the news that we hear nowadays, either on the radio cr the television, or in the papers, is in criticism of a few specific provisions in this bill. Instead of commending this bill to the Congress and pointing out its good features we only hear criticism of a few sections.

As an example, I listened night before last to a radio editorial. The editor spent his time speaking of that which he said was the bad things in the bill. I am really surprised that I managed to listen all the way through because I know of nothing so dull as a radio editorial; but the reason this attracted my attention is that the editor happened to be speaking about something that I had had a hand in putting together.

Now, I do not want the members of the press to feel as though I am jumping on them, because I am not. I am just trying to suggest to them that we need their help, too. I do not object to criticism, I welcome it. I could not very well have remained in this House of Representatives and taken part in its activities as long as I have if I could not take criticism. I can take it—and sometimes it does me good. In fact, I know it often does me good. But we need the help of the people who put the news out in this town, and the citizens of the community who believe in law enforcement, to help us give them the tools that they need to restore this city to civilized sanity.

We have been working on this measure since last fall. It has been a long road. It has not always been pleasant. I do not mean that there have been personal differences between us—because there have not been. We have produced what I think is the finest piece of crime legislation ever assembled and brought into this Chamber in the history of this country.

It is a bipartisan measure. It was produced by Members on both sides of the aisle—if you can say that we have an aisle in our committee. But most of all, it was produced by the hands and the good mind of one of the most able young men I have come in contact with—and that person is Don Santarelli, of the office of the Attorney General. He has been so helpful and has rendered such great service that I cannot let my bit of time pass without expressing my appreciation for his good work and expressing the debt that this city and this Congress owe him for the services he has rendered.

Mr. Chairman, when Congress is in session, I am a resident of Washington. I have owned a home here since 1949.

I have seen my neighbors flee this city. I have seen their schools go to pot—and you know the troubles they are in—and indeed they are in a mess. I see their libraries breaking down.

If you go into a library in this community at night, you can no more concentrate than you can fly—this is not all the time. Disorder often prevails.

I have seen the streets become unsafe. You would not dare allow your wife or your daughter to walk in the vicinity of this Capitol at night—and frequently in the daytime. I still own my home in Washington and I am convinced I will continue to own it so long as my people feel they want me to stay here and represent them.

But with the situation that we have to live in, it has come to be a tough job to stick it out. It is tough and it is dangerous.

I have before me a few press clippings taken from local papers which give some indication of the problem of crime in the city: "Mayor Authorizes New Police Patrols"; "Extra Police Authorized on Overtime"; "Embassy Guards Are Backed by White House"; "More Foot Policemen Are Put on Overtime."

Now these are items in the daily news—every day: "$523,000 Safety Program Voted by D.C. School Board."

It is even dangerous to walk in the halls of the city schools.

Teachers have been shot—students abused.

Here is another headline, "School Crime Hearing Called"; "District Moves on Library Plea."

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. McMILLAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Mississippi.

Mr. ABERNETHY. Here is another item: "Crime Rise Threatens Branch Library Closing"; "Mayor Puts Focus on Youth Crime"; "Merchants Quit Georgia Avenue as Crime and Fear Spread"; and so on and on.

Now this bill will not solve all this.

And I hope the people of this city who live and own property here will not get the idea that merely passing a bill through Congress will solve all problems. It will take some action on the part of the people and some guts and interest on the part of parents. Laws are worth nothing unless we have juries of men and women who will do their job and convict. A law recorded on the statute books is of no value unless we have people who will come forward and testify.

A fine old man driving a cab put me out here at the Capitol the other day and he said, "Mister, I am living in holy horror because of the crime situation in my community. I am scared to death."

And I told him what I said to you just now.

He replied: "But if I come forward to help, or if I come forward to testify, they would burn down my house."

That is the chance that some people here are going to have to take if we are to get this town out of the trouble it is in. We have the tools here if they will use them. We have a good police force. We have a good bill here. I commend it to your consideration and for your approval. Then I hope that this time next year it will be safe for somebody to walk in the neighborhood of the Capitol of the most civilized Nation on earth.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am happy to yield to the gentleman from Minnesota.

Mr. NELSEN. I merely wish to say to my colleague, the gentleman from Mississippi (Mr. ABERNETHY) the learned lawyer that he is, and considering the work that he has done on this bill, I am sure we all owe him a debt of thanks. He has diligently and effectively worked on this matter, and on behalf of those on our side of the aisle, I merely wish to thank him personally for what he has done.

Mr. ABERNETHY. I thank the gentleman.

Mr. Chairman, the Constitution gives to Congress the expansive power to exercise exclusive legislation in all cases whatsoever in the seat of Government of the United States.

Today, we exercise that power in a time of crisis. There is hardly a person in this land who is not aware of the crime problem in the District of Columbia. Certainly, there is not a decent citizen in the District who has not been affected by the menace of crime.

The Constitution lays upon the shoulders of the Congress the ultimate responsibility for life in the District. When conditions become intolerable, the Congress must act. Conditions have become intolerable for hundreds of thousands of our citizens.

In the last 11 years, the total number of serious crimes in the District has increased sixfold. Particularly shocking is the incidence of armed robbery and burglary. Last year, armed robberies averaged almost 20 each day. That means that each day, roughly 20 people in the District were confronted head on with a weapon of destruction. A dialog of these confrontations is printed frequently in the morning paper:

"Shut up and give me what you got."

"Don't move or you're dead."

"Give me the money or I'll kill you."

Unfortunately, tragedy has struck too often to ignore these threats. Again and again, crimes of violence have been committed. Again and again, they have gone unpunished.

No single bill will restore complete tranquility to this beleaguered city. Thus, the District of Columbia Court Reform and Criminal Procedure Act of 1970 is not a panacea for all our problems. But it is a reasoned response to lawlessness—an immediate response to immediate problems.

The urgency of the situation cannot be overstressed. Crime is having an awesome impact on the District of Columbia. It is driving out the stable middle-class residents who provide the sinew of a healthy community. As they have gone, the tax base of the District has seriously deteriorated. Community leadership has suffered also. When businesses in high crime areas are closed because of crime, people suffer hardships and inconvenience. They are forced out of work.

Consultants assert that needed housing in this city is being delayed because planners and builders are afraid of crime. A recent report declares:

> Prime among the obstacles inhibiting private development of housing downtown is the wide-spread atmosphere of insecurity and lack of confidence stemming from . . . in the 1968 riots and the increasing wave of crime and deterioration.

On another front, we are told that some of the city's public libraries face the threat of being closed unless "disorder, theft and vandalism can be brought under control." In some library branches, children, students, and adults are not permitted to study, read, or carry out research because of the disturbances created by gangs or the threat of bodily harm made by individual offenders.

In our schools, young people striving for an education sit side by side with bank robbers and addicts. The pressures to conform to a pattern of misconduct are frequently immense.

Every decent citizen acknowledges fear—fear of strangers, fear of the streets. Few of our people venture out at night. Instead, they are locked in their homes, guns at the ready.

Mr. Chairman this intolerable situation requires action.

The bill reported by the District Committee is a major reform—a comprehensive treatment of the inadequacies in the criminal justice system. To a very significant extent, the breakdown in law and order here may be attributed to a breakdown in the criminal justice system. This is the deficiency to which we respond.

This is a bill to revitalize the criminal justice system. This is a bill to restore needed balance to one of the fundamental mechanisms of a civilized society.

Court reform is essential. In recent years, the number of offenders has risen sharply. At the same time, certain trends in the criminal law have afforded additional protection to criminal defendants. These protections expend time. One prominent judge on the Federal district court here has declared:

> In the last few years, due to Wade-Stovall matters, Lack matters, remands and other rulings of the Supreme Court and our Court of Appeals, *it now takes twice as long to try any given criminal case as it took some 5 or 6 years ago.*

There is no doubt whatever that the courts here have been swamped by an inordinate number of cases. An expansion in the number of judges is vital. This bill goes beyond that, however, to provide an authentic unified "local" court system. Over a 3-year period, all local jurisdiction presently residing in the U.S. district court and the U.S. court of appeals will be transferred to a new superior court and the District of Columbia Court of Appeals. At the same time, the present court of general sessions, the juvenile court, and the District of Columbia Tax Court, will be merged within the new superior court.

Several important benefits will flow from this reform. Additional manpower in the new superior court should materially reduce present backlogs and delays, permitting the realization of speedier

trials for criminal defendants. The inability of present courts to close a 9-month gap between arrest and trial has seriously undermined the law's deterrence.

Transfer of local criminal jurisdiction from the Federal courts will largely eliminate the present practice of reducing felonies to misdemeanors so that they can be tried more quickly in the court of general sessions. The Federal district courts, in turn, will be relieved of the heavy burden of local cases and permitted to concentrate on Federal matters. In both instances, the quality of justice should be improved.

The court reorganization we contemplate provides for a central court executive in the local system. This officer will have authority to effect sound management techniques in court administration. His duties will include assisting the chief judges in organizing the courts for efficient operation, managing property and disbursements, and providing technical assistance through informational reports.

Under this court reorganization, decisions in the superior court will be appealed to the District of Columbia Court of Appeals. Beyond that, cases may be reviewed by the Supreme Court. With rare exceptions, this new regimen bypasses the U.S. court of appeals. The elimination of this unnecessary layer of review and the attendant decrease in the opportunity for mischief by that court is more than sufficient grounds to adopt this legislation.

There are other sections of this bill which should command unanimous support. For example, the bill amends the District of Columbia Bail Agency Act to increase substantially the responsibilities and effectiveness of the bail agency. At the present time, the agency does not have sufficient personnel or authority to fulfill its role in the community.

Title III of the bill converts the present legal aid agency into a full-fledged public defender program. The committee believes that this new service, which will provide legal representation to defendants in criminal cases who are financially unable to obtain adequate counsel, will help to expedite criminal trials in an increasingly technical field of law.

Let me touch briefly on two of the major improvements in criminal law and procedure.

PRETRIAL DETENTION

The bill authorizes courts in the District of Columbia to consider a defendant's potential danger to the community in setting conditions of pretrial release. Further, if the court determines in an adversary hearing not only that there is a "substantial probability" that the defendant has committed a dangerous or violent crime but also that there is no condition or combination of conditions of release which will reasonably assure the safety of the community, the defendant may be detained. The time limit on detention is 60 days.

The committee was persuaded by more than 3 years of experience under the Bail Reform Act that society must have the means to protect itself from danger. Present law mandates the pretrial release of all noncapital offenders, with limited exceptions to prevent flight. The U.S. court of appeals has made it crystal clear that court in the District may not consider danger to the community, no matter how imminent, no matter how grave. The court has said:

> The structure of the Bail Reform Act and its legislative history make it clear that in non-capital cases, pretrial detention cannot be premised upon an assessment of danger to the public should the accused be released.

The committee is convinced that this law is unreasonable. It does not accommodate the interests of society. The actual incidence of crime and violence committed by persons released before trial urgently dictates a revision of the statute. Society should have a fair and rational mechanism for protecting itself from the dangerous defendant.

Although it is important to assure the presence of an accused person at trial, this cannot be more vital than protecting society. This cannot be more vital than preserving the health and safety of individual citizens.

When Congress fails to provide for the dangerous defendant, it fails to balance the interests in society.

I agree with the statement of the court in *Ex Parte Thaw*, 209 F. 954, 955 (1913):

> The right to bail . . . is subject, like all other personal rights, to being influenced by considerations of public policy and public safety.

This is the essence of the matter before us. The committee has drafted a bill to achieve substantial justice while protecting defendants. It has tried to balance the interests in society.

NO-KNOCK

The bill contains a provision codifying the common law authority for police to enter a premises without knocking under exigent circumstances—exigent circumstances in which the officer might be killed or critical evidence would be destroyed. No one questions the general rule that in the vast majority of cases, officers should knock and announce their identity and purpose before entering. But there must be exceptions to the general rule. Everyone in this Chamber knows that if a policeman politely knocks on the door of a dangerous suspect and announces, the response may well be a shotgun blast in the stomach. At best, knocking and announcing to a dangerous suspect increases immensely the threat to the policeman's life and limb. The element of surprise would be lost; the opportunity for violence would be multiplied. And the probability of destruction of evidence zooms.

New York has had a no-knock statute since 1965. It was used effectively 2 weeks ago. Armed with no-knock warrants, New York City police raided a private residence and a store. They seized an estimated 24 pounds of heroin and cocaine with a retail value of $10 million.

Police officers in the District of Columbia are entitled to legislative guidance on the law in this area.

There are other important revisions in criminal procedures. They are needed by authorities to reduce crime. The committee approved these measures because the time has come for society to act.

The people of the community are watching us today. They are looking to the Congress to provide leadership.

The tragic developments in the District of Columbia require a massive effort to control disorder.

This bill is the most reasonable but potent response your committee could make to the crisis in the District which lies before us. I urge its adoption.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER assumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 12, 1970:

H.R. 11651. An act to amend the National School Lunch Act, as amended, to provide funds and authorities to the Department of Agriculture for the purpose of providing free or reduced-price meals to needy children not now being reached; and

H.R. 14733. An act to amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers and for other purposes.

On March 13, 1970:

H.R. 8020. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship overhauling away from home port whose dependents are residing at the home port.

H.R. 11702. An act to amend the Public Health Service Act to improve and extend the provisions relating to assistance to medical libraries and related instrumentalities, and for other purposes.

On March 17, 1970:

H.R. 13008. An act to improve position classification systems within the executive branch, and for other purposes; and

H.R. 13300. An act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities, and for other purposes.

The SPEAKER. The Committee will resume its sitting.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Committee resumed its sitting.

Mr. NELSEN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, today we are talking about a city and its people. In 10 years I have become intimate with this city and I love it and it is mine. This friend of mine is sometimes a beautiful lady wearing cherry blossoms in her hair. She is exciting, inspiring, and challenging. And sometimes she is afraid, and sometimes she is frightening.

These charts tell about that frightening aspect. But statistics are cold. In and of themselves they do not mean much. So I want to use these numbers and graphs to draw a picture for you.

The first chart tells a story about our city of Washington. It says simply that of all major cities in the United States, Washington, D.C., is preeminent in crime. We are No. 1.

Chart No. 2 tells us that in 10 years we went in Washington from 79 to 289 homicides and from 2,500 to 3,600 aggravated assaults. The difference in definition is that one victim died and the other lived.

But because I have been intimate with this city, I do not look at the chart and see numbers. I see the old man lying on East Pennsylvania Avenue with an eye protruding from his head, horribly beaten. He had not bothered anyone. He was not part of an establishment. He was not rich. He was poor. And he was black. There was no motive for that crime except sadistic pleasure.

The chart says the city jumped from 65 forcible rapes to 336, but what I see is the young mother at 13th and Euclid, fresh home from the obstetric ward at the hospital, lying in bed, her newborn infant at her side, torn apart physically, and with an enduring, indelible scar on her mind, literally almost scared to death.

The chart says burglaries increased from 3,000 to 22,000 and robberies increased from 7,000 to 12,000, but what I see is the wide-eyed little kid from Northeast who, at 13, is a three-time violator. I see a 21-year-old man arrested for armed robbery, climbing the walls of his jail cell, screaming in mortal agony for the needle to which he has become a slave. I see the Murphy man and the bunco specialist and the mug job and the yoke.

The totals add up to a six-time increase in crime in my city, and I see a 12-year-old girl on the street selling an already diseased body, turning 60 percent of the take over to a sleazy pimp. I see the "gentleman" who drops her out of his fine car at the edge of a dark alley.

The chart says 62,575 offenses—what it means really is that there were more than 62,000 victims. That is the significance.

Now we get some cause and effect—some perspective. The line which designates the rate of increase in crime jumps when the court says there shall be no investigative arrests, and it shoots almost straight up when we stop the monetary bail bond and release the accused on his own recognizance. Not shown here are the vast numbers of the accused who commit additional crimes while waiting 8 months for trial. This is not difficult to understand.

Here is a man arrested on New York Avenue for robbery. He has an $80 a day narcotics habit. Turn him lose on the street. Where can he get $80 a day for the "horse" on his back except through crime? He cannot help himself. His compulsion is all devouring and complete and uncontrollable. He needs help—and his prospective victims need help.

The prediction? Follow the curve. If we do not do something, 100,000 crimes annually will occur by the end of 1972—100,000 victims in 1972. I will not talk about the economic loss and the social loss.

This is what this bill is all about. Mr. Chairman, and my colleagues, I have not spent 10 years sitting up with this sick friend, which is the city, because I like to play cops and robbers or because I like excitement. This city has been my laboratory, to study the problems of cities and the problems of people. And anyhow, police work is not generally exciting. It is rather, drudgery. It is not so much heroic as it is dangerous, although I have seen some genuine heroic acts. Forget about the statistics and think about people and fear and hurt and death.

This bill seeks no vengeance. It seeks protection. It seeks a law to make people free. It seeks to bring law and order out of chaos. It asks simply that we make our city one of which all Americans can be justly proud, a city which is a pattern for the Nation to follow.

Mr. Chairman, I include the charts which I have previously referred to, for the information of the Members.

CRIME INDEX OFFENSES—JANUARY THROUGH SEPTEMBER 1969, CITIES 500,000 TO 1,000,000 POPULATION

City	Population	Offenses		Murder	Rape	Robbery	Aggravated assault	Burglary	Larceny	Auto theft
		Total offenses	Ranking per 1,000 population							
Baltimore	939,024	48,220	3	174	521	6,679	8,408	14,970	9,473	7,995
Boston	697,197	25,924	9	74	180	2,298	1,184	6,565	4,716	10,907
Buffalo	532,759	11,504	13	32	102	699	587	3,963	3,506	2,615
Cincinnati	502,550	9,656	14	43	129	606	536	3,760	3,244	1,338
Cleveland	876,050	36,069	7	179	210	3,939	1,556	8,854	5,174	16,157
Dallas	679,684	29,451	6	161	319	1,563	2,800	14,150	4,613	5,845
Houston	938,219	41,983	5	193	311	3,484	2,110	18,040	8,948	8,897
Milwaukee	741,324	13,413	15	30	60	428	523	2,994	5,970	3,408
New Orleans	627,525	20,962	11	52	231	1,732	1,734	6,343	6,285	4,585
Pittsburgh	604,332	24,583	8	43	181	2,215	1,364	7,625	6,023	7,132
St. Louis	750,026	35,218	4	189	470	3,571	2,738	14,306	3,282	10,662
San Antonio	587,718	20,144	10	70	123	656	1,596	8,511	5,192	3,996
San Diego	573,224	14,096	12	25	113	517	565	3,649	6,716	2,511
San Francisco	740,316	39,632	2	100	437	4,825	2,266	13,795	5,156	13,053
Washington D.C	763,956	44,629	1	200	259	8,656	2,687	16,367	8,345	8,115
District of Columbia ranking in actual number of offenses		2		1	6	1	4	2	3	6
District of Columbia ranking per 1,000 population		1		1	6	1	4	2	2	6

CRIME IN THE DISTRICT OF COLUMBIA

Offense	January through December, calendar year—			
	1958	1962	1966	1969
Homicide	79	91	144	289
Forcible rape	65	82	134	336
Robbery	709	1,572	3,703	12,423
Aggravated assault	2,535	3,005	3,177	3,621
Burglary	3,642	5,022	10,267	22,992
Larceny ($50 and over)	1,683	2,666	5,261	11,548
Auto theft	1,899	2,581	6,565	11,366
Total	10,612	15,019	29,251	62,575

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, in connection with the very eloquent presentation of our very distinguished colleague, the gentleman from Iowa, I want to allude to one fact and corroborate what the gentleman said.

Last year when the President announced he was in favor of pretrial detention, the courts here, heartened by this, began to post higher bonds for defendants, and there was a marked decrease in the number of robberies in the city as a result. In due course, appeals were taken and some of these detentions on money bonds were reversed by the appellate court, and the rate of crime again skyrocketed.

I think this is ample indication of the validity of the points made by the gentleman from Iowa that pretrial detention will definitely have a curbing effect on crime.

Mr. McMILLAN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. DOWDY).

Mr. DOWDY. Thank you, Mr. Chairman.

Mr. Chairman, the action we take today will symbolize to the citizens of the District of Columbia the determination of Congress to reduce crime in this city. It will advise the criminal elements in this city that their control of the streets will no longer be tolerated.

Before I proceed, Mr. Chairman, I must pause to join the gentleman from Mississippi (Mr. ABERNETHY) in commending the splendid assistance given to all of us on the committee by Don Santarelli. Without his able help and long study, we might yet be laboring to bring

this crime bill to final form. I want to express to him my personal appreciation.

The District of Columbia Court Reform and Criminal Procedure Act of 1970 is our comprehensive answer to violence in Washington. Long and careful study went into this legislation. For months the Committee on the District of Columbia and the subcommittees worked closely with the Department of Justice. We heard testimony for 8 days, plus 11 days on the Department of Corrections. We sought out the advice of prominent citizens.

The District of Columbia Bar Association held a referendum on many key provisions in the bill. A majority of the more than 1,400 association members who voted in the referendum endorsed the key provisions which our committee adopted.

There are two important provisions which deserve special comment, and in addition to that the Lorton matter, which were heard before my subcommittee. I will comment on those in my remarks today.

Under the terms of the Bail Reform Act of 1966, courts in the District of Columbia are forbidden to consider danger to the community in setting conditions of release for noncapital offenders. As a result, the District has seen a steep rise in crime by persons released before trial.

Robberies have been the most flagrant example. Burglaries have also been significant.

The language of the present act mandates the pretrial release of all noncapital defendants.

It mandates their release even if they have long records of violent crime.

It mandates their release even if they were caught in the act.

It mandates their release even if they commit a new crime on bail.

A provision of this nature goes too far, because it does not protect the interests of society.

Several years ago, four masked men broke their way into a private home in Houston. They were armed with guns, knives, and a cattle prod. Over a period of 3 hours, they tortured a wealthy Houston couple and a woman working in the house, trying to obtain money that was not there.

The man was beaten severely. His wife was shot in the left thigh after being beaten to the floor, burned with a knife, and shocked with the cattle prod. The woman working in the house was pistol-whipped. A 10-month-old child was threatened with death. When the men finally left, they took $3,000.

If this true incident had occurred in Washington, the Bail Reform Act would have mandated the release of these four defendants, had they been apprehended.

To my mind, that result is unconscionable. If the men in question were identified by their victims, if there was a "substantial probability" that they had committed the crime, they should not be released. To release them would be a menace to society.

The plain truth is that hundreds of dangerous defendants—some as vicious as the men I have described—have been released before trial in the Nation's Capital. Some of them have been narcotics addicts who could not resist the impulse to rob and steal. Some have been rapists compelled to violence.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. DOWDY. We do not serve the public interest when we blind our eyes to the dangerous defendant. This bill provides a reasonable, rational answer to the problem.

Another important provision in this bill is a new juvenile code. This code has been inspired by recent developments in juvenile law and by the grim statistics of juvenile delinquency. Between fiscal 1963 and fiscal 1969, the number of cases referred to the present juvenile court involving serious crimes by persons between 16 and 18, increased by the following percentages:

Aggravated assault up 91 percent;
Robbery up 258 percent; and
Burglary up 96 percent.

In fiscal 1969, 22 persons between 16 and 18 were charged with homicide—24 with rape—166 with aggravated assault—186 with armed robbery.

In only 10 of these cases of serious crime did the present juvenile court waive its jurisdiction.

Today's young people, 16 and 17 years old, are not unsophisticated children. When they commit crimes of violence, they are entitled to be treated as adult offenders.

Some 40 percent of the serious crimes in Washington are committed by juveniles. We can hardly ignore this tragic development.

I feel I should, as well, comment briefly on the title which would transfer the Lorton complex to the Federal Bureau of Prisons. Our committee held extensive hearings on this phase of the bill, from which it became evident that the philosophy of permissiveness under which Lorton is and has been operating for several years, has resulted in a total breakdown of discipline and complete lack of security which still exists until this hour of this day.

The narcotics traffic into the complex is unbelievable; the inmates make their own intoxicants in large quantities; sexual and homosexual activity is rampant; correctional officers are continually abused and attacked by the inmates, and are not properly backed by their supervisors in their attempts to enforce discipline. We asked narcotics enforcement about the possibility of doing something about narcotics at Lorton, and were told by Mr. Ingersol, the director of the Department of Justice, Bureau of Narcotics, that the total lack of security practiced at Lorton would make vain any enforcement effort on the part of his men. The Director of the District of Columbia Department of Corrections expressed his satisfaction with the current practices relating to discipline and security.

We feel, everything considered, the transfer of authority over Lorton is not only desirable, but necessary, if there is to be any rehabilitation of the inmates.

Mr. Chairman, this is a good bill. It deserves the support of every Member of the House. It has been needed for a long time, and we should pass it now.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Chairman, all of us are aware of the many problems with which we are confronted concerning the crime situation in the District of Columbia, and the concern that the American people have regarding these problems.

Mr. Chairman, I do not believe there is any problem about which the American people will be as unforgiving for our failure to correct or to come up with a solution to, as this grave crisis in our Nation's Capital. I do not mean by that, however, that they will forgive us for our failures in solving other problems.

But I feel there can be no excuse for our failure to meet our responsibility, by passing the legislation that will help to eliminate this jungle of lawlessness which exists here in our Nation's Capital.

So, Mr. Chairman, the question before us today is how serious we are about going something about this most serious problem.

A report of the FBI just the other day pointed out that the incidence of crime had increased by 11 percent during the past year. This was apparently an attempt to point out the fact that this increase was less than that in previous years, as if that was supposed to afford some comfort in that crime may not increase quite as fast in the future as it has in the past.

But, here in the Nation's Capital, the increase in serious crime during the past year was a whopping 27 percent. These lawbreakers in Washington are paying no attention to the national statistics and trends. They are raping and robbing and murdering and mugging at unprecedented rates. I suppose they feel that since this is their Nation's Capital too, it should be a haven for lawbreakers and law violators.

Some of the reasons for this legislation, and for this steady increase in crime, spring from the complete breakdown of the criminal justice system here in the District of Columbia over a period of years. We know that the police force has been inadequate in numbers, that the U.S. attorney's office is understaffed, and that the courts are overloaded. We know further that the present system is failing to rehabilitate. But possibly the most serious problem of all is the leniency on the part of so many members of the courts toward lawbreakers, the change in the criminal procedures, the tendency to distort the interpretations of the Constitution and the laws usurping the prerogatives of the legislative branch of our Government.

Of course, Mr. Chairman, the criminal or the individual who has no respect for law to begin with, loses his fear of legal process and gains confidence that his chances are overwhelming of getting off scot free when he violates a law.

But, possibly one of the most serious reasons why we are continuing to have this increase in the local crime rate, as we may well admit, is the failure on the part of the Congress to respond prompt-

ly enough in passing appropriate legislation. Why have we had this delay? Simply because we have been unable to agree among ourselves as to how, in writing this legislation, we can provide proper protection for the constitutional rights of the lawbreakers—strange though this may sound.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McMILLAN. Mr. Chairman, I yield 4 additional minutes to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. Chairman, all of us are concerned with the constitutional rights of our citizens, but unless we can do something to make our society more civilized and to protect the integrity of our form of government, these constitutional rights will soon not be worth the paper they are written on.

I say, Mr. Chairman, that the American people are getting sick and tired of this constant hue and cry, over and over again, about the rights of the criminal and of the lawbreaker. I believe the American people would like to hear just a little bit more said about, and to have a little bit more consideration given to the rights of the law-abiding citizens and, even more importantly, to the victims of these crimes.

As you all know, we spend billions and billions of dollars every year on every imaginable and conceivable program—welfare, education, rehabilitation of these misfits; but how many proposals do we hear, how many bills have we passed, to help the innocent victims of these criminals? Many of these victims of rape, beating, and robbery will go throughout their lives bearing the scars of these outrages. Do not these people have some rights? Should not they receive at least a little more consideration?

Mr. Chairman, this bill that is before us today is a major step in the direction of doing something about this very problem. It is not a panacea, as the gentleman from Mississippi has pointed out. We do not maintain that this bill itself will abolish all crime, and we are not contending that the failure of the local criminal justice system is the sole cause of the increased crime rate in the Nation's Capital. But what we are saying is that insofar as the inadequacies in this criminal justice system do contribute to the increase in crime, then the time has long since passed when we should be doing something about it.

Mr. Chairman, the Committee on the District of Columbia has worked hard in trying to come forth with a bill that we think will be truly effective. We have worked on this bill for several months and, as always, there was a lot of give and take and much compromise in order to work out these differences. The rights of all our citizens were considered in the writing of this bill. Unfortunately, we find that there is still some disagreement, difference of opinion among learned lawyers; and, unfortunately, this disagreement affects most of the sections of the bill, and there are going to be many amendments offered to change it.

But although no one questions the right of the House of Representatives, nor the necessity of the House of Representatives, to work its will on legislation, these problems with which we are confronted are so serious, Mr. Chairman, and the situation so urgent, that if we begin to adopt these amendments and water down this legislation—yes, I say to gut the bill—then we may as well send it back to the committee and give up, and admit we cannot solve the problem.

So, Mr. Chairman, I am hoping that the House will support the committee, and support the President of the United States, and pass this bill and let all the criminal elements in this city know that their days are numbered.

This bill is historic and vitally important. What the committee has tried to do is to treat the shortcomings throughout the system. This is not a piecemeal bill. It deals with the police. It deals with the courts. It deals with corrections. Perhaps most significant is the fact that it reasserts the determination of the Congress that law-abiding people may live in this city without fear.

The court reform embodied in this legislation is a principal ingredient in the fight against crime.

In the District of Columbia, police solve about 17 percent of the reported offenses. Even with this low percentage, the courts are swamped by the number of cases. Under the present system, therefore, more arrests would not help much in reducing crime. They would simply increase the existing pressure to lower charges or dismiss them completely. The scandalous delays we now have would be stretched and lengthened.

The only remedy is to expand substantially the court personnel and reorganize the city's judicial system.

At the present time, all felony jurisdiction for Federal and local crimes in the District of Columbia resides in the U.S. District Court for the District of Columbia. The legislation before us would transfer the jurisdiction for all such "local" felonies to a new superior court for the District of Columbia—a court combining the present court of general sessions, the juvenile court, and the District of Columbia Tax Court. Thirteen new trial judges would be added to man this superior court.

This plan presents some hope of cutting down delays. It will eliminate the present friction between the Federal and "local" courts. And it will give the District of Columbia—for the first time—a completely unified local court system.

Another benefit of this proposal is that it will eliminate appellate review by the U.S. Court of Appeals. This court of appeals is notorious. Getting a conviction past Judge Bazelon and Judge Wright is like passing a ship between Scylla and Charybdis. Local offenders in the District are well aware of the proclivities for leniency by men on that court. In the new proposed system, they will appeal convictions to the District of Columbia Court of Appeals.

Every member of the committee supported court reorganization. And every Member of the House should support it as well.

But court reorganization is not enough. Fundamental reforms in criminal procedure are also needed to reduce crime.

This bill contains a number of features to inject the element of deterrance into the criminal justice system. For example, discretion is given to a sentencing judge to impose progressively larger sentences for the habitual misdemeanant. Mandatory life sentences are directed for felons convicted of a third or subsequent violent crime. Any defendant who has been convicted three times for such serious violent crimes as kidnaping and rape shows little prospect of being reformed. The recidivist offender must be deterred; the safety of the public must be protected.

The electronic surveillance authorized by this bill is an essential tool to combat organized crime. The value of this weapon in penetrating the organized narcotics traffic in the District has been illustrated repeatedly in recent months. This bill extends wiretapping authority to certain serious District of Columbia offenses in line with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968.

There are other important provisions in the bill, such as the codification of the common law authority for police officers to enter without knocking in a limited number of exigent circumstances; the enactment of reasonable mandatory minimum sentences for persons committing a crime of violence while armed; and increasing the possible penalty for forcible rape to life imprisonment.

Perhaps the most urgently needed provision—in this bill—aside from court reform—is explicit authority for pretrial detention. Under the Bail Reform Act, which applies to all criminal offenses in the District of Columbia, virtually all noncapital offenders are entitled to release before trial. The only criterion which the courts may consider is the likelihood of the defendant's appearance at trial. Noncapital offenders include men charged with forcible rape, arson, kidnaping, armed robbery, burglary, bank robbery, mayhem, assault with intent to kill, manslaughter, and second degree murder.

Under the mandate of the present law, virtually all of these defendants must be released. The safety of society is legally irrelevant.

Mr. Chairman, when the incidence of armed robbery climbed 52 percent last year, and such offenses occurred almost 20 times each day, and when the experts tell us that a large percentage of these robberies are committed by persons released before trial, then I would say that the safety of society is overriding.

Speedier trials of course are one answer to crime by persons while released on bail. One of the main objectives of court reorganization is to see that such speedier trials become a possibility.

But, even in the best of situations, a gap of between 50 to 60 days will remain between arrest and trial in serious of-

fenses. Congressional fiat will not close that gap. We cannot ask the impossible of the judicial system.

During this time—during this period before trial—the interests of society demand protection. Under the present Bail Reform Act, these interests are ignored.

Tyrone Curtis Parker is a classic example of the problems we face. In early 1967, Parker was arrested in the District and charged with armed robbery. He was released pending trial. Before he was finally brought to trial, he had been arrested for new crimes: twice for armed robbery, twice for assault with a gun, once for assault with a board, once for robbery and assault, once for burglary, and once for bank robbery.

Each time, he was again released after arrest. Each time, his release was mandated by the Bail Reform Act.

Judge Tim Murphy of the court of general sessions has told Congress:

> Many cases come before the court in which from the outset there is not a shadow of a doubt about the defendant's guilt. Many of these cases involve dangerous persons whom the judge knows to a moral certainty will repeat their criminal activity if released. Yet under the Bail Reform Act he must release these people to prey on the community. My immediate examples are the holdup man who is in on one, two, three or four gun point holdup charges, and, of course, your narctoic addicts, who because of their illness must commit a crime to support a habit.

It is time for Congress to deal with this situation. It is time for us to provide the court with the means of detaining, through fair procedures:

First. Narcotic addicts who do not operate with a free will and must rob and steal to support their habits.

Second. Incorrigible recidivists with long records of criminal activity.

Third. Sex offenders who act from compulsion.

Fourth. Hard-core troublemakers with propensities for violence.

When evidence of their guilt is great, men in these categories should be retained in custody to preserve and protect the public safety.

There are many difficult problems in the District of Columbia. But we should not view the situation with undue pessimism. Rather, we should view the District of Columbia as a laboratory for reforms, as an opportunity to test new techniques to reduce crime. Everyone can agree on the goal we seek: liberty with order in a model city.

Mr. McMILLAN. Mr. Chairman, at this time I yield 10 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, no one needs to spend time to explain to the people of this city or to the people of the Nation the problems we have with crime.

The problem we face here today is, what do we do to correct this situation; and how do we prevent the American public and this House of Representatives from doing what they did in 1967, with almost exactly the same speeches, when they passed the omnibus crime bill of 1967 and said, "Well, now, we have passed all of these sections and we have done our job." We turned away and since that very repressive bill of 1967 was passed, the crime rate has gone up at almost a vertical rate.

There is only one thing that will prevent crime in the United States and the District of Columbia and that one thing is to restore the judicial system which this House of Representatives and the rest of the Government have allowed to fall into the state of neglect.

I say neglect because we started only after 1967 to do something, for example, about the police—where we raised the salaries—and many of us supported this and recommended it and we have voted for increases in numbers in the Police Department and for restructuring in it—and this has caused us now to begin to have in Washington, D.C., an adequate police department. We will need some more men and we will need some more training. This we can accomplish.

But what good is it going to do to increase the number of police if we have a pending felony backlog in the courts here of 1,500 cases?

Now in this bill the committee cut the number of judges to be put on in 2 years below what the President recommended. A fine thing. We want to know why it is that we have so many felons on the streets. You have prosecutors carrying loads in the U.S. attorney's office that they cannot handle. You have courts swimming in litigation and, yes, we have the transfer of Lorton in here. Yesterday afternoon I asked Jim Bennett to come to the office, the former head of prisons in the United States from 1939 to 1964, and I knew Mr. Bennett when I was with the Department of Justice. He did not testify on this bill—unfortunately—in fact I do not know of anybody who testified on the transfer of Lorton who was in the Federal system to say whether they wanted it. He said:

> You know what you are going to do to us—you are giving us a $100 million backlog in neglected construction in the District of Columbia.

This House is responsible for the District of Columbia. I testified the first day on this bill and outlined where $100 million has to be spent to build a jail that holds 593 and has in it over 1,000. If you are going to preventively detain people—where are you going to put them? Right now the Lorton complex is 400 to 500 over its capacity. The same thing is true in the Youth Commission Detention area.

Now why am I here pointing out these things as being the solution to our crime problem and why are many of us offering amendments to this bill?

First, let me say that the underlying fabric of the bill is sound. Many of us supported it in committee. I supported the President's package when it came over here which was basically to reorganize the courts and to make certain other structural changes. There were some things in there which some of us did not approve of, for example, preventive detention.

I will tell you right now that with a pending felony backlog of 1,500 cases, in my experience as a defense lawyer and a prosecutor trial lawyer, for 20 years—you are going to have a series of mini-trials, and because of these preventive detention matters you will certainly break the back of an already staggering court system.

I hope that we are going to make legislative history here today. I would ask the chairman of the committee if it is the thought and the intention of the committee that as we create these new judgeships, we will not just simply have 10 new judges who will be trying the same cases that 10 judges are trying in the Federal district court now which is falling farther behind every month, but can we try to have 10 judges available in the district court and 10 judges in the session court until we get rid of this felony backlog?

I will turn to another point on which perhaps Mr. ABERNETHY, who handled the bill, or Mr. McMILLAN, the chairman, can give us some idea so that we can establish a legislative history so the administration of the courts and the District government know it is our intention that in only giving 10 judges now, we expect that there would be more judges available on that criminal trial calendar until that backlog is gone, because until it is gone, you are kidding yourself as to what you can do with the crime rate.

There are problems in the bill, and that is why there will be amendments offered—and I wish to stress that this is not the President's bill as it came over—there were a series of amendments put into this bill by members of one committee in many cases, for example, with no hearings, a provision was included that makes every theft from a vending machine second-degree burglary. I point out that in the bill burglary is defined as a crime of violence, which means that if one is convicted three times under the bill for such things as breaking into a bubble gum machine, he can be placed in the position of having been convicted of three defined violent crimes and given a mandatory life sentence. That sort of thing should not be placed in a bill of 439 pages. Our objection to having it all considered like this was that we now have seven titles. They cover a broad spectrum of things.

For example, they cover the no-knock provisions, and no-knock provisions that are presently being discussed in the Committee on Interstate and Foreign Commerce in relation to the narcotics bill. No-knock here has nothing to do with narcotics. We already have a common law authorization to no-knock in narcotics cases under the Ker case. This adds to it unnecessarily.

The same thing is true with the establishment of search warrants. The same thing is true with the wiretapping provisions. We have a wiretapping provision here that can be used by the Federal Government for narcotics. We also have one available for use against organized crime. But the wiretapping statute here has been expanded to electronic bugs, to pick up oral communications as well as those on the telephone. It covers a list of crimes, and we will list them during the 5-minute rule. But it includes everything down to the destruction of property over a value of $200.

The authorization sections are not clear on it. I want it limited so only the U.S. Attorney can authorize use of it. We want to be certain who can tap, how long he can tap, and what he can do while he is tapping.

We have another point in here regarding the juvenile court that will be discussed by other Members. We also have the preventive detention section, and within it the fact that we will not use rules of evidence. We have a list of violent crimes that covers almost everything and, what is even worse, we have written to the Attorney General and said, What is the time period of the greatest danger when somebody is being out on the streets on bail?" We have not gotten an answer. The surveys we have, limited as they are, indicate that the time problem begins to operate after 4 months. Under this bill you will hold a man for 60 days, be certain that he does not have a job any longer, that he has broken away from his family, and then put him back out on the streets at the end of 60 days, and in this jurisdiction, with the court situation as it is now, where a defendant waits 8 to 12 months for a felony trial, after 60 days you are going to put him on the streets for 10 months.

We will offer amendments for rapid trial; in other words, where we require that a man be tried, he will be tried rapidly. One Member has indicated he has an amendment that would limit the hearing for 60 days. I think it should be 30 days in which a man should be tried. You cannot correct a problem in the system by making another error with it.

What we are pleading for in this legislation—and this bill is going to pass—I do not know why the gentlemen were all saying that we ought to pass this legislation, that the American public is worried whether we are or are not. Let us not get into that. This bill is going to pass. It will pass out of the House. It will go over to the Senate. There will be a conference, and it will then go to the President. There is no problem on that question. The problem we have with this bill—and it does not have anything to do with liberality or conservatism in politics—is that we have constitutional problems, and severe ones.

For example, Senator ERVIN and I have had a precisely similar position on preventive detention and its problems under the fifth, sixth, and eighth amendments and we have the same problems with the no-knock provision under the fourth amendment.

Let me say this: If we had passed the bills which had taken control of guns in the District, I would feel a great deal more safe about the no-knock provision than now, because under this provision we will have officers armed and citizens armed, without announcement, facing each other in the nighttime in the citizens' homes. I think that is a difficult and dangerous situation.

Mr. NELSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I am sure that my distinguished colleague from Washington did not intend to deceive the House, but I am afraid some of the information which the gentleman offered might have that effect.

The bill gives the President every new judge he requested; that is, 10 new judges at the present time. The consensus in the committee was that, if this court reorganization legislation is as effective as we anticipate it is going to be, we may not need the judgeships which the President asked for to be created at a future date. There was at no time any indication from the committee that these judgeships would not be given in the future if their need can be justified.

It seemed to me that the gentleman from Washington gave the impression that somehow the committee was denying the President the judgeships which he had asked for to expedite the court backlog.

Mr. ADAMS. Mr. Chairman, will the gentleman yield so we can make legislative history on that?

Mr. HOGAN. If I have the time, I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, if we have that agreement, it is fine. Does the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Washington.

Mr. ADAMS. Can we not agree on both sides that it is the intention of the committee that we do have the additional judges requested by the President beyond this year if the backlog is not dropped?

Mr. HOGAN. Obviously, Mr. Chairman, the gentleman knows I am not authorized to speak for this side of the aisle or for the gentleman's side of the aisle, but during all the discussions with the distinguished representatives of the committee on both sides of the aisle this certainly has been the import of our discussions, that we are not going to deny these judgeships if they really are needed.

Another point I would like to make in responding to the gentleman is that the gentleman said we have the no-knock authority now. I am delighted that the gentleman from Washington made this point, because it is one of the most important ones we should keep in mind. The police do already have the no-knock authority, but what this legislation attempts to do is to clarify this doctrine for the benefit of the police officer to prevent him from being second-guessed. We substitute a judicial interpretation in advance as to whether or not the exigent circumstances exist to authorize his entry without announcing his presence.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman from Maryland (Mr. HOGAN) 3 additional minutes.

Mr. HOGAN. Mr. Chairman, I thank the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, I would like to ask the distinguished gentleman from Maryland to yield to me.

Mr. HOGAN. I yield to the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, the gentleman from Washington (Mr. ADAMS) stated a moment ago that the crime bill passed, or enacted, in 1967, in his opinion failed to secure improvement of the crime situation we have in Washington.

I would like to say the only meaningful crime bill we have passed with any teeth in it, which we were able to get the other body to agree to, was vetoed by the President in 1967, and the watered-down version we sent back to the White House would not solve any of the problems confronting us here in this Capitol.

Mr. HOGAN. Mr. Chairman, I thank the gentleman from South Carolina.

Mr. Chairman, another point which the gentleman from Washington made which I would like to discuss is the wiretapping provision. The gentleman said we have the wiretapping provision now.

Mr. Chairman, I am sure the gentleman from Washington realizes the existing law is a Federal wiretap law, which allows the local jurisdictions to enact conforming legislation applicable to local offenses. Since the Federal wiretap law applies only to U.S. district courts, if the court reorganization bill which we have before us today passes, we need to enact this additional legislation to authorize the newly created superior court to have the wiretap provisions which are vitally necessary.

The final point I should like to respond to is that the gentleman from Washington seemed to give the impression somehow that the judges are intentionally delaying trials so we will have a backlog. His measure to expedite the process seems to indicate this is what he feels.

No one is more aware of the difficulties with the court backlog than the judges themselves. They have supported this court reorganization for that purpose. What we need to do is to enact this court reorganization. This in itself will help expedite the judicial process to make an accelerated calendar unnecessary.

The thing which concerns me about any kind of expedited calendar is what happens to the misdemeanor cases. We may never get to them, and the defendants charged with these minor offenses will be denied their constitutional right to a speedy trial.

Mr. McMILLAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. I thank the distinguished gentleman for yielding to me.

Mr. Chairman, protecting the public from crime and violence is the first and most urgent objective of government.

The evidence is overwhelming that we have failed to meet this objective in the District of Columbia.

Last year crime in the District jumped 27 percent Reported armed robberies climbed from 4,640 in 1968 to 7,071 in 1969, an alarming increase of 52 percent More than 290 people met a violent death. Since 1958 crime in the District of Columbia has increased by 500 percent—just reflect upon that—it is incredible.

We cannot permit this trend to continue. As Members of Congress, we must

exercise every power at our disposal to restore security to the Nation's Capital.

After months of careful study, the District Committee has produced a bill we think will be helpful. It is aimed at improving the District's criminal justice system, a system which every observer must conclude is inadequate. Far-reaching, fundamental, and sweeping reforms are essential to make the system work.

Court reform is imperative. As the President has pointed out, the courts in the District are choked with cases. Judges from the Federal district courts have told Congress repeatedly that to process more cases is virtually impossible.

This bill takes a bold step forward, transferring the felony jurisdiction in the District of Columbia from the Federal district courts to an expanded local system. For the first time, the District of Columbia will enjoy its own unified judicial system—a system on a par with systems in the 50 States. We believe this shift will substantially improve the quality of justice.

The committee found, however, that more is needed than court reorganization. Unrealistic rules and rigid procedures have crippled the Government's ability to combat crime. In the face of current conditions, law-enforcement officials must be given new tools to restrain, deter, and rehabilitate offenders.

One of the most important of these new weapons is the pretrial detention of dangerous defendants.

For hundreds of years, trial courts have been detaining dangerous defendants before trial by the simple technique of setting high bond. This shabby stratagem has inevitably discriminated against the poor and it has frequently resulted in unnecessary detention.

As a response to this injustice, Congress adopted the Bail Reform Act of 1966, to eliminate money as a barrier to freedom. The act mandates the pretrial release of all noncapital defendants—defendants charged with everything from armed robbery to second degree murder.

Although its basic objective was desirable, the Bail Reform Act, as drafted, exposed society to an unreasonable risk of harm from dangerous defendants. Many defendants were released who had no hesitation whatever to commit new crimes. Many heroin addicts and recidivists repeatedly engaged in crimes of violence.

The open pretrial detention we propose will protect the public from the dangerous defendant. At the same time, it will not discriminate against the poor. Detention will not be related to the size of a man's pocketbook; it will only relate to the safety of the community.

In the context of the District of Columbia, the limited pretrial detention of dangerous defendants should contribute significantly to a reduction in crime.

Let me stress that pretrial release will remain the norm. This is not only the intention of the committee, but it may also be inferred from our other actions. The committee has supported a major expansion of the District of Columbia Bail Agency, which will supervise defendants who have been released. It has created new penalties for bail jumping, for offenses committed during pretrial release, and for violating conditions of release. These sections imply that detention, however necessary it may occasionally be, will be the exception.

This bill in all its provisions is designed to restore a decent order to the Nation's Capital. The very lives of our citizens demand its success.

The time has long since passed when we must stop coddling the criminal and protect the rights of the innocent and law-abiding citizens. This bill will do just that, yet it will preserve the constitutional rights of those accused of crime. I urge its enactment without any crippling amendments.

Mr. MIZE. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am happy to yield to the gentleman.

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIZE. Mr. Chairman, I am pleased that the District of Columbia Court Reform and Criminal Procedure Act of 1970 is before the House today. I urge my colleagues to support this legislation for the protection of residents and visitors in the Nation's Capital and for the more efficient administration of justice in the District of Columbia.

Over a year ago, I offered an amendment to the Bail Reform Act of 1966 to permit pretrial detention of those accused of Federal crimes who are determined to be a threat to the safety of the community. My amendment provided a multitude of safeguards for the accused, including a pretrial detention factfinding hearing, a requisite judicial finding of probable danger to the community, and a strict time limit on pretrial detention.

I am deeply gratified the District of Columbia Committee has found it appropriate to include similar pretrial detention procedures and protections in the legislation before us today, applicable to crimes committed in the District.

Mr. Chairman, I am confident that this legislation, in respect to pretrial detention of dangerous persons, will provide a model for all the States. After the Congress enacts this legislation, and after appropriate court tests of its constitutionality are completed, the States will be free to draft and enact legislation providing similar protection in every community in the land.

BAIL REFORM ACT OF 1966

Mr. Chairman, it is clear that the Federal courts and the Congress are the vanguard of criminal procedure reform in the United States. In 1966, this House overwhelmingly passed the Bail Reform Act in an effort to eliminate some gross injustices in traditional American bail procedures.

The most serious injustice was that courts could set bail at levels beyond the means of poor defendants without running afoul of the eighth amendment prohibition of excessive bail.

The definition of "excessive bail" was illusory. What was excessive for one defendant was a "bargain-basement deal" for another. The rich went free prior to trial, the poor languished in jail while the creaky machinery of justice progressed toward trial date some several months or even years hence.

We eliminated these injustices in Federal prosecutions with the Bail Reform Act, but for society, the cure was as bad as the disease. The accused was effectively required to be released pending trial if he had a fixed residence and/or a previous pattern of showing up at trial.

In the District of Columbia, dangerous criminals have been released prior to trial consistently since 1966, and the recidivist rate has become a national scandal, a threat to local citizens, and an inhibition to those across the land who want to visit their National Capital. Patriotic Americans who feel that their children should see the Halls of Congress, the Supreme Court, the White House, the Archives and the other symbols of our democracy have been haunted by the fear that they will be another victim of crime, another statistic, while visiting here.

The situation, in short, has become intolerable. District of Columbia crimes of violence have increased over 100 percent since the Bail Reform Act became law.

It should surprise no one that the States have universally failed to follow our ill-conceived 1966 initiative in the area of bail reform. The specter of the recidivist stalking the streets was too much for our State legislatures. In the States, therefore, the injustice of detaining the nondangerous accused for want of bail has been perpetuated in order to provide concurrent opportunity to detain the truly dangerous.

PRETRIAL DETENTION IS CONSTITUTIONAL

Mr. Chairman, there is no legitimate basis for the argument that pretrial detention of an accused—determined to be dangerous to the community—is unconstitutional.

Since the Judicature Act of 1789, pretrial detention of those accused of capital crimes, at the discretion of the magistrate, has been the law of the land.

Just last year, a Federal district court in the District of Columbia permitted detention of an accused who was known to have threatened witnesses scheduled for use by the prosecution at his trial.

Clearly, if pretrial detention of those accused of capital crimes has been constitutional since 1789, we have the right today to legislate pretrial detention of those accused of lesser violent crimes.

Those accused of capital crimes are accorded the presumption of innocence, as much as any other defendants charged with any other crimes. Pretrial detention of an accused, with appropriate safeguards as to his personal civil rights, does not diminish his presumption of innocence at trial or at any other stage in the proceedings. The presumption of innocence, simply put, is a device to assure that the burden of proof will forever remain with the prosecution in a criminal action. It is an essential element of our adversary system of criminal justice.

But the Bail Reform Act of 1966 has perverted the presumption and obligated

magistrates to release dangerous criminals to prey on society because of a misunderstanding of its historic foundation and usefulness in the law.

In the British Commonwealth, it has been established for centuries that an accused has the benefit of a presumption of innocence. Consistent with this presumption, British courts have not hesitated to provide for pretrial detention of those who probably would threaten the safety of the community if released.

Those who say the Constitution requires bail to be set for any criminal, regardless of the threat he poses to society, misrepresent the intention of the framers of our Bill of Rights.

The very same Congress that approved the eighth amendment to the Constitution approved the Judicature Act of 1789, providing for pretrial detention of those accused of capital offenses.

Together, these actions of the Founding Fathers are conclusive proof that society was never intended to be the prey of dangerous felons before they are tried.

Today, crimes like armed robbery, forcible rape, and homicide are often not capital offenses. In 1789 they were capital offenses.

Since we have become more humane in the punishment of criminals by reducing the statutory maximum punishment, we have accordingly reduced the protections of the act of 1789 in respect to pretrial detention.

Mr. Chairman, without resorting to punishment practices of the distant past, the legislation before us provides for limited, supervised pretrial detention of dangerous criminals in the District of Columbia. It merits our full support and swift passage.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Chairman, I want to speak briefly this morning about one part of this bill which is perhaps controversial but the provisions of which will authorize judges to consider danger to community on noncapital cases and to detain certain dangerous defendants before trial. This provision, which is called the limited pretrial detention provision, is found under subchapter 2 of chapter 13 of this act, the section for pretrial detention, which starts on page 402 of the bill.

These provisions are urgently needed in the District of Columbia. They are needed, first, because experience under the mandatory release provisions of the Bail Reform Act has revealed that a significant amount of crime—serious and frequently violent crime—is committed by persons released before trial. Of 130 persons indicted for robbery and released before trial in fiscal 1967, 34 percent were reindicted for at least one felony committed during pretrial release. In calendar 1968, 70 percent of 345 robbery defendants indicted and released were subsequently rearrested for a new crime.

These high rates have prompted at least three commissions on crime in the District of Columbia to recommend the enactment of pretrial detention.

Pretrial detention is needed, second, because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public. Nor does it provide for the custody of defendants who have been released once, only to go out and commit a new crime. Let me illustrate——

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. Yes, I yield to the gentleman.

Mr. MIKVA. Is the gentleman unaware of the fact that the provision will allow the preventive detention of purse snatchers who have no prior record?

Mr. SMITH of New York. If the purse snatcher came under the definition as the perpetrator of a dangerous crime——

Mr. MIKVA. Which he does. Any theft of property or the taking of property by force or threat of force is within that definition.

Mr. SMITH of New York. It would seem to me, I would say to the gentleman from Illinois, that a purse snatcher, if under the provisions of this bill which protects his rights against detention, were liable—and if it were found by the judge that he was liable—to go out and snatch seven or eight more purses before he might be tried, then if he comes under the definition of a person charged with a dangerous crime, I would say this pretrial detention would probably be good for society.

Mr. MIKVA. Mr. Chairman, if the gentleman will yield further, my concern is that even apart from the principle, some of the definitions I think go way beyond what is appropriate even if one accepts preventive detention as a possible device for some instances. I really do not think that these discussions have adequately covered this point. I would like to know if it is contemplated that preventive detention is intended to take some 16-year-old purse snatcher and throw the key on him before trial?

I thank the gentleman for yielding.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Maryland.

Mr. HOGAN. In answer to this observation about the purse snatcher, I might point out that within the past year, within a few blocks of the Capitol Building, a woman was the victim of a purse snatcher and as a result of which she broke her hip and died.

I submit that the nature of the crime is really not relevant as to whether the individual constitutes a danger to the community. However, the distinguished gentleman from New York is in the best position to know in an adversary proceeding whether it is a sufficient crime of danger to detain an individual before trial.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. I would like to ask the gentleman this question: Is it possible to preventively detain anyone without the approval of the court? Would the judge have to make that ruling?

Mr. SMITH of New York. The judge would have to make that ruling; yes.

Mr. HUNGATE. The judge would have to make the determination. So the purse snatcher or whatever the offense might be, however it is determined by the court, just as you might now have detention under high money bond to prevent release?

Mr. SMITH of New York. That is right.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I shall be happy to yield to the gentleman from Indiana.

Mr. DENNIS. I want to ask the gentleman this question: In the pretrial detention section there is provision among other things as I understand it that the committing magistrate must determine after a hearing that the accused is probably guilty of the offense charged; is that correct?

Mr. SMITH of New York. That is so.

Mr. DENNIS. Does not the gentleman feel that that has the germ of reversing the ordinary presumption of innocence and requiring a man to go to trial later before a jury which may well have learned, in one way or the other, that the court has already decided that he is probably guilty before the jury ever got to his case?

Mr. SMITH of New York. No; I do not feel that is so, I would say to the gentleman from Indiana. I think in any preliminary hearing, for instance, the court has to make the determination that there is enough probability of guilt that he should be held for the grand jury.

I do not see that this preliminary proceeding, preliminary and before trial, is substantially different from that.

Mr. DENNIS. If the gentleman will yield further, does the gentleman not think it would have an effect on the jury if it came to their attention that the court, sitting on the bench, had already prejudged the case for them?

Mr. SMITH of New York. No, I do not think so. I will say to the gentleman from Indiana, because when the defendant is present for trial that fact means that a committing magistrate has judged that there was sufficient evidence of a crime being committed, and that the defendant committed it, to be held. And I do not believe that this pretrial detention matter in which the judge must determine only a strong probability that the man may be guilty would make any difference.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. NELSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, in response to the question propounded by the gentleman from Indiana, I believe it would be appropriate to comment that under the Bail Reform Act of 1966, which is on the books today, it is possible prior to trial to detain an accused in a capital case. In the hearing which the magistrate holds incidental to his determination, he is obligated today to find, not a substantial probability of guilt, but only probable cause.

I suggest that this simply indicates that the bill reported by the committee offers a larger measure of protection to the accused than does the present law and surely does not offend the presumption of innocence.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I thank the gentleman for yielding.

Addressing myself to the point raised by the gentleman from Indiana, I would inquire of the gentleman from New York is it not correct that in many States in cases of capital offenses release and bail may be denied and is constitutionally denied in such cases where evidence is strong or the presumption great when the man goes to trial now they are concerned with that same problem concerning presumption of innocence?

Mr. SMITH of New York. That is true.

Mr. HOGAN. If the gentleman will yield further, and of course at the time of giving his instructions to the jury, the judge advises them to disregard this preventive detention that the gentleman from Indiana complains about.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to ask the gentleman from Maryland if he has ever tried to defend a defendant in a criminal case, and whether he would have liked to have asked the judge to instruct the jury to tell them to not pay any attention to the fact that "I have already decided that this man is probably guilty"?

Mr. SMITH of New York. Before the gentleman from Illinois (Mr. MIKVA) asked me to yield I was about to illustrate why pretrial detention is needed because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public.

In St. Louis last summer, a policeman with no record was identified by five women as the phantom rapist who had terrorized the city by attacking more than 50 women. He was released on bail. Three weeks later he broke into a woman's apartment, attempted to rape two girls, slashed them with a knife, and shot one of them in the face with a pistol. Since he was originally charged with rape, bail could have been denied because rape is a capital offense in Missouri. In Washington, however, under the Bail Reform Act, he would be entitled to pretrial release as a matter of statutory law both before and after his attack on the girls. There was no evidence in that case that the defendant would try to escape. It is obvious that speedy trials are no answer at all to a person like this.

Under the language of the Bail Reform Act, a man could be caught in the middle of an armed robbery, he could shoot at police, he could be a heroin addict, and he could have a long record of violent crime—and he would still be entitled to pretrial release. We must change this law.

The third reason why pretrial detention is needed is that today the courts are detaining some noncapital defendants before trial by the dishonest and hypocritical device of setting high bond. The law should be above this subterfuge. If a person is dangerous he should be detained openly, in a way that does not discriminate against indigent defendants.

These provisions are reasonable and they permit detention only under special circumstances in a limited category of serious cases. There is a 60 day time limit. A defendant may not be detained unless the court finds in writing, after an adversary hearing, that there is a substantial probability that the defendant committed the violent crime with which he is charged and that there is no condition or combination of conditions of release that would reasonably assure the safety of the community.

Eminent lawyers and jurists have raised questions about the constitutionality of pretrial detention. Other eminent lawyers and jurists have no question about the constitutionality of the pretrial detention provisions of this bill. I refer both the lawyers and the nonlawyers in the House to an article written by Hon. John N. Mitchell, Attorney General of the United States, in the writing of which he had the assistance of some eminent constitutional lawyers, and which appeared in volume 55 of the Virginia Law Review in November 1969, entitled "Bail Reform and the Constitutionality of Pretrial Detention," for a good discussion of the constitutionality of pretrial detention in connection with the eighth amendment, the presumption of innocence, the due process clause of the fifth amendment, and provisions mitigating the burden of confinement.

This city and her people, Mr. Chairman, are under siege by her criminal enemies. Society needs the means and the tools for her protection and her survival. I ask you, Mr. Chairman, give this city and District the means and the tools she needs.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. MIZELL. Mr. Chairman, I feel that it is vitally important that we all note very carefully the chart on page 81 of the committee report that accompanied H.R. 16196. The graph shown on that page indicates very clearly that crime in the District of Columbia has increased drastically since the Bail Reform Act of 1966 was enacted, and I believe that the increase can be attributed directly to that legislation. The District's Bail Reform Act, better known as the District of Columbia Bail Agency Act became law on July 26, 1966, and from that date on, crime rates in the District have skyrocketed. Today, as a result, we find second, third, and fourth offenders walking the streets of our Nation's Capital; known criminals who commit their acts as they await trial. There are thousands of these professional criminals free to do as they please, and they are endangering the lives and property of our law-abiding citizens. It is imperative that we protect the responsible people of our Nation's Capital.

Today we are dealing with the crime problems of Washington, D.C. We must, however, as we examine the importance of this legislation, realize that the bail reform revisions included within the bill may be used as a soundingboard for future legislation which will affect the Nation as a whole. Statistics also show that the 1966 Bail Reform Act resulted in serious increases in crime in all parts of the Nation. I believe very strongly that if Congress passes the pretrial release and detention section of this bill, and it consequently becomes law, you will see a definite leveling off, and possibly a decrease in the crime rate in the District of Columbia which would pave the road for legislation that would revise the Bail Reform Act on a national level. I commend the chairman and the members of the District Committee for the fine job they did in handling this ticklish and controversial issue, and I urge the passage of the pretrial and release portion of this bill intact.

Mr. NELSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, the time for purple oratory and grisly crime statistics is past. The passage of this legislation to turn the tide against crime is long overdue, and I am confident that this legislation will receive the approval of the great majority of the House today.

However, the citizens of the congressional districts of all the Members of the House have almost as much at stake in this bill as do the citizens of the District of Columbia, because in this bill we are establishing landmarks of law in such vital areas as no-knock, preventive detention, and the age for waiving juvenile offenders to adult courts. Because the Federal Legislature is passing judgment on these vital matters, courts and State legislatures all across the country will take their cue from the final form of this bill.

Therefore, we owe it to our constituents to scrutinize these measures with the utmost care and that we do our very best not only to guard the sacred rights of American citizens, but to provide the best framework of protection possible for the innocent victim of the robber, the mugger and the rapist who roam the streets in this city.

Amendments will be offered. I will offer several myself. I believe my amendments will strengthen the bill. I ask the patience of this House in considering and in deliberating on all of the amend-

ments so that we can finally vote the passage of the bill, with the assurance and the satisfaction that the House has worked its will in its best tradition.

With reference to the remarks of the gentleman from New York regarding preventive detention, I think this is an important feature of the bill and I support it. I am going to offer an amendment, however, to provide that a judge must have clear and convincing evidence of the dangerousness of the offenders to the community before he orders them detained pending trial.

I think the remarks of the gentleman from Indiana are well taken. I do not believe the testimony submitted in a pretrial detention hearing should be available to the courts in subsequent proceedings, and my amendment speaks to that problem.

The bill we debate today represents many months of time and effort on the part of the President and the committee. It responds to the most urgent problem facing this city today. Despite its defects, some of which we may remedy today, this legislation will give the District of Columbia the institutional resources it needs to make the streets of this city safe for its citizens again.

Mr. NELSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, this is a very comprehensive piece of legislation, and I obviously have the time to address myself to only one provision of the bill.

I would, however, take this opportunity to congratulate the committee on the work that they have done. I think they have done an extremely adequate job in explaining the measure to us here this morning.

I do want to talk for just a minute about the no-knock provision in this legislation. It seems to me from listening to some of the speeches I have heard today that great emphasis has been laid upon the fact that we have a tremendous felony backlog in the District, and this is in a large part responsible for the breakdown of law and order in the District of Columbia.

While I thoroughly support the provisions dealing with the reorganization of the court system and judicial reform, it seems to me we ought, in this legislation, to recognize the necessity for doing something to aid those who are pursuing the investigative function, aiding those who are charged with the arrest function and those charged with the responsibility of criminal investigations, and they ought to get some benefit, I think, from this bill.

More importantly, the community ought to reap some benefit from this bill through better law enforcement.

When we stop to consider that the arrest record is only 17 percent in the District, and that something less than 50 percent of the crimes in many categories are even reported, then it seems to me we ought to do something to strengthen the investigative function. The job of a police officer is certainly a tough, mean and demanding job, and if we can in this legislation with the no-knock provision clarify the very difficult role he has of deciding when exigent circumstances exist that permit him to dispense with the notice that is ordinarily given in the case of the execution of a search warrant or in the execution of a lawful arrest it seems to me we have done something worthwhile.

There is a lot of talk in the press that this is a radical departure, that this legislation constitutes a radical departure from existing law, and that consequently what we will unleash upon an unsuspecting public is a series of unreasonable and unconstitutional searches and seizures in contravention of the fourth amendment to the U.S. Constitution.

I am as proud of my record in the field of civil liberties as anyone, but as I read this very carefully drawn provision, I think the committee ought to be congratulated on codifying what, as the gentleman from Maryland (Mr. HOGAN), said, is clearly the common law in the District. It is the law, either by statute or by decision, by case law, and now represents the law I think within 29 different jurisdictions. So instead of creating the notion—and I think it is a false notion—that we are somehow going to create a situation where police are going to be just unreasonably barging into the homes of innocent people after midnight, we ought to bear two very, very basic principles in mind, in judging the validity and the constitutionality of the no-knock provision in this statute, and that is that, first of all, before an officer can enter, before he can enter without knocking, without announcing the purpose of his arrival on the scene, the following must occur:

First of all, he must have the authority of law. He must be there under color of law to enter, either pursuant to a search or an arrest warrant, or he must be there because he has a right to be there under the law of arrest. So officers are not going to be barging into the homes on innocent people. They are going to be entering premises only when it has been clearly established by the fourth amendment requirement that evidence of a crime has been submitted to a judicial officer, and as a result, a lawful warrant has been issued, or he is there pursuant to carrying out the lawful arrest function.

I do not think I have to engage in what someone referred to a moment ago as any purple oratory to remind you of the instances right here in the District of Columbia, one a year ago, when two brave men, officers of the Federal Bureau of Investigation, announced that they were there to serve a criminal warrant and they were shot to death, felled under a fusillade of bullets almost immediately because of a criminal who was within, and who, when he learned that they were there to serve an arrest warrant, murdered both men.

We have heard other examples here in the last couple of hours of deliberate destruction of evidence because of a prior announcement. So I say it is not doing too much, we are not going beyond the fourth amendment, beyond the Constitution, beyond the case law of the District when we say that, given a lawful search warrant, given the right to be on the premises to carry out an arrest, there ought to be clearly outlined in the law those exceptional or exigent circumstances under which prior announcement for the purpose of entry need not be made, and I support the section. I hope the bill will be passed.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. THOMSON).

Mr. THOMSON of Wisconsin. Mr. Chairman, I rise in support of H.R. 16196 and wish to discuss the bill's proposals for dealing with the increasing rate of juvenile crime. For years everyone has been talking about how bad the District of Columbia juvenile court is and how much something needed to be done. Yet for years nothing has been done. Some past efforts by this Chamber to alleviate the situation have come to naught. The pleas of the present chief judge of the juvenile court have remained unanswered for years. Now section 121(a) of H.R. 16196 proposes to do something, and I urge you to support the revision of the juvenile proceedings code as it has been reported by the District of Columbia Committee.

I support the revision of the juvenile proceedings code because it represents a realistic solution to the problem of a rising rate of serious crimes by juveniles which is facing the District of Columbia. This bill takes a hard look at the problem and comes up with some hard answers. But these answers are, I suggest, the only ones that make any sense if we are to offer real solutions to real problems.

As an example of what I mean, let me briefly discuss a provision which has caused a lot of concern among many of us. As reported this bill would redefine the term "child." Instead of giving the new family division jurisdiction of all acts committed by persons under 18, it would exclude those 16 and 17 years old charged with a serious violent felony by the U.S. attorney. Since we are used to having all those under 18 brought to the juvenile court it is not easy to see why some should be excluded under the new reformed court system. But I suggest that the FBI Crime Index as well as the statistics prepared by the District of Columbia juvenile court for the Attorney General and the Commissioner of the District of Columbia should answer any questions or hesitations in this regard. Crime is rising in the District of Columbia at a rate that is frightening to all of us.

Even more frightening is the increase in serious crimes being committed by juveniles. In 1963, there were seven juveniles referred to juvenile court for rape, while last year, 1969, there were 37 juveniles referred for rape. In 1963, there were 18 juveniles referred to juvenile court for armed robbery, while last year, 1969, there were 261 juveniles referred for armed robbery. This shows that in the last 6 years rapes by juveniles have increased five times and armed robberies by juveniles have increased 14 times. The

annual report for fiscal 1969 of the juvenile court unequivocally states that this increase is largely due to the criminal activity of the older boys, ages 16 and 17.

It is clear that only one thing can be done if the citizens of the District of Columbia as well as our constituents who come to our Nation's Capital are to be protected against serious attacks by these youths. Furthermore, it is also clear that one thing—and it is the same thing—can be done if the new family division is to be successful in helping youths who are not beyond the call to a law-abiding life. That one thing is what the bill proposes to do; that is, to take these older, aggressive and sophisticated 16- and 17-year-olds who commit serious violent felonies out of the juvenile system. They no more belong there than do the 18- and 19-year-olds who commit a serious violent felony. Remove these youths from the juvenile system and give that system a chance to breathe, a chance to work with the younger, less sophisticated kids. Free up the few rehabilitative resources the District of Columbia has. Let the judicial as well as the social services staff concentrate its talents on the youth who will best benefit.

I have no problem in placing my full support behind this provision. I am aware of the attacks made upon it. But I am also aware that by taking the older felons out of the juvenile system we are not "throwing them to the wolves." To the contrary, most of these kids want all the rights and protections afforded to adults charged with crime. The bill would give them just this in courts which would also have facilities which are better able to handle these older aggressive youths. Besides the usual probation services, there would be the facilities for youthful offenders available to the District of Columbia courts under the Federal Youth Corrections Act—18 United States Code, 5005, et seq.

In closing, let me say that we are facing a crisis in the District of Columbia. We must deal with the harsh realities. The bill does just this. It takes the young thugs and treats them as they should be—as adults—and leaves the family division free to handle those who are still juveniles as evidenced not merely by their age but by their acts as well. Other jurisdictions who had the 18-year-old age limit, such as New York and Illinois, faced similar problems and have lowered their juvenile age limit. This bill would not be as drastic since it only lowers the age for those charged with serious violent felonies. It is clearly needed.

Mr. NELSEN. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, as a member of the committee, I would like to urge adoption of H.R. 16196 in its entirety. I think this piece of legislation, dealing with the District of Columbia will set a pattern for the entire Nation. It is high time that we who work in the District of Columbia begin to set a pattern for the entire Nation as far as crime control is concerned.

I know there is a difference of opinion between the lawyers, the lawmakers and the people who have been previously concerned with law enforcement who serve now as Members of this body, but let me appeal to all Members please not to try to take the teeth out of this important piece of legislation. It is needed, and it is needed as it is.

Just yesterday, the President of the United States made it quite clear to all Members on this side of the aisle, and I think to all Members of Congress, that he favored the passage of H.R. 16196 in its entirety.

At this stage, I include a letter the President wrote to Congressman GERALD R. FORD urging the passage of this piece of legislation:

THE WHITE HOUSE,
Washington, March 17, 1970.

Hon. GERALD R. FORD,
House of Representatives,
Washington, D.C.

DEAR GERRY: As you know so well, there is pending before the Congress legislation of great importance to the fight against crime in the District of Columbia. I hope you will express to the Members the urgent interest I have in the earliest possible approval of this legislation.

In the last decade, the District of Columbia experienced a calamitous increase in crime and violence. From my first day in office, the Executive Branch has applied all the powers and resources available to combat crime. We have found that new measures are necessary. Last year, total offenses increased by 27 percent, and a total of 62,000 serious offenses were recorded. Reported armed robberies climbed from 4,640 in 1968 to 7,071 last year, an increase of 44 percent.

The Administration bill, H.R. 16196, recently reported by the House District Committee, would provide the tools to deal with this problem. It is a comprehensive attempt to treat all aspects of the criminal justice system in the District of Columbia, and I urge all Members of Congress to support its quick enactment.

The courts here are choked with an overwhelming backlog of cases, particularly in the Juvenile Court. The prosecution is hampered by legal and procedural shackles. Inadequate defense resources exist for a proper representation of indigents. The Bail Agency in the District of Columbia will run out of resources next month and must be rescued. It must be given new powers to supervise defendants on pretrial release and to give courts adequate information on persons charged with crime for consideration for pretrial release.

In addition, courts must be given the power of increased sanctions, including detention after due process proceedings, in order to protect the community from the truly dangerous person charged with crimes and awaiting trial.

The House District Committee is to be complimented on its fine work in reporting out the entire program in this area that I submitted to the Congress last year. Many provisions of the House Committee bill are improvements over the original versions.

Half-hearted measures will not suffice. The citizens of the District of Columbia are entitled to the full support of the Congress and this Administration in returning public safety and order to this community.

Sincerely,

RICHARD NIXON.

Mr. NELSEN. Mr. Chairman, I understand the chairman of the Judiciary Committee has been seeking to have some time, so I will yield 6 minutes to the gentleman from Maryland, and then reserve some time for the gentleman from New York (Mr. CELLER) if we have the time following the speech by the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I join with my distinguished colleagues who commended to Mr. Donald Santarelli of the Department of Justice for the yeoman work he and his staff have invested in this massive piece of legislation.

For the record, I should like to name some of the other employees of the Department of Justice who worked weekends and at night with some of us on the committee trying to bring this bill to the state in which we have it today. They are: Earl Selbert, Edward Pesch, David Prosser, Carl Rauh, Judith Rogers, and Mary Lawson.

I should like also to correct some of the misinformation which has been in the press about the leadership of the District of Columbia Committee delaying this legislation. The distinguished chairman, the gentleman from South Carolina (Mr. MCMILLAN), the subcommittee chairman, the gentleman from Mississippi (Mr. ABERNETHY), and the subcommittee chairman, the gentleman from Texas (Mr. DOWDY), could not have been more cooperative with the minority side of the aisle and the Department of Justice.

The point I should like to make is that the bill which the committee brings to the floor of the House today is far more comprehensive, far more involved, and far more responsive to the crime problem in Washington than the version which was passed by the other body. There was at no time any effort to stall this legislation. I just wanted the record to show that.

Mr. Chairman, I am not going to take time to talk about the crime problem in Washington, D.C. There is not one person in this body or in this city who does not know the immense proportions of that problem.

I should like to discuss in a general way some of the controversial areas which we will be discussing when amendments are considered.

First is the wiretap provision. The 90th Congress enacted the omnibus crime bill and gave comprehensive wiretap and electronic surveillance law for Federal offenses. Nowhere has the need for and the success of this law been more convincingly demonstrated than here in Washington, D.C. In the last 6 months three raids have resulted in the arrest of more than 70 narcotics violators, several of them major dealers. There has been the recovery of substantial quantities of heroin and cocaine, which has resulted from this wiretap provision. In one particular case three authorizations for wiretap resulted in more than 60 arrests, and to date over 40 indictments have flowed from those wiretaps. This is ample justification for its need in the curbing of organized crime.

The District of Columbia government, the Mayor, the Corporation Counsel, the Chief of Police all have endorsed this provision.

In the 1968 law Congress specifically authorized State and local jurisdictions to provide for wiretaps for local offenses. As I observed earlier in my colloquy with the gentleman from Washington, this is necessary if we create the new superior court in this bill because the Federal legislation only gives this authority to the U.S. district court. We must, just to continue the authority now in existence, enact this provision.

I might say also that the provisions in this bill are virtually verbatim with the statute enacted by Congress in 1968. The criminal penalties in that law now on the books are provided in this existing statute.

I should like to turn now to the "No-knock" section, which is also controversial and which was covered so amply by the gentleman from Illinois (Mr. ANDERSON). I will not reiterate what he has said, but I do believe we need to overcome the hysteria and the misconceptions which have been in circulation about this provision.

This is not going to give the police any authority that they do not already have. The Supreme Court of the United States, in Ker against California, upheld the constitutionality of an entry without notice and recognized the existence of the doctrine of exigent circumstances under which an officer may dispense with notice. Twenty-nine States have confronted this issue and allowed this kind of entry without notice, either through statute or through court decisions.

Entry without notice is most commonly permitted by these States to protect the lives of the officers or third parties. What we are doing here today in this bill is merely codifying this doctrine from case law and clarifying the situation for the police officer. In addition to that, we are providing an additional safeguard by providing for the going before a judicial officer in advance to get a warrant authorizing the entry without announcement.

Mr. Chairman, the second misconception is that this legislation is an unwarranted and an unconstitutional invasion of the citizen's right of privacy. That is totally untrue and unfounded. The provision only deals with the matter of the method of the entry; it has nothing to do with whether or not the entry is legal. Entry into the premises, which would be the invasion of privacy, must be authorized in advance by a warrant issued by a judicial officer on the showing of probable cause by the officer, or on a showing by the officer of probable cause that the person committed a felony. Misconceptions pertaining to this no-knock doctrine make it clear that a definite standard should be enacted to govern when the police must announce and when they can dispense with the announcement. If the Congress does not set up guidelines, then how can we expect law enforcement officers to know what to do in the heat of a dangerous situation? In my judgment, the clearly drawn guidelines rather than shifting case law will deter police abuse of this authority. This bill provides the police with definite standards by setting out the general rule which requires that they announce prior to entry, and then it specifies those limited exceptions when the officer may dispense with the announcement.

Mr. McMILLAN. Mr. Chairman, at this time I yield 3 minutes to the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER).

Mr. NELSEN. Mr. Chairman, I will have a little time that I overlooked. I have given the gentleman from Virginia (Mr. SCOTT) 2 minutes. But may I ask how many minutes are remaining on our side?

The CHAIRMAN. A total of 6 minutes.

Mr. NELSEN. Mr. Chairman, I yield 3 minutes of that time to the gentleman from New York (Mr. CELLER).

The CHAIRMAN. The gentleman from New York is recognized for 6 minutes.

Mr. CELLER. Mr. Chairman, I want to address myself presently to one of the provisions concerning "preventive detention," which is, in a sort of way, "imprisonment without trial."

My comment is not against the District Committee, which labored long and hard to bring forth this bill. The bill in many instances contains rather imprecise language, and in the time granted me later in the debate I shall point out some of those inadequacies.

But "preventive detention," in my opinion, like Swiss cheese, is full of constitutional holes. It destroys a time-honored and time-hallowed presumption of innocence. It affects trial by jury, due process, the prohibition against excessive bail, and involves possible double jeopardy and the right to a speedy trial. Now, deprivation of such fundamental rights must give us pause. Our boast as a nation of individual freedoms and individual liberties will sound as hallow as an eggshell if we have "preventive detention" embodied in our statutes. Such a provision would cast, in my opinion, into limbo the pages of history that tell of the great battle for basic individual rights at the cost of countless lives and great treasure. These rights are embodied in the amendments of our Constitution. We cannot with impunity erase them nor cavalierly erode them. We attempt to do that indeed by this so-called preventive detention.

The present hysteria in the country and specifically in the District with reference to crime should not cause us to lose our sound judgment.

Wisdom must overcome emotion. Justice, not revenge, must be our lone star in the pursuit of crime. Logic and not excitement must guide us.

I used the word "revenge." Juvenal once said "revenge is the poor delight of small minds."

Mr. Chairman, in order to conquer some culprits we must not sacrifice the rights of all. Such cure is worse than the disease.

Now, Mr. Chairman, I share the conclusion of the American Bar Association and the National Commission on the Causes and Prevention of Violence in believing that:

> Preventive detention should not be adopted.

The American Bar Association concluded:

> Because of the drastic effects of preventive detention, the difficulties inherent in predicting future criminality and the unresolved constitutional issues, preventive detention proposals should not be enacted.

Mr. Chairman, the National Commission on Violence stated:

> While there is a very real public interest in preventing criminal activity by released persons awaiting trial this interest would be better served by reforming the criminal justice system to expedite trials than by adding the additional burden of a preliminary trial to predict the likelihood of future criminality. It should be noted that even at present some crimes, such as first degree murder, are not bailable.

Mr. Chairman, the problem of repeated criminality by persons who are released on bail awaiting trial is largely a problem of court and prosecutor delays in bringing the offender to trial.

Any proposal to require additional trials in which prosecutors and defense counsel and judges would have to participate—which would undoubtedly become an extended preliminary trial—would seriously tax an overburdened judicial system. It would very likely result in greater delays in ultimately adjudicating criminality and consequently further endanger rather than protect the society at large. A far better and direct remedy, in my opinion, would be to furnish the manpower and facilities, the courts and prosecutors which are needed to promptly try offenders in the first place.

Preventive detention will only prevent speedy trials and determinations of guilt. The provision of temporary incarceration and the consequent requirement of an additional hearing to determine danger to the community will not result in any measurable improvement in public safety.

Mr. Chairman, "preventive detention" was tried in Great Britain and failed. However, they are now in the process of repealing such statutes.

And, may I call your attention to a provision on page 405 in connection with "preventive detention" in lines 7 to 10. This is very significant and this is the part of imprecision that I find in many of the sections of this proposed bill:

> (5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

What does that mean? That means that information—and that information may be mere hearsay as contained in many of the documents involved in "preventive detention."

This is a denial of due process. The information may be rumor, gossip, self-serving declarations, or even "old wives tales." It is a highly dangerous provision, and I hope some suitable amendment will be offered in due course to correct that error or eliminate it altogether.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. McMILLAN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I rise to say during these 3 minutes how disappointed I am that this bill would divide up the Department of Corrections and transfer part of it to the Federal Bureau of Prisons, and leave the other part with the District of Columbia.

I served on the select committee which purported to look into this question. There was only one witness who appeared on the question of whether there should be a transfer, and that was the gentleman who had introduced the bill. No other witness testified on the desirability or usefulness of making such a transfer. The Federal Bureau of Prisons was not invited to testify on the question of whether they wanted to have part of the corrections system transferred to them. The Department of Justice was not invited to testify on whether half the corrections system should be under their responsibility. We had no testimony from any competent outside experts on corrections as to whether or not this would be a useful move. In short, there is no foundation, there is no basis on which to make a considered judgment on splitting up the corrections system so as to leave the city jail and the halfway houses and the parole system as the responsibility of the city, and taking the youth center and the reformatory and the minimum security unit, and putting them under the Bureau of Prisons. There is not one word of testimony that this is going to do any good for anybody—not one word.

I will tell you what this involves. If you are a woman and convicted of a crime you go to a facility operated by the city. If you are a man and convicted of a crime you go to a facility operated by the Department of Justice, because that is the result: the Women's Detention Home will be a part of the correction system with the city, and the reformatory would go with the Department of Justice.

This is not the way to legislate improvement in corrections. We have the testimony of some very wise people that this is not a very good idea, including, I understand, people who have been with the Bureau of Prisons. I can personally attest to a conversation with a highly experienced longtime Federal servant in the Bureau of Prisons who said it is wrong, it is a mistake to transfer Lorton to the Bureau of Prisons.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I recognize this bill—the thrust and intent of which I basically support—as a serious effort to meet a serious situation.

While recognizing this, there are certain things I believe we ought to remember. We should realize that the bill, however necessary and useful does not purport to address itself, for the most part, to the social problems which are the root causes of crime; nor does it deal, to any large extent, with the questions of penal reform, which are basic to the problems of crime.

This does not mean that the bill is not a useful one, but such considerations will help us to remember, as we should, that this bill, if enacted into law, like most bills, will not by any means accomplish all the things which its proponents claim for it.

The bill is directed to a very bad crime situation existing in the District of Columbia, and, not surprisingly, it is, in all truth, a stringent bill.

There are good things about this bill, and there are other things which are not so good. I hope that it will be amended, and so improved. If this is not done we will have to make, as we so often do, a not altogether easy choice.

Controversial features of this bill include: First, the no-knock provisions, second, the wiretap provisions, and third, preventive detention.

The first two, on balance, I accept as having sufficient safeguards, as being necessary, and as being consistent with existing law.

Preventive detention I oppose, as of doubtful constitutionality, and questionable policy—necessarily involving, as it does, the mistaken incarceration of an undetermined number of innocent men. Moreover, it is my judgment that it will be far less effective than its proponents claim, and that its legitimate ends can be adequately met by less drastic action.

In addition I will offer an amendment to strike out the section which imposes a mandatory life sentence for a third conviction of a so-called violent crime, regardless of circumstances—which I regard as unsound in principle and fraught with the probability of gross injustice in individual cases.

Also, again as a matter of justice and a fair trial, I shall try to restrict cross-examination as to previous and unrelated offenses, to those of a character which actually do bear upon truthfulness and veracity.

The people of the District of Columbia—including more especially her most humble citizens—are entitled to justice under law. With this bill we attempt to give it to them. The effort is called for; let us hope that it may have measurable success, without unsupportable sacrifice of our constitutional liberties.

Mr. NELSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, it has been my honor to serve on a subcommittee of the Judiciary Committee which has devoted many weeks to the subject of pretrial detention. Originally, I cosponsored legislation seeking to authorize pretrial detention in all of the Federal courts of the United States, but after many hours of testimony and soul searching on my part, I have come to doubt the wisdom of the procedure.

My objections do not go to any constitutional infirmity of the "pretrial detention because of danger to the community" concept. Rather, my objections are based upon policy considerations.

It is my fear that we have built into the sections authorizing pretrial detention more procedural protection for the accused than the Constitution commands and more than our judicial system can digest.

Admittedly, this is a judgmental matter on my part. I concede that I may be in error. It is for this reason that I am willing to accept, somewhat reluctantly, a trial period of pretrial detention limited to the District of Columbia. I view this as an opportunity to test the accuracy of my fears.

The principal arguments made by others against pretrial detention do not turn upon such practical considerations. Rather, they are based upon profound constitutional grounds.

These arguments are fallacious.

It is often asserted that an innocent man under the bill may be detained upon a finding of probable guilt and a prediction of probable future danger to the community. This is unconstitutional, it is alleged.

It is not novel to our system that an innocent man may be detained. For example, an arrest of an innocent man may be made, and his liberty denied without judicial action, upon probable cause therefor existing in the eyes of a law-enforcement officer. Such pretrial detention resulting from a lawful arrest has never been thought to be unconstitutional.

After an innocent man has been lawfully arrested and is brought before a judicial officer, release may be granted or he may be detained—without any evidentiary hearing and without any consideration of the rules of evidence—if the judicial officer believes that the innocent man will not appear for trial or may interfere with witnesses. There has never been any doubt as to the constitutionality of such procedures.

Indeed, pretrial detention after specified hours is expressly authorized under the 1966 Bail Reform Act, and its constitutionality in this regard has not been challenged.

Furthermore, there are many illustrations of defendants, whom we presume to be innocent, being detained before trial when there are public policy reasons for doing so, for example, if there is a suspicion of mental incapacity or addition. There has never been any serious question as to the constitutionality of such practices, even though procedural guarantees of the type found in this bill are almost totally lacking.

The true principle is that the liberty of even an innocent man may be denied if there are overriding and compelling public policy reasons for doing so and if that denial is accomplished in a reasonable manner.

Much is made about the difficulty of predicting future conduct. Of course, it is difficult, but it is not a constitutionally prohibited activity. Judges are hired to make informed predictions and do so every day, ranging from a prediction of the likelihood of appearance for trial to a prediction that a convict will profit from probationary supervision. Such pre-

dictions are not unconstitutional nor, I suggest, is the prediction based upon information before the court that a defendant poses a danger to the community pending trial if not confined.

Mr. Chairman, it is not consistent legally or intellectually to admit the constitutionality of existing pretrial detention practices and to deny constitutionality in this instance. In truth, opponents are making a determination that the sanctity of the judicial process by insuring appearance for trial is of greater importance and entitled to greater protection than the safety of the community. I utterly reject such an indefensible classification and urge my colleagues to do likewise.

There is much in this bill that is worth while. Without doubt, the reform of the court system in the District of Columbia will do more to improve the processes of justice and the safety of this community than any other provision in the bill. The title authorizing pretrial detention should be supported to test its efficacy. The arguments against "no knock" are emotional and reflect a lack of understanding of the constitutional principles involved. The wiretapping provisions, so essential in our efforts to stamp out organized crime and narcotics offenses, are carefully drawn and meet the test of constitutionality.

I am deeply disappointed that the committee has provided in this bill to permit the impeachment of a defendant by showing his prior conviction of a felony. Such a practice is medieval and is to deny justice in many cases. Because of this one provision, it is most probable that one or more innocent citizens will be convicted of crimes in the District of Columbia.

Also, I deeply regret that the committee seeks to impose mandatory sentences for certain offenses. A mandatory sentence represents a substitution of the judgment of the legislative body for that of the judge. Justice is a personal thing and the legislative body can never anticipate all of the circumstances which should be considered in fixing an appropriate penalty. I oppose mandatory sentences as a matter of principle and regret that the insidious practice is perpetuated in this bill.

This bill contains many titles, some of which are worth while and some of which are offensive to me. On balance, however, I have concluded that the bill merits my support.

Mr. NELSEN. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. SCOTT).

The CHAIRMAN. The gentleman from Virginia (Mr. SCOTT) is recognized for 3 minutes.

Mr. SCOTT. Mr. Chairman, the suggestion has been made that an amendment will be offered to strike title 5 of this bill, the portion transferring the Lorton Correctional Institutions from the District of Columbia Department of Corrections to the U.S. Bureau of Prisons.

You may know that the Lorton facilities are located in Fairfax County and in my congressional district. Many constituents have complained to me regarding the manner in which the facilities are operated and I requested the District of Columbia Committee, which exercises legislative oversight over the facilities, to investigate the charges and introduced the measure to transfer the facilities to the Department of Justice which is now a portion of the overall District of Columbia crime bill. The subcommittee held hearings lasting for 11 days, sometimes meeting in both the morning and afternoon, and took 561 pages of testimony. At the conclusion of the hearings they issued a report which contains 33 separate findings, all confirming the charges made by my constituents. Let me read a portion of these to you and urge that before we get to the amending stage of our consideration of this bill, you obtain a copy of this report dated February 23, 1970, and entitled "Investigation and Study of the Department of Corrections of the District of Columbia." All of the findings are verified by reference to statements made in the transcript of the hearings.

Some of these findings are, and I am quoting from pages 2 to 5 of the report:

When correctional officers strictly enforced regulations, they were transferred to other duties.

The prisoners were allowed to organize an "Inmate Advisory Council". This group gave advice and made demands, which were granted, as to the operation of their facility.

Escapes from the five institutions under the control of the Department of Corrections are all too frequent. It appeared that these incidents occurred from lack of proper security at the various institutions and the permissive policy of the Department of Corrections' staff.

The use of narcotics by inmates is widespread, and there appears very little effort by the administration to control it.

The inmates manufacture "moonshine alcohol" in copious quantities and "one officer who was very thorough in locating and destroying such alcohol was referred to other duties and told he was making waves and the prisoners did not like it."

The practice of homosexuality and lesbianism is widespread and uncontrolled.

Rapes of prisoners by other prisoners are common place.

The prisoners do not perform even menial tasks and threaten to riot if an effort is made to force them to work.

The various institutions maintain schools for prisoners. They are poorly attended, maintained and taught.

The rifling, removal, and destruction of personal and other official files appears to have been done at will, by both authorized and unauthorized personnel.

The morale of the paid personnel, especially the guards, or Correctional Officers is at an all-time low.

The training of correctional officers in particular, and personnel in general is from no training at all, to extremely limited courses.

The report concludes that there will be a full opportunity by the Federal Bureau of Prisons to set up a District of Columbia penal system as a model for the Nation.

Now, these are the findings of the committee after hearings and, if this Congress is to operate efficiently, we must give credence to the findings of our committees.

Let me turn for just a minute to one other aspect of this measure. Sometimes we hear the phrase "Lorton Reformatory" but the word "reformatory" is a misnomer because the inmates for the most part are felons, many sentenced for major crimes including murder and adjacent to this prison complex is the maximum security facility or group of cell blocks for the incorrigible prisoner. There is also the Lorton Youth Center and the minimum security facility.

An effort must be made to teach the inmates to observe the rules of society and to rehabilitate them so that they can become useful members of society. Your committee has found that this is not being done and I urge that all amendments to the overall crime bill be rejected and that the bill be passed in its entirety.

Mr. McMILLAN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, this bill is not perfect. But the sun has its spots and a diamond has its flaws—gold will not rust and the good will shine through.

As a cosponsor of this measure, I would urge you to support this bill, although there are many items in it that are subject to amendment, some of which will be mine.

There are the items such as the Lorton transfer, wire tapping, preventive detention, the no-knock provision, juveniles, and reorganization of the courts.

I think these all merit serious consideration and the bill can be improved in many instances by amendment.

But, I still say that when this bill is considered as a whole, it is a very worthwhile bill and I hope you will support my amendments. But whether you do or not, I certainly hope you support this bill finally and I think it may be the only crime bill that you may get to vote on. I urge your support of it.

As to preventive detention, I would like to say I think the aggravated District of Columbia crime problem is almost a direct descendant of the so-called bail reform bill when they stop setting bail in a money figure where you could really, without naming it, take into consideration the danger that existed in the seriousness of the offense and the background of the defendant.

A speedy trial is said to be an alternative to preventive detention.

Any of you people who have represented a defendant against whom the State has a real strong case, how often have you tried to go to trial as fast as you can?

I will offer amendments against the no-knock provision, which I feel goes too far and on the issue of the provision to remove the right to resist unlawful arrest, I feel like the two fellows who were going to a party and expecting to get into a fight. One fellow said, "I have my knife with me." The other fellow said, "You would not cut me, would you?" The other fellow said. "No, not intentionally but when the lights go out, I will not know you from anybody else."

I think when somebody breaks the law, we do not know a policeman from anybody else. They are to be treated as lawbreakers whether they are policemen or not.

Mr. Chairman, I yield back the balance of my time and urge the support of the bill.

Mr. SAYLOR. Mr. Chairman, after cutting away the rhetoric surrounding debate over the District of Columbia crime bill, one is left with the fact of a crime wave in the Nation's Capital which cannot be allowed to continue. The responsibility of Congress to make the District of Columbia a "model" of criminal justice is well known and well documented. The Committee on the District of Columbia has provided a major step in that direction with its bill, H.R. 16196.

There is no way on earth that every Member could be satisfied with every provision in the bill; the nature of our legislative process works against the creation of perfect laws. I am certainly not entirely happy with every section of the bill. However, the important thing is that the committee has recognized that this is "must" legislation if "something" is to be done about the soaring crime rate in the District. The District is close to being the Nation's crime capital—that is an intolerable situation for the center of democracy.

Some well-intentioned but misguided people who neither work nor live in the District have circulated horror stories about the "no knock" and "preventive detention" portions of the committee bill. Their concern, it would appear, is for the criminal element of society. Someone is always bleeding words for the criminal—my main concern is with the general public.

Frankly, when I am forced by the District of Columbia crime situation to make special provision for my staff in order to protect their safety, then I say that these out-of-town "do gooders" simply do not have the facts. Or, worse yet, they pay no attention to facts. Just a few days ago one press story recounted the almost insurmountable problems faced by the District of Columbia businessmen in finding help if they are located in certain parts of the city. Without H.R. 16196, which is only a first step in the fight against crime, the District will deteriorate even further.

Although I intend to support the committee's bill, I do want to point out my particular concern for section 201 of the proposed legislation which deals with sentencing. To be brief and brutally frank, the sentencing sections of the bill still provide judges with too much discretionary power. I applaud the stiffer and longer sentences—but that is not the whole answer to the recidivism problem as we all know. The simple fact is that judges do not use their sentencing powers now—will they change their ways with the passage of this bill?

Last year I introduced a bill, H.R. 14426, which would have removed most of the discretionary sentencing power of judges in the case of convictions for violent crimes. The present bill from the committee is a modification of that approach; while it recognizes the problem, it does not fully remedy the situation. I explained my "tough approach" to gun crime in particular as necessary to rebuild the public's confidence in our determination to wipe the scourge of gun crime from the American scene. That is still my objective, whether it be for the District of Columbia or the whole Nation. I said earlier and I repeat now, "if a person is found guilty of a violent crime, then let us make sure he goes to prison. If a person is found guilty of a violent crime, is sentenced to prison, then let us be sure we keep him in prison."

The proposals on mandatory sentencing embodied in H.R. 14426 were circulated among the membership of the National Federation of Independent Business in their ballots of public issues. I learned this morning of the final tabulation of the voting on that bill: 86 percent approved; 11 percent disapproved; 3 percent did not vote. The lesson is plain—the general public wants a tougher attitude against the criminal and especially against the repeating criminal.

I believe this is also what the majority of residents of the District of Columbia desire in terms of crime control legislation. It is my fervent hope that H.R. 16196 will be interpreted by judges to mean a stiffening of their backbones with regard to criminals.

Mr. POFF. Mr. Chairman, a minority of the committee challenges the eighth amendment constitutionality of pretrial detention. While I respect their views, and while I concede that there are few constitutional absolutes, I share the view of the majority. As structured in this bill, I believe that pretrial detention does not offend the eighth amendment.

The eighth amendment says that "Excessive bail shall not be required." The minority interpret that language to mean that bail must be granted in all cases and that it must not be excessive. The majority interpret that language to mean that when it is proper to grant bail, it shall not be excessive.

What did the authors of the language intend it to mean? There was no floor debate on the question when the first Congress wrote it. However, we know that this same Congress only a few months earlier had written the Judiciary Act of 1789. That statute granted bail in all noncapital cases. So did the Northwest Ordinance of 1787. So did the constitutions of the States of Pennsylvania, North Carolina, and Vermont. With so many examples at hand, it is reasonable to assume that if the authors of the Bill of Rights wanted such a clause written into the permanent law of the land, they would have imported into the Federal Constitution the language they had so recently written into an impermanent statute. They did not do so. Their omission must be construed as intentional.

The logic of this rationale is strengthened by the fact that the authors of 37 of the constitutions of the States thought it was necessary to include in their documents both a clause similar to the eighth amendment and a clause granting bail in noncapital cases. If, as the minority contend, the former guarantees the right to bail in all cases, what is the need of the latter?

Dicta in the Supreme Court decision in Carlson against Landon supports the view of the committee majority. In pertinent part it reads:

> The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail . . . Indeed, the very language of the Amendment fails to say all arrests must be bailable.

From the time of the first Congress, which decided not to grant bail in capital cases, legal scholars have largely agreed that Congress has the power to define the classes of cases in which bail will not be allowed. In the days of the first Congress, most violent crimes were capital offenses, and it seems clear that detention was authorized on the ground that release would endanger the community. Today, most of those offenses have passed from the capital to the noncapital category. But those offenses are no less violent, and those who commit them pose no less danger to the community. And for the same reason the first Congress classified them as nonbailable, the 91st Congress has the power to classify them as nonbailable.

Congress has the power to authorize detention before trial not only with respect to noncapital offenses but nonviolent offenses. Under present statutes and case law, certain juveniles can be detained; sexual psychopaths and the mentally disturbed can be detained. Pretrial detention is authorized for defendants, who threaten witnesses, accused persons awaiting extradition, aliens awaiting deportation proceedings. Even under the Bail Reform Act of 1966, the accused can be jailed if he is likely to flee before trial.

Pretrial detention, as provided in this legislation, does not violate the due process clause. To the contrary, the standards incorporated by subchapter II are far above the minimum necessary to avoid any possible conflict with the due process clause.

Let me briefly list, Mr. Chairman, some of the procedural safeguards granted a defendant before he can be detained. He is entitled to a hearing with counsel to represent him. He can testify, present witnesses, proffer information in his own behalf, and cross-examine Government witnesses who testify. The judge must make written findings of fact which are subject to prompt appellate review. These required findings seriously limit the classes and number of defendants who can be detained. First, only defendants charged with specified violent felonies, most of which were formerly capital offenses can be detained. Even when charged with such a violent crime, a defendant cannot be detained for a majority of these offenses absent proof that he has either been convicted or is presently on trial for such an offense. Second, in order to detain a defendant, a judge must also find that no condition

or conditions of release will reasonably assure the safety of the community. And finally, to minimize the danger of detaining the innocent, the judge must find a substantial probability that the defendant committed the offense charged.

There are some who argue that, regardless of the procedural safeguards, it is the detention itself which violates due process. In response, may I observe, Mr. Chairman, that detention is hardly a novel concept. Since 1789 the detention of certain classes of individuals has been approved without violating or abridging due process of law. For example, defendants charged with capital offenses have been denied bail since the Constitution was adopted because of their dangerousness and other relevant factors. This has never been questioned on due process grounds. Defendants have and still are routinely detained prior to trial to prevent flight in noncapital cases. And this has never been thought to violate due process. These detentions have occurred with hardly any of the procedural safeguards which are granted the defendants in subchapter II which I have just described.

To protect the community from danger, many States permit detention of those who are mentally ill or retarded, those who are sexual psychopaths, those who suffer from a communicable disease, those who are alcoholics, and those who are drug addicts. The statutes which permit these deprivations of freedom rarely grant the safeguards contained in this subchapter. Standards for detention are seldom so rigorous and precise as they are here. Moreover, detention under many of these laws may extend well beyond the maximum of 60 days provided by subchapter II; it may extend indefinitely, and it may last a lifetime. Statutes of this nature have been upheld repeatedly by courts including the Supreme Court. See for example, *Minnesota ex rel. Pearson* v. *Probate Court*, 309 U.S. 270 (1940) (sexual psychopaths commitment statute upheld). On the basis of Supreme Court authority and the background of both prior and existing practice, it is plainly evident, that reasonable pretrial detention of the kind provided for by subchapter II does not violate due process.

Some have suggested that the sixth amendment jury trial guarantee may apply to the detention hearing. It does not.

The sixth amendment jury trial guarantee does not apply to preliminary hearings establishing probable cause. These hearings frequently result in detention. It does not apply to bail hearings now, which frequently result in detention. It applies only to the actual trial of the case in which guilt or nonguilt is the issue and not to any pretrial proceeding.

I have been asked this question: "Would a finding of no 'substantial probability' of guilt at the detention hearing become a predicate for a fifth amendment double jeopardy plea at trial?"

My answer is "No." Jeopardy does not attach to a case tried to a jury until the jury has been impaneled and sworn; in a nonjury case jeopardy does not attach until the first witness is placed on the stand and begins to testify. That is, *Newman* v. *United States*, — F. 2d (D.C. Cir., decided March 10, 1969) (Bazelon, Miller, and Burger). Because the detention hearing obviously will precede the trial, in no sense has jeopardy attached.

A decision by one grand jury to ignore a charge does not prohibit a prosecutor from resubmitting the case to the same or a different grand jury. *United States* v. *Thompson*, 251 U.S. 407 (1920); *United States* v. *One 1940 Oldsmobile Sedan*, 167 F. 2d 494 (7th Cir., 1948). The standard for a grand jury indictment is probable cause. If a finding of no probable cause, a standard requiring less proof than "substantial probability" is not a bar, clearly a finding of no substantial probability is not a bar.

The presumption of innocence has been called an "honored canon" of American law, a "sacred tenet" of Anglo-Saxon jurisprudence. It is all of that. It is more. It stands guard between the State and the citizen. It has to do with liberty. It distinguishes the American system of criminal justice from all others. While it is not written into our Constitution, it is imprinted indelibly upon the conscience of America. It must be forever maintained.

It is argued that detention before conviction violates the presumption of innocence, no matter how limited the detention may be or how many due process safeguards are thrown about it. But such detention has always been practiced and sanctioned by British and American law and is today. Detention incidental to arrest and arraignment has never been thought to be a violation of the presumption of innocence. Detention imposed under the present Bail Reform Act of 1966 to assure appearance at the trial has never been challenged as a violation of the presumption of innocence. The same is true of detention imposed upon the accused when he has threatened witnesses, detention imposed in capital cases and detention imposed in a variety of other cases upon defendants awaiting trial on the issue of guilt or innocence.

The presumption of innocence does not expire when the interests of society require the temporary isolation of the suspect. It continues throughout every step of the criminal justice process. The presumption of innocence does not expire until the State has rebutted it with proof of guilt beyond any reasonable doubt.

Under this legislation, a suspect cannot be detained until, first, the State has demonstrated that his release would pose a danger to society, and second, the State has partly rebutted the presumption of innocence by establishing a "substantial probability" of guilt. But even then, the presumption of innocence survives the detention and goes with the accused throughout his trial until the State has established guilt beyond reasonable doubt.

Mr. ROGERS of Florida. I rise in support of H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970.

I am particularly pleased to note that H.R. 16196 is an omnibus bill, a composite of 27 pieces of legislation which I and other Members of the House have introduced in an effort to cope with the serious problem of crime in the District of Columbia.

In January 1969, I introduced legislation directly aimed at the crime crisis which then existed in the District of Columbia. That crisis is now even more severe, with the city of Washington, D.C., the Nation's Capital, leading all other cities in the number of homicides for 1969.

The concepts of three bills that I introduced last year are embodied in the bill presently before the House.

One bill, H.R. 6034, would have transferred some of the original jurisdiction of the U.S. District Court for the District of Columbia over lesser crimes to the Court of General Sessions in order to bring about more speedy trials in both courts.

The bill now before the House establishes an enlarged and unified court system composed of the newly-created Superior Court of the District of Columbia and an enlarged District of Columbia Court of Appeals, to give the city of Washington, D.C., both a trial and an appellate court comparable to those in the States, separate and apart from the U.S. District Court and the U.S. Court of Appeals for the District of Columbia Circuit.

Another bill, H.R. 4206, would have made mandatory, rather than permissive, the imposition of an additional penalty of 5 years imprisonment for the use of a deadly or dangerous weapon in the commission of a crime in the District of Columbia.

The bill before the House provides for a mandatory 3-year additional prison sentence for the use of a deadly or dangerous weapon. The second offender, under the present bill, would receive a minimum of 10 years and up to a maximum of life, depending upon the sentence of the crime committed, apart from the use of the deadly or dangerous weapon.

A third bill, H.R. 4205, which is incorporated in the bill now before the House, would have authorized an increase in funds for the District of Columbia Bail Agency in order that more personnel could be employed to permit that Agency to properly carry out its functions or presentence investigations and surveillance of those on bond awaiting trial.

The bill now before the House removes the present $130,000 ceiling on expenditures of the District of Columbia Bail Agency which has prevented the Agency from employing the necessary number of persons to carry out its functions. The bill also expands the functions of the agency and this, I believe, will make it more effective in working with the courts to bring about speedy trials and the proper supervision of defendants released on bond.

And finally, but certainly not least, I wish to commend the committee for its wisdom in proposing an amendment to the Bail Reform Act of 1966 to permit a Federal judge to consider the danger to the community which a defendant might

pose when deciding whether to release that defendant on bond.

I had introduced legislation to give this discretion to our Federal judges in the 90th Congress and reintroduced the bill on January 3, 1969, at the convening of the 91st Congress. I am convinced that by letting the Federal courts consider danger to the community, the incidence of crimes committed by persons on bail will be significantly reduced.

I urge the House to promptly adopt this legislation.

Mr. OTTINGER. Mr. Chairman, we are today dealing with legislation aimed at one of our most pervasive societal problems, the increase in crime which has become a major preoccupation of Americans everywhere. Since this measure, the District of Columbia Court Reform and Criminal Procedure Act of 1970, is the first major bill on crime to be brought before the House, it may well set the tone for further legislation on the subject in this session, and for that reason deserves the most careful attention to the provisions we finally vote upon today.

The accelerating crime rate is no myth, Mr. Chairman, and we have waited overlong for the opportunity to redirect Federal resources and legislation. It is clear that the incidence of crime is largely a symptom of the deep discontents, frustrations, and social dislocation so alarmingly a sign of our urbanized life. There are many measures we need to take to insure the freedom of our citizens to walk their streets without fear, but in so doing, we must be alert to the danger of overreacting and abrogating basic constitutional rights inhering to us all, in seeking remedies for crime.

The first and most important step is the improvement in the quality of the lives of Americans everywhere; in housing, employment, education, and equal justice under law. Nothing we will ever do can be sufficient in this direction, but I would hope that our real sense of urgency will be applied to the rooting out of social inequities which destroy hope and turn individuals away from participation in the ordered and affluent life of our Nation.

Until every person has access to dignified and rewarding employment, until every family has a decent home in a satisfying environment, until every child has the opportunity to an education that will guarantee him the fullest development of his talents, we will fall short of the better society we wish to create and be a part of. These are the first priorities.

In dealing more directly with the crime problem, we need first of all to place far greater emphasis on the rehabilitation of those convicted and punished for offenses, we must modernize and expand and enlighten our entire penal establishment, and we must spare no effort to see that the person released to enter society again does so with hope and with every chance and encouragement to become a productive, law-abiding citizen.

Second, we must expand our entire judicial system, at whatever the cost—more judges, more courtrooms, more administrative personnel, more legal counsel for indigents, more prosecutors, and more support staff to make justice swift and eliminate the shocking delays of a year and more in bringing accused persons to trial. These steps will act to the benefit not only of society at large but also to the innocent person accused of crime, and will remove any sense of impunity on the part of lawbreakers who by the long delays in coming to trial may be tempted to further criminal acts in the expectation of eventually being convicted and imprisoned in any event.

These then are the essentials: emphasis on rehabilitation, improvement of the quality of life in general, and speedier trials, none of which we can afford to ignore in the effort to cut the crime rate.

The bill before us, H.R. 16196, has many provisions aimed in these directions that deserve our full support. I refer to the restructuring of the local courts, the expansion of judicial facilities and judgeships, consolidation of the District of Columbia courts, and extension of the jurisdiction of the newly created superior court. The court reorganization section of title I shows promise in alleviating the tremendous case backlogs which have aggravated the problems of the District.

The juvenile code revision in part B of title I, however, contains onerous provisions which need to be stricken from the act. There is no denying the inferiority of the juvenile justice system in the Capital, but H.R. 16196 falls far short of the reforms needed and is actually regressive in many ways. Under this legislation any youth over 16 accused of burglary, mayhem, arson, kidnaping, and other crimes of violence would be automatically waived to adult court, and the juvenile court would have no discretion to retain jurisdiction, even in cases of first offenses. This strikes hard at the belief that the youthful offender is most redeemable and most amenable to rehabilitation, and could well have the alarming effect of turning young persons into unescapable criminal patterns at an early age. The bill also sets a standard of "preponderance of evidence" for a finding of guilt, and we need here to change this to the Senate version's more enlightened "beyond a reasonable doubt" standard.

Crime is accelerating among youth, and we need to address ourselves to this problem, but harsh measures and treatment of the young as adults can have no long-range effect to the benefit of the offender or to society at large.

It is title II, the criminal law revision, however, which contains the most onerous of the bill's regressive provisions and which must either be stricken or extensively overhauled. Its allowing for preventive detention of suspects up to 60 days on a judicial finding of probable guilt is not only unconstitutional in my view but will not alleviate the crime problem in any way. By doubling the work of criminal courts, we will increase rather than cut case backlogs, we will prejudice detained defendants when they eventually come to trial, and the detention of a person who is actually innocent of the charges against him can have the most deleterious effects on his life. It threatens him with loss of livelihood, breakup of family and increase in public assistance burdens, and exposes him to completely unjustified incarceration. By increasing caseloads we will merely extend trial delays and still have the charged individual free in society for the usual 10 to 12 month interim when his 60 days of detention are up. Furthermore, our overtaxed detention facilities simply cannot handle this increased population. This section must be stricken for its assault on basic liberties, on presumption of innocence, and for the simple fact that it solves no problem but compounds existing deficiencies. We cannot allow such police-state measures to become law in the attempt to find solutions to troublesome problems.

Offenses by persons released on bail comprise only some 6 percent of the total crime figure, and more than half of this percentage involves crimes committed more than 60 days after release in any event. Preventive detention advocates rest their case on the clairvoyance of judges as to who may or may not commit a crime while free on bail, and such unsupported powers cannot be allowed. The presumption of guilt has no place in our jurisprudence, and except in certain cases involving crimes by individuals on bail or probation, or where justice is impeded by threats to witnesses or jurors, we must jealously safeguard the rights of innocent persons so perilously endangered in these proposals.

The "no-knock searches" authorized under this title will give police license to enter any private residence at any time of day or night without announcing themselves and in many cases without warrants. The standards for such searches are so loosely drawn as to give law enforcement personnel almost total license, and unless we are prepared to surrender the inviolability of our homes and the basic right of all our citizens to privacy, we must strike these provisions as going against all our traditional liberties. Where the cure is worse than the disease, our course is clear.

The same applies to the wiretapping authorization for such a wide range of suspected criminal activity that a virtual carte blanche is given for the tapping of any phone. When the day arrives that no citizen will be secure in the privacy of his conversations, we shall have surrendered to fear and have created a climate intolerable to a free people. We need less wiretapping in these times, not more.

Another intolerable invasion of constitutional rights of the individual resides in the proposal for chemical, scientific, medical, or other personal identification tests when deemed reasonable without any definition of what is or is not reasonable. Police would arbitrarily be empowered to submit private citizens to such tests even without the suspicion of a crime. The police dragnets implicit here and the indignities that could be wreaked on any innocent person simply do not fit our way of life and must be stricken down without hesitation.

Finally, we must not approve provisions of mandatory sentences for certain classes of offenders, which would com-

pletely eliminate judicial discretion on a case-by-case basis—the foundation of our jurisprudence. Crimes of violence will never be decreased by harsher sentences, which may indeed have the opposite effect of encouraging the most dangerous reaction by a person committing a crime in the belief that he will be sentenced for life in any event and has nothing to lose by the most vicious behavior.

These are the basic changes we need to make. The eighth amendment's guarantees of due process are the cornerstones of all of our basic liberties, and if we allow indiscriminate incursions, we will be well on the way to a repressive totalitarian state. The freedom to walk the streets without fear will have been swallowed up by new fears, and we could well be paving the way to dissolution of our most precious freedoms in every area. Let us expand our courts, let us speed the trying of cases, let us reform our penal system and emphasize rehabilitation, let us work together to raise our standards of justice and opportunity in every way.

But let us not in panic undermine the liberties which we hold most dear and which identify our society as the best hope and example for the civilized world. Too much is at stake to allow the smallest breach in our enshrined and codified liberties. Justice is the indispensable element in a society seeking to preserve law and order, and we must never lose sight of the protection that due process provides for each of us as we seek to cope with our problems and enhance the quality of our daily lives.

Mr. WINN. Mr. Chairman, I rise to make a statement in general support of H.R. 16196, the District of Columbia omnibus crime bill, which has been before the House for consideration today.

As you will note from the charts appearing in House Report No. 91-907 accompanying H.R. 16196, and the charts that are displayed on the floor today, the number of serious offenses that have been reported in 1969 as compared to 1956 have increased over 400 percent. Of course, we do not need the charts to tell us this. I dare say that there is not a Member in this body who has not been touched by crime in this city, either through someone in his office, in his family, or a constituent visiting the District of Columbia. Directly or indirectly, I daresay each of you is included in the crime statistics of the city in the past couple of years or so, or you know someone intimately who was a crime victim.

Certainly President Nixon graphically exposed to the entire Nation, if it had not already been exposed via the press, radio and television, the crime situation in the District of Columbia when in his state of the Union message he indicated that no Member of either body would feel safe in walking to his home that afternoon after adjournment.

This omnibus crime bill is intended to change the crime situation in the District of Columbia and it aims to do so in a number of different ways. It reorganizes the courts so as to make them more responsive to the needs of the community and mete out swift justice to those who are committing crime; it increases the number of judges who will be sitting in a new general jurisdiction type court, the superior court, which will handle juvenile, family, tax, civil, and criminal matters; and it provides for appellate review from its own local District of Columbia Court of Appeals to the U.S. Supreme Court. It places the District of Columbia on a footing with the States in that the local, criminal, and civil jurisdiction cases will rest and be handled in a local court system.

Under the provisions of this bill, the juvenile court is merged into what will be known as the superior court. A family division of the superior court is established which will handle not only juvenile matters but also domestic relations cases and intrafamily offenses such as the assault cases between husbands and wives.

Turning to the more controversial provisions, one of the provisions of this bill would reduce the jurisdiction of the juvenile court over individuals from 18 to 16 years of age. In other words, if a juvenile is found to have committed a very serious offense such as homicide or rape, that case would be tried in the adult court rather than the juvenile court. The reason for this, of course, is that the innercity youth of today is much more sophisticated than his counterpart of many years ago and in many cases is a hardened criminal or a hard-core narcotics addict who is out robbing right and left to feed his narcotics habit. The number of serious crimes such as robbery and rape committed by individuals 16 and 17 years old in the District of Columbia is alarming. A glance at the House report accompanying this bill will bear this out. Something has to be done to curb this juvenile crime. That is the testimony of Chief of Police Wilson. The recommendation to lower the jurisdiction of the juvenile court from 18 to 16 years of age comes from no less an authority than Chief Judge Miller of the juvenile court.

Pretrial detention as it is provided for in this bill is also a controversial provision especially if we are to believe the local newspapers. As my good friend and colleague, ANCHER NELSEN, has indicated to you, the Attorney General and his associates in the Department of Justice have examined the contentions of the opponents to pretrial detention and they have decided, as ANCHER NELSEN has stated—the arguments are contained in the Virginia Law Review article available for you here on the desk—that the constitutional questions raised with respect to pretrial detention can and have been answered to the satisfaction not only of the Justice Department but the members of the District Committee as well. There are good features of the Bail Reform Act of 1966 in that people are released on bail not on the basis of their ability to pay in those instances where it is appropriate where they will not flee the jurisdiction and will appear for trial. However, there is a fatal flaw in the Bail Reform Act of 1966 in that it does not protect the community from those individuals who commit crime who if they were released out on the streets on their own recognizance would impair the safety of this city. What has been done in this bill should have been done 4 years ago. Those who do not constitute a danger to the community may, of course, be released on their own personal recognizance with supervision in those cases where it is needed to insure their presence at trial. However the dangerous criminal such as the hardcore narcotics addict who is going to go out and commit more crime to feed his habit must and should be detained for the safety of the community at least for some minimum time and hopefully up to the period that he will be tried.

Turning next to the question of wiretapping, the provisions in this bill relating to wiretap are in conformity with the authority granted by this Congress itself in the Safe Streets Act of 1968 for States and local authorities to enact local legislation permitting wiretapping in certain specified kinds of cases. The wiretap provisions in this bill were carefully drawn so as to stay within the standards set forth in the Safe Streets Act of 1968. Many other States have enacted their own local wiretap laws and this will give to the District of Columbia a wiretap law to combat local crime in those cases where it is needed. Electronic surveillance is an expensive business and it is judicially supervised. For these reasons I am not fearful that the wiretap provisions of this bill are going to be abused. Furthermore, I do not believe the courts, including the Supreme Court, would permit such abuse.

Turning next to the "no knock" provisions in this bill: historically various State courts and the Supreme Court of the United States over the years have authorized the police to break and enter a house under certain exigent circumstances without knocking in executing warrants. Generally speaking this "no knock" provision codifies the common law as recognized by the Supreme Court. The State of New York, a rather forward looking State when it comes to criminal legislation, has a statute similar to that which is proposed in this bill. The experience over the years since the State enacted its law on "no knock" has indicated that the law-enforcement officers and the courts have been very cautious in the application of these provisions. I am satisfied that the codification of the "no knock" authority permitting police to execute search and arrest warrants will be handled in the District of Columbia with integrity and commonsense.

In conclusion may I say that I strongly favor the passage of the District of Columbia omnibus crime bill. To use the words of President Nixon, the crime situation in the District of Columbia is nothing less than calamitous. From my own observations, the Chief of Police, the trial judges in the District of Columbia, the U.S. attorney for the District of Columbia, and certainly those—and there are many of us—who fear for our safety on the streets, share the President's opinion. The eyes of all your constituents and the Nation as a whole, and the people certainly in this community who look to this body for help, are turned to this chamber today to see what we are

going to do. I strongly urge each and every one of you to vote favorably on this bill which contains the President's crime package.

Mr. TAFT. Mr. Chairman, a premise, if not a specifically enumerated right of our constitutional form of government, is that each citizen be permitted to live in a lawful society, free from the depredations of violence and crime of all sorts.

In no part of America is this entitlement less secure or further threatened than in the District of Columbia. Here, in an area of prime national governmental responsibility, the "right to law," as we might call it, is less protected and more violated than anywhere. Rather than being a model of what could be done everywhere, it has become a horrible example of what must be prevented. Belatedly, we in the Congress are now seeking again to do something about this.

The omnibus District of Columbia bill before us is by no means a complete or ideal vehicle in all respects. But it is a step in the right direction.

It will bring about court reform and eliminate some of the dreadful delay in processes of law here.

It will bring about bail reform by permitting courts to consider the public's right of safety as to defendants who are shown to be dangerous, while at the same time, assuring the defendant a fair judgment on the danger question.

It will provide stiffer penalties for repeated offenders.

It will encode the right to use wiretapping and electronic surveillance under proper protection of privacy as laid out by the Supreme Court in the Berger and other cases.

On the "no knock" provision, I have some reservations, but the drug problem here in the District and elsewhere merits taking some risks. If abuses occur, the Congress and the courts should act to correct them.

In the last 10 years, the number of serious crimes in the District have increased from about 10,000 per year to over 60,000 a year. This merits extraordinary remedies.

Mr. RYAN. Mr. Chairman, H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970, infringes upon civil liberties in a number of ways. Any proponent of this bill who contends that these infringements are justified by the necessity for law and order should heed the words of Mr. Justice Goldberg, writing for the majority in *Escobedo* v. *Illinois*, 378 U.S. 478 (1964), who said:

> If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system.

Ignoring the conditions causing crime—poverty, ignorance, discrimination, urban decay, and the despair and anger these engender—the report of the majority of the Committee on the District of Columbia concentrates on heavy-handed techniques to, so it purports, control and short circuit criminal acts.

No one who is at all aware of the news of the day can fail to appreciate the serious problems of criminality and violence which afflict our cities and suburbs, and even our rural areas. And no one can deny that crime, and its control and prevention, must be addressed aggressively and effectively. Of course, crime must be confronted—at both the level of its social causes and the level of its overt manifestations. But this confrontation cannot be allowed to result in a diminution or compromise of civil liberties.

While H.R. 16196 aims, among other things, at refashioning the criminal procedure applicable within the District of Columbia, I am convinced that its enactment in its present form will have ramifications reaching far beyond the District line. This legislation is a bellwether; failure to correct its invidious features will signal an assault on civil liberties throughout the country. With this perception in mind, I think we are constrained to examine most stringently every feature of this bill.

Several aspects of H.R. 16196 present severe incursions on civil liberties; some of these are almost certainly unconstitutional. These include the provisions dealing with preventive detention, "no knock" searches, mandatory sentencing, and the judicial treatment of juveniles.

Other aspects of the bill—such as that concerning wiretapping and electronic eavesdropping—are similarly of very serious concern.

The basic problem afflicting our system of criminal justice today is the enormous lag between arrest and trial. The sixth amendment to the Constitution requires, in no uncertain terms, that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." Yet today, clogged dockets make this requirement impossible to meet. We need only note the words of Justice Tom C. Clark, now Director of the Federal Judicial Center, in his testimony before the House Select Committee on Crime on September 18 of last year. Mr. Justice Clark observed in the prepared statement he offered at that time:

> The District of Columbia is a good example. The enlargement of the police effort through overtime, additional officers, and improved techniques together with the riot situation of 1968 produced more filings in the past years. In Fiscal Year 1968 criminal case filings in the District Court alone reached 1,756, while in 1969 they increased 5 percent, to 2,197 cases. The court system was not equipped to handle this increasing heavy load and as a consequence the cases have backed up until there are some 1,700 presently pending.

Reform of the court structure, addition of personnel, introduction of modern management techniques, increased reliance on computers, and infusion of money are the answers to this serious slowdown in the court machinery.

Preventive detention is only a subterfuge—it evades the real problems which allow those charged with crimes to be at liberty on parole or bail for months pending trial. It is no substitute for forthrightly and responsibly facing the situation and remedying it.

Moreover, preventive detention raises serious constitutional problems. The eighth amendment prohibits excessive bail. This prohibition, in effect, is rendered nugatory if, for some, eligibility for bail is entirely removed, as the concept of preventive detention provides.

Even more suspect as constitutionally offensive is preventive detention's serious conflict with the fifth amendment's guarantee of due process. The basic tenet of Anglo-Saxon law is that a man is presumed innocent until proven guilty beyond a reasonable doubt. Preventive detention reverses this principle so integral to our system of justice.

Moreover, the standard provided by the bill for determining whether a suspect should be detained is "substantial probability" that he committed the offense for which he has been arrested. Pretrial detention is based on a standard less stringent than the "beyond a reasonable doubt" standard applicable at his trial.

Finally, H.R. 16196 specifies that rules of evidence shall not apply. Thus, hearsay, illegally obtained information, and other ordinarily incompetent evidence could be introduced to support the pretrial, or preventive detention.

Constitutional defects are not the only charges to be leveled at the preventive detention encompassed within the District of Columbia Court Reform and Criminal Procedure Act of 1970. The language of the bill leaves very important terms undefined, and is written in broad strokes.

I want to make clear that rejection of the scheme for pretrial detention presented in this bill in no way forecloses adequate measures to insure that dangerous criminals are not left free to roam the streets. As the minority committee report details, the 1966 Bail Reform Act itself contains a selective detention mechanism. For example, urinalysis checks of drug addicts can be ordered; positive reactions can result in immediate incarceration.

Finally, as I have said, the real solution to the alleged problem of criminal suspects roaming free on bail pending trial is to adequately staff and modernize the courts so that speedy trials may be obtained.

I should at this time like to refer to the December 20, 1969, report of the Committees on Federal Legislation and on Civil Rights of the Association of the Bar of the City of New York, entitled "Proposed Federal Legislation on Preventive Detention—Supplemental Report on the Administration Bill." In this carefully considered and argued report, the committees concluded:

> We disapprove all present proposals for legislation authorizing preventive detention. These bills we believe to be unconstitutional because the procedures which they provide are lacking in due process. Even if these procedures should pass a constitutional minimum standard, they are unwise. They go too far, bypassing alternative methods of dealing with alleged problems, when these alternatives may not only be less drastic but better suited to deal more precisely with the problems. Nor are we persuaded that the underlying problems to which proponents point have been adequately demonstrated to exist nationally. Nevertheless, such subterfuges as have developed in practice are also undesirable, and we consider the present debate to be both healthy and constructive. From it we hope to see emerge specific

limited legislation to deal with such problems as shall be demonstrated.

H.R. 16196 also authorizes, in section 23–591, so-called no-knock searches. This section provides:

(a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

(b) * * *

(c) An announcement of identity and purpose shall not be required prior to such breaking and entry if the warrant expressly authorizes entry without notice, or where such officer or person reasonably believes—

(1) his identity or purpose is already known to any person in the premises;

(2) such notice may result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed;

(3) such notice may endanger the life or safety of the executing officer or another person;

(4) such notice may enable the party to be arrested to escape; or

(5) such notice would otherwise be a useless gesture.

Thus, no-knock entry may be specifically authorized by the search warrant, or, even if it is not, such entry is legalized when the police officer reasonably believes one of the five alternatives listed in subsection (c).

No standards are provided to govern the circumstances under which a warrant may properly authorize the entry without notice. What is perhaps even worse, no-knock entry in those circumstances where the officer reasonably believes notice would otherwise be a useless gesture is, in effect, carte blanche for the arbitrary discretion of the overzealous policeman. For a suspect arrested pursuant to such an entry to prove that the officer did not reasonably believe notice of his presence outside would be a useless gesture, or that the officer did not have reasonable grounds to so believe, would be virtually impossible. Virtually any situation can be so colored as to justify a reasonable belief.

Finally, this unjustifiable assault on privacy is a wide-ranging one. No-knock searches may be utilized for every type of criminal activity, including misdemeanors.

Again, I want to stress that rejection of the no-knock provisions of H.R. 16196 does not deprive the police of the measures they need to combat crime—measures which I readily endorse when they are constitutional and do not infringe upon civil liberties. The existing common-law exceptions to the fourth amendment "announcement rule" are entirely sufficient to deal with those situations requiring no-knock entries.

The mandatory sentencing provisions contained in H.R. 16196 are also subject to severe criticism. A mandatory life sentence, with eligibility for parole only after 20 years, is provided for a third conviction of a "violent crime" by section 201 of the bill. Section 201 also enables an increase of up to 50 percent in the maximum statutory sentence for a second conviction of any criminal offense. A mandatory minimum sentence of 3 years is required by section 205 of the bill for first conviction of a violent crime committed with a weapon; and a 10-year minimum sentence is stipulated by the same section for a second similar conviction.

The stringency of these provisions is emphasized by the broad definition of "violent crime" embodied in section 201:

(2) (A) For purposes of this subsection, the term "violent crime" means any violation of the laws of the United States (including laws applicable exclusively to the District of Columbia) or of a State or territory of the United States, which violation would constitute under the laws applicable exclusively to the District of Columbia any of the following crimes: Murder, manslaughter, rape, arson, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, indecent acts against children, assault with intent to kill, to commit rape, or to commit robbery, assault with a dangerous weapon, assault on a police or correctional officer, or assault with intent to commit any offense punishable by imprisonment for more than one year.

Thus, a man who has been convicted once of housebreaking, and once of robbery, will be sentenced to life imprisonment if he is again convicted of housebreaking. And he will not be eligible for parole for 20 years.

The eminent legal scholar Herbert Wechsler, professor of constitutional law at Columbia Law School, has said of that branch of our criminal law concerning sentencing:

This is the law on which men place their ultimate reliance for protections against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. Nowhere in the entire legal field is more at stake for the community or for the individual.

Thus, any attempt such as is made by this bill to enact mandatory sentences must be examined most carefully.

One factor to note in such analysis is that there are a number of studies comparing reconviction rates following different methods of disposal of offenders which suggest that it makes very little difference for reconvictions as to what sentence the courts impose. Particularly apt in this regard is the observation made in "The Honest Politician's Guide to Crime Control," pages 118 and 119, by the distinguished Norval Morris, professor of law and criminology at the University of Chicago Law School, and Gordon Hawkins, senior lecturer in criminology at the University of Sydney:

The similarity between the reconviction rates of offenders despite differences in their sentences is not really very surprising. "Treatment" in penal institutions generally consists of little more than variations in the conditions of custody, and probation rarely involves more than cursory supervision. It would be surprising if either proved a significant influence on conduct.

Thus, increasing sentences is likely to have little beneficial effect in deterring recidivism.

Again, I refer to Professors Morris and Hawkins, who discussed the relationship between confinement and deterrence on page 116 of their book:

But although we know very little about the extent to which our past or present sanctions have achieved general deterrent effects, we do know that crime rates frequently vary quite independently of penal policy. Few people today believe that by devising deliberately punitive measures for the individuals incarcerated in prison we can achieve any very significant general preventive effect.

Virtually every respectable expert in the field opposes mandatory sentencing because, as the editorial in the Washington Post of March 10 points out, mandatory sentencing "deprives judges of a vital element of judgment." As the editorial continues:

A judge who sees a defendant before him, hears his plea, studies the circumstances and the record of his life, is far better able than remote legislators to fix a sentence appropriate to the particular culprit and calculated to balance compassion and prospects for rehabilitation with public safety. The legislature ought to allow the judge flexibility. A provision such as that contained in the crime bill that a judge must sentence anyone convicted of a violent crime, if he was previously convicted for at least two violent crimes, to life imprisonment (with eligibility for parole only after twenty years) entails for a convict an extinguishing of all hope. The aim of a penal system must be to reform. It must, therefore, afford hope of reformation.

Mandatory sentencing such as is prescribed by H.R. 16196 is clearly regressive in philosophy, destructive of offering hope for reform of the criminal, and unlikely to really solve the problem of crime.

One last word on the issue of sentencing. Presumably, incarceration should lead to rehabilitation. It is here that our real efforts should be directed. Yet, the present facilities for helping people convicted of crime, and consequently imprisoned, are shockingly inadequate. There are more than 1,300,000 persons in the correctional system. This number excludes those awaiting trial; it includes those on probation, those in correctional institutions, and those on parole or similar aftercare. Yet, for these 1,300,000 people, only one in five of 125,000 persons employed in correctional work have treatment and rehabilitation as their primary functions.

And of these 25,000—that is, one-fifth of 125,000—there are only about 56 psychiatrists employed full time in the approximately 230 adult correctional institutions in this country. Of these 56, 18 are in the Federal prison service, while another large group is in the service of the California Adult Authority. And even these figures are misleading, since most of the efforts of these psychiatrists are directed at diagnosis and classification, not treatment.

Here is where the full weight of Federal influence and Federal moneys should be directed—at improving our correctional system so that there is a meaningful chance for convicted criminals to re-

form and to have a new chance. This effort, combined with a massive program aimed at reducing the social causes of crime—poverty, discrimination, ignorance, and urban blight, and the anger, cynicism, and despair these breed—is the real means by which to fight crime.

Finally, I want to make reference to the provisions of the District of Columbia Court Reform and Criminal Procedure Act of 1970 dealing with juveniles. The bill lowers the age at which a juvenile may be waived to adult court for trial of a serious crime from 16 to 15. This waiver can be initiated by the corporation counsel, and it is mandatory unless the juvenile court judge affirmatively finds reasonable prospects for the rehabilitation of the youth. As to certain crimes—including burglary, robbery, manslaughter, and assault with intent to commit any such offense—the juvenile court judge would have no discretionary power, and 16- or 17-year-old youths charged with such offenses would automatically be tried as adults.

In addition, the bill eliminates jury trials for juveniles and requires only a "preponderance of evidence" standard of proof in adjudication of delinquency and in persons-in-need-of-supervision cases. Moreover, there is provision for transfer of a child from a juvenile facility to an adult institution if it is only administratively established that he had committed irresponsible conduct in the juvenile facility.

Clearly the problem of crimes committed by juveniles—sometimes very serious crimes—is one which we must carefully examine and strenuously assault. But, the measures taken in this bill may well miss the mark. For one thing, I believe we should note the statement of Professors Morris and Hawkins on page 155 of their book.

> The majority of juvenile delinquents both convicted and unconvicted do not subsequently pursue criminal careers; only a minority become recidivists. The fact that in America, as in the rest of the world, only a minority of young criminals become persistent adult criminals indicates that for most young people it is a passing phase of development and not a static condition.

Certainly we cannot condone criminal acts by juveniles. Certainly Mr. Justice Fortas did not intend to do so when he wrote in the landmark decision of *Matter of Gault*, 387 U.S. 1 (1967): "Under our Constitution, the condition of being a boy does not justify a kangaroo court." But these statements clearly indicate and require—and properly so—that we deal with youths intelligently and with full regard for their rights. I do not believe that the provisions of H.R. 16196 adequately pass this muster.

My concentration on these four major problems in H.R. 16196—preventive detention; "no-knock" searches; mandatory sentencing; and juveniles' rights—is in no way intended as disregard for other serious flaws in this bill. Other provisions, as well, are highly offensive and seriously suspect. Certainly, this House can act more wisely and responsibly than to pass H.R. 16196 as it has been reported out of committee. And certainly, this House must finally recognize and act to eradicate the breeding grounds of crime and despair—the poverty, discrimination, poor educational facilities, urban decay, and lack of opportunity which are America's shame, and which underlie the violence and criminality afflicting this Nation.

Mr. GALLAGHER. Mr. Chairman, the problem of crime in the District of Columbia is an extremely serious one and it is obvious to every Member of this Chamber that new steps must be taken to guarantee the safety of the District's residents. It is impermissible for the Federal Government, which has jurisdiction over so much of what goes on in the District, to allow crime to continue at its present rate. The bill under discussion today represents a response to the quite legitimate fear of crime that grips so many of our citizens and that tends to paralyze the life in the great city of Washington.

But we must be very careful not to pass a bill which, instead of reducing that fear, actually engenders an atmosphere of greater fear. As valuable as much of this legislation is, I believe that certain provisions are so obnoxious to our traditions and our constitutional heritage as to reduce all people—criminals and law-abiding individuals—from free men to frightened men.

What we have implicit in much of this bill is what the Wall Street Journal recently called the politics of lost confidence. To kill crime in the District, we have created a mechanism, an overkill if you like, which represents a very real failure of nerve and an abdication of faith in ourselves and in our unique system of government.

Mr. Chairman, this is the omnibus crime bill, but I regard it as a very ominous bill as well. Certain sections give credence to the often heard but thus far, at least, unprovable statement that the District of Columbia is the last plantation. Instead of cooling the crime problem, I am very afraid that much of what we are asked to pass today will inflame passions and may, in a very real sense, increase the disorder we are trying to eliminate.

Let me begin by a brief discussion of the wiretapping provisions and the so-called no-knock right of officers to break into the sanctity of the home. In 1968, Sociologist Barry Schwartz presented remarks which are relevant to both of these sections and which we should keep in mind:

> Surveillance may itself create the disorder which it seeks to prevent . . . Where privacy is prohibited man can only imagine separateness as an act of stealth . . . (In a social structure) rules governing privacy, then, if accepted by all parties, constitute a common bond providing for periodic suspensions of interaction.

Mr. Chairman, poet Robert Frost put it much more simply: "Good fences make good neighbors."

I would not be so foolish as to contend that Washington is now, ever has been, or probably ever will be, a society in which every man is as responsible as the next, or where neighborliness is a way of life for everyone. There is too much crime in Washington and there are people who should be dealt with as harshly as the law permits.

But what Dr. Schwartz and Robert Frost were driving at, I believe, is that you cannot create a viable society by destroying what Justice Brandeis once described as the right most cherished by civilized men, the right to be let alone.

UNRESTRICTED WIRETAPPING

The wiretapping provisions of this bill go far beyond those which were approved by the Safe Streets Act and which I accept as the law of the land, though at that time I warned of the inadvisability of total surveillance in a step-by-step escalation. The bill we are asked to approve today contains no safeguards, prohibitions, civil remedies, requirements for regular reports on its operations, protection of innocent third parties, or adequate access of defendants to logs of intercept.

This provision is in reality a constitutional amendment, abolishing the fourth amendment to our Constitution in the District of Columbia. It would add another denial of rights to District residents which is even worse than their partial disenfranchisement: it would destroy almost all of their right to privacy.

NO-KNOCK PROVISION

And the rest of privacy would be destroyed by the no-knock provision. When the Senate passed a bill recently which contained a similar provision, the purpose was to find evidence of narcotics violations. The bill we are asked to approve today will authorize no-knock provisions for virtually every conceivable kind of crime with or without probable cause, including misdemeanors.

If we really want to prevent evidence from being destroyed I would far prefer to see us abolish indoor plumbing and to confiscate all the matches in the District of Columbia. Further, what we should do is to make it illegal for shades to be drawn, and, perhaps, require that all walls and doors be made of glass, though I say it facetiously, I am confident that a serious proposal along these lines will be made in an omnibus crime bill before we create the mistake of the decade.

We must recognize that, in a society where guns are so prevalent, it is not inconceivable that householders will shoot first and ask questions later. Further, one of the real problems of law enforcement today is the climate of suspicion between citizen and police. The mere knowledge that the cop on the beat may come bursting into your home in the dead of night cannot help but exacerbate that community tension.

What we are asked to do by these two provisions is to take the tap off the door and put it on the phone.

PREVENTIVE DETENTION

The fifth amendment to our Constitution guarantees due process; the eighth amendment guarantees reasonable bail; and the sixth amendment guarantees access to counsel. All of these sections of our most fundamental document are jeopardized by the provisions providing for a detention trial prior to the actual trial.

Other sections of this bill would

strengthen the criminal justice system by reorganizing the courts and thus lessen the unconscionable delay between crime and punishment. Indeed, the whole concept of justice is that a man knows he will be punished when he commits a crime; this concept is destroyed when he is brought to trial 2 years later.

But this additional trial—this detention trial—may well undo the valuable work other sections of the bill may accomplish.

The most repugnant part of this provision is to suspend another basic tradition of Anglo-Saxon jurisprudence: a man is innocent until proven guilty. I note that there is a real dispute about just how much crime is committed by people out on bail; I do not think we should impose preventive detention without more study and statistics upon which most people can agree.

OTHER PROVISIONS

There seems to be no real case made for the transfer of Lorton from the District of Columbia Department of Corrections to the U.S. Bureau of Prisons. I am informed that the proposal has not received the support of the President, the Department of Justice, the District of Columbia Bar Association, the Bureau of Prisons, or the District government. This seems a pretty solid lack of support for the transfer, and I do not believe the House should approve it.

Excluding from juvenile court 16-year-olds and waiving 15-year-olds to adult court for some crimes seems unduly harsh. I find little precedent for such a destruction of the juvenile court system and, while it may not be working at its maximum effectiveness in the District, it should be improved, not weakened.

CONCLUSION

What we witness in much of this bill is what we see in other bills introduced as a means to deal with crime: the creation of the tools necessary to undermine personal freedom and democratic government. We are repeating the terrible mistakes made in the era of Joe McCarthy, but we are doing it in a far more dangerous manner this time.

For we are cloaking repressive provisions in legislation. We are aiding and abetting a thrust toward destroying the American political system. It is not important to question whether this is being done by a carefully preconceived plan or whether it is merely the unanticipated side effect. The point is that it is happening.

Fear of crime should not cause us to legislate fear, and the vital necessity for law and order in our society should not blind us to what our society is supposed to be.

I am reminded of the famous Herblock cartoon in the McCarthy era. It shows two legislators on the steps of the Capitol, and one says to the other: "Read it? Hell, I'm too busy defending the Constitution to bother reading it."

Mr. Chairman, the House today must not make a torch to the Bill of Rights and make ashes of human dignity. We must stop "the politics of lost confidence" and reassert faith in ourselves and in the unique American experience.

DISTRICT OF COLUMBIA CRIME BILL AVOIDS REAL PROBLEM

Mr. RARICK. Mr. Chairman, the extent of crime in the District of Columbia is appalling as all of us know. The responsibility for the enactment of laws to govern the District is ours, as the Constitution provides. The moment of truth is at hand.

The measure before us is not the measure which many of us would have drafted. There are provisions which beyond any doubt are drastic, and which should neither be provided nor utilized except in the face of a showing of their manifest necessity. The committee which has considered this measure has had the benefit of the advice of those government officers who must deal with its problems daily. It has also had the benefit of the advice of many groups and individuals outside of the government. On the basis of the information before it, it has reported to us this measure, a drastic measure to deal with a drastic problem.

In the period from 1958 through 1969 we have seen an increase in violent felonies as well as other felonies, in the District of Columbia which borders on the fantastic. Homicides rose from 79 to 289, an increase of 365 percent; rapes rose from 65 to 336, an increase of 517 percent; armed robberies escalated from 709 to an astounding 12,423, a rise of over 1,752 percent—and other crimes rose proportionately.

In dealing with the escalation and proliferation of crime in the Nation's Capital, drastic measures have been proposed. I certainly regret that the situation is so horrible that it has been necessary for honest and capable men to recommend such measures. But they have done so, and I will support their recommendations.

It is not only worthwhile, but important, to note the opponents of this measure and their battle cries. The opposition to the enforcement of law—to the apprehension of criminals—is heard from the very voices whose long and effective emasculation of the criminal laws of the Nation and of the States has freed the criminal monster which is now in the process of devouring our innocent people.

Those who cry loudest of the rights of the criminal—be they judge, lawyer, or sociologist—are the same ones who have so far succeeded in their deliberate destruction of our system of justice that they bear the most responsibility for the very evils which we must now correct. The neglect of the rights of decent citizens in an overly zealous drive to protect the rights of violent criminals is not the solution to our problem, it is the cause of the dilemma in which we find ourselves.

Those of us who will vote for this measure as a necessary evil to correct an impossible situation in Washington, must make it known at the same time that we will be ever alert to the administration of the law which we are enacting, and that we desire it to be effectively enforced—but in no wise abused. With this caveat, let the courts administer the new law we are about to enact.

Mr. HARRINGTON. Mr. Chairman, many of my colleagues have risen today to deal with this bill in detail. It is my intention to discuss the philosophy behind certain portions of the bill—a philosophy which appears to me to be misdirected.

We cannot ignore the growing fear of crime that is spreading throughout this country today. We must realize that we are dealing not only with crime itself but with an exaggerated and nearly hysterical emotional reaction to the threat of crime. In the large cities of this country, 43 percent of the people stay off the streets at night because of their fear of crime. We in Congress as well as all other levels of government are besieged with demands for action. These demands are justifiable and the situation we are facing today must be alleviated. To say this much is easy. To take the proper course of action is complex and difficult.

In the past 3 years three separate Presidential commissions have studied problems relating to crime. Such close and continuing scrutiny of a problem by Presidential commissions has never happened before in the history of this country. The problems have been outlined, the statistics have been compiled, the solutions have been suggested—everything is in readiness but nothing has happened. Today we have the opportunity to act on some of the recommendations of those commissions, recommendations incorporated in this bill. Today, we have the opportunity to make the District of Columbia a safer and better place in which to live. And what might we do. I am afraid that the Congress may enact legislation so restrictive and so repressive that the enlightened views of the eminent scholars and criminologists on those panels and the basic rights and freedoms of the citizens we are attempting to preserve, will be denied.

The National Commission on the Causes and Prevention of Violence—Eisenhower Commission—states:

> Necessary as measures of control are, they are only a part of the answer. They do not cure the basic causes of violence. Violence is like a fever in the body politic: it is but the symptom of some more basic pathology which must be cured before the fever will disappear.
>
> Indeed, if measures of control were this society's only response to violence, they would in the long run exacerbate the problem. The pyramiding of control measures could turn us into a repressive society where the peace is kept primarily through official coercion rather than through willing obedience to law. That kind of society where law is more feared than respected, where individual expression and movement are curtailed is violent too—and it nurtures within itself the seeds of its own violent destruction.

We cannot allow ourselves to lose sight of the recommendations of these commissions and what we know to be the only true and ultimate answer to the problem of crime. We should not become so entangled in the development of measures of control that we fail to eradicate the causes that make control necessary. Those causes are the ancient enemies of mankind: poverty, hunger, ignorance, prejudice, and the failure of our society to make life meaningful.

Bearing this in mind, I would like to turn my attention to some of the legal

aspects of the bill under consideration today.

One core principle of justice is that a man has a right to be presumed innocent until proven guilty. On the other hand, man forms a society for the protection of the individual members. When there are certain members of a society who appear to present a clear and present danger to that society, these two fundamental concepts conflict.

On a national basis one-third of those who are released from prison will be reimprisoned within 5 years and over 40 percent of those who are released from prison are charged with the commission of another crime. The provisions of this bill take these factors into consideration and propose that the manner of dealing with individuals who have criminal records is preventive detention and mandatory life sentences for the third offense.

But there is a temporary solution to the problem—a solution which would hold such persons in prison for a maximum of 60 days before they are tried. While this solution may cure a symptom, it does not cure the disease which causes a man to become a criminal.

The factor which is ignored in these proposals is that less than 3 percent of all personnel working in local jails and institutions in this country devote their time to treatment and training. How can we categorize individuals as incurable criminals without having first attempted to cure them? The basic principle of modern criminology is rehabilitation rather than punishment.

I cite this particular provision of the bill under consideration today to demonstrate my concern that stopgap measures will be viewed as permanent solutions to our crime problem. They are not. I refer here and cite my opposition to the provisions in today's bill dealing with preventive detention, no-knock searches by police, wiretapping and electronic surveillance, transfer of Lorton Prison complex to the Department of Justice, and the change in juvenile court jurisdictions on the 15- to 18-year-olds.

I will vote for those provisions of the bill which make a constructive contribution to the problems of crime in the District of Columbia. But I will not vote for those measures which are insensitive to the fundamental human rights of our society. And at the same time, Mr. Chairman, it is pertinent to reinforce our commitment in this country to see to it that the causes of crime are eradicated by a change of society from within. We must avoid the too easy path of restrictions from without.

Therefore, Mr. Chairman, I must reluctantly cast my vote against this legislation should the above-mentioned sections be included in their present form. These provisions are so detrimental to the maintenance of a just society that they must not be enacted into law, even at the loss of some good reforms within the District of Columbia.

Mr. MIKVA. Mr. Chairman, I will vote against H.R. 16196. I do so reluctantly because I believe that the bill does some very necessary things. It provides a long overdue reorganization and expansion of the District of Columbia courts. It expands the District of Columbia's Public Defender Agency into the kind of full-fledged effort which befits one of the Nation's largest cities; and it expands the authority and functions of the District of Columbia Bail Agency to provide for increased supervision of and services to defendants released on bail prior to trial.

But despite the good things which H.R. 16196 does, it is so replete with provisions which are unwise as a matter of policy and unconstitutional as a matter of law that I cannot support the bill. Without attempting in every case to detail my objections on policy and constitutional grounds, I merely list the following weaknesses in the bill to demonstrate its overall unacceptability.

First. The bill lowers from 16 to 15 the age at which a juvenile may be waived to adult court for trial of certain crimes, and in cases where the U.S. attorney decides to charge a juvenile with a serious crime, transfer of jurisdiction from the Family Division is mandatory. This provision removes all discretion from the Family Division judge and requires in all cases, regardless of the mitigating circumstances in any individual case, that the juvenile be tried and sentenced as an adult. An amendment to delete this mandatory transfer of jurisdiction provision was offered on the floor, but was defeated.

Second. The bill provides harsh mandatory sentences for three-time convicted felons, and mandatory sentence to life imprisonment for a person thrice convicted of loosely defined "crimes of violence." This provision runs counter to the almost universal recommendations of penologists and sentencing experts, and ignores the adverse effect of such harsh sentences on a prosecutor's willingness to prosecute and a jury's willingness to convict. Time and time again it has been proven that Draconian mandatory sentences do not reduce crime. These measures will be no exception.

Third. The bill transfers control over three of five correctional facilities in the District of Columbia from the District government to the Federal Bureau of Prisons. No support for this transfer appears in the record of the committee's hearings; it was not requested by the administration; it was not supported by the Bureau of Prisons. The action appears to be a vindictive and unjustifiable attempt to punish the black Director of the District of Columbia's Department of Corrections and has suspicious racial overtones.

Fourth. The bill authorizes issuance and execution of "no-knock" warrants which carry the practice far beyond the existing common law exceptions to the announcement requirement and which will ultimately result in unannounced crashing into the homes of private citizens—even when no need for such intrusion exists. More than likely, it will also result in some dead policemen since statistics show that firearms are now present in about one-half of the 60 million households in the Nation.

Fifth. The bill authorizes wholesale wiretapping and bugging for a list of crimes which goes far beyond crimes normally engaged in by organized racketeers—supposedly the target of such activity.

Finally, the bill authorizes sweeping preventive detention. It applies this drastic departure from our traditional notions of due process to persons who have no criminal record merely on the basis of a judicial officer's prediction of his "dangerousness," a concept which is nowhere defined in the bill. Moreover, although the ostensible justification for preventive detention is to protect society from crimes committeed by defendants prior to trial, there is no provision in the bill for guaranteeing speedy trials of defendants held in preventive detention—or of any other defendants for that matter. The committee expresses the pious hope that court reorganization alone will achieve speedy trials, even though it has not done so in any other State or Federal jurisdiction.

Amendments were offered to correct these and other deficiencies in the committee version of the bill. Almost none of these amendments was accepted, and not one of the bill's most glaring faults was corrected. I myself offered an amendment to eliminate the most flagrantly unconstitutional aspects of preventive detention and to insure speedy trials. My proposal would have enjoined the District of Columbia courts to formulate plans to try criminal defendants within 120 days, or within 60 days in the case of crimes of violence, or to tell the Congress the reasons why it could not do so. The speedy trial plan would have required the courts to submit detailed recommendations for additional authorizations and appropriations for resources and manpower to meet the speedy trial time limits established. If speedy trials were a reality, radical solutions like preventive detention might well be unnecessary.

Violent street crime and our citizens' increasing fear of it are two of the most serious domestic problems facing this country in the 1970's. We in Congress must do everything we constitutionally can do to assist State and local jurisdictions—who in our system retain the primary responsibility for fighting crime. I have sponsored over a dozen bills on various aspects of the crime problem. I favor reorganization and expansion of the District of Columbia courts, expansion of the Public Defender Service, and expansion of the District of Columbia Bail Agency. But I do not believe that in our zeal to combat crime, we can ignore our oaths to support the Constitution of the United States. I do not believe that we should "con" the public into believing we are doing something useful, when we are not. We are not going to be successful in facing up to the desperate problems of crime in the street until we stop kidding ourselves and the public about its causes and cures. Especially when we legislate for the District of Columbia, whose citizens are unrepresented in the Congress which makes its laws, we must take care to see that the laws we enact meet the highest constitutional standards—and will carry us to a desired goal.

I have never knowingly voted for a bill

which I believed was unconstituional and unwise. I will not do so today.

Mr. PEPPER. Mr. Chairman, I would like to take this opportunity to commend my colleagues on the Committee on the District of Columbia for their prodigious efforts in reporting out such a comprehensive crime bill for the District.

H.R. 16196 is a complex bill to deal with a complex problem. There is no question that something must be done about crime in the District, as well as in the rest of the Nation. My Select Committee on Crime held hearings in Washington just last month, and its citizens—teachers and housewives, businessmen, and cab drivers—all urged Congress to act to stem the crime rate in this city. Their message was echoed in the testimony we have heard in other cities we have visited—Boston, Omaha, Nebraska, San Francisco, Columbia, S.C., as well as my own city of Miami.

Drafting such a bill is a tremendously difficult task, and it is no adverse reflection on members of the District of Columbia Committee that not all Members, myself included, agree with all the bill's provisions.

Yet, despite the questions I may have about certain provisions, and the need we all must recognize to do many more things in the areas of youth crime, narcotics and dangerous drugs, modernization of correctional institutions and so forth, the D.C. Crime Bill is an honest and forthright attempt to use our legislative authority to improve law enforcement and criminal justice in the Nation's capital.

It is my hope that this legislation will mark the beginning of a continuing effort of the Congress constantly to improve and modernize our criminal laws and provisions for their enforcement.

Mr. McMILLAN. Mr. Chairman, I take this opportunity to thank all members of the committee for the time they have given during the past 6 months to this most important legislation. I wish to thank the members of the staff of the committee for the long hours they have worked. I especially want to thank Mr. Santarelli and Mr. Mitchell, the Attorney General, for the fine assistance they have given us during the past 5 months in preparing this legislation. I also wish to thank the President of the United States for the fact that he has given so much of his valuable time to this important legislation. He has given us the necessary backing we must have from our leader on this type of legislation.

I wish to thank the chief judge of the U.S. district court and Chief Judge Hood of the court of general sessions appeals for the District of Columbia, as well as Judge Green, chief judge of the court of general sessions. I also want to thank Mr. Meade and the members of the legislative drafting office for their invaluable assistance.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the bill by title.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Court Reform and Criminal Procedure Act of 1970".

TABLE OF CONTENTS

TITLE I—REORGANIZATION OF DISTRICT OF COLUMBIA COURTS

SHORT TITLE

SEC. 101. This title may be cited as the "District of Columbia Court Reorganization Act of 1970".

PART A—REVISION OF TITLE 11 OF THE DISTRICT OF COLUMBIA CODE

REVISION OF TITLE 11

SEC. 111. Title 11 of the District of Columbia Code is amended to read as follows:

"TITLE 11.—ORGANIZATION AND JURISDICTION OF THE COURTS

"Chapter 1.—GENERAL PROVISIONS

"§ 11–101. Judicial power.

"The judicial power in the District of Columbia is vested in the following courts:

"(1) The following Federal courts established pursuant to article III of the Constitution:

"(A) The Supreme Court of the United States.

"(B) The United States Court of Appeals for the District of Columbia Circuit.

"(C) The United States District Court for the District of Columbia.

"(2) The following District of Columbia courts established pursuant to article I of the Constitution:

"(A) The District of Columbia Court of Appeals.

"(B) The Superior Court of the District of Columbia.

"§ 11–102. Status of District of Columbia Court of Appeals

"The highest court of the District of Columbia is the District of Columbia Court of Appeals. Final judgments and decrees of the District of Columbia Court of Appeals are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28 of the United States Code.

"Chapter 3.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"§ 11–301. Jurisdiction of appeals from the District of Columbia Court of Appeals

"In addition to its jurisdiction as a United States court of appeals and any other jurisdiction conferred on it by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the District of Columbia Court of Appeals—

"(1) with respect to violations of criminal laws of the United States which are not applicable exclusively to the District of Columbia if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry; or

"(2) entered before the effective date of the District of Columbia Court Reorganization Act of 1970 in any other case if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry.

"Chapter 5.—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

"SUBCHAPTER I.—JURISDICTION

"SUBCHAPTER II.—AUDITOR

"SUBCHAPTER I.—JURISDICTION

"§ 11–501. Civil jurisdiction

"In addition to its jurisdiction as a United States district court and any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has jurisdiction of the following:

"(1) Any civil action or other matter begun in the court before the effective date of the District of Columbia Court Reorganization Act of 1970 other than any matter over which the Superior Court of the District of Columbia takes jurisdiction under section 11–921 (a)(4)(B).

"(2) Any civil action begun in the court during the eighteen-month period beginning on such effective date under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committees for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(3) Any civil action or other matter filed in the court during the eighteen-month period beginning on such effective date—

"(A) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(B) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the United States District Court for the District of Columbia, and the admission to probate and recording of those wills;

"(C) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(D) involving the granting and revocation for cause of letters testamentary, letters of administration, letters ad colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(E) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an interstate estate, or between wards and their guardians;

"(F) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(G) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(H) otherwise within the probate jurisdiction of the court on the day before such effective date.

"(4) Any civil action (other than a matter over which the Superior Court of the District of Columbia has jurisdiction under paragraph (3) or (4) of section 11–921 (a)) begun in the court during the thirty-month period beginning on such effective date wherein the amount in controversy exceeds $50,000.

§ 11–502. Criminal jurisdiction

"In addition to its jurisdiction as a United States district court or any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has original jurisdiction of the following:

"(1) Any criminal case begun in the court by the return of an indictment or the filing of an information before the effective date of the District of Columbia Court Reorganization Act of 1970.

"(2) Any criminal case which is begun in the court by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date and which—

"(A) involves a violation of any one of the following sections of the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901:

"(i) section 809 (D.C. Code, sec. 22–201) (relating to abortion),

"(ii) section 803 (D.C. Code, sec. 22–501) (relating to assault with intent to kill, rob, rape, or poison),

"(iii) section 823(a) (D.C. Code, sec. 22–1801(a)) (relating to burglary in the first degree),

"(iv) section 812 (D.C. Code, sec. 22–2101) (relating to kidnaping),

"(v) sections 798 through 802 (D.C. Code, secs. 22–2401 through 22–2405) (relating to murder and manslaughter),

"(vi) section 808 (D.C. Code, sec. 22–2801) (relating to rape),

"(vii) section 810 (D.C. Code, sec. 22–2901) (relating to robbery); or

"(B) involves any other offense under any law applicable exclusively to the District of Columbia which offense is joined in such information or indictment with any of the offenses listed in subparagraph (A).

"(3) Any offense under any law applicable exclusively to the District of Columbia which offense is joined in the same information or indictment with any Federal offense.

"§ 11–503. Removal of cases from the Superior Court of the District of Columbia

"A civil action or criminal prosecution in the Superior Court of the District of Columbia is removable to the United States District Court for the District of Columbia in accordance with chapter 89 of title 28, United States Code.

"SUBCHAPTER II.—AUDITOR

"§ 11–521. Appointment of auditor

"For so long as the business of the court may require, the United States District Court for the District of Columbia may appoint an auditor for the court.

"CHAPTER 7.—DISTRICT OF COLUMBIA COURT OF APPEALS

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"SUBCHAPTER II.—JURISDICTION

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–701. Continuation of court; court of record; seal

"(a) The District of Columbia Court of Appeals (hereafter in this subchapter referred to as the 'court') shall continue as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11–702. Composition

"The court shall consist of a chief judge and eight associate judges.

"§ 11–703. Judges; service; compensation

"(a) The chief judge and the judges of the court shall serve in accordance with chapter 15 of this title.

"(b) Judges of the court shall be compensated at the rate of $36,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11–704. Oath of judges

"Each judge, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11–705. Assignment of judges; divisions; hearings

"(a) Judges of the court shall sit on the court and its divisions in such order and at such times as the chief judge directs.

"(b) Cases and controversies shall be heard and determined by divisions of the court unless a hearing or rehearing before the court in banc is ordered. Each division of the court shall consist of three judges.

"(c) A hearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a hearing shall consist of the judges of the court in regular active service.

"(d) A rehearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a rehearing shall consist of the judges of the court in regular active service, except that a retired judge may sit as a judge of the court in banc in the rehearing of a case or controversy if he sat on the court or a division of the court at the original hearing thereof.

"§ 11–706. Absence, disability, or disqualification of judges; vacancies; quorum

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"(c) Two judges shall constitute a quorum of a division of the court, and six judges shall constitute a quorum of the court sitting in banc.

"§ 11–707. Assignment of judges to and from Superior Court

"(a) The chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the Superior Court of the District of Columbia to sit upon the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11–708. Clerks and secretaries for judges

"Each judge may appoint and remove a personal law clerk and a personal secretary.

"§ 11–709. Reports

"Each judge shall submit to the chief judge such reports and data as the chief judge may request.

"SUBCHAPTER II.—JURISDICTION

"§ 11–721. Orders and judgments of the Superior Court

"(a) The District of Columbia Court of Appeals has jurisdiction of appeals from—

"(1) all final orders and judgments of the Superior Court of the District of Columbia;

"(2) interlocutory orders of the Superior Court of the District of Columbia—

"(A) granting, continuing, modifying, refusing, or dissolving or refusing to dissolve or modify injunctions;

"(B) appointing receivers, guardians, or conservators or refusing to wind up receiverships, guardianships, or the administration of conservators or to take steps to accomplish the purposes thereof; or

"(C) changing or affecting the possession of property; and

"(3) orders or rulings of the Superior Court of the District of Columbia appealed by the United States or the District of Columbia pursuant to section 23–104 or 23–111 (d) (2).

"(b) Except as provided in subsection (c) of this section, a party aggrieved by an order or judgment specified in subsection (a) of this section, may appeal therefrom as of right to the District of Columbia Court of Appeals.

"(c) Review of judgments of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia and of judgments in the Criminal Division of that court where the penalty imposed is a fine of less than $50 for an offense punishable by imprisonment for one year or less, or by fine of not more than $1,000, or both, shall be by application for the allowance of an appeal, filed in the District of Columbia Court of Appeals.

"(d) When a judge of the Superior Court of the District of Columbia, in making in a civil or criminal case a ruling or order not otherwise appealable under this section, shall be of the opinion that the ruling or order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that an immediate appeal from the ruling or order may materially advance the ultimate termination of the litigation or case, he shall so state in writing in the ruling or order. The District of Columbia Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from that ruling or order, if application is made to it within ten days after the issuance or entry of the ruling or order. An application for an appeal under this subsection shall not stay proceedings in the Superior Court of the District of Columbia unless that court or a judge of the District of Columbia Court of Appeals shall so order.

"(e) On the hearing of any appeal in any case, the District of Columbia Court of Appeals shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11–722 Administrative orders and decisions

"The District of Columbia Court of Appeals has jurisdiction to review orders and decisions of the Commissioner of the District of Columbia, the District of Columbia Council, and any agency (including the District of Columbia Redevelopment Land Agency, the Board of Zoning Adjustment of the District of Columbia, the Zoning Commission of the District of Columbia, and the Public Service Commission of the District of Columbia) in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501—1–1510, or in the case of orders and decisions of the Public Service Commission of the District of Columbia under section 8 of the Act of March 4, 1913 (D.C. Code, title 43), in accordance with that section.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11–741. Contempt powers

"In addition to the powers conferred by section 402 of title 18, United States Code, the District of Columbia Court of Appeals, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11–742. Oaths, affirmations, and acknowledgments

"Each judge of the District of Columbia Court of Appeals and each employee of the court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11–743. Rules of court

"The District of Columbia Court of Appeals shall conduct its business according to the Federal Rules of Appellate Procedure unless the court prescribes or adopts modifications of those rules.

"CHAPTER 9—SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"Sec.

"SUBCHAPTER II.—JURISDICTION

"SUBCHAPTER II.—MISCELLANEOUS PROVISIONS

"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–901. Continuation of courts; court of record; seal

"The District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are consolidated in a single court to be known as the Superior Court of the District of Columbia (hereafter in this title referred to as the 'Superior Court'). The Superior Court shall be a court of record in the District of Columbia and shall have a single seal.

"§ 11–902. Organization of the court

"The Superior Court shall consist of the following divisions: Criminal Division, Civil Division, Family Division, Tax Division, and Probate Division. The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.

"§ 11–903. Composition

"(a) On the effective date of the District of Columbia Court Reorganization Act of 1970 the Superior Court shall consist of a chief judge and thirty-six associate judges.

"(b) Eighteen months after such effective date, three additional associate judges shall be appointed to the Superior Court.

"§ 11–904. Judges; service; compensation

"(a) The chief judge and the judges of the Superior Court shall serve as provided in chapter 15 of this title.

"(b) Judges of the Superior Court shall be compensated at the rate of $34,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11–905. Oath of judges

"Each judge of the Superior Court, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11–906. Administration by chief judge; discharge of duties

"(a) The chief judge shall administer and superintend the business of the Superior Court, as provided in chapter 17 of this title. He shall give his attention to the discharge of the duties especially pertaining to his office and to the performance of such additional judicial work as he is able to perform.

"(h) He shall, insofar as is consistent with this title, arrange and divide the business of the Superior Court and fix the time of sessions of the various divisions and branches of the Superior Court.

"§ 11–907. Absence, disability, or disqualification of chief judge

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"§ 11–908. Designation and assignment of judges

"(a) The chief judge may designate the number of judges to serve in any division and branch of the Superior Court and may assign and reassign each judge to sit in any division and branch. When making assignments to the Family Division and Tax Division, the chief judge shall consider the qualifications and interest of the judges. Each associate judge shall attend and serve in the division and branch to which he is assigned.

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief judge of the District of Columbia Court of Appeals the need for temporary assignment of an additional judge or judges as provided in section 11–707.

"§ 11–909. Meetings and reports

"(a) The judges of the Superior Court shall meet together at such times as may be specified in the rules of the Superior Court, and at the call of the chief judge, to consider matters relating to the business and operations of the Superior Court.

"(b) Each associate judge shall submit to the chief judge such reports and data as the chief judge may request.

"§ 11–910. Clerks and secretaries for judges

"Each judge of the Superior Court may appoint and remove a personal law clerk and a personal secretary.

"SUBCHAPTER II.—JURISDICTION

"§ 11–921. Civil jurisdiction

"(a) Except as provided in subsection (b), the Superior Court shall have jurisdiction of any civil action or other matter (at law or in equity) brought in the District of Columbia. Such jurisdiction shall vest in the court as follows:

"(1) Beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court shall have jurisdiction of any civil action or other matter begun before such effective date in the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court.

"(2) Beginning on such effective date, the court shall have jurisdiction of any civil action or other matter, at law or in equity (other than a matter over which the United States District Court for the District of Columbia has jurisdiction under paragraph (1), (2), or (3) of section 11–501), which is begun in the Superior Court on or after such effective date and in which the amount in controvery does not exceed $50,000.

"(3) Beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, which is begun in the court on or after such effective date and which—

"(A) is brought under—

"(i) subchapter I of chaper 11 of title 16 (relating to ejectment);

"(ii) subchapter II or III of chapter 13 of title 16 (relating to the condemnation of land on behalf of the District of Columbia);

"(iii) chapter 19 of title 16 (relating to writs of habeas corpus directed to persons other than Federal officers and employees);

"(iv) chapter 25 of title 16 (relating to change of name);

"(v) chapter 33 of title 16 (relating to quieting title to real property);

"(vi) subchapter II of chapter 35 of title 16 (relating to writ of quo warranto);

"(vii) chapter 37 of title 16 (relating to replevin of personal property);

"(viii) the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, secs. 24–601 through 24–611) (relating to commitment of narcotics users); or

"(ix) section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1–804(b)) (relating to contractors bonds);

"(B) involves an appeal from or petition for review of any assessment of tax (or civil penalty thereon) made by the District of Columbia;

"(C) is brought under chapter 23 of title 16; or

"(D) is based upon personal injury or property damage (or both) if all the parties to such action are residents of the District of Columbia and the conduct giving rise to the action occurred in the District of Columbia.

"(4) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy)—

"(A) of any matter (at law or in equity)—

"(i) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(ii) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the court, and the admission to probate and recording of those wills;

"(iii) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(iv) involving the granting and revocation for cause of letters testamentary, letters of administration, letters ad colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(v) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an interstate estate, or between wards and their guardians;

"(vi) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(vii) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(viii) otherwise within the probate jurisdiction of the United States District Court for the District of Columbia on the day before such effective date; and

"(B) any matter (at law or in equity) described in subparagraph (A) which was begun in the United States District Court for the District of Columbia.

"(5) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committee for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(6) Immediately following the expiration of the thirty-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought in the District of Columbia.

"(b) The Superior Court shall not have jurisdiction over any civil action or other matter (1) over which exclusive jurisdiction is vested in a Federal court in the District of Columbia, or (2) over which jurisdiction is vested in the United States District Court for the District of Columbia under section 11–501 (relating to civil actions or other matters begun in such court before the expiration of the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970).

"(c) For purposes of subsection (a) (3) (D) and section 11–922(b) (1) (B) the term 'resident of the District of Columbia' shall not include (1) any elective officer of the Government of the United States, (2) any employee on the staff of an elected officer if such employee is a bona fide domiciliary of the State of residence of such elected officer, (3) any officer of the executive branch of the Government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President if such officer is a bona fide domiciliary of a State of the United States, or (4) any officer of a foreign government or any employee of a foreign government or international organization or association if such person is a bona fide domiciliary of a foreign country.

"§ 11–922. Transfer of civil actions to Superior Court

"(a) In a civil action begun in the United States District Court for the District of Columbia before the effective date of the District of Columbia Court Reorganization Act of 1970 (other than an action for equitable relief), where it appears to the satisfaction of the court at or subsequent to any pretrial hearing but before trial thereof that the action will not justify a judgment in excess of $10,000 and does not otherwise invoke

the jurisdiction of the court, the court may certify the action to the Superior Court for trial.

"(b) In a civil action begun in the United States District Court for the District of Columbia during the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court may certify the action to the Superior Court if it appears to the satisfaction of the United States District Court at or subsequent to any pretrial hearing, but before the trial thereof, that—

"(1) the action—

"(A) will not justify a judgment in excess of $50,000; or

"(B) is based upon personal injury or property damage (or both), all parties thereto are residents of the District of Columbia, and the conduct on which the action is based occurred in the District of Columbia; and

"(2) the action does not otherwise invoke the jurisdiction of the court.

"(c) When an action is transferred under this section, the pleadings in the action, together with a copy of the docket entries and copies of any orders entered therein, and the deposit for costs, shall be sent to the Superior Court. The Superior Court shall thereafter treat the case as though it had been filed originally in that court, except that the jurisdiction of the court shall extend to the amount claimed in the action even though it exceeds the applicable jurisdictional limitation.

"§ 11–923. Criminal jurisdiction; commitment

"(a) The Superior Court has jurisdiction over all criminal cases pending in the District of Columbia Court of General Sessions before the effective date of the District of Columbia Court Reorganization Act of 1970.

"(b)(1) Except as provided in paragraph (2), the Superior Court has jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia.

"(2) The Superior Court shall not have jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia begun in the United States District Court for the District of Columbia under section 11–502(2) by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date.

"(c)(1) With respect to any criminal case over which the Superior Court has jurisdiction, that court may make preliminary examinations and commit offenders, either for trial or for further examination, and may release or detain offenders in accordance with chapter 13 of title 23.

"(2) With respect to any criminal case over which the United States District Court for the District of Columbia has jurisdiction, the Superior Court (A) may make preliminary examinations and commit offenders, either for trial or for further examination, but only during the eighteen-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, and (B) may release or detain offenders in accordance with chapter 13 of title 23.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11–941. Issuance of warrants; record

"Judges of the Superior Court may, at any time, including Sundays and legal holidays, on complaint or application under oath or actual view, issue warrants for arrest, search or seizure, or electronic surveillance in connection with crimes and offenses committed within the District of Columbia, or for administrative inspections in connection with laws relating to the public health, safety, and welfare. Each proceeding respecting a warrant shall be recorded as prescribed by the court. Warrants shall be issued free of charge.

"§ 11–942. Subpenas

"(a) The Superior Court may compel the attendance of witnesses by attachment. At the request of any party, subpenas for attendance at a hearing or trial in the Superior Court shall be issued by the clerk of the court. A subpena may be served at any place within the District of Columbia, or at any place without the District of Columbia that is within twenty-five miles of the place of the hearing or trial specified in the subpena. The form, issuance, and manner of service of the subpena shall be as prescribed by rule of the court.

"(b) A subpena in a criminal case in which a felony is charged may be served at any place within the United States upon order of a judge of the court.

"§ 11–943. Process

"(a) All process other than a subpena may be served at any place within the District of Columbia, and, when authorized by statute, by the Federal Rules of Civil Procedure, or by the Federal Rules of Criminal Procedure, at any place without the District of Columbia.

"(b) Service upon a third-party defendant, upon a person whose joinder is needed for just adjudication, and upon persons required to respond to any order of commitment for civil contempt may be served at all places outside the District of Columbia that are not more than one hundred miles from the place of hearing or trial specified.

"(c) The form, issuance, and manner of service of process shall be as prescribed by rule of the court.

"§ 11–944. Contempt power

"In addition to the powers conferred by section 402 of title 18, United States Code, the Superior Court, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§11–945. Oaths, affirmations, and acknowledgments

"Each judge and each employee of the Superior Court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11–946. Rules of court

"The Superior Court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (except as otherwise provided in title 23) unless it prescribes or adopts modifications of those Rules. Modifications of the Federal Rules shall be submitted for the approval of the District of Columbia Court of Appeals, and they shall not take effect until approved by that court. The Superior Court may adopt and enforce other rules as it may deem necessary without the approval of the District of Columbia Court of Appeals if such rules do not modify the Federal Rules.

"Chapter 11.—FAMILY DIVISION OF THE SUPERIOR COURT

"Sec.

"11–1101. Exclusive jurisdiction.

"§ 11–1101. Exclusive jurisdiction

"The Family Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

"(2) applications for revocation of divorce from bed and board;

"(3) actions to enforce support of any person as required by law;

"(4) actions seeking custody of minor children,including petitions for writs of habeas corpus;

"(5) actions to declare marriages void;

"(6) actions to declare marriages valid;

"(7) actions for annulments of marriage;

"(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this subsection, irrespective of any jurisdictional limitation imposed on the Superior Court;

"(9) proceedings in adoption;

"(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30–301 to 30–324);

"(11) proceedings to determine paternity of any child born out of wedlock;

"(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

"(13) proceedings in which a child, as defined in section 16–2301, is alleged to be delinquent, neglected, or in need of supervision;

"(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill; and

"(15) proceedings under chapter 11 of title 21 relating to the commitment of the mentally retarded.

"Chapter 12.—TAX DIVISION OF THE SUPERIOR COURT

"Sec.

"11–1201. Exclusive jurisdiction.

"11–1202. Abolition of other remedies.

"11–1203. Rules and regulations.

"§ 11–1201. Exclusive jurisdiction

"The Tax Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) all appeals from and petitions for review of assessments of tax and civil penalties thereon made by the District of Columbia; and

"(2) all proceedings brought by the District of Columbia for the imposition of criminal penalties pursuant to the provisions of the statutes relating to taxes levied by or in behalf of the District of Columbia.

"§ 11–1202. Abolition of other remedies

"Notwithstanding any other provision of law, the jurisdiction of the Tax Division of the Superior Court to review the validity and amount of all assessments of tax made by the District of Columbia is exclusive. Effective on and after the effective date of the District of Columbia Court Reorganization Act of 1970, any common-law remedy with respect to assessments of tax in the District of Columbia and any equitable action to enjoin such assessments available in a court other than the former District of Columbia Tax Court is abolished. Actions properly filed before the effective date of that Act are not affected by this section and the court in which any such action has been filed may retain jurisdiction until its disposition.

"§ 11–1203. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Tax Division, consistent with the statutes applicable to such business and with the Superior Court's general rules of practice and procedure, as it may deem necessary and proper. Rules and regulations for the Tax Division shall, insofar as possible, assure the prompt disposition of matters before the Tax Division to the end that the taxing statutes of the District of Columbia shall be fairly and efficiently enforced.

"Chapter 13.—SMALL CLAIMS AND CONCILIATION BRANCH OF THE SUPERIOR COURT

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"Sec.

"11–1301. Continuation of Branch.

"11–1302. Sessions.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"11–1321. Exclusive jurisdiction of small claims.

"11–1322. Arbitration and conciliation.

"11–1323. Certification of case by Superior Court judges; recertification.

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"§ 11–1301. Continuation of Branch

"The Small Claims and Conciliation Branch shall continue as a branch of the Civil Division in the Superior Court.

"§ 11–1302. Sessions

"The Small Claims and Conciliation Branch, with a judge in attendance, shall be open for the transaction of business on every day of the year except Saturday afternoons, Sundays, and legal holidays, and shall hold evening sessions whenever necessary.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"§11–1321. Exclusive jurisdiction of small claims

"The Small Claims and Conciliation Branch has jurisdiction over all cases within the jurisdiction of the Superior Court in which the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed $500, exclusive of interest, attorney fees, protest fees, and costs.

"§ 11–1322. Arbitration and conciliation

"In order to effect the speedy settlement of controversies, and with the consent of the parties thereto, the Small Claims and Conciliation Branch may settle cases, irrespective of the amount involved, by the methods of arbitration and conciliation. The judges sitting in the Branch may act as referees or arbitrators, either alone or in conjunction with other persons, as provided by rule of the court. A judge, officer, or employee of the Superior Court may not accept any fee or compensation in addition to his salary for services performed pursuant to this section.

"§ 11–1323. Certification of cases of Superior Court judges; recertification

"When the interests of justice seem to require and all parties consent thereto, a judge of the Superior Court may certify a case to the Small Claims and Conciliation Branch for conciliation, or to endeavor to obtain a complete or partial agreed statement of facts or stipulation, which will simplify and expedite the ultimate trial of the case. With the consent of all parties, the trial of the case may be completed in the Branch. In the absence of consent, the case shall be recertified to another judge of the Civil Division for trial.

"Chapter 15.—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"Sec.

"11–1501. Appoint and qualifications of judges.

"11–1502. Tenure.

"11–1503. Designation of chief judge.

"11–1504. Service of retired judges.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"11–1521. Establishment of Commission.

"11–1522. Membership.

"11–1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates.

"11–1524. Compensation.

"11–1525. Operation; personnel; administrative services.

"11–1526. Removal; involuntary retirement; proceedings.

"11–1527. Procedures.

"11–1528. Privilege; confidentiality.

"11–1529. Judicial review.

"SUBCHAPTER III.—RETIREMENT

"11–1561. Definitions.

"11–1562. Eligibility for retirement.

"11–1563. Withholding of retirement payments.

"11–1564. Computation of retirement salary; election to credit other service.

"11–1565. Service by retired judges.

"11–1566. Survivor annuity; election; relinquishment.

"11–1567. Survivor annuity; payments to fund.

"11–1568. Survivor annuity; entitlement; computation.

"11–1569. Survivor annuity; payment; order of precedence.

"11–1570. Retirement and Annuity Fund.

"11–1571. Periodic increases; existing rights.

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"§ 11–1501. Appointment and qualifications of judges

"(a) The President of the United States shall nominate, and by and with the advice and consent of the Senate, shall appoint all judges of the District of Columbia courts. He shall have power to fill all vacancies that may occur in those courts during a recess of the Senate, by granting commission which shall expire at the end of the next session of the Senate.

"(b) A person may not be appointed a judge of a District of Columbia court unless he—

"(1) is a citizen of the United States;

"(2) (A) is a member of the bar of the District of Columbia, and (B) (i) has been a member of such bar for a period of at least five years, or (ii) in the case of a professor of law in a law school in the District of Columbia or of an attorney employed in the District of Columbia by the United States or the District of Columbia, has been eligible for membership in the bar of the District of Columbia for at least five years prior to his appointment; and

"(3) has been actively engaged, for at least five of the ten years immediately prior to his appointment, as an attorney in the practice of law in the District of Columbia, as a judge of a District of Columbia court, as a professor of law in a law school in the District of Columbia, or as an attorney employed in the District of Columbia by the United States or the District of Columbia.

During his term of service and for one year after the termination thereof, no member of the District of Columbia Commission on Judicial Disability and Tenure shall be eligible for nomination or appointment to a District of Columbia court.

"§ 11–1502. Tenure

"Subject to the provisions of subchapters II and III of this chapter, a judge of a District of Columbia court shall serve for a term of ten years, and upon completion of such term, such judge shall continue to serve until his successor is appointed and qualifies.

"§ 11–1503. Designation of Chief Judge

"(a) The chief judge of a District of Columbia court shall be designated by the President of the United States from among the judges of the court in regular active service, and shall serve for a term of four years or until his successor is designated. He shall be eligible for redesignation. A judge may relinquish his position as chief judge, after giving notice to the President.

"(b) If a chief judge is not redesignated, or relinquishes the office of chief judge, he shall continue as an associate judge.

"§ 11–1504. Service of retired judges

"A judge retired for reasons other than disability may perform, upon designation of a chief judge, those judicial duties which he is willing and able to undertake.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"§ 11–1521. Establishment of Commission

"There shall be a District of Columbia Commission on Judicial Disabilities and Tenure (hereafter in this subchapter referred to as the 'Commission'). The Commission shall have power to suspend, retire, or remove a judge of a District of Columbia court, as provided in this subchapter.

"§ 11–1522. Membership

"(a) The Commission shall consist of seven members appointed by the President as follows:

"(1) Two members shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) Three members shall be appointed from residents of the District of Columbia, at least two of whom are not members of the bar of the District of Columbia.

The Chairman of the Commission shall be designated by the concurrence of at least four members. The term of the Chairman shall be two years.

"(b) There shall be four alternate members of the Commission appointed by the President as follows:

"(1) One alternate member shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two alternate members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) One alternate member shall be appointed from residents of the District of Columbia who are not members of the bar of the District of Columbia.

"(c) No member or alternate member (other than a Federal judge appointed under subsection (a) or (b)) shall be an officer or employee of an executive or military department of the Government of the United States (listed in section 101 or 102 of title 5 of the United States Code), an officer or employee of the United States employed in the legislative or judicial branch of the Government of the United States, or an officer or employee of the District of Columbia government.

"§ 11–1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates

"(a) (1) The terms of office for the members of the Commission shall be six years, except that upon appointment of the first members: two members shall serve for two years; two for four years; two for six years; and one for three years, as designated by the President at the time of appointment. A member appointed to fill a vacancy occurring before the expiration of the term of his predecessor shall serve only for the remainder of that term. Any vacancy in the Commission shall be filled pursuant to section 11–1522.

"(2) If approved by the Commission, a member may serve after the expiration of his term for purposes of participating until conclusion in a matter, relating to the suspension, retirement, or removal of a judge, begun before the expiration of his term. A member's successor may be appointed without regard to the member's continuation in service, but his successor may not participate in the matter for which the member's continuation in service was approved.

"(b) The terms of office for the alternate members of the Commission shall be six years. An alternate member shall serve as a member pursuant to rules adopted by the Commission.

"§ 11–1524. Compensation

"Any member or alternate who is an officer or employee of the United States shall serve without compensation. Other members or alternate members shall receive the daily equivalent of the rate provided for GS–18 of the General Schedule contained in section

5332 of title 5, United States Code when actually engaged in service for the Commission.

"§ 11–1525. Operations; personnel; administrative services

"(a) The Commission may make such rules and regulations for its operations as it may deem necessary, and such rules and regulations shall be effective on the date specified by the Commission. The District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510) shall be applicable to the Commission only as provided by this subsection. For the purposes of the publication of rules and regulations, judicial notice, and the filing and compilation of rules, sections 5, 7, and 8 of that Act (D.C. Code, secs. 1–1504, 1–1506, and 1–1507), insofar as consistent with this subchapter, shall be applicable to the Commission; and for purposes of those sections, the Commission shall be deemed an independent agency as defined in section 3(5) of that Act (D.C. Code, sec. 1–1502). Nothing contained herein shall be construed to require prior public notice and hearings on the subject of rules adopted by the Commission.

"(b) The Commission is authorized, without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix the compensation of, or to contract for, such officers, assistants, reporters, counsel, and other persons as may be necessary for the performance of its duties. It is authorized to obtain the services of medical and other experts in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate provided for GS–18 of the General Schedule.

"(c) The District of Columbia is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission.

"(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting personnel, and procurement) shall be provided to the Commission by the District of Columbia, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the District of Columbia government. Regulations of the District of Columbia for the administrative control of funds shall apply to funds appropriated to the Commission.

"§ 11–1526. Removal; involuntary retirement; proceedings

"(a)(1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District of Columbia.

"(2) a judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Commission of—

"(A) willful misconduct in office.

"(B) willful and persistent failure to perform judicial duties, or

"(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

"(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of his judicial duties, and (2) the Commission files in the District of Columbia Court of Appeals an order involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

"(c) (1) A judge of a District of Columbia court shall be suspended, without salary—

"(A) upon—

"(i) proof of his conviction of a crime referred to in subsection (a)(1) which has not become final, or

"(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

"(B) upon the filing by the Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover his salary and all other rights and privileges of his office.

"(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as he may be entitled to pursuant to subchapter III of this chapter, upon the filing by the Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover his judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of his office.

"(3) A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Commission (A) upon the concurrence of four members, orders a hearing for the removal or retirement of the judge and determines that his suspension is in the interest of the administration of justice, and (B) files an order or suspension in the District of Columbia Court of Appeals. The duration of the suspension shall be specified in the order but may be modified, as appropriate, by the Commission.

"§ 11–1527. Procedures

"(a)(1) On its own initiative, or upon complaint or report of any person, formal or informal, the Commission may undertake an investigation of the conduct or health of any judge. After such investigation is it deems adequate, the Commission may terminate the investigation or it may order a hearing concerning the health or conduct of the judge. Nothing in this subchapter shall preclude any informal contacts with the judge, or the chief judge of his court, by the Commission, whether before or after a hearing is ordered, to discuss any matter related to its investigation.

"(2) A judge whose conduct or health is to be the subject of a hearing by the Commission shall be given notice of such hearing and of the nature of the matters under inquiry not less than thirty days before the date on which the hearing is to be held. He shall be admitted to such hearing and to every subsequent hearing regarding his conduct or health. He may be represented by counsel, offer evidence in his own behalf, and confront and cross-examine witnesses against him.

"(3) Within ninety days after the adjournment of hearings, the Commission shall make findings of fact and a determination regarding the conduct or health of a judge who was the subject of the hearing. The concurrence of at least five members shall be required for a determination of grounds for removal or retirement. Upon a determination of grounds for removal or retirement, the Commission shall file an appropriate order pursuant to subsections (a) or (b) of section 11–1526. On or before the date the order is filed, the Commission shall notify the judge, the chief judge of his court, and the President of the United States.

"(b) The Commission shall keep a record of any hearing on the conduct or health of a judge and one copy of such record shall be provided to the judge at the expense of the Commission.

"(c) (1) In the conduct of investigations and hearings under this section the Commission may administer oaths, order and otherwise provide for the inspection of books and records, and issue subpenas for attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to any such investigation or hearing. It may order a judge whose health is in issue to submit to a medical examination by a duly licensed physician designated by the Commission.

"(2) Whenever a witness before the Commission refuses, on the basis of his privilege against self-incrimination, to testify or produce books, papers, documents, records, recordings, or other materials, and the Commission determines that the testimony or production of evidence is necessary to the conduct of its proceedings, it may order the witness to testify or produce the evidence. The Commission may issue the order no earlier than ten days after the day on which it served the Attorney General with notice of its intention to issue the order. The witness may not refuse to comply with the order on the basis of his privilege against self-incrimination, but no testimony or other information compelled under the order (or any information directly or indirectly derived from the testimony or production of evidence) may be used against the witness in any criminal case, nor may it be used as a basis for subjecting the witness to any penalty or forfeiture contrary to constitutional right or privilege. No witness shall be exempt under this subsection from prosecution for perjury committed while giving testimony or producing evidence under compulsion as provided in this subsection.

"(3) If any person refuses to attend, testify, or produce any writing or things required by a subpena issued by the Commission, the Commission may petition the United States district court for the district in which the person may be found for an order compelling him to attend and testify or produce the writings or things required by subpena. The court shall order the person to appear before it at a specified time and place and then and there shall consider why he has not attended, testified, or produced writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpena was regularly issued, the court shall order the person to appear before the Commission at the time or place fixed in the order and to testify or produce the required writings or things. Failure to obey the order shall be punishable as contempt of court.

"(4) In pending investigations or proceedings before it, the Commission may order the deposition of any person to be taken in such form and subject to such limitation as may be prescribed in the order. The Commission may file in the Supreme Court a petition, stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission requesting an order requiring the person to appear and testimony before a designated officer. Upon the filing of the petition the Superior Court may order the person to appear and testify. A subpena for such deposition shall be issued by the clerk of the Superior Court and the deposition shall be issued by the clerk of the Superior Court and the deposition shall be taken and returned in the manner prescribed by law for civil actions.

"(d) It shall be the duty of the United States marshals upon the request of the Commission to serve process and to execute all lawful orders of the Commission.

"(e) Each witness, other than an officer or employee of the United States or the District of Columbia, shall receive for his attendance the same fees, and all witnesses shall receive the allowances, prescribed by section 15–714 for witnesses in civil cases. The amount shall be paid by the Commission from funds appropriated to it.

"§ 11–1528. Privilege; confidentiality

"(a) The filing of papers with and the giving of testimony before the Commission shall be privileged. Unless otherwise authorized by the Judge whose conduct or health is the subject of the proceedings under section 11–1527(a), the hearings before the Commission, the record thereof, and all papers filed in connection with such hearings shall be confidential. But on prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection therewith shall be disclosed to the extent required for the prosecution or review.

"(b) If the Commission determines that no grounds for removal or involuntary retirement exist it shall notify the judge and inquire whether he desires the Commission to make available to the public information pertaining to the nature of its investigation, its hearings, findings, determinations, or any other fact related to its proceedings regarding his health or conduct. Upon receipt of such request in writing from the judge, the Commission shall make such information available to the public.

"§ 11–1529. Judicial review

"(a) A judge aggrieved by an order of removal or retirement filed by the Commission pursuant to subsection (a) or (b) of section 11–1526 may seek judicial review thereof by filing notice of appeal with the Chief Justice of the United States. Notice of appeal shall be filed within thirty days of the filing of the order of the Commission in the District of Columbia Court of Appeals.

"(b) Upon receipt of notice of appeal from an order of the Commission, the Chief Justice shall convene a special court consisting of three Federal judges designated from among active or retired judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia.

"(c) The special court shall review the order of the Commission appealed from and, to the extent necessary to decision and when presented, shall decide all relevant questions of law and interpret constitutional and statutory provisions. It shall affirm or reverse the order of the Commission or remand the matter to the Commission for further proceedings.

"(d) The special court shall hold unlawful and set aside a Commission order or determination found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) contrary to constitutional right, power, privilege, or immunity;

"(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(4) without observance of procedure required by law; or

"(5) unsupported by substantial evidence.

In making the foregoing determinations, the special court shall review the whole record or those parts of it cited by the judge or the Commission, and shall take due account of the rule of prejudicial error.

"(e) As appropriate and to the extent consistent with this chapter, the Federal Rules of Appellate Procedure governing appeals in civil cases shall apply to appeals taken under this section.

"(f) Decisions of the special court shall be final and conclusive.

"SUBCHAPTER III.—RETIREMENT

"§ 11–1561. Definitions

"For purposes of this subchapter—

"(1) The term 'judge' means any judge of the District of Columbia Court of Appeals or the Superior Court or any person with judicial service as described in paragraph (2) of this section.

"(2) The term 'judicial service' means service as a judge in the District of Columbia Court of Appeals, the Superior Court, or the former Juvenile Court of the District of Columbia, District of Columbia Tax Court, police court, municipal court, or District of Columbia Court of General Sessions.

"(3) The terms 'retire' and 'retirement' include retirement, resignation, or failure to be recommissioned or reappointed upon the expiration of a commission.

"(4) The term 'fund' means the District of Columbia Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570.

"(5) The term 'widow' means a surviving wife of a judge who has either (A) been married to the judge for at least two years preceding his death or (B) is the mother of issue by the marriage and has not remarried.

"(6) The term 'widower' means a surviving husband of a judge who has either (A) been married to the judge for at least two years preceding her death or (B) is the father of issue by the marriage and has not remarried.

"(7) The term 'Commissioner' means the Commissioner of the District of Columbia.

"(8) The term 'child' means—

"(A) an unmarried child under eighteen years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the judge in a regular parent-child relationship;

"(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age eighteen; or

"(C) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. For the purpose of this paragraph, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than five months and if he shows to the satisfaction of the Commissioner that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

"(9) The term 'lump-sum credit for retirement' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic salary of a judge;

"(B) amounts deposited covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer;

but the term 'lump-sum credit for retirement' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"(10) The term 'lump-sum credit for survivor annuity' means the unrefunded amount consisting of—

"(A) survivor annuity deductions made from the salary of a judge;

"(B) amounts deposited for survivor annuity covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer;

but the term 'lump-sum credit for survivor annuity' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"§ 11–1562. Eligibility for retirement

"(a) A judge is eligible for retirement under this subchapter when he has completed ten years of judicial service, whether continuous or not, or upon mandatory retirement as provided in section 11–1502.

"(b) The retirement salary of a judge who retires shall commence as follows:

"(1) With twenty or more years of judicial service, at age fifty.

"(2) With less than twenty years of judicial service, at age sixty, unless he elects to receive a reduced salary beginning at age fifty-five or at the date of retirement if subsequent to that age.

"(c) A judge with five years or more of judicial service, including civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, may voluntarily retire for a mental or physical disability which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of judicial duties. Such disability shall be established by furnishing to the Commissioner a certificate of disability signed by a duly licensed physician, approved by the Surgeon General of the United States, and containing such information and conclusions as the Commissioner by regulation may require consistent with this subsection.

"(d) A judge involuntarily retired for permanent disability pursuant to subchapter II of this chapter shall be eligible for retirement salary if he has five years or more of service, judicial or judicial and civilian, performed by the judge which is allowable under section 8332 of title 5, United States Code. The retirement salary of a judge who retires under this subsection shall commence upon the date his retirement becomes effective.

"§ 11–1563. Withholding of retirement payments; lump sum credit

"(a) There shall be deducted and withheld from the basic salary of each judge appointed after October 31, 1964, and each judge appointed before November 1, 1964, who has elected to come within the provisions of this subchapter an amount equal to 3½ per centum of his basic salary. Amounts so deducted and withheld shall be deposited in the fund in accordance with procedures established by the Commissioner. Each judge subject to this section shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for all regular service during the period covered by such payment, except the right to the benefits to which he shall be entitled under this subsection, notwithstanding any law, rule, or regulation affecting the judge's salary.

"(b) If he has not previously so deposited, each judge subject to this section shall deposit in the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3½ per centum of his basic salary received for judicial service performed by him as a judge prior to the date he became subject to the District of Columbia Judges Retirement Act of 1964. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Notwithstanding the failure of any judge to make such deposits, credit shall be allowed for the service rendered but the retirement pay for such judge shall be reduced by 10 per centum of such deposit remaining unpaid unless the judge shall elect to eliminate the service involved for purposes of retirement salary computation, except as provided in section 11–1564(d).

"(c) If any judge who is subject to this section is removed, resigns, or fails to be recommissioned or reappointed, he is entitled to be paid his lump-sum credit for retirement if application for payment is filed with the Commissioner at least thirty-one days before the commencing date of any retirement salary for which he is eligible. The receipt of the lump-sum credit for retirement by the judge voids all retirement salary rights under this subchapter, until he is reemployed in judicial service subject to this subchapter.

"(d) If a judge who has not elected to bring himself within the survivor annuity provisions of this subchapter dies while in regular active service, the lump-sum credit for retirement shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving him in the order of precedence established in section 11–1569(b). Such payments shall be a bar to recovery by any other person.

§ 11–1564. Computation of retirement salary; election to credit other service

"(a) The retirement salary of a judge who retires pursuant to section 11–1562 (a) and (b) shall be paid annually in equal monthly installments during the remainder of his life and shall bear the same ratio to his basic salary immediately prior to the date of his retirement as the total of his aggregate years of service bears to the period of thirty years. A judge who elects to receive a reduced retirement salary pursuant to section 11–1562(b)(2) shall have his retirement salary reduced by one-twelfth of 1 per centum for each month or fraction of a month he is under the age of sixty at the time of the commencement of his reduced retirement salary. In no event shall the retirement salary of a judge exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(b) The retirement salary of a judge retired for disability pursuant to section 11–1562 (c) or (d) shall be paid annually in equal monthly installments during the remainder of his life and shall be computed as provided in subsection (a). If a judge is retired for disability, his retirement salary shall not be reduced because of his age at the time of retirement. In no event shall the retirement salary of a judge retired for disability be less than 50 per centum or exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(c) In computing the retirement salary of a judge retiring under section 11–1562, the judge shall be entitled, if he so elects during the continuance of his judicial service or at the time of his retirement, to receive, in addition to the amount provided for in subsection (a) of this section, an amount (payable annually in equal monthly installments during the remainder of his life) based on military and civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, computed in accordance with section 8339 (a), (b), (c), (d), (g), and (h) of that title, as applicable, subject to the provisions of section 8334 (c) and (d) of that title and the provisions of subsection (d) of this section; except that average pay for the purpose of the computation shall be deemed to be the basic salary of the judge immediately prior to the date of his retirement under section 11–1562.

"(d)(1) The crediting of service with respect to any judge under subsection (c) of this section shall be made on the standard basis of a deposit in a sum equal to 3½ per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in pargraph (2) of this subsection.

"(2) Interest on deposits under this subsection is computed from the midpoint of each service period included in the computation to the date of deposit or the commencing date of the retirement salary of the judge, whichever date is the earlier. Interest is computed at the rate of 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter, compounded annually. Interest may not be charged for a period of separation from the service which began before October 31, 1956.

"(3) Deposit under this subsection may not be required for—

"(A) service before August 1, 1920;

"(B) military service; or

"(C) service for the Panama Railroad Company before January 1, 1924.

"(4) If a judge elects to be credited with service under subsection (c) of this section, his lump-sum credit, or any remaining balance thereof, in the Civil Service Retirement and Disability Fund or in the retirement fund of any other retirement system for civilian employees of the Government of the United States or the District of Columbia, shall be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund. The judge shall be deemed to consent to the transfer. The transfer shall be a complete discharge and acquittance of all claims and demands against the retirement system from which the funds were transferred on account of the service so credited.

"(5) A judge whose lump-sum credit is transferred to the fund under paragraph (4) of this subsection is not required to make deposits in addition to the amount transferred for periods of service for which full contributions were made to the retirement system from which the transfer was made.

"(6) In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who has not elected a survivor annuity under section 11–1566, or prior corresponding provision of law, the Commissioner shall refund to the judge any amount which the Commissioner determines to be in excess of the amount of the deposit required by this subsection. In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who, prior to the effective date of this section, had elected a survivor annuity and made deposits to the fund for survivor annuity purposes, the Commissioner shall refund to the judge any amount which the Commissioner determines in excess of the amount of the deposit required by section 11–1567.

"(7) If any civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, is not covered by the amount of the lump-sum credit transferred under paragraph (4) of this subsection, the judge may make deposit, on the standard basis prescribed by paragraph (1) of this subsection, with interest as provided in paragraph (2) of this subsection, in accordance with and subject to the applicable provisions of section 8334 (c) and (d) of that title, of the amount or amounts necessary for him to receive full credit for that service for the purposes of subsection (c) of this section. The deposit may be made, as the judge may elect, in installments, during the continuance of his judicial service, in such amounts as the Commissioner may determine in each instance, or in a lump sum prior to or at the time of his retirement under section 11–1562. A judge electing to make installment deposits shall not be given full credit for the service until the total required deposit is made.

"(8) For the purpose of survivor annuity, deposits authorized by this subsection also may be made by the survivor of a judge.

"(e) Nothing in this subchapter shall prevent a judge eligible therefor from simultaneously receiving his retirement salary under this section and any annuity or retired pay to which he would otherwise be entitled under any other law without regard to this subchapter. However, in computing the retirement salary of a judge under this section, service used in the computation of such other annuity shall not be credited.

"§ 11–1565. Service by retired judges

"Any retired judge performing full-time judicial duties on the District of Columbia Court of Appeals or the Superior Court shall be entitled, during the period for which he serves, to receive the salary of the office in which he performs such duties, but there shall be deducted from such salary an amount equal to his retirement salary for that period. No deduction shall be withheld for health benefits, Federal employees' life insurance, or retirement purposes from the salary paid to a retired judge during judicial service. The performance of such judicial service shall not create an additional retirement, change a retirement, or create or in any manner affect a survivor annuity.

"§ 11–1566. Survivor annuity; election; relinquishment

"(a) Any judge, whether or not subject to sections 11–1562 to 11–1565, may, by written election filed with the Commissioner within six months after the date on which he takes office or is reappointed or recommissioned, or within six months after he marries, bring himself within the survivor annuity provisions of this subchapter.

"(b) Any judge in regular active service or any retired judge, who shall have elected survivor annuity, and who after that election is unmarried and does not have a dependent child, may elect—

"(1) to terminate the deductions and withholdings from his salary under section 11–1567(a) and any installment payments elected to be made under section 11–1567(b); and

"(2) to have paid to him the lump-sum credit for survivor annuity.

Any election under this subsection shall be made in writing and filed with the Commissioner.

"(c) If any judge who shall have elected survivor annuity resigns from office otherwise than under the provisions of this subchapter or is removed, he shall be entitled to be paid the lump-sum credit for survivor annuity.

"(d) Payment of the lump-sum credit for survivor annuity as provided in this section shall extinguish all claims with respect to survivor annuity.

"§ 11–1567. Survivor annuity; payments to fund

"(a) There shall be deducted and withheld from the salary (whether basic or retirement) of each judge who has elected survivor annuity a sum equal to 3 per centum of that salary. The amounts so deducted and with-

held shall, in accordance with such procedures as may be prescribed by the Commissioner, be deposited in the fund. Every judge who elects survivor annuity shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the survivor annuity provisions of this subchapter.

"(b) If he has not previously so deposited, each judge who has elected survivor annuity shall deposit to the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3 per centum of his salary received for judicial service and of retirement salary (but excluding salary for judicial service under section 11–1565); and a sum equal to 3 per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in section 11–1564(d). Except to the extent that the Commissioner has made refund to the judge under section 11–1564(d)(6), deposit is not required with respect to that portion of the service of the judge covered by the transfer, under section 11–1564(d)(4), of his lump-sum credit to the fund. In addition, deposit may not be required for the types of service described in section 11–1564(d)(3). Each judge may elect to make deposits under this subsection in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Deposits under this subsection also may be made by the survivor of a judge.

"(c) If a judge or survivor fails to make such deposits, credit shall be allowed for the service, but the annuity of the widow or widower of such judge shall be reduced by an amount equal to 10 per centum of the deposit required by this section, computed as of the date of the death of the judge, unless the widow or widower elects to eliminate the service not covered by deposit entirely from credit for computation purposes except as provided in section 11–1564(d)(3).

"§ 11–1568. Survivor annuity; entitlement; computation

"(a) The service of a judge for the purpose of computing a survivor annuity includes his judicial service (and retired service for which deductions are made) and, subject to section 8334(d) of title 5, United States Code, his military and civilian service which is creditable under section 8332 of that title.

"(b) Nothing in this subchapter shall prevent a widow or widower eligible therefor from simultaneously receiving a survivor annuity under this subchapter and any other annuity (survivor or otherwise) or retired pay to which he or she would otherwise be entitled under any other law without regard to this subchapter. However, in computing the survivor annuity of that widow or widower under this subchapter, service used in the computation of such other survivor annuity shall not be credited.

"(c) If a judge who has elected a survivor annuity dies in regular active service or after having retired from such service with at least five years of allowable service under this section for which payments have been withheld or deposits made, the survivor annuity shall be paid as follows:

"(1) If the judge is survived by a widow or widower but no child, the widow or widower shall receive, beginning on the day after the judge dies, an amount computed as provided in subsection (e); or

"(2) If the judge is survived by a widow or widower and one or more children—

"(A) the widow or widower shall receive an immediate annuity in the amount computed as provided in subsection (e); and

"(B) there also shall be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow or widower, but not to exceed the lesser of (i) $2,700 per year divided by the number of such children or (ii) $900 per child per year; or

"(3) If the judge leaves no surviving widow or widower but leaves a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which the widow or widower would have been entitled under paragraph (1) of this subsection had he or she survived, but not to exceed the lesser of (A) $3,240 per year divided by the number of children or (B) $1,080 per child per year.

An annuity payable to a widow or widower under this section shall be terminable upon death or remarriage. The annuity payable to a child shall be terminable upon his death or marriage or his ceasing to be a child as defined in section 11–1561(8). In case of the death of a widow or widower of a judge leaving a child or children of the judge surviving, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a child is terminated, the annuities of any remaining child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was terminated had not survived the judge.

"(d) Questions of disability or other eligibility requirements of a child under this section shall be determined by the Commissioner who may order such medical or other examinations at any time as he deems necessary with respect to determining the facts concerning the disability of a child receiving or applying for an annuity under this subchapter. An annuity may be denied or suspended for failure to submit to examination.

"(e) The annuity of a widow or widower of a judge electing survivor annuity shall be an amount equal to the sum of—

"(1) 1¼ per centum of the average annual salary received for service allowable under subsection (a) during the last three year of such service prior to death or retirement multiplied by the sum of his years of judicial service and his Member, congressional employee, and his military service allowable under subsection (a); and

"(2) three-fourths of 1 per centum of such average annual salary multiplied by his years of all other civilian service allowable under subsection (a).

A survivor annuity shall not exceed 44 per centum of the average annual salary described in paragraph (1) of this subsection and shall be subject to reduction as provided in section 11–1567(c).

"§ 11–1569. Survivor annuity; payment; order of precedence

"(a) Survivor annuities shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued.

"(b) In any case in which—

"(1) a judge who has elected survivor annuity shall die (A) while in regular active service after having rendered five years of allowable service as provided in section 11–1568(a) or while receiving retirement salary under this subchapter but without a survivor or suvivors entitled to annuity under section 11–1568(c) or (b) while in regular active service but before having rendered five years of allowable service; or

"(2) the right of all persons entitled to an annuity under section 11–1568(c) based on the service of the judge shall terminate before a valid claim therefor shall have been established;

the lump-sum credit shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order or precedence, and such payment shall be a bar to recovery by any other person:

"First, to the beneficiary or beneficiaries whom the judge may have designated in writing to the Commissioner prior to the judge's death;

"Second, if there be no such beneficiary, to the widow or widower of the judge;

"Third, if none of the above, to the child or children of the judge and the descendants of any deceased children by representation;

"Fourth, if none of the above, to the parents of the judge or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

"Sixth, if none of the above, to such other next of kin of the judge as may be determined by the Commissioner to be entitled under the laws of the domicile of the judge at the time of his death.

Determination as to the widow, widower, or child of a judge for purposes of this subsection shall be made by the Commissioner without regard to the definitions in section 11–1561.

"(c) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid (together with any amounts received by the judge as retirement salary) equals the total amount credited to the individual account of the judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (b).

"(d) Any accrued annuity remaining unpaid upon the termination (other than by reason of death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving an annuity based upon the service of a judge shall be paid, upon establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor or administrator of the estate of the annuitant;

"Second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of the annuitant, to such person or persons as may appear in the judgment of the Commissioner to be legally entitled thereto, and such payments shall be a bar to recovery by any other person.

"(e) Where any payment under sections 11–1566 to 11–1569 is to be made to a minor or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the jurisdiction wherein the claimant resides or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the jurisdiction wherein the claimant resides, payment may be made to any person who, in the judgment of the Commissioner, is responsible for the care of the claimant, and the payment bars recovery by any other person.

"§ 11–1570. Retirement and annuity fund

"(a) The District of Columbia Judicial Retirement and Survivors Annuity Fund is

hereby continued in the Treasury and appropriated for the payment of retirement salaries, annuities, refunds, and allowances as provided in this subchapter. If at any time the balance of the fund is insufficient to pay current obligations arising under this subchapter, there is authorized to be appropriated to the fund, out of any moneys in the Treasury of the United States to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to pay current obligations. The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the fund, and shall make actuarial evaluations of the fund at intervals of five years or more if deemed necessary by the Secretary.

"(b) The Secretary shall invest, from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, any portions of such funds as in his judgment may not be immediately required for payments from the fund and the income derived from such investments shall constitute a part of the fund.

"(c) All amounts deposited by, or deducted and withheld from the salary of, any judge for credit to the fund shall, under regulations prescribed by the Commissioner, be credited to an individual amount of the judge.

"(d) None of the moneys mentioned in this subchapter shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

"§ 11–1571. Periodic increases; existing rights

"(a) The retirement salary of any judge, or the annuity of any person based upon the service of a judge, who, on the effective date of any increase which, after the effective date of this section, becomes payable under the provisions of section 8340(b) of title 5, United States Code, is receiving such salary or annuity (1) under the provisions of this subchapter, or (2) under the provisions of section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, shall be increased on the effective date of the increase by a percentage equal to the percentage of such increase under section 8340 of title 5, United States Code.

"(b) Nothing in this subchapter shall defeat or diminish rights acquired under section 11–1701, as in effect prior to the effective date of this section, and its predecessor laws, except on the election and with the consent of the judge, annuitant, or other person affected.

"Chapter 17.—ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—COURT ADMINISTRATION

"Sec.

"SUBCHAPTER I.—COURT ADMINISTRATION

"§ 11–1701. Administration of District of Columbia court system

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of: The Chief Judge of the District of Columbia Court of Appeals, who shall serve as Chairman, an associate judge of that court elected annually by the judges thereof, the Chief Judge of the Superior Court, and two associate judges of that court elected annually by the judges thereof.

"(b) The Joint Committee shall have responsibility within the District of Columbia court system for the following matters:

"(1) General personnel policies, including those for recruitment, removal, compensation, and training.

"(2) Accounts and auditing.

"(3) Procurement and disbursement.

"(b) Submission of the annual budget requests of the District of Columbia Court of Appeals and the Superior Court to the Commissioner of the District of Columbia as the integrated budget of the District of Columbial court system, except that such requests may be modified upon the concurrence of four of the five members of the Joint Committee.

"(5) Approval of the bonds of fiduciary employees within the District of Columbia court system.

"(6) Formulation and enforcement of standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system.

"(7) Development and coordination of statistical and management information systems and reports supporting the annual report of the District of Columbia court system.

"(8) Liaison between the District of Columbia court system and the court systems of other jurisdictions, including the Judicial Conference of the United States, the Judicial Conference of the District of Columbia Court, and the Federal Judiciary Center.

"(9) With the concurrence of the respective chief judges of the District of Columbia courts, other policies and practices of the District of Columbia court system and resolution of other matters which may be of joint and mutual concern of the District of Columbia Court of Appeals and the Superior Court.

"(c) The Joint Committee, with the assistance of the Executive Officer of the District of Columbia courts, shall—

"(1) consider and evaluate the business of the courts and means of improving the administration of justice within the District of Columbia court system and shall report thereupon in its annual report;

"(2) prepare and publish an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and of any recommendations relating to the courts;

"(3) recommend from time to time to the Congress changes in the organization, jurisdiction, operation, and procedures of the courts which are appropriate for legislative action, and institute such changes, pursuant to the responsibilities enumerated in subsection (b), in the methods of administering judicial business in the court system as would improve the administration of justice; and

"(4) arrange for such training seminars, and other related services, as are desirable and feasible for judges and other court personnel, including services from the Federal Judicial Center on a reimbursable basis.

"(d) The Joint Committee shall have authority to issue all orders and directives necesssary to implement the responsibilities and duties enumerated in this section.

"§ 11–1702. Responsibilities of chief judges in the respective courts

"(a) The Chief Judge of the District of Columbia Court of Appeals, in addition to the authority conferred on him by chapter 7 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11–1701(b),

consistent with the general policies and directives of the Joint Committee.

"(b) The Chief Judge of the Superior Court, in addition to the authority conferred on him by chapter 9 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11–1701(b),

consistent with the general policies and directives of the Joint Committee.

"§ 11–1703. Executive Officer of the District of Columbia courts; appointment; compensation

"(a) There shall be an Executive Officer of the District of Columbia courts (hereafter in this chapter referred to as the 'Executive Officer'). He shall be responsible for the administration of the District of Columbia court system subject to the supervision of the Joint Committee and the chief judges of the respective courts as provided in this chapter. He shall be subject to the supervision of the Joint Committee regarding administrative matters that are enumerated in section 11–1701(b). He shall be subject to the supervision of the chief judges in their respective courts: (1) regarding all administrative matters other than those within the responsibility enumerated in section 11–1701(b), and (2) regarding the implementation in the respective courts of the matters enumerated in section 11–1701(b), consistent with the general policies and directives of the Joint Committee.

"(b) The Executive Officer shall be selected by, and subject to removal by, the President.

"(c) The Executive Officer shall receive the same compensation as an associate judge of the Superior Court.

"§ 11–1704. Oath and bond of the Executive Officer

"(a) The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of his office.

"(b) The Executive Officer shall give bond, with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his office.

"SUBCHAPTER II.—COURT PERSONNEL

"§ 11–1721. Clerks of courts

"The District of Columbia Court of Appeals and the Superior Court shall each have a clerk who shall perform such duties as may be assigned to him.

"§ 11–1722. Director of Social Services

"(a) There shall be a Director of Social Services in the Superior Court who shall have charge of all social services for the Superior Court, subject to the supervision of the Executive Officer. With respect to adults, he shall provide probation services, intake procedures, marital and family counseling, social casework, rehabilitation and training programs, and such other services as the court shall prescribe. With respect to juveniles, he shall provide intake procedures, counseling, education and training programs, probation services, and such other services as the court shall prescribe.

"(b) To the maximum extent feasible, the Director shall coordinate with and utilize the services of appropriate public and private agencies within the District of Columbia, and shall coordinate and provide administrative services to volunteers utilized by the Superior Court or any divisions thereof.

"(c) As directed by the Executive Officer, the Director shall conduct studies and make reports relating to the utilization of social services as an adjunct to the Superior Court.

"(d) The Director shall make recommendations with respect to the consolidation or disposition of causes before the court relating to members of the same family or household.

"§ 11–1723. Fiscal Officer; Auditor; bond

"(a)(1) There shall be a Fiscal Officer in the District of Columbia court system who shall be responsible for the budget of the court system and for the accounts of the courts, subject to the supervision of the Executive Officer.

"(2) The Fiscal Officer shall receive, safeguard, and account for all fees, costs, payments, and deposits of money or other items, and shall be responsible for depositing in the Treasury of the United States all fines, forfeitures, fees, unclaimed deposits, and other moneys.

"(3) The Fiscal Officer shall be responsible for the approval of vouchers and the internal auditing of the accounts of the courts and shall arrange for an annual independent audit of the accounts of the courts by the District of Columbia government.

"(b) There shall be an Auditor in the District of Columbia court system who shall be responsible for the auditing of accounts filed in actions and matters before the District of Columbia courts. He shall be subject to the supervision of the Executive Officer.

"(c) The Fiscal Officer and the Auditor shall each give bond with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his respective office.

"§11–1724. Appointment of nonjudicial personnel

"(a) Subject to the approval of the Joint Committee, the Executive Officer shall appoint, and may remove, the Fiscal Officer, and such other personnel whose principal function is to perform duties for both District of Columbia courts.

"(b) The Executive Officer shall appoint, and may remove, the Director of Social Services, the clerks of the courts, the Auditor, and all other nonjudicial personnel for the courts as may be necessary (except the personal law clerks and secretaries of the judges) subject to—

"(1) regulations approved by the Joint Committee; and

"(2) the approval of the chief judge of the court to which the personnel are or will be assigned.

Appointments and removals of court personnel shall not be subject to the laws, rules, and limitations applicable to the District of Columbia employees, except as otherwise specified in the District of Columbia Court Reorganization Act of 1970.

"§ 11–1725. Compensation

"(a) The Executive Officer shall fix the compensation of all nonjudicial employees of the courts without regard to chapter 51, and subchapter III of chapter 53, of title 5, United States Code. He may fix compensation for one position at a rate not to exceed the maximum rate for GS–17 of the General Schedule; and three positions at a rate not to exceed the maximum rate for GS–16 of the General Schedule. He shall be guided, in fixing the rates of compensation of all other nonjudicial employees, by the rates of compensation fixed for other Federal or District of Columbia employees in the judiciary or the executive in the same or similar positions or in positions of similar responsibility, duty, and difficulty.

"§ 11–1726. Court reporters

"The Executive Officer shall appoint reporters who shall be full-time employees of the courts and who shall accept no compensation or fees (other than their salaries) for stenographic services connected with the reporting of court proceedings. When necessary, the Executive Officer may contract for additional temporary reporting services. Nothing in this section shall be construed to preclude the Superior Court of the District of Columbia from providing by rule for the sound recording of proceedings in lieu of mechanical (audio or manual) transcription in any branch, division or courtroom of the court. Court reporters shall, in addition to being subject to the general supervision of the Executive Officer, be subject to the supervision of the chief judges of the courts and of the other District of Columbia judges for whom they perform services, regarding the performance of their duties in the respective courts.

"§ 11–1727. Recruitment and training of personnel

"The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia courts and for providing in-service training for court personnel.

"§ 11–1728. Service of United States marshal

"The United States Marshal for the District of Columbia shall continue to serve the courts of the District of Columbia, subject to the supervision of the Attorney General of the United States.

"§ 11–1729. Reports of court personnel

"(a) Judges of the courts shall furnish time and attendance records to the respective chief judges, with a copy to the Executive Officer.

"(b) All nonjudicial personnel of the courts shall furnish such reports and information to the Executive Officer as he shall request.

"§ 11–1730. Reports of other personnel

"The Executive Officer or the chief judge may request such reports as may be necessary to the efficient administration of the courts from—

"(1) the United States Attorney for the District of Columbia,

"(2) the Corporation Counsel.

"(3) the United States Marshal for the District of Columbia,

"(4) the Commissioner of the District of Columbia,

"(5) the superintendent of any hospitals or institutions to which persons have been committed by the Superior Court,

"(6) the District of Columbia Public Defender Service,

"(7) the District of Columbia Bail Agency,

"(8) the District of Columbia Department of Corrections,

"(9) the Chief of the Metropolitan Police Department,

"(10) the District of Columbia Department of Public Health, and

"(11) the District of Columbia Department of Public Welfare.

These officials, agencies, and departments shall furnish such reports and information as may be requested pursuant to this section.

"SUBCHAPTER III.—DUTIES AND RESPONSIBILITIES

"§ 11–1741. Court operations and organizations

"Within the respective District of Columbia courts, and subject to the supervision of the chief judges thereof, the Executive Officer shall—

"(1) supervise, analyze, and improve case assignments, calendars, and dockets;

"(2) provide improved services and introduce new methods to better utilize the time of and accommodate government and other witnesses;

"(3) supervise, analyze, and improve the management of jurors;

"(4) recommend changes and improvements in court rules and procedures affecting his administrative responsibilities;

"(5) report periodically to the appropriate chief judge with respect to case volumes, backlogs, length of time cases have been pending, number and identity of incarcerated defendants awaiting trial, and such other information as the respective chief judges may request;

"(6) mechanize and computerize court operations and services where feasible and desirable, and carry on continuing studies and evaluations of increased and innovative uses of mechanization and computerization;

"(7) conduct studies and research with respect to court operations on his own initiative or on request of the respective chief judges; and

"(8) perform such other duties as may be assigned to him by a chief judge.

"§ 11–1742. Property and disbursement

"(a) The Executive Officer shall be responsible, subject to the supervision of the Joint Committee, for arranging with the appropriate Federal or District of Columbia agencies for the operation, maintenance and repair of such buildings and space as may be assigned to the courts. The allocation of space therein shall be vested in the chief judges of the District of Columbia courts.

"(b) The Executive Officer shall be responsible for the procurement of necessary equipment, supplies, and services for the courts and shall have power, subject to applicable law, to reimburse the District of Columbia government for services provided and to contract for such equipment, supplies, and services as may be necessary.

"(c) The Executive Officer shall serve as disbursing officer and payroll officer of the District of Columbia courts and shall assign and distribute necessary equipment and supplies.

"§ 11–1743. Annual budget

"(a) The Joint Committee shall prepare and submit to the Commissioner of the District of Columbia annual estimates of the expenditures and appropriations necessary for the maintenance and operations of the District of Columbia court system.

"(b) All such estimates shall be forwarded to the Bureau of the Budget by the District of Columbia without revision, but subject to the recommendations of the District of Columbia. Similarly, all estimates shall be included in the budget without revision by the President but subject to his recommendations.

"§ 11–1744. Information and liaison services

"The Executive Officer shall be responsible for—

"(1) collecting and compiling statistical information with respect to the volume and disposition of the work of the courts and the personnel of the courts;

"(2) printing and distribution of court rules;

"(3) keeping the courts advised of pending legislative and executive actions relating to the courts;

"(4) serving as the public information officer of the courts; and

"(5) performing such other duties as may be assigned to him by the Joint Committee and the chief judges in their respective courts.

"§ 11–1745. Reports and records

"(a) The Executive Officer shall prepare and publish, subject to the approval of the Joint Committee, the annual report of the District of Columbia court system of the work of the courts and their operations during the preceding year together with any recommendations relating to the courts. Nothing in this chapter shall prevent the respective chief judges from preparing and publishing any other reports as they may wish.

"(b) The Executive Officer shall be responsible for maintaining and safeguarding the records of the courts. Except for those records required by law to be kept under court seal, he shall make the records available at all reasonable times to—

"(1) the United States Department of Justice,

"(2) the Commissioner of the District of Columbia,

"(3) the District of Columbia Commission on Judicial Disabilities and Tenure, and

"(4) such other agencies as the Joint Committee may specify.

"§ 11–1746. Certification of copies of papers or documents filed in District of Columbia courts

"The Executive Officer shall provide that if any person filing any paper or document in a District of Columbia court requests a certification of such filing, a copy of such paper or document provided by such person shall be appropriately marked for such person to show the time and date of such filing and the identity of the individual with whom such paper or document was filed. Such certified copy shall be prima facie evidence in any proceeding that the original of such paper or document was filed as shown by the certification.

"§ 11–1747. Delegation of authority

"The Executive Officer and court officers appointed by him may delegate to their subordinates authority and responsibility to perform the functions vested in them by law.

"Chapter 19.—JURIES AND JURORS

"Sec.

"§ 11–1901. Qualifications of jurors

"Jurors serving within the District of Columbia shall have the same qualifications as provided for jurors in Federal courts.

"§ 11–1902. Single jury selection system

"There shall be a single system in the District of Columbia for the selection of jurors for both Federal and District of Columbia courts. The selection system shall be that prescribed by Federal law and executed in accordance therewith as provided by the United States District Court for the District of Columbia.

"§ 11–1903. Grand jury; additional grand jury

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge of the United States District Court for the District of Columbia, or the chief judge of the Superior Court, that the exigencies of the public service require it, the judge may, in his discretion, order an additional grand jury summoned, which shall be drawn at such time as he designates. Unless sooner discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11–1904. Assignment of jury panels

"The names of persons to serve as jurors in the United States District Court for the District of Columbia and the Superior Court shall be drawn from time to time as may be required, and such persons shall be assigned to jury panels within those courts as the courts may decide.

"§ 11–1905. Length of service

"Petit jurors summoned for service in the District of Columbia shall serve for such period of time and at such sessions as the particular court shall direct, but, unless actually engaged as a trial juror in a particular case, may not be required to serve in the court for more than one month in any twelve consecutive months.

"§ 11–1906. Fees of jurors

"Jurors serving in the Superior Court shall receive the same fees as jurors serving in the United States District Court for the District of Columbia.

"Chapter 21.—REGISTER OF WILLS

"Sec.

"§ 11–2101. Continuation of office

"The Office of the Register of Wills shall continue as an office in the Probate Division of the Superior Court.

"§ 11–2102. Appointment; oath; bond

"The Superior Court shall appoint the Register of Wills. The Register of Wills shall—

"(1) take an oath for the faithful and impartial discharge of the duties of his office; and

"(2) give bond, with two or more sureties, to be approved by the chief judge of the Superior Court, in the amount designated by the court, faithfully to discharge the duties of his office, and seasonably to record (A) the decrees and orders of the court in any matters over which the court exercises probate jurisdiction or powers, (B) all wills proved before him or the court, and (C) all other matters directed to be recorded in the court or in his office.

The bond shall be entered in full upon the minutes of the Superior Court and the original filed with the records of the Superior Court.

"§ 11–2103. Services as clerk

"With respect to the Probate Division of the Superior Court, the Register of Wills shall perform such duties as clerk as the chief judge of the Superior Court may assign.

"§ 11–2104. Powers and duties; restrictions; penalties

"(a) The Register of Wills may—

"(1) receive inventories and accounts of sales, examine vouchers, and state accounts of executors, administrators, collectors, and guardians, subject to final approval of the court;

"(2) take the probate of claims against the estates of deceased persons that are properly brought before him, and approve or reject claims not exceeding $300; and

"(3) take the probate of wills and accept the bonds of executors, administrators, collectors, and guardians, subject to approval of the court.

"(b) In matters over which the Superior Court has probate jurisdiction or powers, the Register of Wills shall—

"(1) make full and fair entries, in separate records, of the proceedings of the court;

"(2) make fair record in strong bound books of all wills proved before him or the court, keeping separate books for wills within the jurisdiction of the court;

"(3) make fair and separate record of other matters required by law to be recorded in the court;

"(4) lodge in places of safety, designated by the court, original papers filed with him;

"(5) make out and issue every summons, process, and order of the court;

"(6) make fair and uniform tables of his fees, and post them in a conspicuous place in his office for the inspection of persons having business therein;

"(7) prepare and submit such reports as may be required to the Executive Officer of the District of Columbia courts; and

"(8) in every respect, act under the control and direction of the court.

"(c) The Register of Wills may not—

"(1) practice law in any court of the District of Columbia or of the United States; or

"(2) demand or receive any fee, gratuity, gift, or reward for giving his advice in any matter relating to his office.

"(d) The Register of Wills shall forfeit to the court the sum of $50 for each day that the tables referred to in subsection (b)(6) are missing through his neglect, which may be recovered as other debts for the same amount are recoverable.

"(e) If the Register of Wills or a person acting for him takes a greater fee than the fee provided for by law, he shall pay the party injured $100, which may be recovered as other debts for the same amount are recoverable.

"§ 11–2105. Deputies and other employees

"The Executive Officer of the District of Columbia courts shall appoint and remove such personnel as may be needed by the Register of Wills, pursuant to chapter 17 of this title.

"§ 11–2106. Accounts

"All fees, costs, and other moneys, except uncollected fees not required by law to be prepaid, collected by the Register of Wills with respect to matters within the jurisdiction of the Superior Court shall be turned over to the Fiscal Officer of the District of Columbia courts.

"Chapter 23.—MEDICAL EXAMINER

"Sec.

"§ 11–2301. Medical Examiner; Deputies; appointment, qualifications, and compensation

"(a) The Commissioner of the District of Columbia shall designate or appoint a Chief Medical Examiner and such Deputy Medical Examiners for the District of Columbia as may be necessary.

"(b) The Chief Medical Examiner and his deputies shall be physicians licensed in the District of Columbia. The Chief Medical Examiner and at least one deputy shall be certified in anatomic pathology by the American Board of Pathology or be board eligible.

They may be designated from among physicians practicing in the District of Columbia Department of Public Health.

"(c) The Commissioner shall fix the compensation of the Chief Medical Examiner and his deputies at a rate or rates not in excess of the per diem equivalent of the maximum rate for GS–18 of the General Schedule contained in section 5332 of title 5 of the United States Code.

"§11–2302. Supporting services and facilities

"The Commissioner shall furnish or make available such investigative, technical, and clerical personnel, facilities, and equipment as the medical examiners shall require, or he may arrange or contract for such services, equipment, and facilities with the United States Government or universities and hospitals in the District of Columbia.

"§ 11–2303. Former duties of Coroner; oaths; teaching

"(a) The Chief Medical Examiner shall be responsible for all the medical functions formerly performed by the coroner in the District of Columbia, consistent with the provisions of this chapter, and the Chief Medical Examiner and his deputies may administer oaths and affirmations and take affidavits in connection with the performance of their duties.

"(b) The Chief Medical Examiner and his deputies may be authorized by the Commissioner of the District of Columbia to teach medical and law school classes, to conduct special classes for law enforcement personnel, and to engage in other activities related to their work.

"§11–2304. Deaths to be investigated; notification and investigation of deaths

"(a) Under regulations established by the Chief Medical Examiner, the following types of human deaths occurring in the District of Columbia shall be investigated:

"(1) Violent deaths, whether apparently homicidal, suicidal, or accidental, including deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not.

"(2) Sudden deaths not caused by readily recognizable disease.

"(3) Deaths under suspicious circumstances.

"(4) Deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so as to be thereafter unavailable for examination.

"(5) Deaths related to disease resulting from employment or to accident while employed.

"(6) Deaths related to disease which might constitute a threat to public health.

"(b) All law enforcement officers, physicians, undertakers, embalmers and other persons shall promptly notify a medical examiner of the occurrence of all deaths coming to their attention which are subject to investigation under subsection (a) of this section and shall assist in making dead bodies and related evidence available to the medical examiner for investigation and autopsy.

"(c) Any physician, undertaker, or embalmer who willfully fails to comply with this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 nor more than $1,000.

"(d) The Chief Medical Examiner shall by regulation prescribe procedures for taking possession of a body following a death subject to investigation under subsection (a) of this section and for obtaining all essential facts concerning the medical causes of death and the names and addresses of as many witnesses as it is practicable to obtain.

"§ 11–2305. Possession of evidence and property

"(a) At the scene of any death subject to investigation under section 11–2304, a law enforcement officer or the medical examiner shall take possession of any objects or articles useful in establishing the cause of death and shall hold them as evidence.

"(b) In the absence of the next of kin, a police officer or the medical examiner may take possession of all property of value found on or in the custody of the deceased. If possession is taken of the property, the police officer or medical examiner shall make an exact inventory of it, and deliver the property to the property clerk of the Metropolitan Police Department.

"§ 11–2306. Further investigation; autopsy

"(a) If, in the opinion of the medical examiner, the cause of death is established with reasonable medical certainty, he shall complete a report thereon.

"(b) If, in the opinion of the Chief Medical Examiner or the United States attorney further investigation as to the cause of death is required or the public interest so requires, a medical examiner shall either perform, or arrange for a qualified pathologist to perform, an autopsy on the body of the deceased. No consent of next of kin shall be required for an autopsy performed pursuant to this section.

"(c) The medical examiner shall make a complete record of the findings of the autopsy and his conclusions with respect thereto and shall prepare a report, and upon request, furnish a copy to the appropriate law enforcement agency.

"§ 11–2307. Autopsy by pathologist other than medical examiner

"(a) If an autopsy is performed by a pathologist other than a medical examiner by request of a medical examiner, the pathologist shall furnish to the medical examiner a complete record of the findings of the autopsy and his conclusions with respect thereto. The medical examiner shall thereupon prepare a report, indicating the name of the pathologist performing the autopsy and his findings and conclusions, and the medical examiner's own comments with respect thereto, if appropriate, and upon request, shall furnish a copy thereof to the appropriate law enforcement agency.

"(b) A pathologist other than a medical examiner who performs an autopsy at the request of a medical examiner shall be compensated in accordance with a fee rate established by the Commissioner of the District of Columbia.

"§ 11–2308. Delivery of body; expenses

"(a) Following investigation or autopsy, the medical examiner shall release the body of the deceased to the person having the right to the body for purposes of burial pursuant to law. If there is no such person, he shall dispose of it according to law.

"(b) Expenses of transportation of a body by a medical examiner and of autopsies performed pursuant to this chapter shall be borne by the District of Columbia.

"§ 11–2309. Records; reports; fees for other services

"(a) The Chief Medical Examiner shall be responsible for maintaining full and complete records and files, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death, and all other relevant information and reports of the medical examiner concerning the death, and shall issue a death certificate.

"(b) The records and files maintained under the provisions of subsection (a) of this section shall be open to inspection by the Commissioner of the District of Columbia or his authorized representative, the United States attorney and his assistants, the Metropolitan Police Department, or any other law enforcement agency or official; and the medical examiner shall promptly deliver to such persons copies of all records relating to every death as to which further investigation may be advisable.

"(c) Any other person with a legitimate interest may obtain copies of records maintained under the provisions of subsection (a) upon such conditions and payment of such fees as may be prescribed by the Chief Medical Examiner. If such person fails to meet the prescribed conditions, he may obtain copies of such records pursuant to court order if the court is satisfied that he has a legitimate interest.

"(d) The Chief Medical Examiner shall prepare an annual report to the Commissioner of the District of Columbia containing information on the number of autopsies performed, statistics as to cause of death, and such other relevant information as the Commissioner of the District of Columbia shall require. The report shall be open to inspection by the public. The report shall not identify by name deceased persons examined.

"(e) Medical examiners may charge fees, at rates prescribed by the Chief Medical Examiner, for completing insurance forms or performing similar services for private parties.

"§ 11–2310. Records as evidence

"The records maintained pursuant to section 11–2309, or reproductions thereof certified by the Chief Medical Examiner, are admissible in evidence in any court in the District of Columbia, except that statements made by witnesses or other persons and conclusions upon non-medical matters are not made admissible by this section.

"§ 11–2311. Autopsies performed by court order

"In the case of sudden, violent, or suspicious death when the body is buried without investigation, the United States attorney, on his own motion or on request of a medical examiner or the Metropolitan Police Department, may petition the appropriate court for an order to conduct an inquiry. The court may order the body exhumed and an autopsy performed. In such cases, records and reports shall be filed as if the autopsy were performed prior to burial except that a copy of the report shall be furnished directly to the court.

"§ 11–2312. Tissue transplants

"The medical examiner may allow the removal of tissue pursuant to section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–258).

"Chapter 25.—ATTORNEYS

"Sec.

"11–2501. Admission to bar; regulations; prior admission.

"11–2502. Censure, suspension, or disbarment for cause.

"11–2503. Disbarment upon conviction of crime; procedure for censure, suspension, or disbarment.

"11–2504. Censure, suspension, or disbarment by other courts.

"§ 11–2501. Admission to bar; regulations; prior admission

"(a) The District of Columbia Court of Appeals shall make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar, and their censure, suspension, and expulsion.

"(b) Members of the bar of the District of Columbia Court of Appeals shall be eligible to practice in the District of Columbia courts.

"(c) Members of the bar of the United States District Court for the District of Columbia in good standing on April 1, 1972, shall be automatically enrolled as members of the bar of the District of Columbia Court of Appeals, and shall be subject to its disciplinary jurisdiction.

"§ 11–2502. Censure, suspension, or disbarment for cause

"The District of Columbia Court of Appeals may censure, suspend from practice, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial

to the administration of justice. A fraudulent act or misrepresentation by an applicant in connection with his application for admission is sufficient cause for the revocation by the court of his admission.

"§ 11-2503. Disbarment upon conviction of crime; procedure for censure, suspension or disbarment

"(a) When a member of the bar of the District of Columbia Court of Appeals is convicted of an offense involving moral turpitude, and a certified copy of the conviction is presented to the court, the court shall, pending final determination of an appeal from the conviction, suspend the member of the bar from practice. Upon reversal of the conviction the court may vacate or modify the suspension. If a final judgment of conviction is certified to the court, the name of the member of the bar so convicted shall be struck from the roll of the members of the bar and he shall thereafter cease to be a member. Upon the granting of a pardon to a member so convicted, the court may vacate or modify the order of disbarment.

"(b) Except as provided in subsection (a), a member of the bar may not be censured, suspended, or expelled under this chapter until written charges, under oath, against him have been presented to the court, stating distinctly the grounds of complaint. The court may order the charges to be filed in the office of the clerk of the court and shall fix a time for hearing thereon. Thereupon a certified copy of the charges and order shall be served upon the member personally, or if it is established to the satisfaction of the court that personal service cannot be had, a certified copy of the charges and order shall be served upon him by mail, publication, or otherwise as the court directs. After the filing of the written charges, the court may suspend the person charged from practice at its bar pending the hearing thereof.

"§ 11-2504. Censure, suspension, or disbarment by other courts

"The Federal courts in the District of Columbia and the Superior Court may censure, suspend, or expel an attorney from practice at their respective bars, for a crime involving moral turpitude, or professional misconduct, or conduct prejudicial to the administration of justice. If an attorney is expelled from practice under this section, the court expelling him shall notify the other Federal courts in the District of Columbia and the District of Columbia Court of Appeals of the action taken."

PART B—PROCEEDINGS REGARDING JUVENILE DELINQUENCY AND RELATED MATTERS

SEC. 121. (a) Chapter 23 of title 16 of the District of Columbia Code is amended to read as follows:

"Chapter 23.—FAMILY DIVISION PROCEEDINGS

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

"Sec.
"16-2301. Definitions.
"16-2302. Transfer of criminal matters to Family Division.
"16-2303. Retention of jurisdiction.
"16-2304. Right to counsel.
"16-2305. Petition; contents; amendment.
"16-2306. Service of summons, and petition.
"16-2307. Transfer for criminal prosecution.
"16-2308. Initial appearance.
"16-2309. Taking into custody.
"16-2310. Criteria for detaining child.
"16-2311. Release or delivery to Family Division.
"16-2312. Detention or shelter care hearing; intermediate disposition.
"16-2313. Place of detention or shelter.
"16-2314. Consent decree.
"16-2315. Physical and mental examinations.
"16-2316. Conduct of hearings; evidence.
"16-2317. Hearings; findings; dismissal.
"16-2318. Order of adjudication noncriminal.
"16-2319. Predisposition study and report.
"16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.
"16-2321. Disposition of mentally ill or mentally retarded child.
"16-2322. Limitation of time on disposition orders.

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION—Con.

"16-2323. Modification, termination of orders.
"16-2324. Support of committed child.
"16-2325. Court costs and expenses.
"16-2326. Probation revocation; disposition.
"16-2327. Interlocutory appeals.
"16-2328. Finality of judgments; appeals; transcripts.
"16-2329. Time computation.
"16-2330. Juvenile case records; confidentiality inspection; and disclosure.
"16-2331. Juvenile social records; confidentiality; inspection; and disclosure.
"16-2332. Police and other law enforcement records.
"16-2333. Fingerprint records.
"16-2334. Sealing of records.
"16-2335. Unlawful disclosure of records.
"16-2336. Additional powers of Director of Social Services.
"16-2337. Emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"Sec.
"16-2341. Representation.
"16-2342. Time of bringing complaint.
"16-2343. Blood tests.
"16-2344. Exclusion of public.
"16-2345. New birth record upon marriage of natural parents.
"16-2346. Reports to Director of Public Health.
"16-2347. Death of respondent; liability of estate.
"16-2348. Paternity records; confidentiality; inspection; and disclosure.

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

§ 16-2301. Definitions

"As used in this subchapter—

"(1) The term 'Division' means the Family Division of the Superior Court of the District of Columbia.

"(2) The term 'judge' means a judge assigned to the Family Division of the Superior Court.

"(3) The term 'child' means an individual who is under 18 years of age, except that the term 'child' does not include an individual who is—

"(A) sixteen years of age or older and who is charged by the United States attorney with (i) murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit any such offense, or assault with a dangerous weapon, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

"(B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea or verdict of a lesser included offense; or

"(C) sixteen years of age or older and who is charged with a traffic offense.

For purposes of this subchapter the term 'child' also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

"(4) The term 'minor' means an individual who is under the age of twenty-one years.

"(5) The term 'adult' means an individual who is twenty-one years of age or older.

"(6) The term 'delinquent child' means a child who has committed a delinquent act and is in need of care or rehabilitation.

"(7) The term 'delinquent act' means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

"(8) The term 'child in need of supervision' means a child who—

"(A)(i) being subject to compulsory school attendance, is habitually and without justification truant from school;

"(ii) has committed an offense not classified as criminal or is one applicable only to children; or

"(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

"(B) is in need of care or rehabilitation.

"(9) The term 'neglected child' means a child—

"(A) who has been abandoned or abused by his parent, guardian, or other custodian;

"(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his parent, guardian, or other custodian;

"(C) whose parent, guardian, or other custodian is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

"(D) who has been placed for care or adoption in violation of law.

No child who in good faith is under treatment solely by spirtual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered a neglected child for purposes of this subchapter.

"(10) The term 'mentally ill child' means a child who is mentally ill within the meaning of section 21-501.

"(11) The term 'mentally retarded child' means a child who is mentally retarded within the meaning of section 21-1101.

"(12) The term 'custodian' means a person or agency, other than a parent or legal guardian, to whom legal custody of a child has been given by court order and who is acting in loco parentis.

"(13) The term 'detention' means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

"(14) The term 'shelter care' means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

"(15) The term 'detention or shelter care hearing' means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

"(16) The term 'factfinding hearing' means a hearing to determine whether the allegations of a petition are true.

"(17) The term 'dispositional hearing' means a hearing, after a finding of fact, to determine—

"(A) whether the respondent in a delinquent or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

"(B) what order of disposition should be made in a neglect case.

"(18) The term 'probation' means a legal status created by court order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appro-

priate supervision and return to the Division for violation of probation at any time during the period of probation.

"(19) The term 'protective supervision' means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

"(20) The term 'guardianship of the person of a minor' means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to)—

"(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

"(B) the authority and duty of reasonable visitation (except as limited by court order);

"(C) the rights and responsibility of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

"(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

"(21) The term 'legal custody' means a legal status created by court order which vests in a custodian the responsibility for the custody of a minor which includes—

"(A) physical custody or the determination of where and with whom the minor shall live;

"(B) the right and duty to protect, train, and discipline the minor; and

"(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care.

A court order of 'legal custody' is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

"(22) The term 'residual parental rights and responsibilities' means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

"§ 16–2302. Transfer of criminal matters to Family Division

"(a) If it appears to a court, during the pendency of a criminal charge and before the time when jeopardy would attach in the case of an adult, that a minor defendant was a child at the time of an alleged offense, the court shall forthwith transfer the charge against the defendant, together with all papers and documents connected therewith, to the Division. All action taken by the court prior to transfer of the case shall be deemed null and void unless the Division transfers the child for criminal prosecution under section 16–2307.

"(b) If at the time of an alleged offense, a minor defendant was a child but this fact is not discovered by the court until after jeopardy has attached, the court shall proceed to verdict. If judgment has not been entered, the court shall determine on the basis of the criteria in section 16–2307(e) whether to enter judgment or to refer the case to the Division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age.

"(c) The court making a transfer shall order the minor to be taken forthwith to the Division or to a place of detention designated for children by the Superior Court. The Division shall then proceed as provided in this subchapter.

"(d) Nothing in this section shall affect the jurisdiction of a court over a person twenty-one years of age or older.

"§ 16–2303. Retention of jurisdiction

"For purposes of this subchapter, jurisdiction obtained by the Division in the case of a child shall be retained by it until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time. This section does not affect the jurisdiction of other divisions of the Superior Court or of other courts over offenses committed by a person after he ceases to be a child. If a minor already under the jurisdiction of the Division is convicted in the Criminal Division or another court of a crime committed after he ceases to be a child, the Family Division may, in appropriate cases terminate its jurisdiction.

"§ 16–2304. Right to counsel

"(a) A child alleged to be delinquent or in need of supervision is entitled to be represented by counsel at all critical stages of Division proceedings beginning at the time of admission or denial of allegations in the petition and at all subsequent stages. If the child and his parent, guardian, or custodian are financially unable to obtain adequate representation, the child shall be entitled to have counsel appointed for him in accordance with rules established by the Superior Court. In its discretion, the Division may appoint counsel for the child over the objection of the child, his parent, guardian, or other custodian.

"(b) When a child is alleged to be neglected, the parent, guardian, or custodian of the child named in the petition is entitled to be represented by counsel at all critical stages of the Division proceedings and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court. The Division shall, where appropriate, appoint separate counsel to represent the child, as provided in section 16–918.

"§ 16–2305. Petition; contents; amendment

"(a) Complaints alleging delinquency, need of supervision, or neglect shall be referred to the Director of Social Services who shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under intake criteria established by rule of the Superior Court, the Director shall recommend that a petition be filed. If the Director decides not to recommend the filing of a petition, the complainant in a delinquency or neglect case shall have a right to have that decision reviewed by the Corporation Counsel, and the Director shall notify the complainant of such right of review.

"(b) Petitions initiating judicial action may be signed by any person who has knowledge of the facts alleged or, being informed of them, believes they are true, except that petitions alleging need of supervision may only be signed by the Director of Social Services, a representative of a public agency or a nongovernmental agency licensed and authorized to care for children, a representative of a public or private agency providing social service for families, a school official, or a law enforcement officer. Petitions shall be verified and verification may be upon information or belief.

"(c) Each petition shall be prepared by the Corporation Counsel after an inquiry into the facts and a determination of the legal basis for the petition. If the Director of Social Services has refused to recommend filing of a delinquency or neglect petition, the Corporation Counsel, on request of the complainant, shall review the facts presented and shall prepare and file a petition if he believes such action is necessary to protect the community or the interests of the child. Any decision of the Corporation Counsel on whether to file a petition shall be final.

"(d) Petitions shall be filed by the Corporation Counsel within ten days after the complaint has been referred to the Director of Social Services, except as otherwise provided in section 16–2312. A petition shall set forth plainly and concisely the facts which give the Division jurisdiction of the child under section 11–1101(13) and in delinquency cases the petition shall state the specific statute or ordinance on which the charge is based; and, if delinquency or need of supervision is alleged, a statement that the child appears to be in need of care or rehabilitation. The petition shall contain such other facts and information as may be required by rules of the Superior Court.

"(e) A petition may be amended by leave of the Division on motion of the Corporation Counsel or counsel for the child, at any time prior to the conclusion of the factfinding hearing. The Division shall grant the Corporation Counsel, the child, and his parent, guardian, or custodian notice of the amendment and, where necessary, additional time to prepare.

"(f) The District of Columbia shall be a party to all proceedings under this subchapter.

"§ 16–2306. Service of summons and petition

"(a) When a petition is filed, the Division shall set a time for initial appearance and shall direct the issuance of summonses. If delinquency or need of supervision is alleged, a summons, together with a copy of the petition, shall be served upon the child and upon his spouse (if any) and his parent, guardian, or other custodian. If neglect is alleged, the summons, together with a copy of the petition, shall be served on the parent, guardian, or other custodian of the child named in the petition. Where appropriate to the proper disposition of the case, the Division may direct service of summonses upon other persons. A summons issued pursuant to this section shall advise the parties of the right to counsel as provided in section 16–2304.

"(b) Upon request of the Corporation Counsel, the Division may endorse upon the summons an order directing the parent, guardian, or other custodian of the child to appear personally at the hearing and directing the person having physical custody or control of the child to bring the child to the hearing.

"(c) If it appears, from information presented to the Division, that there are grounds to take the child into custody as provided in section 16–2309, or that the child may leave or be removed from the jurisdiction of the Superior Court or will not be brought to the hearing, notwithstanding service of the summons, the Division may endorse upon the summons an order that the officer serving the summons shall at once take the child into custody. If the child is taken into custody under this section, the provisions of sections 16–2309 to 16–2311 shall apply.

"§ 16–2307. Transfer for criminal prosecution

"(a) Within ten days of the filing of a delinquency petition, or later for good cause shown, and prior to a fact-finding hearing on the petition, the Corporation Counsel, following consultation with the Director of Social Services, may file a motion, supported by a statement of facts, requesting transfer of the child for criminal prosecution, if—

"(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

"(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child; or

"(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age.

"(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of section 16–2306.

"(c) When there are grounds to believe the child is mentally retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16–2315 or section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24–301(a)).

"(d) The Division shall conduct a hearing on each transfer motion for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority, unless a commitment pursuant to subsection (c) has intervened. Unless the Division finds that there are reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney. Accompanying the order of transfer shall be a statement of the reasons, with respect to the five factors set forth in subsection (e) of this section, for transferring the child. This statement shall be available, upon request, to any court in which the transfer is challenged, but shall not be available to the trier of fact on the criminal charge prior to verdict.

"(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

"(1) the child's age;

"(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

"(3) the child's mental condition;

"(4) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

"(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer.

The rules of evidence at transfer hearings shall be the same as those that govern dispositional proceedings in delinquency cases, as set forth in section 16–2317. At a transfer hearing, only the propriety of eventual Division disposition shall be considered, and evidence bearing on probable cause or the likelihood that the child committed the act alleged shall not be admitted.

"(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least five days prior to the hearing.

"(g) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent factfinding proceedings relating to the offense.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Division over the child with respect to any subsequent delinquent acts.

"§ 16–2308. Initial appearance

"At the time set forth in the summons, or at such later time as may be authorized by rule of the Superior Court, the child named in a delinquency or need of supervision petition or the parent, guardian, or custodian of a child named in a neglect petition shall appear before a judge assigned to the Division and shall be advised of the contents of the petition and of the right to counsel as provided in section 16–2304. At that time the child, or in neglect cases the parent, guardian, or custodian, may admit or deny the allegations in the petition, but it shall not be necessary at the initial appearance for the Corporation Counsel to establish probable cause to believe that the allegations in the petition are true. At the initial appearance, the judge may set the time for the factfinding hearing or continue the matter until a later time. This section shall not apply in any case where prior to or at the time of the initial appearance, a detention or shelter care hearing is required by section 16–2312.

"§ 16–2309. Taking into custody

"A child may be taken into custody—

"(1) pursuant to order of the Division under section 16–2306 or 16–2311;

"(2) by a law enforcement officer when he has reasonable grounds to believe that the child has committed a delinquent act;

"(3) by a law enforcement officer when he has reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal from his surroundings is necessary; or

"(4) by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parent, guardian, or other custodian.

"§ 16–2310. Criteria for detaining children

"(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required—

"(1) to protect the person or property of others or of the child, or

"(2) to secure the child's presence at the next court hearing.

"(b) A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required—

"(1) to protect the person of the child, or

"(2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself.

"(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to the factfinding hearing.

"§ 16–2311. Release or delivery to Family Division

"(a) A person taking a child into custody shall with all reasonable speed—

"(1) release the child to his parent, guardian, or custodian upon a promise to bring the child before the Division when requested by the Division, unless the child's placement in detention or shelter care appears required as provided in section 16–2310; or

"(2) bring the child before the Director of Social Services, or to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical or evidentiary purposes.

Any person taking a child into custody shall give prompt notice to the Corporation Counsel and to the parent, guardian, or custodian (if known) together with the reasons for custody.

"(b) When a child is brought before the Director of Social Services, the Director shall in all cases review the need for detention or shelter care prior to the admission of the child to the place of detention or shelter care. The child shall be released to his parent, guardian, or custodian unless the Director of Social Services finds that detention or shelter care is required under section 16–2310.

"(c) If a parent, guardian, or custodian fails, when requested, to bring the child to the Division as provided in subsection (a)(1), the Division may issue a warrant directing that the child be taken into custody and brought before the Division.

"§ 16–2312. Detention or shelter care hearing; intermediate disposition

"(a) When a child is not released as provided in section 16–2311—

"(1) a detention or shelter care hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16–2302; and

"(2) a petition shall be filed at or prior to the detention or shelter care hearing.

"(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and to his spouse (if any), parent, guardian, or custodian, if he can be found, or, if neglect is alleged, to the child, and to the parent, guardian or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

"(c) At the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16–2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16–2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

"(d) When a judge finds that a child's detention or shelter care is not required under the criteria in section 16–2310, he shall order the child's release, and may impose one or more of the following conditions:

"(1) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

"(2) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

"(3) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

"(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16–2310, he shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

"(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth his reasons. When a judge finds that there is not probable cause to believe the allegations in the petition are true, he shall order the child to be released.

"(g) For good cause shown, the Division may grant a continuance of the detention of shelter care hearing, or any part thereof, for a period not to exceed five days. During the period of the continuance, the Division may order the child to be placed or continued in detention or shelter care.

"(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

"(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive

notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

"(j) Upon objection of the child or his parent, guardian, or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

"§ 16–2313. Place of detention or shelter

"(a) A child who is alleged to be neglected and who is in custody may be placed at any time prior to disposition, only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

"(3) another facility for shelter care designated by the division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b) of this section.

"(b) A child who is alleged to be in need of supervision or (except as provided in subsection (d) or (e),) is alleged to be delinquent and who is in custody may be detained at any time prior to disposition only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

"(3) a detention home for allegedly delinquent children or children alleged to be in need of supervision, designated or operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility described in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Division.

"(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division pursuant to section 16–2315, be temporarily transferred to a facility for mental examination or treatment.

"(d) Except as provided in subsection (e), no child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16–2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).

"(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.

"§ 16–2314. Consent decree

"(a) At any time after the filing of a delinquency or need of supervision petition and prior to adjudication at a factfinding hearing, the Division may, on motion of the Corporation Counsel or counsel for the child, suspend the proceedings and continue the child under supervision, without commitment, under terms and conditions established by rules of the Superior Court. Such a consent decree shall not be entered unless the child is represented by counsel and has been informed of the consequences of the decree nor shall it be entered over the objection of the child or of the Corporation Counsel.

"(b) A consent decree shall remain in force for six months unless the child is sooner discharged by the Director of Social Services. Upon application of the Director of Social Services or an agency supervising the child made prior to the expiration of the decree, a consent decree may, after notice and hearing, be extended for not more than six additional months by order of the Division.

"If prior to the expiration of the decree or discharge by the Director of Social Services, the child fails to fulfill the express conditions of the decree or a new delinquency or need of supervision petition is filed concerning the child, the original petition under which the decree was filed may, in the discretion of the Corporation Counsel following consultation with the Director of Social Services, be reinstated. The child shall thereafter be held accountable on the original petition as if the consent decree had never been entered.

"(d) If a child completes the period of continuance under supervision in accordance with the consent decree or is sooner discharged by the Director of Social Services, the Division shall dismiss the original petition.

"§ 16–2315. Physical and mental examinations

"(a) At any time following the filing of a petition, on motion of the Corporation Counsel or counsel for the child, or on its own motion, the Division may order a child to be examined to aid in determining his physical or mental condition.

"(b) Whenever possible examinations shall be conducted on an outpatient basis, but the Division may, if it deems necessary, commit the child to a suitable medical facility or institution for the purpose of examination. Commitment for examination shall be for a period of not more than sixty days unless the Division, for good cause shown, shall extend the commitment for a further period not to exceed sixty days.

"(c) (1) If as a result of a mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall, except as provide in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 16–2307 and the Division determines that a child alleged to be delinquent is incompetent to participate in the transfer proceedings by reason of mental illness, it shall suspend further proceedings and order the child confined to a suitable hospital or facility for the mentally ill until his competency is restored. If prior to the time the child reaches the age of 21 it appears that he will not regain his competency to participate in the proceedings, the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 of title 21.

"(3) If, as a result of mental examination, the Division determines that a child alleged to be in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 16–2307, in a dispositional hearing under this subchapter, or in a commitment proceeding under chapter 5 or 11 of title 21. The results of examination may be admitted into evidence at a factfinding hearing to aid the Division in determining a material allegation of the petition relating to the child's mental or physical condition, but not for the purpose of establishing a defense of insanity.

"(e) Following an adjudication at a factfinding hearing that a child is neglected, the Division may order the mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue. The results of the examination are admissible at a dispositional hearing on the petition alleging neglect.

"§ 16–2316. Conduct of hearings; evidence

"(a) The Division shall, without a jury, hear and adjudicate cases involving delinquency, need of supervision, or neglect. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings.

"(b) Evidence which is competent, material, and relevant shall be admissible at factfinding hearings. Evidence which is material and relevant shall be admissible at detention hearings, transfer hearings under section 16–2307, and dispositional hearings.

"(c) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings.

"(d) If the Division finds that it is in the best interest of the child, it may temporarily exclude him from any proceeding except a factfinding hearing. If the petition alleges neglect, the child may also be temporarily excluded from a factfinding hearing. In any case, counsel for the child may not be excluded.

"§ 16–2317. Hearings, findings; dismissal

"(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

"(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings in all cases as to the truth of the allegations, and in neglect cases, he shall also make and file written findings as to whether the child is neglected. If the Division finds that the allegations in the petition have not been established by the preponderance of the evidence it shall dismiss the petition and order the child released from any detention or shelter care.

"(c) If the Division finds on the basis of the preponderance of the evidence that a child alleged to be delinquent or in need of supervision committed the acts alleged in the petition, it may proceed immediately to hear evidence as to whether he is in need of care or rehabilitation or may postpone the proceedings to await a predisposition study and report. Material and relevant evidence shall be admissible to determine need for care or rehabilitation even though not competent at a factfinding hearing. In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense is sufficient to sustain a finding of need for care or rehabilitation.

"(d) If the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered. If it finds the child is in need of care or rehabilitation in a delinquency or need of supervision case, or that the child is neglected, the Division shall proceed immediately, or at a postponed hearing to make proper disposition of the case.

"(e) After a factfinding hearing if the proceedings are not terminated, the Division shall review the need for detention or shelter care of the child.

"§ 16–2318. Order of adjudication non-criminal

"A consent decree, order of adjudication, or order of disposition in a proceeding under this subchapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction, nor does it operate to disqualify a child in any future civil service examination, appointment, or application for public service in either the Government of the United States or of the District of Columbia.

"§ 16–2319. Predisposition study and report

"After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (b) of section 16–2317 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing.

"§ 16–2320. Disposition of child who is neglected, delinquent, or in need of supervision

"(a) If a child is found to be neglected, the Division may order any of the following dispositions which will be in the best interest of the child:

"(1) Permit the child to remain with his parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including but not limited to medical, psychiatric, or other treatment at an appropriate facility on an out-patient basis.

"(2) Place the child under protective supervision.

"(3) Transfer legal custody to any of the following—

"(A) a public agency responsible for the care of neglected children;

"(B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Commissioner of the District of Columbia to receive and provide care for the child; or

"(C) a relative or other individual who is found by the Division to be qualified to receive and care for the child.

"(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16–2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the orginal order is affirmed, the child may petition for review thereafter every six months.

"(5) Make such other disposition as may be provided by law and as the Division deems to be in the best interests of the child and the community.

"(b) Unless a child found neglected is also found to be delinquent, he shall not be committed to, or confined in, an institution for delinquent children.

"(c) If a child is found to be delinquent or in need of supervision, the Division may order any of the following dispositions for his supervision, care, and rehabilitation:

"(1) Any disposition authorized by subsection (a).

"(2) Transfer of legal custody to a public agency for the care of delinquent children.

"(3) Probation under such conditions and limitation as the Division may prescribe.

"(d) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children, unless otherwise specified by the Division.

"(e) No delinquent child shall be committed to a penal or correctional institution for adult offenders, except that, on order of the Division, a child sixteen years of age or older who has been committed to another institution or other facility may be transferred after a hearing at which the child is present and represented by counsel and upon a finding by the Division that the child's conduct while in custody constitutes a menace to other children and cannot be controlled. The transfer shall be to a facility maintained by or available to the District of Columbia pursuant to the provisions of section 5025 of title 18, United States Code.

"§ 16–2321. Disposition of mentally ill or mentally retarded child

"(a) If no previous examination has been made under section 16–2315 and the Division, after factfinding but before a dispositional hearing, has reason to believe that a child is mentally ill or mentally retarded, it may order an examination as provided in section 16–2315.

"(b) If as a result of the examination the child is found to be mentally ill or mentally retarded, the Division may, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under chapter 5 or 11 of title 21. The Division may order the child detained in suitable facilities pending commitment proceedings.

"(c) If the examination does not indicate that commitment proceedings should be initiated or if the proceedings do not result in commitment, the Division shall proceed to disposition pursuant to this subchapter.

"§ 16–2322. Limitation of time on dispositional orders

"(a) (1) A dispositional order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

"(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

"(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

"(b) A dispositional order vesting legal custody of a child in a department, agency, or institution may be extended for additional periods of one year, upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that—

"(1) in the case of a neglected child the extension is necessary to safeguard his welfare; or

"(2) in the case of a child adjudicated delinquent or in need of supervision, the extension is necessary for his rehabilitation or the protection of the public interest.

"(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

"(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a) (1) or (3), shall promptly be reported in writing to the Division.

"(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to request the sealing of his records as provided in section 16–2334.

"(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when he reaches twenty-one years of age.

"§16–2323. Modification, termination of orders

"(a) An order of the Division under this subchapter shall be set aside if—

"(1) it was obtained by fraud or mistake sufficient to set aside an order or judgment in a civil action;

"(2) the Division lacked jurisdiction; or

"(3) newly discovered evidence so requires,

"(b) A child who has been committed under this subchapter to the custody of an institution, agency, or person, or the parent or guardian of the child, may file a motion for modification or termination of the order of commitment on the ground that the child no longer is in need of commitment, if the child or his parent or guardian has applied to the institution or agency for release and the application was denied or not acted upon within a reasonable time.

"(c) The Director of Social Services shall conduct a preliminary review of motions filed under subsection (b) and shall prepare a report to the Division on the allegations contained therein. The Division may dismiss the motion if it concludes from the report that it is without substance. Otherwise, the Division, after notice, shall hear and determine the issues raised by the motion and deny the motion, or enter an appropriate order modifying or terminating the order of commitment, if it finds such action necessary to safeguard the welfare of the child or the interest of the public.

"(d) A motion may be filed under subsection (b) no more often than every six months.

"§ 16–2324. Support of committed child

"Whenever legal custody of a child is vested in any agency or individual other than the child's parent, after due notice to the parent or other persons legally obligated to care for and support the child and after hearing, the Division may, at the dispositional hearing or thereafter, order and decree that the parent or other legally obligated person shall pay, in such manner as the Division may direct, a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the Division may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

"§ 16–2325. Court costs and expenses

"If, at the dispositional hearing or thereafter, the Division finds, after due notice and hearing, that the parent or other person legally obligated to care for and support a child subject to proceedings under this subchapter is financially able to pay, the Division may order him to pay all or part of the costs of—

"(1) physical and mental examinations and treatment of the child ordered by the Division; and

"(2) reasonable compensation for services and related expenses of counsel appointed by the court to represent the child, or, in neglect cases, himself.

Payment shall be made as prescribed by rules of the Superior Court.

"§ 16–2326. Probation revocation; disposition

"(a) If a child on probation incident to an adjudication of delinquency or need of supervision commits a probation violation he may be proceeded against in a probation revocation hearing.

"(b) A proceeding to revoke probation shall be commenced by the filing of a revocation petition by the Corporation Counsel. The petition shall be in such form as may be prescribed by rule of the Superior Court and shall be served together with a summons in the manner provided in section 16–2306.

"(c) Probation revocation proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence. As nearly as may be appropriate, probation revocation proceedings shall conform to the procedures established by this subchapter for delinquency and need of supervision cases.

"(d) If a child is found to have violated the terms of his probation, the Division may modify the terms and conditions of the probation order, extend the period of probation, or enter any other order of disposition specified in section 16–2320 for a delinquent child.

"§ 16–2327. Interlocutory appeals

"(a) A child who has been ordered transferred for criminal prosecution under section 16–2307 or detained or placed in shelter care or subjected to conditions of release under section 16–2312, may, within three days of the date of entry of the Division's order, file a notice of interlocutory appeal.

"(b) Such appeals shall be given precedence over other cases and shall be expedited.

"(c) In cases involving transfer for criminal prosecution, the pendency of an interlocutory appeal shall act to stay criminal proceedings. Until the time for filing an interlocutory appeal has lapsed, or if an appeal is filed until its completion, no child who has been ordered transferred for criminal prosecution shall be removed to a place of adult detention, except as provided in section 16–2313, or otherwise treated as an adult.

"(d) The decision of the District of Columbia Court of Appeals shall be final.

"§ 16–2328. Finality of judgments; appeals; transcripts

"(a) Except as otherwise expressly provided by law, in all hearings and cases tried before the Division pursuant to this subchapter, the judgment of the Division is final.

"(b) In all appeals from decisions of the Division with respect to a child alleged to be neglected, delinquent, or in need of supervision, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

"(c) Upon the filing of a motion and supporting affidavit stating that he is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal shall be furnished, at no cost or at such part of cost as he is able to pay, so much of the transcript as is necessary adequately to prepare and support the appeal.

"(d) An appeal does not operate to stay the order, judgment, or decree appealed from, but on application and hearing whenever the case is properly before the appellate court, that court may order otherwise if suitable provision is made for the care and custody of the child.

"§ 16–2329. Time computation

"(a) In all proceedings in the Division, time limitations shall be reasonably construed by the Division for the protection of the community and of the child.

"(b) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter:

"(1) The period of delay resulting from a continuance granted, upon grounds constituting unusual circumstances, at the request or with the consent, in any case, of the child or his counsel, or, in neglect cases, also of the parent, guardian, or custodian.

"(2) The period of delay resulting from other proceedings concerning the child, including but not limited to an examination or hearing on mental health or retardation and a hearing on a transfer motion.

"(3) The period of delay resulting from a continuance granted at the request of the Corporation Counsel if the continuance is granted because of the unavailability of evidence material to the case, when the Corporation Counsel has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or if the continuance is granted to allow the Corporation Counsel additional time to prepare his case and additional time is required due to the exceptional circumstances of the case.

"(4) The period of delay resulting from the imposition of a consent decree.

"(5) The period of delay resulting from the absence or unavailability of the child.

"(6) A reasonable period of delay when the child is joined for a hearing with another child as to whom the time for a hearing has not run and there is good cause for not hearing the cases separately.

"§ 16–2330. Juvenile case records; confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile case records' refers to the following records of a case over which the Division has jurisdiction under section 11–1101(13):

"(1) Notices filed with the court by an arresting officer pursuant to this subchapter.

"(2) The docket of the court and entries therein.

"(3) Complaints, petitions, and other legal papers filed in the case.

"(4) Transcripts of proceedings before the court.

"(5) Findings, verdicts, judgments, orders, and decrees.

"(b) Juvenile case records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court;

"(2) the Corporation Counsel and his assistants assigned to the Division;

"(3) the respondent, his parents or guardians, and their duly authorized attorneys;

"(4) any court or its probation staff, for purposes of sentencing the respondent as a defendant in a criminal case and the counsel for the defendant in that case;

"(5) public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision, treatment, or custody is under order of the Division;

"(6) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys involved in the investigation or trial of a criminal case arising out of the same transaction or occurrence as a case in which a child is alleged to be delinquent; and

"(7) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Superior Court, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons; but the prosecuting attorney inspecting records pursuant to paragraph (6) of this subsection may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Division.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2331. Juvenile social records; confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile social records' refers to all social records made with respect to a child in any proceedings over which the Division has jurisdiction under section 11–1101(13), including preliminary inquiries, predisposition studies, and examination reports.

"(b) Juvenile social records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court and the Corporation Counsel and his assistants assigned to the Division;

"(2) the attorney for the child at any stage of a proceeding in the Division, including intake;

"(3) any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case, and, if and to the extent other presentence materials are disclosed to him, the counsel for the defendant in that case;

"(4) public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under order of the Division; and

"(5) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Division, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in ne-

glect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2332. Police and other law enforcement records

"(a) Law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless a charge of delinquency is transferred for criminal prosecution under section 16–2307, the interest of national security requires, or the court otherwise orders in the interest of the child.

"(b) Inspection of such records and files is permitted by—

"(1) the Superior Court, having the child currently before it in any proceeding;

"(2) the officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for his supervision after release;

"(3) any other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department;

"(4) law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

"(5) a court in which a person is charged with a criminal offense for the purposes of determining conditions of release or bail;

"(6) a court in which a person is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and

"(7) the parent, guardian, or other custodian and counsel for the child.

"(c) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

"(d) No person shall disclose, inspect, or use records or files in violation of this section.

"§ 16–2333. Fingerprint records

"(a) The contents or existence of law enforcement records and files of the fingerprints of a child shall not be disclosed by the custodians thereof, except—

"(1) to a law enforcement officer of the United States, the District of Columbia, or other jurisdiction for purposes of the investigation and trial of a criminal offense; or

"(2) pursuant to rule or special order of the court.

"(b) When a child is transferred for criminal prosecution under section 16–2307, law enforcement records and files of his fingerprints relating to any matter so transferred shall be deemed those of an adult.

"(c) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2334. Sealing of records

"(a) On request of a person who has been the subject of a petition filed pursuant to section 16–2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16–2330 and 16–2331 and the law enforcement records and files referred to in section 16–2332, or those of any other agency active in the case if it finds that—

"(1) (A) a neglected child has reached his majority; or

"(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and

"(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication.

"(b) Reasonable notice of a motion shall be given to—

"(1) the person who is the subject of the petition;

"(2) the Corporation Counsel;

"(3) the authority granting the discharge, if the final discharge was from an institution, parole, or probation; and

"(4) the law enforcement department having custody of the files and records specified in section 16–2332.

"(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred. All facts relating to the action including arrest, the filing of a petition, and the adjudication, filing, and disposition of the Division shall no longer exist as a matter of law. The Division, the law enforcement department, or any other department or agency that received notice under subsection (b) and was named in the order shall reply, and the person who is the subject matter of the records may reply, to any inquiry that no record exists with respect to such person.

"(d) Inspection of the files and records included in the order may thereafter be permitted by the Division only upon application by the person who is the subject of such records, and only to those persons named in the application; but the Division in its discretion may, by special order in an individual case, permit inspection by or release of information in the records to person having a professional interest in the protection, welfare, treatment, and rehabilitation of the person who is the subject of the petition or other members of his family.

"(e) Any adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.

"(f) A person who has been the subject of a petition filed under this subchapter shall be notified of his rights under subsection (a) at the time a dispositional order is entered and again at the time of his final discharge from supervision, treatment, or custody.

"(g) No person shall disclose, receive, or use records in violation of this section.

"§ 16–2335. Unlawful disclosure of records; penalties

"Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of sections 16–2330 through 16–2334, shall be guility of a misdeameanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia.

"§ 16–2336. Additional powers of the Director of Social Services

"In addition to the powers and duties prescribed in section 11–1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent, in need of supervision, or neglected, or children who have run away from agencies or institutions to which they were committed under this subchapter.

"§ 16–2337. Emergency medical treatment

"Nothing in this subchapter shall prevent a public agency having custody of a child who is under the jurisdiction of the Division from providing the child with emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"§ 16–2341. Representation

"(a) Where a public support burden has been incurred or is threatened, the Corporation Counsel, or any of his assistants, shall bring a civil action on behalf of any wife or child in the Family Division to enforce support of such wife or child, the Division having jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101.

"(b) In all cases over which the Division has jurisdiction under paragraphs (3), (4), (10) and (11) of section 11–1101, where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

"(c) Nothing in this section shall be construed to interfere with the right of an individual to file a civil action over which the Division has jurisdiction under the paragraphs of section 11–1101 referred to in subsection (b).

"§ 16–2342. Time of bringing complaint

"Proceedings over which the Division has jurisdiction under paragraphs (3) and (11) of section 11–1101 to establish paternity and provide for the support of a child born out of wedlock may be instituted after four months of pregnancy or within two years after the birth of the child, or within one year after the putative father has ceased making contributions for the support of the child. The time during which the respondent is absent from the jurisdiction shall be excluded from the computation of the time within which a complaint may be filed.

"§ 16–2343. Blood tests

"When it is relevant to an action over which the Division has jurisdiction under section 11–1101, the court may direct that the mother, child, and the respondent submit to one or more blood tests to determine whether or not the respondent can be excluded as being the father of the child, but the results of the test may be admitted as evidence only in cases where the respondent does not object to its admissibility. Where the parties cannot afford the cost of a blood test, the court may direct the Department of Public Health to perform such tests without fee.

"§ 16–2344. Exclusion of public

"Upon trial or proceedings over which the Division has jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101, the court may exclude the general public and, at the request of either party, shall exclude the general public.

"§ 16–2345. New birth record upon marriage of natural parents

"When a certified copy of a marriage certificate is submitted to the Director of Public Health, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the paternity of the child has been judicially determined or acknowledged by the husband before the Commissioner of the District of Columbia or his designated agent, or has been acknowledged in an affidavit sworn to by the husband before a judge or the clerk of a court of record, or before an officer of the armed forces of the United States authorized to administer oaths, and the affidavit is delivered to the Commissioner or his designated agent, a new certificate of birth bearing the original date of birth and the names of both parents

shall be issued and substituted for the certificate of birth then on file. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

"§ 16–2346. Reports to Director of Public Health

"(a) Upon entry of a final judgment determining the paternity of a child born out of wedlock, the clerk of the court shall forward a certificate to the Director of Public Health of the District of Columbia, or his authorized representative in the jurisdiction in which the child was born, giving the name of the person adjudged to be the father of the child.

"(b) Upon receipt of the certificate provided for by subsection (a) of this section, the Director of Public Health or his authorized representative shall file it with the original birth record, and thereafter may issue a certificate of birth registration including thereon the name of the person adjudged to be the father of the child.

"§ 16–2347. Death of respondent; liability of estate

"If the respondent dies after paternity has been established and prior to the time the child reaches the age of 18 years, any sums due and unpaid under an order of the court at the time of his death shall contitute a valid claim against his estate.

"§ 16–2348. Paternity records; confidentiality; inspection and disclosure

"(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11–1101 (11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, or authorized professional staff of the Superior Court. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the mother, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the Corporation Counsel for use as evidence in nonsupport proceedings and to the Director of Public Health as provided by section 16–2346(a).

"(b) No person shall disclose, receive, or use records in violation of this section. Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia."

(b) The item relating to chapter 23 in the analysis of title 16 of the District of Columbia Code is amended by striking out "Juvenile Court" and inserting in lieu thereof "Family Division".

PART C—INTRAFAMILY OFFENSES; JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA; COMPETENCY OF WITNESSES

INTRAFAMILY OFFENSES

SEC. 131. (a) Title 16 of the District of Columbia Code is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10.—PROCEEDINGS REGARDING INTRAFAMILY OFFENSES

"Sec.
"16–1001. Intrafamily offense.
"16–1002. Complaint of criminal conduct; referrals to Family Division.
"16–1003. Petition for civil protection.
"16–1004. Petition; notice; temporary order.
"16–1005. Hearing; evidence; protection order.
"16–1006. Dismissal of petition; notice.

"§ 16–1001. Intrafamily offense

"(a) An intrafamily offense is an act, punishable as a criminal offense, committed—

"(1) by one spouse against the other;

"(2) by a parent, guardian, or other legal custodian against a child; or

"(3) by one person against another person with whom he shares a mutual residence and is in a close relationship rendering the application of this chapter appropriate.

"(b) For purposes of this chapter the terms 'complainant' or 'family member' include any individual in the relationship described in subsection (a).

"§ 16–1002. Complaint of criminal conduct; referrals to Family Division

"(a) If, upon the complaint of any person of criminal conduct by another or the arrest of a person charged with criminal conduct, it appears to the United States Attorney for the District of Columbia (hereafter in this chapter referred to as the 'United States attorney') that the conduct involves an intrafamily offense, he shall notify the Director of Social Services. The Director of Social Services may investigate the matter and make such recommendations to the United States attorney as the Director deems appropriate.

"(b) The United States attorney may also (1) file a criminal charge based upon the conduct and may consult with the Director of Social Services concerning appropriate recommendations for conditions of release taking into account the intrafamily nature of the offense; or (2) refer the matter to the Corporation Counsel for the filing of a petition for civil protection in the Family Division of the Superior Court (hereafter in this chapter referred to as the 'Family Division'). Prior to any such referral, the United States attorney shall consult with the Director of Social Services concerning the appropriateness of the referral. A referral to the Corporation Counsel by the United States attorney shall not preclude the United States attorney from subsequently filing a criminal charge based upon the conduct, if he deems it appropriate, but no criminal charge may be filed after the Family Division begins receiving evidence pursuant to section 16–1005.

"§ 16–1003. Petition for civil protection

"(a) Upon referral by the United States attorney, or upon application of any person or agency for a civil protection order with respect to an intrafamily offense committed or threatened, the Corporation Counsel may file a petition for civil protection in the Family Division.

"(b) In any matter referred to the Corporation Counsel by the United States attorney in which the Corporation Counsel does not file a petition, he shall so notify the United States attorney.

"§ 16–1004. Petition; notice; temporary order

"(a) Upon a filing of a petition for civil protection by the Corporation Counsel, the Family Division shall set the matter for hearing, consolidating it, where appropriate, with other matters before the Family Division involving members of the same family.

"(b) The Family Division shall cause notice of the hearing to be served on the respondent, the complainant and, if appropriate, the family member endangered (or, if a child, the person then having physical custody of the child), the Director of Social Services, and the Corporation Counsel. The respondent shall be served with a copy of the petition together with the notice and shall be directed to appear at the hearing. The Family Division may also cause notice to be served on other members of the family whose presence at the hearing is necessary to the proper disposition of the matter.

"(c) If, upon the filing of the petition, the Division finds that the safety or welfare of a family member is immediately endangered by the respondent, it may, ex parte, issue a temporary protection order of not more than ten days duration and direct that the order be served along with the notice required by this section.

"§ 16–1005. Hearing; evidence; protection order

"(a) Members of the family receiving notice shall appear at the hearing. In addition to the parties, the Corporation Counsel and the Director of Social Services may present evidence at the hearing.

"(b) Notwithstanding section 14–306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

"(c) If, after hearing, the Family Division finds that there is good cause to believe the respondent has committed or is threatening an intrafamily offense, it may issue a protection order—

"(1) directing the respondent to refrain from the conduct committed or threatened and to keep the peace toward the family member;

"(2) requiring the respondent, alone or in conjunction with any other member of the family before the court, to participate in psychiatric or medical treatment or appropriate counseling programs;

"(3) directing, where appropriate, that the respondent avoid the presence of the family member endangered;

"(4) directing the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

"(5) combining two or more of the directions or requirements prescribed by the preceding paragraphs.

"(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the Family Division may specify, but the Family Division may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

"(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

"(f) Violation of any temporary or permanent order issued under this chapter and failure to appear as provided in subsection (a) shall be punishable as contempt.

"§ 16–1006. Dismissal of petition; notice

"(a) The Family Division may dismiss a petition if the matter is not appropriate for disposition in the Family Division.

"(b) If a petition dismissed under subsection (a) was originated by referral from the United States attorney, and the dismissal was prior to the receipt of evidence pursuant to section 16–1005, the Family Division shall notify the United States attorney of the dismissal."

(b) The analysis of title 16 is amended by adding after the item relating to chapter 9 the following:

"10. Proceedings Regarding Intrafamily Offenses ---------- 10–1001".

JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA

SEC. 132. (a) Title 13 of the District of Columbia Code is amended by inserting after chapter 3 the following new chapter:

"Chapter 4.—CIVIL JUDISDICTION AND SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"SUBCHAPTER I.—GENERAL PROVISIONS

"Sec.
"13–401. Relation to other provisions of law.
"13–402. Uniformity of interpretation.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"Sec.
"13–421. Definition of person.
"13–422. Personal jurisdiction based upon enduring relationship.
"13–423. Personal jurisdiction based upon conduct.
"13–424. Service outside the District of Columbia.
"13–425. Inconvenient forum.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"Sec.
"13–431. Manner and proof of service.
"13–432. Individuals eligible to make service.
"13–433. Individuals to be served; special cases.
"13–434. Assistance to tribunals and litigants outside the District of Columbia.

"SUBCHAPTER I.—GENERAL PROVISIONS

"§ 13–401. Relation to other provisions of law

"Except in cases of irreconcilable conflict, this chapter shall be construed to augment, and not to repeal, any other law of the District of Columbia authorizing another basis of jurisdiction or permitting another procedure for service in civil proceedings in the District of Columbia courts.

"§ 13–402. Uniformity of interpretation

"When the statutory language so permits, this chapter shall be so interpreted and construed as to make uniform the laws of those jurisdictions which enact in comparable form the first two articles of the Uniform Interstate and International Procedure Act.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–421. Definition of person

"As used in this subchapter, the term 'person' includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, whether or not a citizen or domiciliary of the District of Columbia and whether or not organized under the laws of the District of Columbia.

"§ 13–422. Personal jurisdiction based upon enduring relationship

"A District of Columbia court may exercise personal jurisdiction over a person domiciled in, organized under the laws of, or maintaining his or its principal place of business in, the District of Columbia as to any claim for relief.

"§ 13–423. Personal jurisdiction based upon conduct

"(a) A District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person's—

"(1) transacting any business in the District of Columbia;

"(2) contracting to supply services in the District of Columbia;

"(3) causing tortious injury in the District of Columbia by an act or omission in the District of Columbia;

"(4) causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia if he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from services used or consumed, or services rendered, in the District of Columbia;

"(5) having an interest in, using, or possessing real property in the District of Columbia; or

"(6) contracting to insure or act as surety for or on any person, property, or risk, contract, obligation, or agreement located, executed, or to be performed within the District of Columbia at the time of contracting, unless the parties otherwise provide in writing.

"(b) When jurisdiction over a person is based solely upon this section, only a claim for relief arising from acts enumerated in this section may be asserted against him.

"§ 13–424. Service outside the District of Columbia

"When the exercise of personal jurisdiction is authorized by this subchapter, service may be made outside the District of Columbia.

"§ 13–425. Inconvenient forum

"When any District of Columbia court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss such civil action in whole or in part on any conditions that may be just.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–431. Manner and proof of service

"(a) When the law of the District of Columbia authorizes service outside the District of Columbia, the service, when reasonably calculated to give actual notice, may be made—

"(1) by personal delivery in the manner prescribed for service within the District of Columbia;

"(2) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;

"(3) by any form of mail addressed to the person to be served and requiring a signed receipt; or

"(4) as directed by the foreign authority in response to a letter rogatory.

"(b) Proof of service outside the District of Columbia may be made by affidavit of the individual who made the service or in the manner prescribed by the law of the District of Columbia, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is mdae by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the court.

"§ 13–432. Individuals eligible to make service

"Service outside the District of Columbia may be made by an individual who is permitted to make service of process under the law of the District of Columbia or under the law of the place in which the service is made or who is designated by a District of Columbia court.

"§ 13–433. Individuals to be served: special cases

"When the law of the District of Columbia requires that in order to effect service one or more designated individuals be served, service outside the District of Columbia under this article must be made upon such designated individual or individuals.

"§ 13–434. Assistance to tribunals and litigants outside the District of Columbia

"(a) A District of Columbia court may order service upon any person who is domiciled or can be found within the District of Columbia of any document issued in connection with a proceeding in a tribunal outside the District of Columbia. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside the District of Columbia and shall direct the manner of service.

"(b) Service in connection with a proceeding in a tribunal outside the District of Columbia may be made within the District of Columbia without an order of court.

"(c) Service under this section does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the District of Columbia."

(b) The analysis of title 13 is amended by inserting after the item relating to chapter 3 the following new item:

"4. Civil Jurisdiction and Service Outside the District of Columbia ---------- 13–401".

COMPETENCY OF WITNESSES

SEC. 133. (a) Section 14–305 of the District of Columbia Code is amended to read as follows:

"§ 14–305. Competency of witnesses: impeachment by evidence of conviction of crime

"(a) No person is incompetent to testify, in either civil or criminal proceedings, by reason of his having been convicted of a criminal offense.

"(b)(1) Except as provided in paragraph (2), for the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a criminal offense shall be admitted if offered, either upon the cross-examination of the witness or by evidence aliunde, but only if the criminal offense (A) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (B) involved dishonesty or false statement (regardless of punishment). A party establishing conviction by means of cross-examination shall not be bound by the witness' answers as to matters relating to the conviction.

"(2)(A) Evidence of a conviction of a witness is inadmissible under this section if—

"(i) the conviction has been the subject of a pardon, annulment, or other equivalent procedure granted or issued on the basis of innocence, or

"(ii) the conviction has been the subject of a certificate of rehabilitation or its equivalent and such witness has not been convicted of a subsequent criminal offense.

"(B) In addition, no evidence of any conviction of a witness is admissible under this section if a period of more than ten years has elapsed since the later of (i) the date of the release of the witness from confinement imposed for his most recent conviction of any criminal offense, or (ii) the expiration of the period of his parole, probation, or sentence granted or imposed with respect to his most recent conviction of any criminal offense.

"(c) For purpose of this section, to prove conviction of crime it is not necessary to produce the whole record of the proceedings containing the conviction, but the certificate, under seal, of the clerk of the court wherein the proceedings were had, stating the fact of the conviction and for what cause, shall be sufficient.

"(d) The pendency of an appeal from a conviction does not render evidence of that conviction inadmissible under this section. Evidence of the pendency of such a appeal is admissible."

(b) The item relating to section 14–305 in the analysis of chapter 3 is amended to read as follows:

"14–305. Competency of witnesses; impeachment by evidence of conviction crime."

PART D—CONFORMING AMENDMENTS

Subpart 1—Amendments to District of Columbia Code

AMENDMENTS TO TITLE 12

SEC. 141. Title 12 of the District of Columbia Code is amended as follows:

(1) Section 12–102 is amended to read as follows:

"§ 12–102. Substitution of parties

"The substitution of parties in civil actions in the United States District Court for the District of Columbia and the Superior Court of the District of Columbia is governed by the Federal Rules of Civil Procedure."

(2) Section 12–309 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

AMENDMENTS TO TITLE 13

SEC. 142. Title 13 of the District of Columbia Code is amended as follows:

(1) (A) Chapter 1 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 1.

(2) Section 13–301 is amended to read as follows:

"§ 13–301. Courts to which applicable

"Except as otherwise specifically provided by law or rules of court, this chapter applies to the District of Columbia courts."

(3) Section 13–302 is amended by striking out ", and the District of Columbia Court of General Sessions, including the Domestic Relations Branch thereof" and inserting in lieu there "and the Superior Court of the District of Columbia";

(4) Section 13–331(1) is amended by inserting "chapter 4 of this title or," after "including".

(5) (A) Chapter 7 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 7.

AMENDMENTS TO TITLE 14

SEC. 143. Title 14 of the District of Columbia Code is amended as follows:

(1) Section 14–103 is amended by striking out the period at the end thereof and inserting in lieu thereof ", or by leave of a judge of the Superior Court of the District of Columbia in the manner prescribed by the rules of that court."

(2) (A) Section 14–104 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court";

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(iii) by striking out all after the first sentence and inserting in lieu thereof "The testimony shall be taken as provided in the rules of the Superior Court."

(B) The item relating to section 14–104 in the analysis of chapter 1 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3) Section 14–307 is amended—

(A) by striking out "courts of the District of Columbia" in subsection (a) and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts";

(B) by striking out "where the accused raises a defense of insanity" in subsection (b) (2); and

(C) by striking out "or" at the end of paragraph (1) of subsection (b), by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; or", and by adding after paragraph (2) the following new paragraph:

"(3) evidence relating to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court."

(4) Section 14–309 is amended by striking out "courts of the District of Columbia" and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts".

(5) Section 14–503 is amended by striking out "the United States District Court for the District of Columbia, or by the former orphans' court of the District" and inserting in lieu thereof "a court in the District of Columbia".

(6) Section 14–505 is amended by striking out "by the secretary or an assistant secretary of the Board of Comissioners" and substituting in lieu thereof "as provided by the Commissioner".

AMENDMENTS TO TITLE 15

SEC. 144. Title 15 of the District of Columbia Code is amended as follows:

(1) Paragraph (2) of section 15–101(a) is amended to read as follows:

"(2) Superior Court of the District of Columbia,".

(2) Section 15–102 is amended by striking out "District of Columbia Court of General Sessions" wherever it appears and inserting in lieu thereof "Superior Court of the District of Columbia".

(3) Sections 15–108 and 15–111 are each amended by inserting "or the Superior Court of the District of Columbia" after "District of Columbia".

(4) (A) Subchapter II of chapter 1 is repealed.

(B) Chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY".

(C) The analysis of chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY" and by striking out the matter relating to subchapter II.

(5) Section 15–307 is amended by inserting "or the Superior Court of the District of Columbia" after "United States District Court for the District of Columbia".

(6) (A) Section 15–310 is repealed.

(B) Section 15–301 is amended by striking out "15–310,".

(C) The analysis for chapter 3 is amended by striking out the item relating to section 15–310.

(7) Sections 15–311, 15–318, and 15–320 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(8) (A) Subchapter II of chapter 5 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in sections 15–521 and 15–522 and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(ii) by striking out in the subchapter heading "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(B) The analysis of chapter 5 is amended by striking out in the heading relating to subchapter II "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(9) Section 15–706(a) is amended—

(A) by striking out paragraph (14),

(B) by inserting "and" at the end of paragraph (13), and

(C) by redesignating paragraph (15) as paragraph (14).

(10) (A) Section 15–707 is amended to read as follows:

"§ 15–707. Probate fees

"(a) Except as provided in subsection (b), the Register of Wills may demand and receive in advance for services performed by him such fees as shall be set by the Superior Court.

"(b) Where the estate does not exceed two hundred dollars in value the Register of Wills shall receive no fees, and where the estate does not exceed five hundred dollars in value the fees may not exceed ten dollars."

(B) The item relating to section 15–707 in the analysis of chapter 7 is amended by striking out "Court".

(11) (A) Section 15–708 is amended by striking out " the probate court" in the first sentence and inserting in lieu thereof "probate", and by striking out "court" in the section heading.

(B) The item relating to section 15–708 in the analysis of chapter 7 is amended by striking out "court".

(12) (A) Section 15–709 is amended—

(i) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia",

(ii) by striking out "the Court of General Sessions" and inserting in lieu thereof "the Superior Court",

(iii) by amending subsection (b) to read as follows:

"(b) Fees for services by the United States marshals for processes issued by the Superior Court shall be prescribed by rules of that court."; and

(iv) by amending the section heading to read as follows:

"§ 15–709. Fees and costs in Superior Court."

(B) The item relating to section 15–709 in chapter 7 is amended to read as follows:

"§ 15–709. Fees and costs in Superior Court."

(12) Section 15–710 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(13) (A) Sections 15–711, 15–712, and 15–713 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(B) The section heading for each of those sections and the items relating to those sections in the analysis of chapter 7 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(13) (A) Section 15–714 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in subsections (a) and (b) and inserting in lieu thereof "Superior Court of the District of Columbia";

(ii) by adding after subsection (b) the following new subsection:

"(c) No travel allowance shall be paid to any witness residing within the District of Columbia."; and

(iii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The item relating to section 15–714 in the analysis of chapter 7 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(14) Section 15–716 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(15) Section 15–717 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

AMENDMENTS TO TITLE 16

SEC. 145. (a) Chapter 3 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–301 is amended—

(A) by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(B) by striking out "Commissioners" in subsection (b)(3) and inserting in lieu thereof "Commissioner".

(2) Sections 16–304, 16–305, 16–307, and 16–314 are each amended by striking out "Board of Commissioners" and "Board" each place they appear and inserting in lieu thereof "Commissioner".

(b) Chapter 5 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16–501 and 16–502 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Sections 16–516 and 16–549 are each amended by striking out "Probate Court" and inserting in lieu thereof "Superior Court".

(3)(A) Sections 16–533 and 16–577 are each amended (i) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and (ii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The items relating to such sections in the analysis of chapter 5 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(4) Section 16–578 is amended (A) by striking out "docketed in the United States District Court for the District of Columbia" and inserting in lieu thereof "filed and recorded", (B) by striking out "six years" and inserting in lieu thereof "twelve years", and (C) by striking out "section 15–132(a)" and inserting in lieu thereof "section 15–101".

(5) Section 16–581 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 16–601 of the District of Columbia Code is amended by—

(1) striking out ", or a judge thereof," in the first sentence and inserting in lieu therefore "or the Superior Court of the District of Columbia,", and

(2) striking out "has" in the first sentence of the second paragraph and inserting in lieu thereof the following: "(as specified in section 11–501) and the Superior Court of the District of Columbia (as specified in section 11–921) have".

(d) Chapter 7 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–701 is amended to read as follows:

"§ 16–701. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Criminal Division of the Court, consistent with statutes applicable to such business and in the manner provided in section 11–946, as it may deem necessary and proper."

(2)(A) Section 16–702 is amended to read as follows:

"§ 16–702. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court."

(B) The item relating to section 16–702 in the analysis of chapter 7 is amended to read as follows:

"16–702. Prosecution by indictment or information."

(3) Section 16–703 is amended to read as follows:

"§ 16–703. Process of criminal division; fees

"(a) The Criminal Division of the Superior Court may issue process for the arrest of a person against whom an indictment is returned, an information is filed, or a complaint under oath is made.

"(b) Process shall—

"(1) be under the seal of the court;

"(2) bear teste in the name of a judge of the court; and

"(3) be signed by a clerk or employee of the court authorized to administer oaths.

"(c) In cases arising out of violations of any of the ordinances of the District of Columbia, process shall be directed to the Chief of Police, who shall execute the process and make return thereof in like manner as in other cases.

"(d) In all other criminal cases, the process issued by the Superior Court may be directed to the United States marshal or to the Chief of Police.

"(e) For services pursuant to subsection (d) of this section the marshal shall receive the fees prescribed by section 15–709(b)(2)."

(4) Section 16–705 is amended to read as follows:

"§ 16–705. Jury trial, trial by court

"(a) In a criminal case tried in the Superior Court in which, according to the Constitution of the United States, the defendant is entitled to a jury trial, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

"(b) In any case where the defendant is not under the Constitution of the United States entitled to a trial by jury, the trial shall be by a single judge without a jury, except that if—

"(1) the case involves an offense which is punishable by a fine or penalty of more than $300 or by imprisonment for more than ninety days (or for more than six months in the case of the offense of contempt of court), and

"(2) the defendant demands a trial by jury and does not subsequently waive a trial by jury in accordance with subsection (a), the trial shall be by jury.

"(c) The jury shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve."

(5) Section 16–706 is amended to read as follows:

"§ 16–706. Enforcement of judgments; commitment upon non-payment of fine

"The Superior court may enforce any of its judgments rendered in criminal cases by fine or imprisonment, or both. Except as otherwise provided by law, and subject to the relief provided in section 3569 of title 18, United States Code, in any case where the court imposes a fine, the court may, in the event of default in the payment of the fine imposed, commit the defendant for a term not to exceed one year."

(6) Sections 16–704, 16–707, 16–709, and 16–710 are each amended by striking out "Court of General Sessions" and "District of Columbia Court of General Sessions" wherever they appear and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) The heading of chapter 7 is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(e) Chapter 9 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–901 is amended by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2)(A) Section 16–916 is amended—

(i) by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) Whenever any father or mother shall fail to maintain his or her minor child or children, the court may decree that he or she shall pay reasonable sums periodically for the support and maintenance of his or her child or children, and the court may decree that the father or mother pay court costs, including counsel fees, to enable plaintiff to conduct the cases.", and

(ii) by amending the section heading to read as follows:

"§ 16–916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement".

(B) The item relating to section 16–916 in the analysis of chapter 9 is amended to read as follows:

"16–916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement."

(3)(A) Section 16–918 is amended to read as follows:

"§ 16–918. Appointment of counsel; compensation

"(a) In all uncontested divorce cases, and in any other divorce or annulment case where the court deems it necessary or proper, a disinterested attorney shall be appointed by the court to enter his appearance for the defendant and actively defend the cause.

"(b) In any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests.

"(c) An attorney appointed under this section may receive such compensation for his services as the court determines to be proper, which shall be paid by the parties as the court directs."

(B) The item relating to section 16–918 in the analysis of chapter 9 is amended to read as follows:

"16–918. Appointment of counsel; compensation."

(f) Chapter 13 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–1301 is amended to read as follows:

"§ 16–1301. Jurisdiction of District Court

"The United States District Court for the District of Columbia has exclusive jurisdiction of all proceedings for the condemnation of real property authorized by subchapters IV and V of this chapter, with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(2) Subchapter I is amended by adding at the end thereof the following new section:

"§ 16–1303. Jurisdiction of Superior Court

"The Superior Court of the District of Columbia has jurisdiction of all proceedings for the condemnation of real property authorized by subchapters II and III of this chapter with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(3) Section 16–1311 is amended—

(A) by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner",

(B) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court",

(C) by striking out "name of the Board" and inserting in lieu thereof "name of the District of Columbia", and

(D) by striking out "Board of Commissioners" in the heading and inserting in lieu thereof "District of Columbia".

(4) Section 16–1312 is amended to read as follows:

"§ 16–1312. Juries for condemnation proceedings.

"For purposes of this subchapter, a special jury list shall be prepared of not less than

one hundred persons who are qualified jurors in the District of Columbia. When a jury is required for a condemnation proceeding under this subchapter, the names of such number of persons as may be necessary shall be selected from this list by lot and furnished to the Superior Court."

(5) Section 16–1314(a) is amended by striking out "members of the Board of Commissioners" in the first sentence and inserting in lieu thereof "Commissioner", and by striking out "Commissioners" in paragraph (5) of the second sentence and inserting in lieu thereof "Commissioner".

(6) The third sentence of section 16–1318 is amended to read as follows: "If the appraisement is vacated and set aside, the court shall order the necessary number of new persons selected from the special jury list and, from among the persons so selected, shall appoint a new jury of five capable and disinterested persons who shall proceed as in the case of the first jury."

(7) Sections 16–1319, 16–1321, and 16–1336 are each amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(8) Section 16–1331 is amended by striking out "Board of Commissioners of the District of Columbia, and agencies of the United States authorized by law to acquire real property," and inserting in lieu thereof "Commissioner of the District of Columbia".

(9) Section 16–1332 is amended by striking "Board of Commissioners of the District of Columbia and agencies of the United States authorized by law to acquire real property" in subsection (a) and inserting in lieu thereof "Commissioner of the District of Columbia", and by striking out ", and where the property sold was acquired under an appropriation authorized for the use of the District of Columbia, moneys received from the sale shall be deposited in the Treasury" in subsection (c).

(10) Section 16–1334 is amended by striking out "or the United States" wherever it appears.

(11) Section 16–1337 is repealed and section 16–1338 is redesignated as 16–1337.

(12) The first sentence of section 16–1357 is amended to read as follows: "When the date for trial has been set, provided by section 16–1356, the court shall order the names of a number of persons, not less than twenty, selected from the special jury list provided by section 16–1312, and the names of the persons selected shall be certified to the clerk of the United States District Court for the District of Columbia as a panel of prospective jurors."

(13) Chapter 13 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V.—EXCESS PROPERTY FOR THE UNITED STATES

"§ 16–1381. Acquisition of property in excess of needs

"In order to promote the orderly and proper development of the seat of government of the United States, agencies of the United States authorized by law to acquire real property, may acquire, in the public interest, by gift, dedication, exchange, purchase or condemnation, fee simple title to land, or rights in or on land or easements or restrictions therein, within the District of Columbia for public uses, works and improvements authorized by Congress, in excess of that actually needed for and essential to their usefulness, in order to preserve the view, appearance, light and air and to enhance their usefulness to prevent the use of private property adjacent to them in such a manner as to impair the public benefit derived from the construction thereof, or to prevent inequities or hardships to the owners of adjacent private property by depriving them of the beneficial use of their property.

"§ 16–1382. Retention, for public use, of excess property

"When the authorities of the United States having jurisdiction of real property, rights or easements acquired pursuant to this subchapter, elect to retain any of them for the use of the United States, they may use the property, rights of easements for park, playground, highway, or alley purposes, or for any other lawful purposes that they deem advantageous or in the public interest.

"§ 16–1383. Availability of appropriations for purchases of excess property

"When real property is purchased pursuant to this subchapter in excess of that needed for a particular project or improvement, appropriations available for the payment of the purchase price, costs, and expenses incident to the project or improvement may be used in the payment of the purchase price, costs, and expenses of excess real property purchased in connection with the project or improvement, as provided by this subchapter.

"§ 16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs

"(a) When excess real property is condemned by agencies of the United States as provided by this subchapter, the condemnation proceedings for the acquisition of the property shall be in accordance with subchapter IV of this chapter, or any laws in effect at the time of the commencement of condemnation proceedings for the acquisition of real property in the District of Columbia for the use of the United States.

"(b) Appropriations available for the condemnation of property pursuant to subchapter IV of this chapter may be used in the payment of awards, damages, and costs in condemnation proceedings pursuant to that subchapter for the acquisition of excess real property as provided in this subchapter.

"§ 16–1385. Construction of subchapter

"This subchapter does not repeal any provisions of existing law pertaining to the condemnation or acquisition of streets, alleys, or land, or the laws relating to the subdividing of lands in the District of Columbia."

(16) The analysis of chapter 13 is amended by—

(A) by adding after the item relating to section 16–1302 the following:

"16–1303. Jurisdiction of Superior Court.";

(B) by amending the item relating to section 16–1311 to read as follows:

"16–1311. Condemnation proceedings by District of Columbia.";

(C) by amending the item relating to section 16–1312 to read as follows:

"16–1312. Juries for condemnation proceedings.";

(D) by striking out the item relating to section 16–1337 and by striking out "16–1338" and inserting in lieu thereof "16–1337"; and

(E) by adding at the end thereof:

"SUBCHAPTER V—EXCESS PROPERTY FOR THE UNITED STATES

"16–1381. Acquisition of property in excess of needs.

"16–1382. Retention, for public use, of excess property.

"16–1383. Availability of appropriations for purchases of excess property.

"16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs.

"16–1385. Construction of subchapter."

(g) Chapter 15 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16–1501 and 16–1505 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–1504 and the item relating to that section in the analysis of chapter 15 are repealed.

(h) (1) Section 16–1901 of title 16, District of Columbia Code, is amended—

(A) by striking out "the United States District Court for the District of Columbia" in the first sentence and inserting in lieu thereof "the appropriate court";

(B) by inserting "(a)" immediately before "A person" and by adding after the last sentence the following:

"(b) Petitions for writs directed to Federal officers and employees shall be filed in the United States District Court for the District of Columbia.

"(c) Petitions for writs directed to any other person shall be filed in the Superior Court of the District of Columbia."; and

(C) by striking out "to District Court" in the section heading.

(2) The item relating to section 16–1901 in the analysis of chapter 19 of title 16 is amended by striking out "to District Court".

(i) Section 16–2501 of title 16, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court".

(j) The second paragraph of section 16–2701 of title 16, District of Columbia Code, is amended by striking out "United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "appellate court".

(k) Chapter 29 of title 16 of the District of Columbia Code is amended as follows:

(1) Sections 16–2901 and 16–2921 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–2901(d) is amended by striking out "section 21–213" and inserting in lieu thereof "sections 21–146 and 21–704".

(3) Sections 16–2923, 16–2924, and 16–2925 are each amended by striking out "District Court" and inserting in lieu thereof "court".

(l) Chapter 31 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–3101 is amended to read as follows:

"§ 16–3101. Definition

"As used in this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(2) Sections 16–3103, 16–3105, and 16–3106 are each amended by striking out "powers of enforcement and punishment as provided by section 401 of title 18, United States Code" and inserting in lieu thereof "contempt power".

(3) Section 16–3104(b) is amended by striking out "to the United States".

(m) Section 16–3301 of title 16 of the District of Columbia Code is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(n) Chapter 35 of title 16, District of Columbia Code, is amended to read as follows:

"CHAPTER 35.—QUO WARRANTO

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"Sec.

"16–3501. Persons against whom issued, civil action.

"16–3502. Parties who may institute; ex rel. proceedings.

"16–3503. Refusal of Attorney General or United States attorney to act; procedure.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"16–3521. Persons against whom issued, civil action.

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"§ 16–3501. Persons against whom issued; civil action

"A quo warranto may be issued from the United States District Court for the District of Columbia in the name of the United States against a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises a franchise conferred by the United States or a public office of the United States, civil or military. The proceedings shall be deemed a civil action.

"§ 16–3502. Parties who may institute; ex rel. proceedings

"The Attorney General of the United States or the United States attorney may institute a proceeding pursuant to this subchapter on his own motion or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3503. Refusal of Attorney General or United States attorney to act; procedure

"If the Attorney General or United States attorney refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of the interested person on his compliance with the condition prescribed by section 16–3502 as to security for costs.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"§ 16–3521. Persons against whom issued; civil action

"A quo warranto may be issued from the Superior Court of the District of Columbia in the name of the District of Columbia against—

"(1) a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises, a franchise conferred by the District of Columbia, a public office of the District of Columbia, civil or military, or an office in a domestic corporation; or

"(2) one or more persons who act as a corporation within the District of Columbia without being duly authorized, or exercise within the District of Columbia corporate rights, privileges, or franchises not granted them by law in force in the District of Columbia.

The proceedings shall be deemed a civil action.

"§ 16–3522. Parties who may institute; ex rel. proceedings

"The United States attorney or the Corporation Counsel may institute a proceeding pursuant to this subchapter on his own motion, or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified, setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3523. Refusal of United States attorney or Corporation Counsel to act; procedures

"If the United States attorney or Corporation Counsel refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the District of Columbia, on the relation of the interested person, on his compliance with the conditions prescribed by section 16–3522 as to security for costs.

"SUBCHAPTER III.—PROCEDURES AND JUDGMENTS

"§ 16–3541. Allegations in petition of relator claiming office

"When a quo warranto proceeding is against a person for usurping an office, on the relation of a person claiming the same office, the relator shall set forth in his petition the facts upon which he claims to be entitled to the office.

"§ 16–3542. Notice to defendant

"On the issuing of a writ of quo warranto the court may fix a time within which the defendant may appear and answer the writ When the defendant cannot be found in the District of Columbia, the court may direct notice to be given to him by publication as in other cases of proceedings against nonresident defendants, and upon proof of publication, if the defendant does not appear, judgment may be rendered as if he had been personally served.

"§ 16–3543. Proceedings on default

"If the defendant does not appear as required by a writ of quo warranto, after being served, the court may proceed to hear proof in support of the writ and render judgment accordingly.

"§ 16–3544. Pleading; jury trial

"In a quo warranto proceeding, the defendant may demur, plead specially, or plead "not guilty" as the general issue, and the United States or the District of Columbia, as the case may be, may reply as in other actions of a civil character. Issues of fact shall be tried by a jury if either party requests it. Otherwise they shall be determined by the court.

"§ 16–3545. Verdict and judgment

"Where a defendant in a quo warranto proceeding is found by the jury to have usurped, intruded into, or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.

"§ 16–3546. Usurping corporate franchise; judgment

"Where a quo warranto proceeding is against persons acting as a corporation without being legally incorporated, the judgment against the defendants shall be that they be perpetually restrained and enjoined from the commission or continuance of the acts complained of.

"§ 16–3547. Proceedings against corporate directors and trustees; judgment and order; enforcement

"Where a quo warranto proceeding is against a director or trustee of a corporation and the court finds that at his election either illegal votes were received or legal votes rejected, or both, sufficient to change the result if the error is corrected, the court may render judgment that the defendant be ousted, and that the relator, if entitled to be declared elected, be admitted to the office, and the court may issue an order to the proper parties, being officers or members of the corporation, to admit him to the office. The judgment may require the defendant to deliver to the relator all books, papers, and other things in his custody or control pertaining to the office, and obedience to judgment may be enforced by attachment.

"§ 16–3548. Recovery of damages from usurper; limitation

"At any time within a year from a judgment in a quo warranto proceeding, the relator may bring an action against the party ousted and recover the damages sustained by the relator by reason of the ousted party's usurpation of the office to which the relator was entitled."

(o) Chapter 37 of title 16 of the District of Columbia Code is amended—

(1) by replacing subchapter II;

(2) by striking out the heading "SUBCHAPTER I.—GENERAL PROVISIONS"; and

(3) by striking out the items relating to subchapter II in the chapter analysis and by striking out "SUBCHAPTER I.—GENERAL PROVISIONS" in that analysis.

(p) Chapter 39 of title 16 of the District of Columbia Code is amended as follows:

(1) The chapter heading is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(2) Section 16–3901 is amended to read as follows:

"§ 16–3901. Practice; applicability of other laws and rules of court

"All provisions of law relating to the Superior Court of the District of Columbia and the rules of the court apply to the Small Claims and Conciliation Branch of the court as far as they may be applicable and are not in conflict with this chapter or chapter 13 of title 11. In case of conflict, this chapter and chapter 13 of title 11 control."

(3) Section 16–3902 is amended—

(A) by striking out "of the District of Columbia Court of General Sessions" in subsection (a); and

(B) by striking out "District of Columbia Court of General Sessions" and "Court of General Sessions" in the form prescribed by subsection (e) and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Sections 16–3903 and 16–3905 are each amended by striking out "of the District of Columbia Court of General Sessions".

(5) The third sentence of section 16–3904 is amended to read as follows: "When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims and Conciliation Branch, as provided by section 11–1321, but within the jurisdiction of the Superior Court, the action shall nevertheless remain in the Branch and be tried therein in its entirety."

(6) Section 16–3907 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) Section 16–3910 is amended by striking out ", or the rules prescribed pursuant to section 13–101(c)" and inserting in lieu thereof "or the rules of the court" and by striking out "of the District of Columbia Court of General Sessions".

AMENDMENTS TO TITLE 17

SEC. 146. (a) Title 17 of the District of Columbia Code is amended as follows:

(1) Chapter 1 and the item relating to such chapter in the chapter analysis are repealed.

(2) (A) Section 17–301 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court",

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(iii) by striking out "section 11–741(c)" and inserting in lieu thereof "section 11–721(c)".

(B) The item relating to section 17–301 in the analysis of chapter 3 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3) (A) Section 17–303 is amended to read as follows:

"§ 17–303. Appeals from administrative orders and decisions

"An appeal from an order or decision of an administrative agency, as provided for in section 11–722, is commenced by filing within the time prescribed pursuant to section 17–307(a), the written petition for review provided by section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510). The District of Columbia Court of Appeals may prescribe the necessary rules and procedures for review of administrative orders and decisions, consistent with section 11 of the Administrative Procedure Act."

(B) The item relating to section 17–303 in the analysis of chapter 3 is amended by striking out "; petition; records, procedure".

(4) Section 17–304 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner or Council" and by inserting after District of Columbia, the first time it appears the following: "by the independent agency,".

"§ 17–305. Scope of review

"(a) In considering an order or judgment of a lower court or any of its branches, brought before it for review, the District of Columbia Court of Appeals shall review the record on appeal. When the issues of fact were tried by jury, the court shall review the case only as to matters of law. When the case was tried without a jury, the court may review both as to the facts and the law, but the judgment may not be set aside except for errors of law unless it appears that the judgment is plainly wrong or without evidence to support it.

"(b) The provisions of section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510) shall apply with respect to review by the District of Columbia Court of Appeals of an order or decision under that Act."

(6) Section 17–306 is amended by striking out "branch" and inserting in lieu thereof "division" and by striking out "order or decision of an administration agency" and inserting in lieu thereof "administratve order or decision".

(7) Section 17–307 is amended by striking out "section 11–741 or 11–742" in subsection (a) and inserting in lieu thereof "section 11–721 or 11–722", by striking out "District of Columbia Court of General Sessions" in subsection (b) and inserting in lieu thereof "Superior Court of the District of Columbia", and by striking out "section 11–741(c)" in subsection (b) and inserting in lieu thereof "section 11–721(c)".

AMENDMENTS TO TITLE 18

SEC. 147. Title 18 of the District of Columbia Code is amended as follows:

(1) The last paragraph of section 18–101 is amended to read as follows:

"'Probate Court' and 'court', respectively, mean the Superior Court of the District of Columbia."

(2) Subsection (d) of section 18–505 is amended to read as follows:

"(d) The rules of the court with respect to the taking and use of testimony of out-of-District witnesses apply to testimony taken pursuant to this section. The original will or codicil shall be sent with the notice or order of appointment or commission or letters rogatory, and exhibited to the witnesses."

(3) (A) Section 18–513 is amended to read as follows:

"§ 18–513. Rules of procedure

"The court shall prescribe rules of procedure governing the trial of issues when a caveat is filed, including provisions for notice, appointment of guardians ad litem, trial by jury, and effect of judgments."

(B) The item relating to section 18–513 in the analysis of chapter 5 is amended to read as follows:

"18–513. Rules of procedure."

AMENDMENT TO TITLE 19

SEC. 148. Title 19 of the District of Columbia Code is amended as follows:

(1) Section 19–701 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(2) (A) The following new section is added after section 19–114:

"§ 19–115. Definition

"For purposes of this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(B) The analysis of chapter 1 is amended by adding at the end thereof the following new item:

"19–115. Definition."

AMENDMENTS TO TITLE 20

SEC. 149. Title 20 of the District of Columbia Code is amended as follows:

(1) Sections 20–302, 20–332(a)(2), 20–502(b), and 20–1107 are each amended by striking out "to the United States".

(2) Sections 20–312, 20–337, and 20–501 are each amended by striking out in the forms referred to therein "the Chief Judge of the United States District Court for the District of Columbia" and inserting in lieu thereof "the Chief Judge of the Superior Court of the District of Columbia".

(3) Section 20–351(a)(2) is amended by striking out "an insane person" and inserting in lieu thereof "a mentally-ill person".

(4) Section 20–364(a) is amended by striking out "in the name of the United States" and inserting in lieu thereof "in the name of the District of Columbia".

(5) Section 20–502 is further amended by striking out in the form referred to therein "Probate Court of the District of Columbia" and "Probate Court of the District" and inserting in lieu thereof "Probate Court".

(6) Section 20–1110 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court", and by striking out "shall be given to the United States and".

(7) Sections 20–1320 and 20–1505 are each amended by striking out "Probate Court of the District of Columbia" and inserting in lieu thereof "Probate Court".

(8) (A) Section 20–2301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court" and by striking out "United States attorney" in the section heading and inserting in lieu thereof "Corporation Counsel".

(B) The item relating to section 20–2301 in the analysis of chapter 23 is amended by striking out "United States attorney" and inserting in lieu thereof "Corporation Counsel".

AMENDMENTS TO TITLE 21

SEC. 150. (a) Chapter 1 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–112 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court".

(2) Section 21–115 is amended by striking out "to the United States".

(3) Section 21–158 is amended by striking out "in the name of the United States".

(4) Section 21–301(4) of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Chapter 5 of title 21, District of Columbia Code is amended as follows:

(1) Sections 21–501 and 21–502(a) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21–521 is amended by striking out "the family physician" and inserting in lieu thereof "a physician".

(3) Sections 21–544, 21–564(a), 21–564(b), and 21–590 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Section 21–564(a) is further amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(5) (A) Section 21–581 is amended—

(i) by striking out "Commissioners" in subsection (a) and in the section heading and inserting in lieu thereof "Commissioner", and

(ii) by striking out "(a)" and subsection (b).

(B) The item relating to section 21–581 in the analysis of chapter 5 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(6) Section 21–584 is amended by striking out "witnesses in the courts of the United States" and inserting in lieu thereof "other witnesses in the court".

(7) (A) The following new section is added after section 21–591:

"§ 21–592. Return to hospital of an escaped mentally ill person

"When a person has been ordered confined in a hospital or institution for the mentally ill pursuant to this chapter and has left such hospital or institution without authorization or has failed to return as directed, the court which ordered confinement shall, upon the request of the administrator of such hospital or institution, order the return of such person to such hospital or institution."

(B) The analysis of chapter 5 is amended by adding after the item relating to section 21–591 the following:

"21–592. Return to hospital of an escaped mentally ill person."

(c) Members of the Commission on Mental Health established under section 21–502 of title 21 of the District of Columbia Code who are in office on the effective date of this title shall continue in office as provided in subsection (b) of that section.

(d) Section 21–706(a) of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Section 21–906 of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Chapter 11 of title 21, District of Columbia Code, is amended as follows:

(1) Sections 21–1101, 21–1102, 21–1103, 21–1104, 21–1105, 21–1106, 21–1107, 21–1108, 21–1110, 21–1111, 21–1113, 21–1115, 21–1118, and 21–1123 are each amended by striking out "feeble-minded" each place it appears and inserting in lieu thereof "retarded".

(2) Sections 21–1102 and 21–1120 are each amended by striking out "Department of Public Welfare" and inserting in lieu thereof "District of Columbia Council".

(3) Sections 21–1103 is amended—

(A) by striking out "United States District Court for the District of Columbia" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia", and

(B) by striking out "of District Court as to feeble-mindedness" in the section heading and inserting in lieu thereof "mental retardation".

(4) Section 21–1104 is amended by striking out "District Court of the United States for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(5) Section 21–1109(a) is amended by striking out "running to the United States".

(6) Section 21–1111(a) is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(7) Section 21–1114 is amended—

(A) by striking out "juvenile court of the District of Columbia as a dependent or delinquent child" and inserting in lieu thereof "Family Division of the Superior Court upon allegations that he is delinquent, neglected, or in need of supervision",

(B) by striking out "feeble-minded" and inserting in lieu thereof "retarded",

(C) by inserting ", other than proceedings on a motion to transfer pursuant to section 16–2331," after "the proceedings" in the first sentence, and

(D) by striking out "brought before juvenile court appears feeble-minded" in the section heading and inserting in lieu thereof "brought before Family Division appears retarded".

(8) Sections 21–1116 and 21–1122 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(9) Section 21–1117 is amended—

(A) by striking out "feeble-mindedness" and inserting in lieu thereof "retardation", and

(B) by striking out "feeble-minded" in the section heading and inserting in lieu thereof "retardation".

(10) The analysis of chapter 11 is amended—

(A) by striking out "of District Court as to feeble-mindedness" in the item relating to section 21–1103 and inserting in lieu thereof "mental retardation", and

(B) by striking out "before juvenile court appears "feeble-minded" in the item relating to section 21–1114 and inserting in lieu thereof "before Family Division appears retarded", and

(C) by striking out "feeble-minded" in the items relating to sections 21–1117 and 21–1118 and inserting in lieu thereof "retarded".

(g) Chapter 13 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–1301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) The first sentence of section 21–1302 is amended by striking out "to the United States".

(h) Chapter 15 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21–1501 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21–1506 is amended by striking out "of the Civil Division".

AMENDMENTS TO TITLE 28

SEC. 151. (a) Sections 28–2103 and 28–2104 of title 28 of the District of Columbia Code are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) Section 28–2105 of title 28 of the District of Columbia Code is amended by striking out "District Court" and inserting in lieu thereof "court having probate jurisdiction".

SUBPART 2—AMENDMENTS TO OTHER LAWS

REDESIGNATION OF COURTS

SEC. 155. (a) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the—

(1) justice of the peace,

(2) justice of the peace court,

(3) police court of the District of Columbia,

(4) Municipal Court of the District of Columbia,

(5) Municipal Court for the District of Columbia (established by the Act of April 1, 1942 (56 Stat. 190)), and

(6) District of Columbia Court of General Sessions (established by the Act of July 8, 1963 (77 Stat. 77)), or any division or branch of that Court

are amended by substituting "Superior Court of the District of Columbia" for each such reference.

(b) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Municipal Court of Appeals for the District of Columbia (established by the Act of April 1, 1942), are amended by substituting "District of Columbia Court of Appeals" for such reference.

(c) The following laws of the United States applicable to the District of Columbia, in force on the effective date of this Act, are amended by striking out all references therein to the United States District Court for the District of Columbia and inserting in lieu thereof "Superior Court for the District of Columbia":

(1) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Section 491a of such Act (D.C. Code, sec. 7–202).

(B) Section 491n of such Act (D.C. Code, sec. 7–215).

(C) Section 1608e of such Act (D.C. Code, sec. 7–313).

(D) Section 1610 of such Act (D.C. Code, sec. 7–323).

(E) Section 869b of such Act (D.C. Code, sec. 22–1510).

(F) Section 632 of such Act (D.C. Code, sec. 29–228).

(G) Section 586 of such Act (D.C. Code, sec. 29–413).

(H) Section 586f of such Act (D.C. Code, sec. 29–419).

(I) Section 793 of such Act (D.C. Code, sec. 29–725).

(J) Section 1225 of such Act (D.C. Code, sec. 45–910).

(2) Section 12 of the Boiler Inspection Act of the District of Columbia, approved June 25, 1936 (D.C. Code, sec. 1–713).

(3) Section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1–804b).

(4) Section 41 of the Act entitled "An Act to regulate the practice of the healing art and to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2–132).

(5) Section 4 of the Act of July 2, 1940 (D.C. Code, sec. 2–304).

(6) Section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2–606).

(7) Section 3 of the Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940 (D.C. Code, sec. 2–703).

(8) Section 29 of the Act entitled "An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2–1029).

(9) The following sections of the Professional Engineers' Registration Act, approved September 19, 1950:

(A) Section 8 of such Act (D.C. Code, sec. 2–1808).

(B) Section 9(b) of such Act (D.C. Code, sec. 2–1809(b)).

(10) Section 13 of the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (D.C. Code, sec. 2–2112).

(11) The following sections of the District of Columbia Securities Act, approved August 30, 1964:

(A) Section 11 of such Act (D.C. Code, sec. 2–2410).

(B) Section 12 of such Act (D.C. Code, sec. 2–2411).

(12) Section 18 of the District of Columbia Public Assistance Act, approved October 15, 1962 (D.C. Code, sec. 3–217).

(13) Section 389 of the Revised Statutes of the United States Relating to the District of Columbia (D.C. Code, sec. 4–135).

(14) The following sections of the Act entitled "An Act to punish false swearing before the trial board of the Metropolitan police force and fire department of the District of Columbia, and for other purposes", approved May 11, 1892:

(A) Section 1 of such Act (D.C. Code, sec. 4–601).

(B) Section 3 of such Act (D.C. Code, sec. 4–603).

(15) Section 2 of the Act entitled "An Act providing for the establishment of a uniform building line on streets in the District of Columbia less than ninety feet in width", approved June 21, 1906 (D.C. Code, sec. 5–202).

(16) Section 11 of the Act entitled "An Act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes", approved March 19, 1906 (D.C. Code, sec. 5–311).

(17) Section 7 of the Act entitled "An Act to provide for means of egress for buildings in the District of Columbia, and for other purposes", approved December 24, 1942 (D.C. Code, sec. 5–323).

(18) Section 8 of the Act entitled "An Act to regulate the height of buildings in the District of Columbia", approved June 1, 1910 (D.C. Code, sec 5–408).

(19) Section 7(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (D.C. Code, sec. 5–706).

(20) The third proviso of section 11(a) of the Horizontal Property Act of the District of Columbia, approved December 21, 1963 (D.C. Code, sec. 5–911).

(21) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6–505).

(22) Section 5 of the Act of December 15, 1932 (D.C. Code, sec. 7–405).

(23) The fifth paragraph of so much of the first section of the Act of March 3, 1905, as relates to bridges (D.C. Code, sec. 7–505).

(24) The second paragraph of so much of the first section of the Act of June 29, 1932, as relates to Bridges (D.C. Code, sec. 7–514).

(25) Section 1 of the Act entitled "An Act to provide for the elimination of the Michigan Avenue grade crossing in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–520).

(26) The third paragraph of so much of the first section of the Act of July 3, 1930, as relates to Bridges (D.C. Code, sec. 7–523).

(27) Section 11 of the District of Columbia Public Utilization Act, approved October 17, 1968 (D.C. Code, sec. 7–950).

(28) Sections 1 and 2 of the Act entitled "An Act to provide for the elimination of grade crossings of steam railroads in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–1215 (a), (b)).

(29) Section 1 of the Act entitled "An Act to provide for the establishment of a municipal center in the District of Columbia", approved February 28, 1929 (D.C. Code, sec. 9–201).

(30) The Act entitled "An Act to prohibit the introduction of contraband into the District of Columbia penal institutions", approved December 15, 1941 (D.C. Code, sec. 22–2603).

(31) Section 5 of the Hospital Treatment for Drug Addicts Act for the District of Columbia, approved June 24, 1956 (D.C. Code, sec. 24–605).

(32) Section 345 of the Public Health Service Act, approved July 1, 1944 (D.C. Code, sec. 24–614).

(33) Section 26 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (D.C. Code, sec. 25–126).

(34) Section 3 of the Act entitled "An Act concerning common-trust funds and to make uniform the law with reference thereto", approved October 27, 1949 (D.C. Code, sc. 26–703).

(35) Section 5 of the Act entitled "An Act to provide for the incorporation and regulation of medical and dental colleges in the District of Columbia", approved May 4, 1896 (D.C. Code, sec. 31–904).

(36) The Act entitled "An Act to amend the Code of Law for the District of Columbia", approved April 16, 1934 (D.C. Code, sec. 35–205).

(37) The following sections of the Life Insurance Act, approved June 19, 1934:

(A) Section 13, chapter II of such Act (D.C. Code, sec. 35–412).

(B) Section 24, chapter II of such Act (D.C. Code, sec. 35–423).

(C) Section 15, chapter III of such Act (D.C. Code, sec. 35–515).

(38) Section 5, title II of the Act of September 19, 1918 (D.C. Code, sec. 36–435).

(39) The following sections of the Act of March 4, 1913:

(A) Section 8, paragraph 97(a) of such Act (D.C. Code, sec. 43–201).

(B) Section 8, paragraph 35 of such Act (D.C. Code, sec. 43–405).

(C) Section 8, paragraph 48 of such Act (D.C. Code, sec. 43–418).

(40) Section 5 of the Act entitled "An Act to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of the cars of said company", approved August 2, 1894 (D.C. Code, sec. 44–208).

(41) Section 305 of the District of Columbia Real Estate Deed Recordation Tax Act, approved March 2, 1962 (D.C. Code, sec. 45–725).

(42) The following sections of the Act of August 25, 1937:

(A) Section 9 of such Act (D.C. Code, sec. 45–1409).

(B) Section 11 of such Act (D.C. Code, sec. 45–1411).

(43) The following sections of the Act entitled "An Act to regulate rents in the District of Columbia, and for other purposes", approved December 2, 1941:

(A) Section 8 of such Act (D.C. Code, sec. 45–1607).

(B) Section 10 of such Act (D.C. Code, sec. 45–1610).

(44) The following sections of that Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935:

(A) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)).

(B) Section 4(e) of such Act (D.C. Code, sec. 46–304(e)).

(C) Section 12 of such Act (D.C. Code, sec. 46–312).

(D) Section 13(h) of such Act (D.C. Code, sec. 46–313(h)).

(45) Section 13 of the Act of August 14, 1894 (D.C. Code, sec. 47–606).

(46) The Act entitled "An Act to authorize reassessment for improvements and general taxes in the District of Columbia, and for other purposes", approved April 24, 1896 (D.C. Code, sec. 47–721).

(47) Section 1 of the Act entitled "An Act to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes", approved March 2, 1936 (D.C. Code, sec. 47–1011).

(48) Section 5 of the Act of July 3, 1926 (D.C. Code, sec. 47–1209).

(49) The following sections of the District of Columbia Revenue Act of 1937, approved August 17, 1937:

(A) Section 1, title I of such Act (D.C. Code, sec. 47–1401).

(B) Section 6, title I of such Act (D.C. Code, sec. 47–1406).

(C) Section 3, article III, title V of such Act (D.C. Code, sec. 47–1618).

(50) Section 29 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, sec. 47–1529).

(51) Section 3 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (D.C. Code, sec. 47–1586b).

(52) Section 145 of the District of Columbia Sales Tax Act, approved May 27, 1949 (D.C. Code, sec. 47–2622).

(53) Section 8 of the Act entitled "An Act to provide for the regulation of closing-out and fire sales in the District of Columbia", approved September 1, 1959 (D.C. Code, sec. 47–3008).

(54) Section 11 of the Act of July 3, 1926 (D.C. Code, sec. 48–211).

(55) Section 2 of the Act of February 18, 1932 (D.C. Code, sec. 48–402).

(d) The Act of February 26, 1907 (D.C. Code, sec. 45–707), is amended to read as follows: "That the Recorder of Deeds of the District of Columbia shall recopy such of the records in his office as may, in his judgment and that of a judge of the Superior Court of the District of Columbia appointed for that purpose, need recopying in order to preserve the originals from destruction. The expense of such recopying may not in any fiscal year exceed $1,000 and such expense shall be certified by a judge of the Superior Court appointed for that purpose and audited by the General Accounting Office."

AMENDMENTS REDESIGNATING DISTRICT OF COLUMBIA TAX COURT

SEC. 156. (a) Section 303 of the District of Columbia Revenue Act of 1949 (D.C. Code, sec. 40–603–1) is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Section 314 of the Act of March 2, 1962 (D.C. Code, sec. 45–734), is amended by striking out "District of Columbia Tax Court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia," approved December 24, 1942 (D.C. Code, sec. 47–801e), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Subsection (e) of the Act entitled "An Act to provide for the taxation of rolling stock of railroad and other companies operated in the District of Columbia, and for other purposes," approved December 15, 1945 (D.C. Code, sec. 47–1215(e)), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Sections 31 and 34 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, secs. 47–1531, 47–1534), are each amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Section 11 of title XII and section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1586j, 47–1593) are each amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(g) Sections 7 and 13 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, secs. 47–2407, 47–2412) are each amended by striking out "the Board" and inserting in lieu thereof "the Court".

(h) All other laws of the United States applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Board of Tax Appeals for the District of Columbia or to the District of Columbia Tax Court are amended by substituting "Superior Court of the District of Columbia" for such reference.

MISCELLANEOUS AMENDMENTS RELATING TO TRANSFERS OF JURISDICTION

Criminal Jurisdiction

SEC. 157. (a) Section 40 of the Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2–131), is amended by striking out "in the United States District Court for the District of Columbia" and inserting in lieu thereof "in the District of Columbia".

(b) Section 8 of the Act entitled "An Act to establish a Board of Intermediate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 22–2601), is amended by striking out "in any court of the United States".

(c) The Act entitled "An Act to provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes", approved June 9, 1948, is amended as follows:

(1) Section 201 of such Act (D.C. Code, sec. 22–3503) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'court' means a court in the District of Columbia having jurisdiction of criminal offenses or delinquent acts.", and

(B) by striking out "an offense in the juvenile court of the District of Columbia" in paragraph (4) and inserting in lieu thereof "a delinquent act".

(2) Section 202(a) of such Act (D.C. Code, sec. 22–3504) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Section 164A(f) of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–416a(f)) is amended by striking out "United States branch of the municipal court" and inserting in lieu thereof "Superior Court of the District of Columbia".

Settlement of Claims

(e) The Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia", approved February 11, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 1–902) is amended by striking out "court of the District of Columbia" and inserting in lieu thereof "courts in the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 1–903) is amended by striking out "United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia," and inserting in lieu thereof "courts in the District of Columbia".

Law Enforcement Council

(f) Section 401(b) of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 2–1901(b)), is amended by striking out paragraph (12) and by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

Real Property Actions

(g) Section 1227 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 45–912) is amended by striking out ", either in said United States District Court for the District of Columbia or before a justice of the peace".

Tort Claims

(h) Paragraph (b) of section 2 of the District of Columbia Employee Non-Liability Act (D.C. Code, sec. 1–921) is amended to read as follows:

"(b) 'Court' means the court in the District of Columbia having the necessary civil jurisdiction pursuant to section 11–501 or 11–921 of the District of Columbia Code."

Damages to National Guard Property

(i) Section 38 of the Act entitled "An Act to provide for the organization of the militia of the District of Columbia" approved March 1, 1889 (D.C. Code, sec. 39–513), is amended by striking out "any justice of the peace, with the right of appeal to the United States District Court for the District of Columbia, or before the United States District Court for the District of Columbia" and inserting in lieu thereof "the court in the District of Columbia having jurisdiction of the amount in controversy".

Unclaimed Freight

(j) Section 643 of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec. 44–102), is amended—

(1) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(2) by striking out the proviso.

AMENDMENT REFLECTING TRANSFER OF PROBATE JURISDICTION

SEC. 158. (a) The Revised Statutes of the District of Columbia are amended as follows:

(1) Section 416(b) of such Revised Statutes (D.C. Code, sec. 4–159) is amended—

(A) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "Probate Court" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 454 of such Revised Statutes (D.C. Code, sec. 29–514) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) The Act entitled "An Act regulating admissions to the Institution of the Association for Works of Mercy in certain cases, and for other purposes," approved October 12, 1888, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 32–101) is amended by striking out "the judge of the orphans' court of the District of Columbia" and inserting in lieu thereof "a judge of the court having probate jurisdiction".

(2) Section 4 of such Act (D.C. Code, sec. 32–104) is amended by striking out "orphans' court of the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(c) The Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, is amended as follows:

(1) Section 534 of such Act (D.C. Code, sec. 45–611) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 537 of such Act (D.C. Code, sec. 45–619) is amended by striking out "said United States District Court for the District of Columbia" and inserting in lieu thereof "the court having probate jurisdiction".

(3) Section 669 of such Act (D.C. Code, sec. 27–113) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(4) Section 746 of such Act (D.C. Code, sec. 26–334) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(d) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 3 of article I of title V of such Act (D.C. Code, sec. 47–1603) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 5 of article I of title V of such Act (D.C. Code, sec. 47–1605) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(3) Section 9 of article III of title V of such Act (D.C. Code, sec. 47–1624) is amended—

(A) by striking out "United States District Court for the District of Columbia" each place it occurs and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "said District Court" and inserting in lieu thereof "such court".

(e) Section 9 of the Act entitled "An Act to create a board for the condemnation of insanity buildings in the District of Columbia, and for other purposes," approved May 1, 1906 (D.C. Code, sec. 5–624), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(f) Section 5 of the Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929 (D.C. Code, sec. 1–906), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(g) Section 2 of the Act of April 5, 1939 (D.C. Code, sec 31–711), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

AMENDMENTS RELATING TO THE JURISDICTION OF THE FAMILY DIVISION

SEC. 159. (a) Section 5 of the Act entitled "An Act to provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children", approved November 6, 1966 (D.C. Code, sec. 2–165), is amended by striking out "Juvenile Court" both times it appears and inserting in lieu thereof "Family Division of the Superior Court".

(b) Section 4 of the Act entitled "An Act to provide for the care of dependent children in the District of Columbia and to create a board of children's guardians", approved July 26, 1892 (D.C. Code, sec. 3–116), is amended by striking out "police court or the criminal court of the District" and inserting in lieu thereof "Family Division of the Superior Court".

(c) The first section of the Act entitled "An Act to enlarge the powers of the courts of the District of Columbia in cases involving delinquent children, and for other purposes" approved March 3, 1901 (D.C. Code, sec. 3–120), is amended by striking out "criminal and police courts" and inserting in lieu thereof "Family Division of the Superior Court".

(d) Section 405 of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 24–106) is amended to read as follows:

"PSYCHIATRIST AND PSYCHOLOGIST

"SEC. 405. The Commissioner shall appoint a qualified psychiatrist and a qualified psychologist whose services shall be available to the following officers to assist them in carrying out their duties:

"(1) In criminal cases, the judges and probation officers of the United States District Court for the District of Columbia and the judges and Director of Social Services of the Superior Court of the District of Columbia.

"(2) The judges and such personnel assigned to the Family Division of the Superior Court as the Chief Judge may designate.

"(3) Such officers of the Department of Corrections as the Director thereof shall designate.

"(4) The Board of Parole of the District."

(e) Section 927(a) of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec. 24–301), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(f) The Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957, is amended as follows:

(1) Section 2(d) of such Act (D.C. Code, sec. 30–302(d)) is amended by striking out "Domestic Relations Branch of the Municipal Court for the District of Columbia" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 22 of such Act (D.C. Code, sec. 30–322) is amended by striking out "civil branch of the municipal court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia in civil cases".

(g) Section 3 of article III of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for

other purposes", approved February 4, 1925 (D.C. Code, sec. 31–213), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(h) Section 2 of the Act entitled "An Act for the protection of children in the District of Columbia and for other purposes", approved February 13, 1885 (D.C. Code, sec. 32–209), is amended—

(1) by striking out "police court" and inserting in lieu thereof "Family Division of the Superior Court", and

(2) by striking out the proviso at the end thereof.

(i) Section 6 of the Act entitled "An Act to regulate the placing of children in family homes, and for other purposes", approved April 22, 1944 (D.C. Code, sec. 32–786), is amended by striking out "Domestic Relations Branch of the Municipal Court" each time it appears and inserting in lieu thereof "Family Division of the Superior Court".

(j) The Act entitled "An Act to regulate the employment of minors within the District of Columbia", approved May 29, 1928, is amended as follows:

(1) The third sentence of section 22 of such Act (D.C. Code, sec. 36–222) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 26 of such Act (D.C. Code, sec. 36–228) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

AMENDMENTS RELATING TO THE CHIEF MEDICAL EXAMINER

SEC. 160. (a) The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 683 of such Act (D.C. Code, sec. 27–125) is amended—

(A) by striking out "coroner of said District" each place it appears and inserting in lieu thereof "Chief Medical Examiner", and

(B) by striking out "Coroner" each place it appears and inserting in lieu thereof "Chief Medical Examiner".

(2) Section 686 of such Act (D.C. Code, sec. 27–128) is amended to read as follows:

"SEC. 686. This subchapter shall not be construed to (1) interfere with or prevent the disinterment of any body in accordance with section 11–2311 of the District of Columbia Code, or (2) interfere with the disposal of the ashes of bodies which have been cremated."

(3) Section 802(a) of such Act (D.C. Code, sec. 40–606) is amended by striking out the second paragraph.

(b) Section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–258) is amended to read as follows:

"SEC. 9. OFFICE OF THE CHIEF MEDICAL EXAMINER.—(a) The Commissioner is authorized to appoint physicians to perform the functions of the Chief Medical Examiner, in accordance with chapter 23 of title 11 of the District of Columbia Code.

"(b) The Chief Medical Examiner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction. Such tissue removal shall not interfere with other functions of his Office. Any person who, in accordance with section 8, is entitled to the body for burial, shall first authorize the tissue removal."

AMENDMENTS RELATING TO THE REVENUE LAWS OF THE DISTRICT OF COLUMBIA

SEC. 161. (a) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 1 of title IX of such Act (D.C. Code, sec. 47–2401) is amended—

(A) by striking out "The word 'Board', means the Board of Tax Appeals for the District of Columbia created by this title.", and

(B) by striking out "The word 'court' shall mean the United States Court of Appeals for the District of Columbia." and inserting in lieu thereof "The word 'court' shall mean the Superior Court of the District of Columbia, unless the context indicates otherwise."

(2) Section 2 of title IX of such Act (D.C. Code, sec. 47–2402) is amended (A) by striking out the first four paragraphs, (B) by striking out "(a)", and (C) by striking out the paragraph designated "(b)".

(3) Section 3 of title IX of such Act (D.C. Code, sec. 47–2403) is amended to read as follows:

"SEC. 3. Any person aggrieved by any assessment by the District of any personal-property, inheritance, estate, business-privilege, gross-receipts, gross-earnings, insurance premiums, or motor-vehicle-fuel tax or taxes, or penalties thereon, may within six months after payment of the tax, together with penalties and interest assessed thereon, appeal from the assessment to the Superior Court of the District of Columbia. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The court may affirm, cancel, reduce, or increase the assessment."

(4) Section 4 of title IX of such Act (D.C. Code, sec. 47–2404) is amended to read as follows:

"SEC. 4. (a) Decisions of the Superior Court on civil tax cases are reviewable in the same manner as other decisions of the court in civil cases tried without a jury. The District of Columbia Court of Appeals has the power to affirm, modify, or reverse the decision of the Superior Court with or without remanding the case for hearing.

"(b) The decision of the Superior Court shall become final (1) upon the expiration of the time allowed for filing a petition for review, if no petition is filed within that time; (2) upon the expiration of time allowed for filing a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed, or no petition for certiorari has been filed; (3) upon denial of a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed; or (4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if that Court has affirmed the decision of the Superior Court or dismissed the petition for review.

"(c) If the Supreme Court directs that the decision of the Superior Court be modified or reversed, the decision rendered in accordance with the Supreme Court's mandate shall become final upon the expiration of thirty days from the time it was rendered unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected to accord with the mandate, in which event the decision of the Superior Court shall become final when so corrected.

"(d) If the decision of the Superior Court is modified or reversed by the Court of Appeals and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered in accordance with the mandate of the Court of Appeals shall become final upon the expiration of thirty days from the time the decision of the Superior Court was rendered, unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected so that it will accord with the mandate, in which event the decision of the Superior Court shall become final when corrected.

"(e) If the Supreme Court orders a rehearing, or if the case is remanded by the Court of Appeals for rehearing and if (1) the time allowed for filing of a petition for certiorari has expired and no petition has been filed; (2) the petition for certiorari has been denied; or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered upon such rehearing shall become final in the same manner as though no prior decision had been rendered.

"(f) As used in this section the term 'mandate', in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance, means the final mandate."

(5) Section 5 of title IX of such Act (D.C. Code, secs. 47–709, 47–710, 47–711, 47–712, 47–716 and 47–2405) is amended by striking out "ninety days" wherever it appears and inserting in lieu thereof "six months".

(6) Sections 6, 8, and 9 of title IX of such Act (D.C. Code, secs. 47–2406, 47–2408, and 47–2409) are repealed.

(7) Section 14 of title IX of such Act (D.C. Code, sec. 47–2413) is amended to read as follows:

"SEC. 14. (a) Where there has been an overpayment of any tax, the amount of the overpayment shall be refunded to the taxpayer. No refund (other than inheritance and estate taxes) shall be allowed unless the taxpayer files a claim before the expiration of that period. The amount of refund of taxes (other than inheritance and estate taxes) shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim or, if no claim is filed, then the two years immediately preceding the allowance of the refund. No refund of inheritance and estate taxes shall be allowed after three years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of inheritance and estate taxes shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim or, if no claim is filed, then during the three years immediately preceding the allowance of the refund. Every claim for refund must be in writing under oath, must state the specific grounds on which it is founded, and must be filed with the Assessor. If the Assessor disallows all or any part of the refund claim, he shall notify the taxpayer by registered or certified mail. After receiving notice of disallowance, if the claim is acted upon within six months of filing, or after the expiration of six months from the date of filing if the claim is not acted upon, the taxpayer may appeal as provided in sections 3 and 4 of this title. This subsection does not apply to real estate tax nor does it apply to taxes imposed by the District of Columbia Income Tax Act; by the District of Columbia Income and Franchise Tax Act of 1947; or by titles I and II of the District of Columbia Revenue Act of 1949, refunds of which are otherwise provided by law.

"(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

"(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Assessor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund, but with respect to that part of any overpayment which was not assessed and paid as a deficiency or as additional tax interest shall be allowed and paid only from the date of

filing a claim for refund or a petition to the Superior Court as the case may be.

"(d) For purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of the overpayment of tax."

(b) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out the last sentence.

(c) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

(d) The District of Columbia Revenue Act of 1949 is amended as follows:

(1) Section 611 of such Act (D.C. Code, sec. 47–2810) is amended by striking out ", except for such violations as are felonies, and prosecutions for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(2) Section 303 of such Act (D.C. Code, sec. 40–603–1) is amended—

(A) by striking out the second sentence thereof, and

(B) by striking out "ninety days" and inserting in lieu thereof "six months".

(3) Section 141 of such Act (D.C. Code, sec. 47–2618) is amended to read as follows—

"SEC. 141. (a) Any vendor or purchaser aggrieved by a final determination of tax or denial of an application for refund of any tax may appeal to the Superior Court in the same manner and to the same extent as set forth in sections 3, 4, 7, 10 and 11 of title IX of the District of Columbia Revenue Act of 1937.

"(b) If it is determined by the Assessor or by the Superior Court that any part of any tax which was assessed as a deficiency, and any interest thereon paid by the taxpayer, was an overpayment, interest shall be allowed and paid on the overpayment of tax at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund."

(e) The Act of March 2, 1962, is amended as follows:

(1) Section 314 of such Act (D.C. Code, sec. 45–734) is amended—

(A) by striking out subsection (b), and

(B) by striking out "(a)".

(2) Section 320 of such Act (D.C. Code, sec. 45–740) is amended by striking out ", except for such violations as are felonies, and prosecution for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(f) Section 4 of the Act entitled "An Act to designate parcels of land in the District of Columbia for purposes of assessment and taxation, and for other purposes", approved February 23, 1905 (D.C. Code, sec. 47–407), is amended by inserting after "clerk of the United States District Court for the District of Columbia," the following: "clerk of the Superior Court of the District of Columbia,".

(g) Paragraph 11 of section 6 of the Act of July 1, 1902 (D.C. Code, sec. 47–1213), is repealed.

(h) The Act entitled "An Act to amend the laws relating to assessment and collection of taxes in the District of Columbia, and for other purposes", approved February 18, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 47–1304) is amended by inserting after "shall be available also" in the second sentence thereof the following: "in the Superior Court of the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 47–1305) is amended by striking out "equity court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(i) Section 2 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593a) is repealed.

(j) Section 7 of the Act entitled "An Act to amend certain tax laws applicable to the District of Columbia", approved July 10, 1952 (D.C. Code, sec. 47–2414), is repealed.

(k) Section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

AMENDMENTS TO THE DISTRICT OF COLUMBIA ADMINISTRATIVE PROCEDURE ACT

SEC. 162. Section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510) is amended—

(1) in the first sentence, by striking out ", except" and all that follows thereafter and inserting in lieu thereof a period; and

(2) by repealing the last sentence.

ADDITIONAL AMENDMENTS RELATING TO ADMINISTRATIVE PROCEDURE

SEC. 163. (a) The second proviso of section 586d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 29–417), is amended by striking out "have the action of the said Board of Higher Education reviewed by the United States District Court for the District of Columbia at an equity term thereof" and inserting in lieu thereof "appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(b) Subsection (c) of section 137 of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–948(c)) is amended to read:

"(c) Appeals from all final orders and judgments entered by the court under this section may be taken by either party to the proceeding within sixty days after service on the party of a copy of the order or judgment of the court."

(c) The first paragraph of section 28 of the Life Insurance Act, approved June 19, 1934 (D.C. Code, sec. 35–427), is amended by striking out "from the ruling of the superintendent to the United States District Court for the District of Columbia, in equity" and all that follows and inserting in lieu thereof "as provided by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(d) Section 1210 of the District of Columbia Insurance Placement Act, approved August 1, 1968 (D.C. Code, sec. 35–1709), is amended by striking out "section 11–742 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(e) Subsection (b) of section 10 of the Act entitled "An Act to provide for voluntary apprenticeship in the District of Columbia", approved May 21, 1946 (D.C. Code, sec. 36–130(b)), is amended by striking out the fourth sentence and all that follows and inserting in lieu thereof "Any person aggrieved by the action of the Council may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(f) Subsection (a) of section 9 of the Act of September 19, 1918 (D.C. Code, sec. 36–409), is amended by striking out the second sentence and all that follows thereafter and inserting in lieu thereof "The review shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510)."

(g) The District of Columbia Traffic Act, 1925, is amended as follows:

(1) Subsection (a) of section 13 (D.C. Code, sec. 40–302(a)) is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(2) Subsection (d) of section 6 (D.C. Code, sec. 40–603(d)) is amended by striking out "and jurisdiction is hereby conferred upon the Court of Appeals of the district for this purpose".

(h) The second paragraph of section 4 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (D.C. Code, sec. 40–420), is amended by striking out the second and succeeding sentences and inserting in lieu thereof "Appeal shall be as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(j) Section 8 of the Act of March 4, 1913, is amended as follows:

(1) Paragraph 50 of such section (D.C. Code, sec. 43–420) is amended by striking out "circuit courts" and inserting in lieu thereof "the Superior Court of the District of Columbia".

(2) Paragraph 65 of such section (D.C. Code, sec. 43–705) is amended by striking out the third paragraph.

(3) Paragraph 68 of such section (D.C. Code, sec. 43–708) is repealed.

(k) The Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935, is amended as follows:

(1) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)) is amended by striking out the last sentence thereof.

(2) Section 12 of such Act (D.C. Code, sec. 46–312) is amended by striking out subsection (b).

AMENDMENTS RELATING TO REVIEW OF ADMINISTRATIVE ACTIONS REGARDING OCCUPATIONS AND PROFESSIONS

SEC. 164. (a) The Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929, is amended as follows:

(1) Section 38 of such Act (D.C. Code, sec. 2–129) is amended to read as follows:

"SEC. 38. The Commission may refuse to license or to register any person for any cause that in the judgment of the Commission would authorize suspension or revocation of a license or registration under section 27 of this Act. Before the Commission refuses to license or register any applicant for cause under this section, it shall give him an opportunity to be heard in person or by attorney and to produce witnesses in his behalf. Witnesses may be produced on behalf of the Commission and on behalf of any interested person. The attendance and testimony of witnesses may be compelled by subpena issued by the Superior Court, and that court is authorized to issue and enforce the subpenas on petition of the Commission. Any person failing or refusing, without just cause, to appear and testify in response to a subpena, or in any way obstructing the course on any hearing to which he has been subpenaed, is guilty of contempt of court and may be punished as other persons guilty of contempt of court are punished. Any member of the Commission may administer oaths at any hearing. Review of the Commission's action may be had in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(2) Section 27 of such Act (D.C. Code, sec. 2–123) is amended to read as follows—

"SEC. 27. Suspension or revocation by the Commission of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(b) The Act of July 2, 1940, is amended as follows:

(1) Section 11 of such Act (D.C. Code, sec. 2–311) is amended—

(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any dentist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) The last sentence of section 25 of such Act (D.C. Code, sec. 2–325) is amended to read as follows: "The license of a dentist who permits a dental hygienist, operating under his supervision, to perform any operation other than that permitted under this section, may be suspended or revoked, and the license of the hygienist violating this Act may also be suspended or revoked, in accordance with section 12 of this Act."

(3) Section 12 of such Act (D.C. Code, sec. 2–312) is amended to read as follows:

"SEC. 12. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(c) The Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940, is amended as follows:

(1) Section 7 of such Act (D.C. Code, sec. 2–707) is amended—

(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any podiatrist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) Section 8 of such Act (D.C. Code, sec. 2–708) is amended to read as follows:

"SEC. 8. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(d) Section 6 of the Act entitled "An Act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia" approved February 9, 1907 (D.C. Code, sec. 2–407), is amended by striking out all after the first sentence and inserting in lieu thereof "Suspension or revocation by the Nurses' Examining Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510)."

(e) Section 7 of the Act of March 2, 1929 (D.C. Code, sec. 2–406), is amended by striking out "sections 11–472, 17–303, 17–304, 17–305(b), 17–306, and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(f) Section 4(d) of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–253) is amended by striking out ", and may seek review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(g) The District of Columbia Practical Nurses' Licensing Act is amended as follows:

(1) Section 15 of such Act (D.C. Code, sec. 2–434) is amended by striking out ", and may seek a review by the United States Court of Appeals" and all that follows and inserting in lieu thereof a period.

(2) Section 8(b) of such Act (D.C. Code, sec. 2–427) is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11–756(c), D.C. Code, 1951 edition)".

(h) Section 14 of the Physical Therapists Practice Act (D.C. Code, sec. 2–463) is amended by striking out ", and may seek a review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(i) The third sentence of section 10 of the Act entitled "An Act to regulate the practice of veterinary medicine in the District of Columbia", approved February 1, 1907 (D.C. Code, sec. 2–810), is amended by striking out ", as provided by section 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(j) The second paragraph of section 10 of the Act entitled "An Act to regulate barbers in the District of Columbia, and for other purposes", approved June 7, 1938 (D.C. Code, sec. 2–1110), is amended by striking out "in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(k) The fourth paragraph of section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2–606), is amended by striking out ", in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(l) Section 28 of the Act entitled "An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2–1028), is amended by striking out ", in the manner provided by sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code".

(m) Section 7(a) of the Act entitled "An Act to regulate and license pawnbrokers in the District of Columbia" approved August 6, 1956 (D.C. Code, sec. 2–2007), is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11–756(c), D.C. Code, 1951 edition)".

(n) Section 9 of the Professional Engineers Registration Act (D.C. Code, sec. 2–1809) is amended—

(1) by amending subsection (e) to read as follows:

"(e) Any preson aggrieved by the action of the Board may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510).", and

(2) by striking out subsections (f) through (h).

(o) Section 9 of the Act of August 25, 1937 (D.C. Code, sec. 45–1409), is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(p) Paragraph 42 of section 7 of the Act of July 1, 1902 (D.C. Code, sec. 47–2101), is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

AMENDMENTS RELATING TO ENFORCEMENT OF SUPPORT

SEC. 165. (a) The Act of March 23, 1906 (D.C. Code, secs. 22–903, 22–904, 22–905), is repealed.

(b) The proviso of so much of the first section of the Act of May 18, 1910, as appears under the heading "COURTS" and the subheading "JUVENILE COURT" (D.C. Code, sec. 22–906) is repealed.

(c) Subsection (c) of section 19 of the District of Columbia Public Assistant Act of 1962 (D.C. Code, sec. 3–218), is repealed.

(d) Section 6 of the Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957 (D.C. Code, sec. 30–306), is amended to read as follows:

"SEC. 6. Proceedings to enforce duties of support initiated by the District of Columbia shall be commenced by the filing of a complaint irrespective of the relationship between the plaintiff and defendant. Jurisdiction of all proceedings under this Act is vested in the Family Division of the Superior Court which shall have all power and authority heretofore vested in the Domestic Relations Branch of the District of Columbia Court of General Sessions."

AMENDMENTS RELATING TO THE CONDEMNATION OF LAND

SEC. 166. (a) Section 2(b) of the District of Columbia Alley Dwelling Act approved June 12, 1934 (D.C. Code, sec. 5–104), is amended by striking out "the Act entitled 'An Act to provide for the acquisition of land in the District of Columbia for the use of the United States', approved March 1, 1929" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(b) Section 5 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–704) is amended by striking out "the Act entitled 'An Act to provide for the acquisition of land in the District of Columbia for the use of the United States', approved March 1, 1929 (45 Stat. 1415) or Acts which may amend or supplement said Act" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(c) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6–505), is amended by striking out "Chapter XV of the Code of Law for the District of Columbia" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(d) Section 491d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–205), is amended to read as follows:

"SEC. 491d. After the return of the marshall and filing of proof of publication of the notice provided for in section 491c, the court shall order the selection of condemnation jury as provided in section 16–1312 of the District of Columbia Code. The jury shall consist of five persons and each juror shall take an oath or affirmation that he is not interested in any manner in the land to be condemned, is not related to the parties interested therein, and will fairly and impartially ascertain the damages each owner of land to be taken may sustain by reason of the opening, extension, widening, or straightening of the street, avenue, road, or highway, and the condemnation of land needed for the purpose thereof, and to assess the benefits resulting therefrom as hereinafter provided."

(e) Section 491h of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–209), is amended by striking out "shall order the jury commission to draw from the special box the names of as many persons as the court may direct, and from among the persons so drawn the court shall thereupon appoint" and inserting in lieu thereof "shall order the selection in accordance with section 491d of".

(f) Section 491m of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7–214), is amended by striking out

"court of appeals of the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(g) Section 3(a) of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to acquire, operate, and regulate public off-street parking facilities, and for other purposes", approved February 16, 1942 (D.C. Code, sec. 40–804(a)), is amended by striking out "sections 483 to 491, inclusive, of chapter XV, as amended, of the Code of Law for the District of Columbia, approved March 3, 1901 (31 Stat. 1265–1266)" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

AMENDMENTS RELATING TO LANDLORD-TENANT ACTIONS

SEC. 167. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 1235 of such Act (D.C. Code, sec. 45–909) is amended to read as follows—

"SEC. 1235. Whenever real and personal property are leased together, as, for example, a house with furniture contained therein, the landlord, either in an action of ejectment or in the summary proceeding for possession, in the Superior Court of the District of Columbia, may have a judgment for recovery of the personalty as well as the realty."

(2) Section 1225 of such Act (D.C. Code, sec. 45–910) is amended by striking out "or the landlord may bring an action to recover possession before a justice of the peace, as provided in chapter one, subchapter one, aforesaid".

(3) Section 1228 of such Act (D.C. Code, sec. 45–914) is repealed.

AMENDMENTS RELATING TO ACTIONS BY AND AGAINST CERTAIN BUSINESSES

Public Utilities

SEC. 168. (a) The Act of March 4, 1913, is amended as follows:

(1) Paragraph 64 of section 8 of such Act (D.C. Code, sec. 43–704) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(2) Paragraph 65 of section 8 of such Act (D.C. Code, sec. 43–705) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "District of Columbia Court of Appeals".

(3) Paragraph 67 of section 8 of such Act (D.C. Code, sec. 43–707) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(4) Paragraph 94 of section 8 of such Act (D.C. Code, sec. 43–401) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(5) Section 11 of such Act (D.C. Code, sec. 43–502) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court for the District of Columbia".

(6) Section 7 of the Act of April 22, 1904 (D.C. Code, sec. 43–1515) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

Business Corporations

(b) The District of Columbia Business Corporation Act, approved June 8, 1954, is amended as follows:

(1) Section 2(r) of such Act (D.C. Code, sec. 29–902 (r)) is amended to read as follows:

"(r) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Sections 81, 89, and 90 of such Act (D.C. Code, secs. 29–930e, 29–931a, 29–931b) are each amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(3) Section 137 of such Act (D.C. Code, sec. 29–948) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(c) The Act entitled "An Act to establish a Code of laws for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 639d of such Act (D.C. Code, sec. 29–240) is amended—

(A) by striking out "the United States District Court for the District of Columbia" the first time it appears and inserting in lieu thereof "the court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000",

(B) by striking out "the United States District Court for the District of Columbia" the second time it appears and inserting in lieu thereof "such court", and

(C) by striking out "said United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "such court".

(2) Sections 768, 782, and 786 of such Act (D.C. Code, secs. 29–701, 29–715, and 29–719) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(d) The District of Columbia Nonprofit Corporation Act is amended as follows:

(1) Section 2(k) of such Act (D.C. Code, sec. 29–1002(k)) is amended to read:

"(k) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Section 55 of such Act (D.C. Code, sec. 29–1055) is amended by striking out "The United States District Court for the District of Columbia" and inserting in lieu thereof "The court".

(3) Section 94 of such Act (D.C. Code, sec. 29–1094) is amended by striking out "the United States District Court for the District of Columbia" each place it appears and inserting in lieu thereof "the court".

Insurance Companies

(e) Section 20 of chapter II of the Life Insurance Act (D.C. Code, sec. 35–419) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(f) Section 5 of chapter II of the Fire and Casualty Act (D.C. Code, sec. 35–1308) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

Partnerships

(g) Section 25 of the Uniform Limited Partnership Act (D.C. Code, sec. 41–425) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

AMENDMENTS RELATING TO ILLEGAL ACTION BY CORPORATIONS

SEC. 169. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 632 of such Act (D.C. Code, sec. 29–228) is amended by striking out "to the United States" and inserting in lieu thereof "to the District of Columbia".

(2) Section 786 of such Act (D.C. Code, sec. 29–719) is amended by striking out "in the name of the United States".

(3) Section 793 of such Act (D.C. Code, sec. 29–725) is amended by striking out "in the name of the United States".

AMENDMENTS RELATING TO HOSPITALIZATION OF ADDICTS

SEC. 170. Section 3 of the Act entitled "An Act to provide for the treatment of users of narcotics in the District of Columbia, approved June 24, 1953 (D.C. Code, sec. 24–602), is amended by striking out "Juvenile Court Act of the District of Columbia, as amended" and inserting in lieu thereof "chapter 23 of title 16 of the District of Columbia Code."

AMENDMENT RELATING TO TRANSFER OF PRISONERS

SEC. 171. So much of the first section of the Act of March 2, 1911, as relates to the workhouse (D.C. Code, sec. 24–403) is amended by inserting after "United States District Court for the District of Columbia" each time it appears the following: ", Superior Court of the District of Columbia,".

AMENDMENTS TO THE UNITED STATES CODE

SEC. 172. (a)(1) Section 1257 of title 28, United States Code, is amended by adding after and below paragraph (3) the following new sentence: "For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals."

(2)(A) Chapter 133 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2113. Definition

"For purposes of this chapter, the terms 'State court', 'State courts', and 'highest court of a State' include the District of Columbia Court of Appeals."

(B) The analysis of chapter 133 is amended by adding at the end thereof the following new item:

"2113. Definition."

(b) Section 1869(f) of title 28 of the United States Code is amended by striking out everything following "Canal Zone Code" and inserting in lieu thereof a semicolon and the following: "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia;"

(c)(1) Chapter 85 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

"§ 1363. Construction of references to laws of the United States or Acts of Congress.

"For purposes of this chapter, references to laws of the United States or Acts of Congress do not include laws applicable exclusively to the District of Columbia."

(2) The analysis of chapter 85 is amended by adding at the end thereof the following new item:

"1363. Construction of references to laws of the United States or Acts of Congress.".

(d)(1) Chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1451. Definitions

"For purposes of this chapter—

"(1) The term 'State court' includes the Superior Court of the District of Columbia.

"(2) The term 'State' includes the District of Columbia."

(2) The analysis of chapter 89 is amended

by adding at the end thereof the following new item:

"1451. Definitions."

(e) 5102(c)(4) of title 5 of the United States Code is amended to read as follows:

"(4) teachers, school officials, and employees of the Board of Education of the District of Columbia whose pay is fixed under chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia court system whose pay is fixed under chapter 17 of title 11, District of Columbia Code;".

AMENDMENTS RELATING TO THE DISTRICT OF COLUMBIA'S SHARE OF EXPENSES OF THE FEDERAL COURTS

SEC. 173. (a)(1) All outstanding and future obligations of the Commissioner of the District of Columbia with respect to the District of Columbia's share of the cost of construction, operation, maintenance, and repair of the United States courthouse in the District of Columbia, as required by the Act of May 14, 1948 (62 Stat. 235), are canceled upon the effective date of this title.

(2) Beginning on the effective date of this title, the Executive Officer of the District of Columbia courts shall reimburse to the United States from any funds in the Treasury to the credit of the District of Columbia courts the amount determined by the Administrator of General Services to be necessary to cover seventy-five per centum of the costs of operation, maintenance, and repair of space used by the United States attorney and United States marshal for the District of Columbia.

(b) Section 7 of the Act of June 30, 1906 (D.C. Code, sec. 47–204), is amended to read as follows:

"SEC. 7. (a) (1) Until the day before the effective date of the District of Columbia Court Reorganization Act of 1970, the Commissioner of the District of Columbia shall reimburse the United States for 60 per centum of the expenditures made on or before that day for the expenses of the United States District Court for the District of Columbia that are described in paragraph (2). During the thirty-month period beginning on such effective date, the Executive Officer of the District of Columbia courts shall reimburse the United States for expenditures made during that period for such expenses at the following rates of reimbursement:

"(A) 40 per centum for the first eighteen months of such period.

"(B) 20 per centum for the remainder of such period.

"(2) The expenses referred to in paragraph (1) are fees of witnesses, fees of jurors, pay of bailiffs and criers (including salaries of deputy marshals who act as bailiffs or criers), and all other miscellaneous expenses of the United States District Court for the District of Columbia.

"(b) Beginning after the thirty-month period referred to in subsection (a), the Executive Officer of the District of Columbia courts shall reimburse the United States for the District of Columbia's share of the cost for jury selection and grand jury expenses, as determined by the Director of the Administrative Office of the United States Court. Estimates of the District of Columbia's share of such cost for each fiscal year shall be submitted to the Joint Committee on Judicial Administration of the District of Columbia courts for transmission with the annual estimate of the District of Columbia courts under section 11–1743 of title 11 of the District of Columbia Code.

"(c) Reimbursement made under this section shall be made from funds in the Treasury to the credit of the District of Columbia."

(c) Section 6 of the Act of August 2, 1949 (D.C. Code, sec. 47–213), is amended by inserting before the period at the end thereof ", until eighteen months after the effective date of the District of Columbia Court Reorganization Act of 1970".

PART E—TRANSITION PROVISIONS; APPOINTMENT OF ADDITIONAL JUDGES; AND EFFECTIVE DATE

EXISTING RECORDS, FILES, PROPERTY, AND FUNDS

SEC. 191. (a) The files, records, property, and unexpended balances of appropriations and other funds of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are transferred to the Superior Court of the District of Columbia.

(b) The files, records, and property of the United States District Court for the District of Columbia with respect to its jurisdiction on the day before the effective date of this title under section 11–522 of title 11 and chapters 5, 7, 11, 13, and 15 of title 21, respectively, of the District of Columbia Code, as in effect on such day, are transferred to the Superior Court of the District of Columbia.

EXISTING PERSONNEL

SEC. 192. (a) The personnel of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court shall be transferred to the Superior Court of the District of Columbia and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of that court without break in service. Personnel of the United States District Court for the District of Columbia performing functions incident to jurisdiction transferred under this Act to the Superior Court shall be entitled to transfer to the Superior Court, and upon such transfer shall retain all of their rights, privileges, and benefits, and shall be considered as continuous employees of the Superior Court without break in service.

(b) Nothing in this title shall affect the status of persons in the competitive civil service on the date of enactment of this Act, but such persons may be assigned within the District of Columbia court system without regard to such status.

RETIREMENT OF CERTAIN DISTRICT OF COLUMBIA JUDGES

SEC. 193. (a) The person serving as judge of the District of Columbia Tax Court on the day prior to the effective date of this title may, within sixty days of such date, elect to retain retirement benefits under section 2 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47–2402), or relinquish such benefits and elect retirement benefits under chapter 15 of title 11 of the District of Columbia Code, as amended by part A of this title.

(b)(1) Any judge of the District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the former District of Columbia Municipal Court of Appeals or Municipal Court, who had retired prior to the effective date of this subsection, may elect to have his retirement salary recomputed and paid in accordance with this subsection. Such election may be made in writing within sixty days after such effective date and shall be filed with the Commissioner of the District of Columbia.

(2) The retirement salary of each judge making such election shall be recomputed in accordance with applicable law then in effect at the time of his retirement, except that, in the recomputation of such retirement salary, the salary of the corresponding judicial office on the day immediately following the effective date of this subsection shall be deemed to be the salary which such judge was receiving immediately prior to the date of his retirement.

(3) Each judge who elects recomputation of his retirement salary in accordance with this subsection shall—

(A) deposit in the District of Columbia Judicial Retirement and Survivors Annuity Fund an amount equal to 3½ per centum of his basic salary received for judicial service, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year; or

(B) have his retirement salary, as recomputed in accordance with this subsection, reduced by 10 per centum of the amount of such deposit remaining unpaid.

(4) The retirement salary of any judge which is recomputed in accordance with this subsection shall be payable only with respect to those months beginning on and after the first day of the first month following the date of the election made by such judge under this subsection.

CONTINUATION OF SERVICE OF JUDGES OF DISTRICT OF COLUMBIA COURTS

SEC. 194. A judge of the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court who is serving as a judge of such a court on the day before the effective date of this title under an appointment made before such date shall on such date continue to serve as a judge of the Superior Court of the District of Columbia, but no amendment made by this title shall be construed to extend the term of such judge under such appointment. No amendment made by this title shall be construed to extend the term of office of a judge of the District of Columbia Court of Appeals appointed before the effective date of this title. The chief judge of the District of Columbia Court of Appeals and the chief judge of the District of Columbia Court of General Sessions serving on the day before the effective date of this title shall, on and after such date, serve as chief judges of the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, respectively, until their successors have been designated under section 11–1503 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

APPOINTMENT OF ADDITIONAL JUDGES AND EXECUTIVE OFFICER OF DISTRICT OF COLUMBIA COURTS

SEC. 195. (a)(1) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, three additional judges to the District of Columbia Court of Appeals who shall have the qualifications prescribed by section 11–1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(2) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, ten additional judges to the District of Columbia Court of General Sessions who shall have the qualifications prescribed by section 11–1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(b) The President shall appoint an Executive Officer of the District of Columbia courts. Until the effective date of this title, the Executive Officer shall receive the same compensation as is prescribed for an associate judge of the District of Columbia Court of General Sessions. The Executive Officer in office on the effective date of this title shall continue to serve in such office until his successor has been selected in accordance with subchapter I of chapter 17 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

ASSIGNMENT OF JUDGES TO THE JUVENILE COURT OF THE DISTRICT OF COLUMBIA

SEC. 196. Notwithstanding the provisions of title 11 of the District of Columbia Code, as in effect on the date of enactment of this title, the chief judge of the District of Columbia Court of General Sessions may assign associate judges of that court to sit as judges of the Juvenile Court of the District of Columbia, under the supervision of the chief judge of the Juvenile Court, during the period beginning on the date of the enactment of this title and ending on the day before the effective date of this title.

EFFECTIVE DATE

SEC. 197. (a) The effective date of this title (and the amendments made by this title) shall be the first day of the seventh calendar month which begins after the date of the enactment of this Act.

(b) Notwithstanding subsection (a), the following provisions shall take effect as provided in the following paragraphs:

(1) The provisions of chapter 25 (relating to attorneys) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect on April 1, 1972. The provisions of chapter 21 (relating to attorneys) of title 11 of the District of Columbia Code, in effect on the day before the effective date of this title, shall remain in effect until April 1, 1972.

(2) The provisions of chapter 21 (relating to the Register of Wills) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title. The provisions of sections 11–504 through 11–506 of title 11 of the District of Columbia Code (relating to the Register of Wills) in effect on the day before the effective date of this title, shall remain in effect until the expiration of such eighteen-month period.

(3) The amendments made by the following sections of this Act (relating to those matters over which the United States District Court for the District of Columbia retains temporary jurisdiction) shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title: Sections 144(10), 145(b) (2), 145(k) (1), 145 (l), 147(1), 148(2), 149(2), 149(4), 149(6), 149(8), 150(b)(1), 150(b)(3), 150(d), 150(e), 150(f)(3), 150(f)(4), 150(f)(8), 150(g), and 150(h)(1).

(4) Section 146(a)(1) (relating to the repeal of certain review provisions) shall not apply with respect to any appeal from the District of Columbia Court of Appeals over which the United States Court of Appeals for the District of Columbia Circuit has jurisdiction under section 11–301 of title 11 of the District of Columbia Code as in effect immediately before the date of enactment of this Act.

(5) Section 11–722 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(6) The amendments made by subpart 2 of part D of this title to section 8 of the Act of March 4, 1913, shall not apply with respect to proceedings brought in the United States District Court for the District of Columbia on or before the effective date of this title.

(7) The amendments made by section 162 shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(8) Sections 195 and 196 shall take effect on the date of the enactment of this Act.

(c) For purposes of this title and any amendment made by this title, the term "effective date of the District of Columbia Court Reorganization Act of 1970" means the first day of the seventh calendar month which begins after the date of the enactment of this Act.

Mr. McMILLAN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I of the bill be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike out "Sec. 702. Definition."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 91, line 18, insert "(a)" immediately after the quotation marks.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 91, line 19, strike out "and who shall accept no compensation or fees (other than their salaries) for stenographic services connected with the reporting of court proceedings".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 92, after line 8, insert the following subsection:

"(b) In addition to their annual salaries, court reporters may charge and collect from parties, including the United States and the District of Columbia, who request transcripts of the original records of proceedings, only such fees as may be prescribed from time to time by the Executive Officer. The reporters shall furnish all supplies at their own expense. The Executive Officer shall prescribe such rules, practice, and procedure pertaining to fees for transcripts as he deems necessary, conforming as nearly as practicable to the rules, practice, and procedure established for the United States District Court for the District of Columbia. A fee may not be charged or taxed for a copy of a transcript delivered to a judge at his request or for copies of a transcript delivered to the clerk of a court for the records of the court. Except as to transcripts that are to be paid for by the United States or the District of Columbia, the reporters may require a party requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript."

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 185, strike out lines 2, 3 and 4, and all of line 5 up to the period following the word "punishment" in line 5 and insert in lieu of the matter so stricken, the following language: "If the criminal offense involved false statement, perjury, subornation of perjury, fraud, deceit, forgery or counterfeiting, false representations, or false pretense, or other *crimen falsi*, or if the witness has introduced evidence of his own good character."

Mr. DENNIS. Mr. Chairman, one of the fundamental principles of our law, as I have always understood it, is that a man is on trial only for the offense with which he is charged, that he must be proven guilty of that particular offense beyond any reasonable doubt, and that we do not send men to jail for general bad character—probably a good idea because a good many of us might be in jail.

Because of that fundamental principle, it is also a fundamental rule of law that normally we cannot prove a previous and unrelated and unconnected conviction as part of the State's case in a criminal trial. That cannot be done.

Unfortunately we largely nullify that rule by saying that we can ask a defendant who takes this stand about previous convictions on the theory that it reflects upon his credibility as a witness. Frequently it does not reflect on his credibility as a witness at all, because the type of crime—perhaps an assault or something like that—is a type of crime which has no relation itself to the credibility of the witness and has no relation whatever to the facts of the case for which he is on trial. Prosecutors love to do that because they get another offense in and convict a man for bad character rather than for the offense for which he is on trial. Defense attorneys know it is often fatal to a reasonable defense.

In the District of Columbia, I understand, in a decision known as Luck against the United States, the court of appeals has held that it is within the discretion of the trial court as to what previous offenses can be inquired about and to what extent, but the court of appeals has not really left it in the discretion of the trial court, so it is contended, but it has laid down many intricate rules, with the result the trial judge never knows whether he is going or coming, and many cases have been reversed on a technical ruling.

So, Mr. Chairman, what the committee has done in the bill is to try to lay down a rule. The committee has said they can ask a man about a previous misdemeanor, if that involved a dishonesty or false statement; while for anything punishable by more than a year. They can ask him about it, whatever it is or however unrelated it may be to the matter before the court.

What I am trying to do in this amendment, which is not an attack on the bill, which I support basically, is to attempt to get fairness and to hold this business—about asking a man on trial about previous convictions on the theory it reflects on his credibility as a witness—down to the crimes which actually do reflect on his credibility. Therefore, I say under my amendment they can ask about: "criminal offense involving false statement, perjury, subornation of perjury, fraud, deceit, forgery or counter-

feiting, false representations, or false pretense, or other crimen falsi."

They could not ask him about other types of crimes, such as assault and other things which have no effect on his credibility as a witness in the case on trial, except in one instance; that is, if he puts his own character in evidence by calling character witnesses. In that case they can open the door and ask him about any other previous offense.

That is the purpose and thrust of this amendment. I suggest to the House that it is simply a matter of fairness.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to my colleague, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I suspect before the afternoon is out, my colleague, the gentleman from Indiana, and I may disagree on one or two provisions, and particularly on one provision I sponsored in this bill. However, I compliment the gentleman from Indiana on this amendment.

Mr. Chairman, I assume the word "germane" would be germane to the gentleman's amendment. In this body there is a rule of germaneness, but in the other body there is not. I once heard that described, as far as germaneness applying in Congress, that if a man made a speech, it had to be about something. I think that in essence is what the gentleman has offered. If one offers evidence, it has to be about the thing one is seeking to prove.

Mr. Chairman, I compliment my friend, the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana (Mr. DENNIS).

Mr. Chairman, I wish to urge all my colleagues to give very serious consideration to the amendment offered by the gentleman from Indiana. I compliment the gentleman for offering this perfecting amendment.

It should be an amendment which would be accepted out of hand by the majority and the minority. It is a worthwhile amendment.

I am an attorney serving on the Judiciary Committee. There are many attorneys in this House who probably have tried more criminal cases than I. But I want to give you the benefit of my experience.

I believe, on the basis of considerable experience in representing defendants accused of crimes, that it is impossible to get a fair trial if the prosecution is permitted to impeach a defendant based upon his prior conviction of an unrelated felony. For a defendant to be in the witness box to give an affirmative answer to the question by a prosecutor, "Have you been previously convicted of a felony?" is to insure that he is going to be convicted even though he be an innocent man.

I believe the procedures authorized in this bill, which tolerate impeachment of a witness based upon the unrelated prior conviction of a felony, are a positive denial of justice to defendants.

This amendment should be accepted in the name of simple justice.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

The provision in the bill before us today which is challenged by this amendment originated in a bill which I introduced and which was picked up in the omnibus bill.

Basically what we have here is giving the opportunity to the prosecution to bring in prior convictions in order to impeach the credibility of the witness. I say this is necessary since trials are fact-finding procedures.

If the defendant who has a whole string of prior convictions takes the stand and the prosecution does not have the right—as it would not if this amendment prevails—to let the jury know that this man was previously convicted of robbery or murder or other serious offenses, the jurors would assume he was a person of integrity who should be believed.

The purpose of impeaching credibility is to try to give to the jury some way to assess whether or not to believe the witness.

The difficulty here is a court decision in the District of Columbia, the so-called Luck doctrine, to which the gentleman from Indiana referred.

I would call the attention of the House to the fact that the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, a committee appointed by former Chief Justice Warren and made up of distinguished Federal judges, lawyers, and educators, agreed with the proposal as it is now in the bill before us today.

In considering the Luck doctrine, they said:

> Acts are constituted major crimes because they entail substantial injury to, and disregard of, the rights of other persons or the public. A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

So I submit that all we need to consider in making up our minds on this amendment is whether or not criminal activity, in a general psychological framework, should be considered by the jury as germane to impeach credibility of the witness on the stand.

This rule as it is in the bill is consistent with the rule in the vast majority of the States. At the present time, however, in Washington, D.C., we are operating under this Luck doctrine. This gives the judges the additional discretion to prohibit the impeachment of witnesses.

This doctrine has caused so much confusion that judges disagree among themselves in different cases as to what may be used and what may not be used. One judge believes, for example, that car thievery should be used and another says it should not be used. There is so much confusion about it that we need to express the intent of the Congress itself, to indicate that we believe all prior convictions should be used to impeach the credibility of a witness.

I might say that this is the statute in the District of Columbia at the present time. There would be no need for this provision in the bill today except for this Luck doctrine, which denies the rights of impeachment to the prosecution which they ought to have.

Mr. Chairman, I think that the Luck doctrine is unworkable for the following reasons:

First, because the appellate court has been unable to develop meaningful criteria to guide trial judges, in deciding whether or not to allow impeachment, the result is chaos. Some trial judges rule out all impeachment of witnesses in every case. In one murder case, the trial judge went so far as to exclude all prior convictions of the defendant but told defense counsel he could use prior convictions on the part of the prosecution witnesses to impeach their credibility. I say that is not in the interest of impartial justice.

Second, judges who do allow impeachment always have the threat of appellate reversal hanging over their heads. This is because appellate judges can easily find an abuse of discretion whenever they disagree with a jury verdict of guilty in a case in which the trial judge permitted impeachment of the accused. This has happened.

The third point I would like to make is even appellate judges cannot agree among themselves on what kind of crimes may be used as impeachment. Three appellate decisions have specifically approved the use of larceny as impeachment; one decision challenged it. Two decisions sanctioned use of housebreaking or burglary. One challenged it. The decisions are also split on other offenses. The trial judges are understandably in a quandary as to how to proceed. Which decision do they follow? Such confusion in the administration of justice is intolerable.

Because there is this confusion, we need to clarify the law today.

As far as I am concerned, the Luck rule itself makes no sense. It operates to frustrate the search for truth in criminal trials where credibility is in issue. It was rejected by the Bar Association of the District of Columbia in a referendum. The rule for impeachment proposed by the prestigious Advisory Committee makes good sense. It is workable, appropriate, and will enhance the truth-seeking process of criminal trials. It is consistent with the practice in nearly 90 percent of the States. Only the District of Columbia has this big problem because of the Luck doctrine.

Mr. ABERNETHY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope that the Members of the House will not be persuaded by the very interesting statements that were made by the author of this amendment or by the very distinguished gentleman from California (Mr. WIGGINS).

One of the problems in the District of Columbia, where crime is more rampant than any other place in this Nation, is the so-called Luck doctrine, which denies the prosecutor the privilege of inquiring of a defendant for the purpose of impeaching his credibility: "Of what have

you been convicted?" I am really a little bit surprised that our distinguished friend from California would suggest that we accept this amendment. More than 45 States of this Nation—listen to me now—more than 45 States of this Nation allow the prosecution to inquire of the defendant: "Of what have you been convicted?" for the purpose of impeaching his credibility. If that is a legal weapon in 90 percent of the criminal jurisdictions of this country and the objective of this Congress today is to wipe out crime in the District, then why do we not exercise the opportunity and take advantage of the ordinary opportunities that are made available in the other States in wiping out crime? That is how simple this matter is. I practiced law a little bit, and I know how technical we lawyers can get sometimes.

We search for technicalities. We root out technicalities. We dig up technicalities.

Mr. Chairman, many who are walking the streets today as criminals have gotten out by reason of some smart fellow—and there are lots of them who claim to be smart—because of some technical point he has unearthed.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. Yes, I yield to the gentleman from Indiana.

Mr. DENNIS. The gentleman appreciates the fact I am sure that this amendment in nowise tries to retain the Luck doctrine. What I am attempting to do here is to give the court a new rule which will hold down the inquiries about previous convictions to offenses involving false statements, perjury, subornation of perjury, fraud, deceit, forgery, counterfeiting, false representation and false pretense; in other words the type of crime that actually does reflect upon credibility.

Mr. ABERNETHY. Mr. Chairman, I regret I cannot yield further to the gentleman. I say we ought to leave to the U.S. district attorney and the law-abiding people of this town the same weapons that are available to other groups.

I know what the gentleman is trying to do. He is just trying to change the color of this thing. He is just throwing some ink into it in an attempt to change it from white to blue or to a different shade.

Mr. Chairman, I think we ought to vote it down.

We had debate over this in the committee. The Department of Justice asked for it, the President of the United States asked for it, the Advisory Committee on Rules of Evidence and Practices and Procedures of the Judicial Council asked for it, 90 percent of the States follow this rule, the U.S. district attorney asked for this measure, and the District Bar Association has approved it. Why change it? Why change it?

Mr. DENNIS. Mr. Chairman, will the gentleman yield further?

Mr. ABERNETHY. Yes; I yield further to the gentleman from Indiana.

Mr. DENNIS. I say the reason for changing it is that in fairness you have to change it if you believe that when you try a man for an offense, then try him for it. Do not throw him in jail just because he has or may have a general bad character; but you want to convict him on the basis of his general character and that is the only reason why you fail to change that rule.

Mr. ABERNETHY. I want to assure the gentleman that all I am trying to do is to steer toward the jail not people of bad character, but people guilty of offenses. I feel that the police and the prosecution should have the advantage of every weapon that is available, that is available to at least 45 State jurisdictions of this country. That is all I am asking.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

I wish to comment upon the statement of the gentleman from Mississippi concerning the effect of the rule in 45 jurisdictions. My own State of California permits the impeachment of a witness upon the showing of a prior conviction of a felony. But it is so well known that the operation of this doctrine is capable of abuse that many prosecutors are reluctant to use it and many judges browbeat the prosecutors into not using it.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct the attention of the Committee again to the statements made by the distinguished gentleman from Mississippi that 45 States permit the attack upon the credibility of a witness when he takes the witness stand. However, this is done under certain rules and regulations which protect that witness. It is the duty of the court to instruct the jury that they can only consider the question as to prior convictions as having or not having a bearing on the credibility of the defendant. The question of the credibility of the defendant is put in issue when he takes the stand in his own defense. However it has no bearing upon the question of whether he is innocent or guilty. Furthermore, the jurors when they are sworn in take an oath to the effect that they will decide the issues based solely upon the facts as presented to them from the witness stand and not consider any other extraneous matter.

I want to point out to the Committee that this section which the amendment offered by the gentleman from Indiana seeks to delete from the bill was recommended by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States. That Advisory Committee consists of such distinguished gentlemen of the bar as Charles W. Joiner; Judge Simon E. Sobeloff, of the Fourth Federal Circuit Court; Craig Spangenberg, an eminent trial lawyer in Ohio; as well as the distinguished Edward Bennett Williams who is a renowned criminal lawyer in his own right. Such a distinguished committee as this is not going to recommend a rule of evidence that is unreasonable, or unfair. With all their years of combined experience, particularly in the field of criminal law if there was any question about this section being proper and valid evidentiary procedure they would never have made such a recommendation.

They have recommended that this section be placed in the law, and I would urge the defeat of the amendment offered by the gentleman from Indiana.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I would like to address a question to the gentleman from Indiana, if I might, the author of the amendment.

It is my understanding that the gentleman from Indiana has no objection to a felony being introduced into evidence as to the character, provided that felony is the same type of felony as the one for which the accused is being tried at the time. Is that a fair statement?

Mr. DENNIS. Mr. Chairman, if the gentleman will yield, my thinking is simply this: If you are going to permit inquiry about a previous conviction upon the theory that it reflects upon the man's credibility as a witness, and that is the only theory on which we do permit it, then it should be limited to the type of offense which has some bearing on credibility.

For instance, I do not believe a crime of passion or assault, or something like that, has much bearing on a man's veracity. Now, perjury, of course, does. And I say if you are going to cross-examine him about previous convictions on the theory that they bear on credibility, it is only fair to hold it down to those which, in fact, do bear on credibility.

Mr. RHODES. If the gentleman from Ohio will yield further——

Mr. HARSHA. I yield further to the gentleman from Arizona.

Mr. RHODES. The only rational manner in which convictions of a former felony would impinge upon the credibility of a witness, or conviction of a felony, is evidence of bad character.

Now, I fail to see how the conviction of a felony A would cause a person to then have bad character, at least, to be evidence of that bad character when a conviction of felony B does not. If you are going into credibility of a witness, I do not know whether there are differences between the types of felonies which can be committed. If either felony is evidence of bad character then it is evidence on the credibility of the witness.

I do not see why you make the difference between felonies. I think you are taking the idea of rationality and germaneness to a degree I never heard of.

Mr. DENNIS. If the gentleman will yield further, if I may answer the gentleman from Arizona, the point is that if you get asking about these other unrelated offenses you get to the place where the jury decides to convict the man just because they think he is a bad actor. If the gentleman thinks that is all right, then that is one thing, but that is not the theory of our law.

Mr. RHODES. Mr. Chairman, if the gentleman will yield further, I believe

the gentleman is distorting the import of my question. All I am saying is that if a felony, or the conviction of a felony is evidence of bad character, then conviction of all felonies is evidence of bad character.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think with respect to the colloquy that has just taken place it is important to make this clear: that on the question of a defendant's character, the amendment offered by the gentleman from Indiana (Mr. DENNIS), would permit introduction of prior convictions, if that were the issue. If the defendant himself put witnesses on the stand to prove that he had good character, then the prosecuting authorities under this amendment could introduce any prior convictions to show that the man had bad character. But if the issue is whether or not the man will tell the truth, then the amendment offered by the gentleman from Indiana (Mr. DENNIS) would permit the prosecutor only to introduce evidence on that question of whether he is the kind of fellow who tells the truth.

Now, they say—and I will yield to my friend, the gentleman from Texas (Mr. BROOKS) if I am wrong about this—but they say that in Texas if they want to know what a cowboy will do when he gets drunk, they find out what he did the last time he got drunk. And I think that is valid logic upon the issue of whether or not a person is going to tell the truth.

Take the case of a cowboy in a bar who hauls off and hits somebody right square in the mouth over an argument. Far from being evidence of that cowboy's dishonesty, under some circumstances, this might be evidence of his complete honesty.

Let me give you one more example, in the civil practice. If you sue me for an automobile accident, it is not possible for you to put into evidence that I am covered by a big insurance company. You cannot show that the loss will not be to me as an individual but to my insurance carrier.

Why? Because whether I have insurance is not germane to the question of whether I ran a red light. This is a germaneness rule and of all places, here in the Nation's Capital where a germaneness rule should be adopted, I should think it would be in this committee of the House of Representatives.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. DENNIS. I just want to thank my colleague, the gentleman from Indiana, for bringing out a point which I think perhaps has become obscured here.

While normally under this amendment, previous convictions which can be inquired about are limited to those listed here which reflect directly on a man's truthfulness, nevertheless when he puts his own good character in evidence and in issue then the sky is the limit and you can ask him about anything that he was ever convicted for, of any character.

There are two situations, either you should hold down the cross examination as to previous convictions to what does reflect on his credibility—or, if he is trying to prove that he is an angel, then you are allowed to go beyond that.

This is what they do, incidentally, over in England where our common law comes from. I do not think that in attacking crime in the District that we want to be unfair. This is just a matter of fairness. Everybody who has tried a criminal case from either side of the table, and I have tried them on both sides, as defense counsel and as a prosecutor, knows that this thing right here of unrestricted inquiry as to previous convictions is one of the most unfair things that takes place in our courts. You cannot expect a jury or anybody else to separate their mind and to remember that they are only supposed to bear the previous conviction in mind on the question of credibility.

That is ridiculous. We all know that. We are just trying to get a little realism and a little fairness—that is the only thing. But this is an important provision. I thank the gentleman for yielding.

Mr. JACOBS. Let me suggest this: we are going to get a lot further in passing commonsense legislation if we try to decide what is right instead of who is right. Or on the question of somebody else's authority. What is of higher authority than the House of Representatives in deciding matters of this kind?

Do not decide these questions on the authority—of who said something. Analyze the individual question yourself.

My colleague, the gentleman from Indiana, I believe, will be offering an amendment later to strike out a provision which I support in this bill relating to habitual criminals. I think we will be on opposite sides when that issue comes before this committee. So do not try to determine who is right. Think this thing through and determine what is right. What is right in this case is that if you are trying to prove that a man is a liar—dig up the times in the past that he has been dishonest. Do not dig up a barroom fight that has nothing at all to do with whether a fellow will lie.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is my understanding that at one point during the general debate the question was raised as to whether or not the President of the United States was endorsing the committee bill.

I thought the matter had been carefully covered by a news release yesterday. I tried to make sure that it was clearly set forth in a letter to all of the Members on our side of the aisle, which letter was mailed yesterday, and, I presume, was received today.

I have a letter in my hand from the President the text of which I understand the gentleman from Kansas (Mr. WINN), has included in the RECORD during the general debate. But to make it absolutely certain and positive as to the President's view, let me read certain excerpts from that letter which is dated March 17, 1970, and which reads as follows:

As you know so well, there is pending before the Congress legislation of great importance to the fight against crime in the District of Columbia. I hope you will express to the Members the urgent interest I have in the earliest possible approval of this legislation.

Reading further from the President's letter—

The House District Committee is to be complimented on its fine work in reporting out the entire program in this area that I submitted to the Congress last year. Many provisions of the House Committee bill are improvements over the original versions.

The letter continues—

Half-hearted measures will not suffice. The citizens of the District of Columbia are entitled to the full support of the Congress and this Administration in returning public safety and order to this community.

Sincerely,

RICHARD NIXON.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. Will the gentleman withhold his request for a few moments? If I have time, I will respond.

The amendment offered by the distinguished gentleman from Indiana (Mr. DENNIS) I think is worthy of the full consideration of the committee. He is an eminent lawyer. He is obviously sincere in his convictions concerning this amendment. But in listening to his comments and the comments of the gentleman from California (Mr. WIGGINS) followed by the arguments presented by the gentleman from Maryland (Mr. HOGAN) and the gentleman from Ohio (Mr. HARSHA) I am personally convinced that the provision in the bill is preferable to the amendment offered by the gentleman from Indiana.

As was pointed out by the gentleman from Ohio (Mr. HARSHA) the Standing Committee on Rules of Practice and Procedure and the Advisory Committee on Rules of Evidence in March of 1969 recommended the provision included in the bill. By inference, certainly this distinguished group would not support the amendment offered by the gentleman from Indiana.

It is interesting to note that among those on the Advisory Committee on Rules of Evidence are the following—and I cite only several names: Edward Bennett Williams, a distinguished member of the bar for the District of Columbia, who has an outstanding reputation of being a defendant's lawyer in a most successful way.

Also it should be noted that the chairman of this Advisory Committee on Rules of Evidence is a man by the name of Mr. Albert E. Jenner, Jr., a distinguished member of the bar of the State of Illinois. I happen to have had some experience with Mr. Jenner. He was a most able member of the staff of the Warren Commission. He is an outstanding lawyer and also a member of the legal profession who over the years has had a great reputation as a defendant's lawyer. Yet he, along with Mr. Edward Bennett Williams, and others apparently recommended this provision that is in the bill.

Therefore I have come to the conclusion, based on their approval and the views of the committee, that the committee language in this instance ought to be retained and not amended.

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. Mr. Chairman, I intended to ask the distinguished minority leader about the letter from the President of the United States, parts of which he read to us. I noted that the letter states that many of the provisions added by the committee strengthen the bill. I assume that those words were carefully chosen. He did not say that all the changes made by the committee strengthened the bill, but many of them.

I am raising this question in a general way only because I would hope that the distinguished minority leader, who I know has a very strong commitment to try to do something about the crime problem in the District, as I think all of us do, that he would feel, as he obviously does, that we should look very carefully at some of these provisions, that the endorsement of the President of the bill and the language he uses certainly is not intended to preclude a careful examination and debate in the House of the wisdom, the propriety, or the usefulness of some of these provisions which have been called into question. Would the gentleman generally agree with that view?

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I believe at the outset in my own remarks, I paid a compliment to the author of the bill and the gentleman from Indiana (Mr. DENNIS).

I do think we have a responsibility to go over the bill carefully as it has been recommended by the committee. On the other hand, I am convinced that the thrust of the bill and as far as I know as of this moment all provisions of the bill should be supported, but I, as one, do not think we should preclude ourselves from ample consideration of any good faith amendments. Certainly the amendment offered by the gentleman from Indiana (Mr. DENNIS) is one offered in the best of good faith.

Mr. FRASER. I have in mind a particular concern in the bill about dividing up the Corrections Department and sending half of it to the Bureau of Prisons. The ranking Republican member of the committee, the gentleman from Minnesota (Mr. NELSEN), who has shown a very sustained and constructive interest in the District, had not favored that amendment at the time it came up in the committee.

I just hope when we get to that issue we will get a fair hearing from everyone, because this is not a partisan question. It is a question of what is really best for the people of the District, those who want to see crime abated and who want to see the community move forward. That particular provision is wrong in the opinion of many groups in the community who have considered it.

I just want to make clear we are not going to find ourselves in the position of saying, well, no amendment ought to be considered on its merits, or that all amendments are bad, or anything of that kind.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield further?

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I think the record so far speaks for itself, that it is not a partisan amendment, because this is one offered by a distinguished Member from our side of the aisle. I suspect there will be other amendments offered from the gentleman's side of the aisle.

On the other hand, I think the burden of proof is on those who would seek to amend the bill. In this particular case, on this amendment, I do not think the proponents have sustained the burden of proof.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, we are concerned about this and I would call the attention of the minority leader to this, because there was some confusion in the remarks of the gentleman from Mississippi (Mr. ABERNETHY) and the gentleman from Maryland (Mr. HOGAN) whether this provision of the bill was in the original bill. It was placed in the bill by the gentleman from Maryland (Mr. HOGAN), as I remember.

The remarks of the gentleman from Mississippi (Mr. ABERNETHY) were to the effect that it was not in the original bill. My remembrance is that the gentleman from Maryland put it in, and now the gentleman from Indiana (Mr. DENNIS) wants to take it out, so I would hope the minority leader's statement that the bill is supported in the general sense by the President does not mean that all things put in by various Members at various times are, therefore, under some carte blanche umbrella of Presidential approval.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I want to make it clear that the Dennis amendment is distinct from what the gentleman has been discussing, that is, that the administration does endorse this provision in the bill.

The gentleman from Washington is correct that the original proposal sent up by the Department of Justice did not include the provision as it now is in the bill. However, if Members would read the provisions recommended by the Advisory Committee, which the distinguished minority leader has just been discussing, they would see that this provision was adopted, and it is now one of the ones the President has specifically asked us to include in the bill.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the committee and to speak against the pending Dennis amendment. Before doing so, I must say as one whose office is very close to the District of Columbia Committee room that I express my gratitude for the many hours of hard work and labor the members of this committee have done in the preparation of this piece of legislation and other legislation they have brought to the floor of this House. They have done yeoman work for this House, and I know all Members appreciate it.

Mr. Chairman, I wish to speak in behalf of overruling the Luck doctrine concerning impeachment of a witness at trial by proof of prior convictions and replacing it with a rule recently proposed as the model for all Federal district courts by the prestigious Advisory Committee to the Judicial Conference of the United States. Its proposal is presently contained in section 133.

The Luck rule permits a judge in his discretion to prohibit all impeachment of a witness by proof of prior convictions. This hurts the search for truth.

Juries have the responsibility of assessing credibility of witnesses. How can they properly carry out this responsibility, Mr. Chairman, if such highly relevant evidence to credibility is excluded? As the advisory committee observed in rejecting the Luck rule, the exclusion of all impeachment by proof of prior convictions of an accused in a criminal case "enables an accused to appear as a person whose character entitles him to credence, when the fact is to the contrary." The Luck rule, Mr. Chairman, is objectionable, therefore, because by excluding probative evidence of credibility, it frustrates the search for truth and deprives the Government in a criminal case of a fair trial.

The Luck rule is also unworkable. First, no meaningful criteria exist to guide trial judges in exercising their discretion to allow or prohibit impeachment. The result is chaos. Some judges allow no impeachment at all. Some allow no impeachment of the defendant in a criminal case but allow impeachment of Government witnesses. Judges who do allow impeachment vary from case to case.

Even the appellate judges cannot agree as to what crimes can be used as impeachment. Some allow larceny; others challenge it. The same is true of housebreaking and auto theft. If the appellate judges cannot agree, what are trial judges to do?

The Luck rule encourages appeals. Since 1965, there have been over 30 appellate opinions trying to apply and interpret this rule.

Virtually all legal authorities, such as Dean Wigmore, recognize the probative value of prior convictions in assessing credibility of a witness. As the advisory committee, referred to above, observed in justifying impeachment by proof of prior convictions:

> A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

Ninety percent of the States do not deprive their juries of such significant evidence. In a recent referendum, the Bar Association of the District of Columbia rejected the Luck rule. The prestigious advisory committee, consisting of distinguished Federal judges, lawyers, and educators, rejected the Luck rule

which does deprive the juries of this evidence. The recommendation of this advisory committee for all the Federal district courts should be enacted for the District of Columbia courts.

I am reluctant to disagree with my good friend the gentleman from Indiana, but I must in this instance. I should like to support the committee version and speak against his amendment.

Mr. FARBSTEIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to be for crime is like being against motherhood. I am against crime, just like everybody else, but there are certain things which are right and certain things which are wrong. I say just so long as the wrong things present in this bill are sustained by this body then I am to that degree against this bill.

Mr. Chairman, I rise in strong opposition to the District of Columbia crime bill. There are innumerable bad and dubious features of this bill. But I propose to deal with just two—so-called preventive detention and the no-knock sections—but in other search-and-seizure sections, in the wiretapping provisions, the backward steps on juvenile trials, the transfer of Lorton, and many others that could be cited the committee has demonstrated that it prefers a blunderbuss to a scalpel. We can fight crime constitutionally. We can combine procedure and substantive criminal amendments with broader efforts to improve social and economic environmental conditions. We can make of our prisons rehabilitation centers instead of schools for crime. We can teach respect for law by adhering to constitutional principles instead of blindly panicking into throwing overboard those restraints our forefathers wisely placed upon police actions.

We can do all that. But this bill goes the other way. And with what results? It can safely be predicted that its enactment will have little effect on the crime rate because it does not address itself to our real problem. It only aggravates them.

NO-KNOCK

The rule that the authorities must give notice of their authority and purpose and only break in when they are denied admission goes back to at least 1603. It is not, in other words, a recent invention of "effete snobs" to hamstring the police with technicalities. The rule is founded on well-recognized principles. First, one has autonomy and privacy in his own home, and to invade that privacy the police need meet several preconditions. They must have probable cause, they must ordinarily present their case to a neutral magistrate, they must specify particularly what it is they are looking for, and they must give the person the opportunity to admit the officers under authority of the warrant. That is what is meant by the old aphorism thrown around so much in the other body as if it alone constituted authority carte blanche to break and enter—"the king's keys open every door." Yes, but pursuant to preconditions.

Second, the rule of announcement protects the safety of both home dweller and policeman. A sudden breaking-in is a time of confusion. Especially in this period when the fear of crime is so prevalent the tendency of one who hears people crashing into his home will be to shoot first and ask questions later and officers will be inclined to defend themselves similarly. What do the proponents of this provision think the answer should be when an innocent homeowner, who has no narcotics or contraband or whatnot on his premises, shoots and kills a policeman whom he thinks is an ordinary housebreaker? Are we going to prosecute the man for murder and say he cannot make a mistake like that? Or are we going to say, "Oh, well, too bad, mistakes will happen," and release him?

But perhaps more importantly, what are we going to do when the police break into a house where there is, say marihuana, which they knew about and intend to seize, and the homeowner, otherwise not a violent individual or a dangerous criminal, believing criminals are breaking into his house, shoots and kills an officer? Charge him with murder? Release him? This bill is silent. The proponents do not tell us, because to face the question is to admit that there is a real problem and that hard choices have to be made. And the proponents want to make only easy choices.

But aside from the practical aspects, the section simply is unconstitutional. In the Ker case, eight Justices accepted the rule of announcement as a constitutional requirement. Four Justices would have restricted closely the exception to the rule, under which this section would be clearly unconstitutional. The other four Justices excused noncompliance there because they found that the officers could have reasonably believed Ker already knew of their presence, an exception which would not save this section.

As for me, I prefer to follow Senator ERVIN, a constitutional expert, who has no doubts that this section is not sustainable.

PREVENTIVE DETENTION

One hardly knows where to start in discussing this section. There is the constitutional problem of denial of bail and the constitutional due process problem involved in the results visited upon suspects who are "preventively" detained. There is the lack of standards and the inability, demonstrated time and time again, to determine who should be detained and who can be released. There is the problem of overcrowded detention centers which are worse crime factories than our penitentiaries. The whole subject is a can of worms.

There are Members who can elaborate on the eighth amendment problem. Let me say only that it seems perfectly evident that the framers must have used the excessive bail clause as shorthand for the right to bail or they framed the clause with an unstated right to bail in mind. Those who argue that the clause only protects against excessive bail for those whom Congress may deem worthy of bail seem to me to be denigrating the acumen of the framers. The Bill of Rights was intended to restrict authority and it hardly seems likely that persons wishing to restrict authority would impliedly authorize an exercise which could completely eradicate the restriction they had embodied in a constitutional provision.

I believe, thus, that the eighth amendment embodies a right to bail, subject only to the two common law exceptions. That is, bail was designed to assure the presence of the defendant at his trial. If the committing judge found on objective evidence that no bail he set would accomplish this purpose he could deny bail. In capital cases, per se, no amount of money could compel a defendant facing death to return, so there was no absolute right.

The proponents of the section have not addressed themselves to the argument. Even more curiously, they have failed to address themselves to the due process and practical problems.

A detained prisoner cannot hold a job. Thus, he cannot support his family; he cannot earn a lawyer's fee. Because he now has no job he will, if convicted, make a poor probation risk and he is prejudged by the judge, the probation officers, his court-appointed counsel, yes, even himself, as a dubious prospect for release. A detained defendant upon conviction will more often be jailed than a convicted defendant who has been released pending trial.

A detained defendant can only consult his lawyer in the confines of jail. Conditions are unfavorable to privacy and mutual dignity. Consultations will be fewer than if he were outside. The quality of representation suffers.

A detained defendant cannot assist in his own defense. He cannot find witnesses and other evidence.

A detained defendant is much more likely to be convicted than one who has been released pending trial. The reasons are those I have alluded to.

A detained defendant who is convicted makes a poorer prospect for rehabilitation than one who has been released pending trial because, in large measure, rehabilitation is affected by the defendant's perception of the fairness of the criminal justice system.

A detained defendant is jailed in worse conditions than a convicted defendant. Detention jails are overcrowded, conditions are bad, exercise and recreation facilities are bad or nonexistent, security restrictions are excessive, burdening his communication with family, lawyer, friends. Blackstone once wrote that the period between confinement and trial was a "dubious interval" during which "a prisoner ought to be treated with the utmost humanity." This does not now approximate the case.

Thus, due process is violated by the results of preventive detention.

Then we turn to what preventive detention is supposed to accomplish and we see that what standards exist are vague and inadequate. The result will be that little relationship will exist between those detained and those who should have been detained if they could have been identified. An unsure judge will detain lots of people who should not be detained and conscientious judges will despair. In Senator ERVIN'S hearings, there was related a study of two judges here. The study followed up what happened to the suspects each released. The "liberal" judge released over two-

thirds of the suspects who appeared before him, the "conservative" judge only about half. And yet the number of released defendants who were subsequently arrested for new offenses committed while they were out pending trial was almost the same with both judges and in both cases the number was quite small. The actual figures: the former judge released 180 of 226, about 80 percent, and the latter judge released 141 of 285, about 50 percent. Of the former's 180, 16 were subsequently rearrested, about 9 percent; of the latter's 141, 12 were subsequently rearrested, about 8 percent.

Thus, preventive detention is not only unconstitutional, it will not work.

What we could do, if we would, is to get more judges and facilities and supporting personnel and bring defendants to trial faster. We could do something intelligent about narcotics which is a prime factor in our crime problem. We could do something effective about rehabilitating convicted persons so as to reduce recidivism. We could do lots of things but we must face the fact first that there are no easy answers like the ones this bill proposes.

Mr. McMILLAN. Mr. Chairman, I wonder if we can agree to a time limit for further debate.

I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN. Each Member standing at the time the request was made will be recognized for approximately 1 minute and 45 seconds.

The Chair recognizes the gentleman from Minnesota (Mr. MACGREGOR).

Mr. MACGREGOR. Mr. Chairman, I rise in opposition to the pending amendment. I do so with considerable hesitancy, because I have had for some time the great pleasure of working on the Committee on the Judiciary with the distinguished author of the amendment. I know of his high competence and sound judgment.

I oppose the amendment for one overriding reason. Its adoption would establish here in the District of Columbia an evidentiary rule more favorable to the criminally accused than that applicable generally in the country.

In the light of the crime picture in the District of Columbia this would be a signally unwise step for the Congress of the United States to take. There are three principal reasons for enacting section 133 of the committee bill and for rejecting the Dennis amendment. Many of those reasons have been presented by previous speakers.

First, the rule for impeachment contained in section 133 is the same as that recently proposed by the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, as the model rule to be used in all Federal district courts and before all magistrates. This Advisory Committee, appointed by Chief Justice Warren and consisting of distinguished Federal judges, lawyers, and academicians, carefully analyzed the different rules for impeachment, including the Luck rule, and recommended the rule which, with only technical changes, is included in the bill before us. There is no reason why Congress should legislate a rule of evidence for the courts in the District which differs from that used in other Federal districts, since the basis for assessing credibility of a witness here is the same as elsewhere. Absent such a reason, consistency alone justifies adoption of the same rule.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, statistics from the District of Columbia show that about one-third of those individuals released on their own recognizance committed at least a second crime before they came to trial. Not all of the cases are as dramatic as the one in which the individual released on his own recognizance finished the job he had started a few hours before by killing the victim he had only injured that few hours before. We are talking here about retaining the rights of an individual who is accused. Under this bill his right to be innocent until he is proven guilty will be retained. But I suggest the rights of the innocent victims to protection of the law must also be maintained.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY).

Mr. ABERNETHY. Mr. Chairman, I would simply like to state what we are trying to do with the provision now in the bill is to bring a rule of evidence within the District of Columbia in line with the rules of evidence that prevail in more than 45 States of this Nation. There may be some merit to the position of the author of the amendment, but it appears to me, by virtue of the fact that more than 90 percent of the States of the Nation disagree with him, that there is more merit on the other side. So, all we are asking this House to do is to make that which is available for admission in 90 percent of the States of the Nation eligible for admission into evidence in the District.

I hope you will vote down the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. MCMILLAN).

Mr. MCMILLAN. Mr. Chairman, I hope the members of this Committee will not begin gutting this bill at this point and that we will be able to send to the President and the Attorney General the type of legislation they need in order to cope with the crime situation in Washington.

I hope the amendment will be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I would simply like to observe to the House in the remarks that have been made here that no one seriously challenged my statement that this is an amendment which merely puts logic and fairness into this particular field of the law. The criticisms have been general ones. They have not, I submit, answered the arguments that I have made. I repeat that this is not, obviously, a partisan or political amendment, and it is not an antibill amendment, but just an amendment which wants to put a little fairness and logic into this particular part of the law by saying that if you are going to ask a man about a previous conviction, on the theory that it reflects on his truthfulness, it ought to be confined to the type of crime that in fact does reflect on his truthfulness, unless he has put his character in evidence. That is a fair proposition, and I ask the Committee for its support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. DENNIS) there were—ayes 31, noes 60.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS:

Page 21, the item relating to section 11–923 in the chapter analysis is amended to read as follows:

"11–923. Criminal jurisdiction; commitment; accelerated criminal trial calendar

Page 24, line 3, redesignate subsection (b) as subsection (c).

Page 24, insert after line 2 the following new subsection:

"(b) In assigning judges in the Criminal Division, the chief judge shall give special attention to the need to assign as many judges as practicable to the accelerated criminal trial calendar established pursuant to section 11–923(d)."

Page 32, strike out line 7 and insert in lieu thereof the following:

"§ 11–923. Criminal jurisdiction; commitment; accelerated criminal trial calendar

Page 33, insert after line 9 the following new subsection:

"(d)(1) There shall be established in the Superior Court a separate accelerated criminal trial calendar on which shall be placed the cases of all defendants who are detained prior to trial and all other cases in which the following offenses are charged: murder; rape; robbery; arson; burglarly in the first degree; kidnaping; indecent acts against a child; and offenses involving traffic in narcotics or dangerous drugs.

"(2) Cases placed on the accelerated criminal trial calendar under this subsection shall be given priority over other criminal cases consistent with the sound administration of justice."

Mr. JACOBS. Mr. Chairman, the greatest urgency in the problem of crime in this jurisdiction as well as others involves those crimes which are violent in nature.

Consider the foreign trade policy of a poor nation. They export the things that they need. And they import the things they need worse.

This amendment would create a ratio between judges assigned to violent and nonviolent crimes in the superior court which we shall, I hope, create.

A larger number of judges would be assigned to violent crime cases than to cases of nonviolent crimes, and, conse-

quently, there would be a little more time before a person charged with a nonviolent crime would come to trial, but there would be a little less time before the person charged with a violent crime would come to trial.

The theory is very simple. The violent brand of crime is more dangerous to the community. In the case of an embezzler who is waiting for trial, he is not quite so dangerous because no employer is going to give him the combination to the safe pending trial of his particular kind of crime.

So it really is not a very complicated amendment.

I offered the amendment in the committee, and certain objections were raised to it. I believe that I have met all of those objections by changes I have made in the amendment. It was suggested that the hands of the judges might be tied, but the amendment in its present form gives full discretion to the chief judge to assign whatever number of judges he thinks necessary to the accelerated violent crime calendar.

So with that, Mr. Chairman, I have nothing else to say, because the amendment is just that simple, but I will be glad to try to answer any questions that might be asked.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I want to commend the gentleman on presenting this amendment. It is an extremely sensible and constructive proposal to protect the public from the scourge of violent crime. I supported it when it was presented in the committee, and I hope that it will pass here on the floor.

It is, I believe, in harmony with the principle of the preventive detention section. I believe, of course, that you can support this amendment and not necessarily have to support the other. The amendment clearly gives the public greater safety on the street because those who are charged with violent crimes will get a greater measure of speedier justice. Again I commend the gentleman for presenting his amendment.

Mr. JACOBS. I thank the gentleman and also commend him for his untiring efforts on the District of Columbia committee to help in the fight against crime.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I will be delighted to yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, as I understand the amendment as read by the Clerk, it would create in the court system for the District of Columbia two calendars which, for purposes of identification, we can call the violent and nonviolent calendars, and clearly it is to expedite criminal cases.

My question is with respect to those cases which are not on the expedited calendar. Is there a danger to the constitutional rights to a speedy trial, that those rights may be impaired?

Mr. JACOBS. Obviously nobody knows the answer to that question until it might be tested. However, I would suggest the analogy of the felony court, and the misdemeanor court. The defendant in the misdemeanor court is going to get to trial probably faster in most jurisdictions than in the felony court, but it would not be proper, I believe, or would not be legally sound to suggest that the person who is to be tried on the calendar in the felony court is denied a speedy trial simply because other categories of crimes are moving faster in another court.

Mr. POFF. If I may continue, and I commend the gentleman for his response, but may I comment on that response? I am inclined to believe that whatever might tend to delay the trial of a person charged with a crime could properly be urged as a constitutional challenge.

Now, may I propound another question?

Mr. JACOBS. Let me comment on the other first, if I may——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. JACOBS was allowed to proceed for 5 additional minutes.)

Mr. JACOBS. Mr. Chairman, I think really that what the gentleman from Virginia has suggested is good, classic, legal theory. And his question quite rightly goes to the heart of this question that so many of us have discussed, and that is the rights of a defendant. But what about the rights of the public? What about the rights of the innocent? What about the rights of the victim? I do not think anybody in this Chamber has failed to make a speech on this subject at some time in the last 12 months. Here is a practical application of that theory.

A man charged with a nonviolent crime has a right to a speedy trial; yes. But there is the right of the public to have an even speedier trial for those charged with violent crimes.

Now I might say further that in essence this, I am reliably informed, is the procedure that is pretty much being followed in the District of Columbia court system right now.

I think it is incumbent upon the members of this committee to speak out as Members of the Congress in endorsement of that policy.

Mr. POFF. Mr. Chairman, the gentleman has laid the basis for my second question.

Does the gentleman fear that the fact that Congress has pronounced upon the subject of a speedy trial might be taken by the courts to mean that Congress has expressed its definition of the constitutional guarantee of a speedy trial.

Mr. JACOBS. I really do not. I really think the underlying theory of this amendment is that in this country traditionally we have divided our criminal calendars between felonies and misdemeanors.

But there are some felonies that are not of a violent nature and of great physical danger to would-be victims in a community. And there are some misdemeanors which do invlove violence to the person and great danger to the community. I suggest a redefinition of the division which has traditionally been made in our administration of criminal justice—dividing more specifically between that which is of greater danger physically to the community and that which is less dangerous to the community.

I might add the court under this amendment would have the discretion to include such other cases as it felt were of great public importance in the administration of justice.

Mr. POFF. I have one final question.

I will ask the gentleman further—Does the gentleman know the attitude of Chief Judge Green and U.S. attorney for the District of Columbia concrening the feasibility and the functional difficulties inherent in his proposal?

Mr. JACOBS. When I introduced the amendment originally in committee, I received quite a lot of objection from those sources and to the best of my knowledge, I have met every objection that they have made by changing and altering the amendment I had originally proposed. The original proposal required trial to be held within 40 days. They objected to that as being impractical. And it is out.

I believe this amendment meets every objection that they raised in our committee.

At present this amendment is precisely what it appears to be on its face—an expedition of violent criminal cases and a little bit of delay, but not, I think, unconstitutional or unreasonable delay, in favor of the victims rather than the defendant, in cases of nonviolent crimes.

Mr. POFF. I thank the gentleman for his explanation.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. PEPPER. Do I presume correctly that the able gentleman in the well would like to see, and feels that it is constitutionally desirable if not imperative, that every defendant charged with crime have a speedy trial?

Mr. JACOBS. Absolutely.

Mr. PEPPER. And that the public authority provide personnel and the procedure necessary to assure every person charged with crime a speedy trial?

Mr. JACOBS. Yes.

Mr. PEPPER. But the able gentleman is saying that if the public authorities are delinquent in providing the personnel and the procedures to assure everybody a speedy trial, and some have to wait for a long, long time—at least those who wait should be those who are being charged with crimes of violence.

Mr. JACOBS. Yes.

Mr. ABERNETHY. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, with regard to the observation just made by the gentleman from Florida, the real object of the amendment, if it has an object, is to provide a speedier trial for some who are charged with certain offenses, than for others who are charged with other offenses.

This might be interpreted by the court as a discrimination.

For instance, here is a man charged with robbery. Under the amendment proposed by the gentleman from Indiana, if the court proceeded to try other cases, the defendant who may be charged

with robbery could come in with his smart counsel and say, "If Your Honor please, I move that the defendant be discharged because under the amendment which was offered by the gentleman from Indiana and adopted by the Congress my client was entitled to a speedier trial than these other fellows got. My client's trial has been delayed. Therefore, I move that his case be dismissed."

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Indiana.

Mr. JACOBS. I really think that as long as the question is completely within the discretion of the court, it could hardly constitute a legal ground for dismissal.

Mr. ABERNETHY. I am not too sure that the courts would interpret the language as discretionary. The gentleman from Virginia touched on the dangerous point. We may be attempting to define what under the Constitution constitutes a speedy trial. If the court should hold that that was what the Congress was attempting to do, then, my friends, just as certain as we sit here today, this amendment would be used as a technical ground for the discharge of a defendant.

May I say to the Members of this body that, indeed, I have the highest regard for my colleague from Indiana. He and I have discussed this amendment. We discussed it in the committee and we have discussed it here today. I frankly stated to him that I could see some merit in the court accelerating the trial of certain cases, but I do not want the House to invade the jurisdiction of the court and determine the order in which his docket is to be set and in which the cases are to be tried. That is the responsibility of the judge. That is his prerogative. This House should not attempt to set the docket of a criminal court. That should be determined by the high officer who presides over the court.

I have checked the language of the amendment with the Office of the Attorney General, and they have expressed the identical concern about it that I have just conveyed to you. They urge that it be defeated.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am happy to yield to the gentleman from Minnesota.

Mr. NELSEN. One point that has not been mentioned is the fact that there will be an administrative officer of the court who will assign dockets to the various judges.

Would the court administrator be able to make adjustments to accommodate the objectives sought by the Jacob's amendment.

Mr. ABERNETHY. I do not think the responsibility of the court administrator goes quite that far. I believe the court docket would actually be set by the presiding officer or the judges themselves.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from New York.

Mr. SMITH of New York. I wish to associate myself with the gentleman's remark. I believe it would be a great mistake to put the court into the kind of legislative straitjacket proposed. I am glad we are making a record today to indicate what we would like to see done by the courts to the extent that they are able to do so, which is the very thing that the amendment offered by the gentleman from Indiana seeks to accomplish. That is, to get some of the violent cases pending out of the way. But I think it must be left to the courts to run their own business, and to put them into such a legislative straitjacket as that proposed would be a great mistake.

Mr. ABERNETHY. I thank the gentleman. I am heartily in accord with what the gentleman from Indiana has in mind in offering his amendment. Indeed, the more violent cases ought to be gotten out of the way first. Nevertheless, we are treading on dangerous ground when we invade the authority of a judge to set the order of trial of the lawsuits in the court over which he presides.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Illinois.

Mr. YATES. Is not the same procedure proposed in the bill under the preventive detention section? Are you not invading the province of the court in that provision?

Mr. ABERNETHY. No, we are not.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to try to obtain a more precise explanation from the gentleman from Mississippi. I do not see the distinction in the gentleman's argument with respect to the section to which the amendment would apply and the preventive detention section. It seems to me the argument is equally applicable to both sections. If the amendment offered by the gentleman from Indiana would authorize, in the gentleman's words, an invasion by the Congress into court rules and procedures, of the determination by the court of the order in which cases are to be tried, how does the gentleman draw a distinction in that respect from the preventive detention section?

Does not that section require the court to take particular cases and separate them in the procedure in this bill providing for preventive detention?

Mr. ABERNETHY. No, it does not.

Mr. YATES. What is the distinction?

Mr. ABERNETHY. All I can say is there is absolutely no kindredship between these two sections of the bill, none at all. The preventive detention is simply for the purpose of keeping off the street a dangerous man who is likely to go right back on the street in the morning and repeat that with which he has just been charged.

Mr. YATES. That is the point. Certain cases are listed as authorizing preventive detention, cases in which violent crimes are charged. That is true in this section as well. The gentleman's explanation fails to show any difference in the two provisions as far as congressional dictation to the courts is concerned.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, that is exactly what this provision is for, to keep that dangerous man off the streets, and if that is an acceptable exception in the case of preventive detention, it should be a legitimate provision in this kind of situation.

All I have to say is we have wiretapping coming up and there is not going to be a word from the gentleman about the constitutionality of it. We are going to have preventive detention, and there is not going to be objection from the gentleman on the constitutionality of that. But suddenly when an amendment comes along to put those charged with violent crimes on an accelerated calendar for those crimes which are the things the American public is really afraid of, when somebody comes along with that suggestion, suddenly we have all these fine points about the constitutionality. The people of this country are entitled to speedy trials of violent crime charges.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. There is nothing to prevent the judge from setting those people down to trial.

Mr. JACOBS. Would that be unconstitutional?

Mr. ABERNETHY. I have not said it is going to be unconstitutional to send those people down for trial.

Mr. JACOBS. Would it be unconstitutional for him to do it?

Mr. ABERNETHY. I have done my best to explain, but we get into a field where we differ.

Mr. JACOBS. If the judge did what I am proposing, would it be unconstitutional?

Mr. ABERNETHY. I do not know.

Mr. JACOBS. If the gentleman is not so sure about it if the judge accelerates, why be so sure about it if we do it?

Mr. YATES. Mr. Chairman, I still do not see the distinction sought to be drawn between the action of Congress concerning cases outlined in the amendment offered by the gentleman from Indiana, and cases outlined in the preventive detention section. If it is not proper for Members of Congress to act in one case, it is not proper to do it in the other.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Chairman, I just want to say that I enjoyed the gentleman's speech, and I stand my ground.

Mr. YATES. So do I.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and, on a division (demanded by Mr. JACOBS) there were—ayes 37, noes 54.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairiman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 117, strike out lines 2 through 14 and insert in lieu thereof the following:

"an individual—

"(A) who is sixteen years of age or older and—

"(i) who is charged by the United States attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault to commit any such offense, or assault with a dangerous weapon, and

"(ii) who, before the charge referred to in clause (i), was, under circumstances where a motion could have been filed under section 16–2307 requesting transfer for criminal prosecution, found delinquent or was the subject of a consent decree entered after the filing of a delinquency petition; or

"(B) who is sixteen years of age or older and who is charged with a traffic offense.

An individual described in subparagraph (A) who makes a plea to a lesser included offense, who is convicted of a lesser included offense, or who is charged with an offense described in that subparagraph and with any other offense properly joinable with such offense shall be included in the definition of the term 'child'."

And on Page 117, line 17, strike out "or (C)".

Mr. GUDE. Mr. Chairman, this legislation contains a section which provides that a 16-year-old who is charged with a serious crime is automatically to be tried and sentenced as an adult. Mr. Chairman, the reason for my amendment is that I do not believe we can draw a black and white line at the 16-year-old first offender. I believe it should be provided that for 16-year-olds, this mandatory referral should be on the second serious offense, and that the juvenile court should retain the option of deciding whether the case of a first offender is to be waived to the adult court.

All of us have witnessed the great increase in crime committed by juveniles with alarm and dismay. Alarm, at a new generation of criminals; dismay, at a new generation of ruined lives. The bill before us is in many respects an excellent program to strengthen the juvenile court, streamline its procedures, and assure that speedier justice is given to young offenders, who need swift justice even more than their elders if the law is to command respect.

I agree, too, that many juveniles are too sophisticated and set in a pattern of criminal behavior to be reformed by the juvenile process before they reach age 21. Many more juveniles should be prosecuted and tried as adults, for the sake of both the community and the juvenile.

However, I fear that the committee bill goes too far in turning over juveniles to regular criminal proceedings. The fact that many more juveniles should be tried as adults does not persuade me that every 16-year-old charged with his first serious offense should be excluded from the juvenile court process without consideration of any other factor, such as his previous record. The majority of our States do not exclude 16-year-old first offenders from the juvenile courts, and I do not think we should adopt this drastic rule for the District of Columbia.

However, if a 16-year-old is charged with a second serious offense, and has already had the benefit of special juvenile disposition, I think we are on solid ground in concluding that he cannot be rehabilitated by the juvenile system and should be treated as an adult.

My amendment would transfer to adult court every juvenile 16 and older who has already been adjudicated by the juvenile court for a serious offense—that is, second offenders.

Let me point out that about a third of the juveniles referred to the juvenile court have already been adjudicated delinquent once, so these hardened, repeat offenders would all be tried as adults under my amendment. I believe our strengthened juvenile court system will be able to handle the remaining first offenders, once the hard core is transferred to adult court, and that we ought to give the reorganized court system a chance.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as much as it pains me to disagree with my good friend and colleague from Maryland, I feel compelled to do so.

I might say this amendment was offered in the committee and defeated 21 to 4.

I think what we have to recognize, as the gentleman does, that some individuals are very hardened criminals at a very early age. I, for one, support the constitutional amendment allowing 18-year-olds to vote. I think it is a perfectly logical extension of this to recognize the fact that some youngsters are hardened criminals at an early age.

The proposal that the gentleman talks about is sometimes referred to as the "one-bite" approach. In other words, let the child go through the juvenile system on the first offense and treat him as an adult only if he repeats. On its face it is very appealing but not when you consider that the first bite may be a murder or a forcible rape, and frequently is; nor when you consider that this may be the first offense that the individual was caught for, but is far from the first offense which he has committed. Moreover, this does not really apply the one-bite rule. The 14-year-old adjudicated as delinquent for armed assault or robbery and later charged with the same crime after his 16th birthday would still be considered a first offender under this amendment. Since he would not be eligible for waiver at the time of the first offense, it cannot be counted for the purpose of this law. Indeed, a 16-year-old with a record of offenses dating back to the age of 9 or 10 might escape adult treatment if he avoids waiverable offenses between the ages of 15 and 16.

In addition to the serious substantive problems posed by this amendment, the necessary procedures to decide who is an adult or a child create an administrative nightmare. A policeman who catches a youth in an armed robbery has to determine if he has a prior record and what the offense was and whether it was adjudicated and whether he is in a waiverable category before determining whether or not to take the child to the juvenile intake worker or the U.S. attorney. This places an intolerable burden on the police.

I want to make one point in connection with this section of the bill. It is very appealing when someone says that we ought to be very attentive to youngsters, and I agree, too. If we have any chance to rehabilitate a person, it should be among those who are young. What we are losing sight of, however, is that a very hardened individual at 15 or 16 years of age is thrown into a situation where he is in custody with 8-, 9-, 10-, and 11-year-olds. So that, while we are concerned with what the effect will be when the 15- or 16-year-old goes into confinement with adults we do not appear to be as concerned about the 8-, 9-, 10-, or 11-year-old who is being corrupted by the older hardened juvenile offender.

We should also not lose sight of the fact that this provision in our bill in no way eliminates the right of an individual to be tried under the Youth Correction Act. As far as I am concerned, the Youth Correction Act is a far more promising way to rehabilitate a youthful offender than by turning him over to the local welfare authorities.

Mr. CELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I desire to have the attention of the distinguished chairman of the District of Columbia Committee and call his attention to the provisions with reference to imprisonment for life.

On page 302 we find the provisions that if a defendant is guilty of three felonies, he may—and the word "may" is used on line 19, page 302—be sentenced for the rest of his natural life. And, on page 303, if the defendant is guilty of three violent crimes, he shall be sentenced for the rest of his natural life by the judge, and the definition is given as to what are violent crimes. They are enumerated on page 304 and include murder, manslaughter, rape, arson, mayhem, malicious disfiguring of another, abduction, kidnaping, burglary, robbery, housebreaking, indecent acts against children, assault with intent to kill, and so forth.

Those enumerated offenses are also felonies.

Now, which prevails, the permissive act on the part of the judge or the compulsory action as enunciated in the language?

Must the person be sentenced for life for three felonies or "may" he be sentenced for life? There is an inconsistency and I should like to get an elaboration upon it from the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, I yield to the gentleman from Mississippi to respond to the question of the gentleman from New York.

Mr. ABERNETHY. The language that the gentleman last referred to covers crimes which are identified as violent crimes. In other words, if one is convicted the third time for a violent crime, then he must be sentenced for life. The other offenses are not identified as violent offenses or offenses which fall within the category which would require the determination as to whether or not he gets a life sentence. The giving of a life sentence as a result of those offenses is permissive.

Mr. CELLER. I understand that but the difficulty as I see it is that you enumerate as violent crimes felonies. All those violent crimes that you specify are also felonies.

Mr. ABERNETHY. Yes.

Mr. CELLER. What is the judge to do? Must he sentence for life or may he sentence for life?

Mr. ABERNETHY. If the offenses are those that are identified on page 304 fall within those on page 304 and if he is convicted for the third time for those offenses, he must be sentenced for life.

Mr. CELLER. The gentleman does not seem to get the gist or the thrust of my argument.

Mr. ABERNETHY. Perhaps I do not, but I thought I did.

Mr. CELLER. But those items that the gentleman speaks of are all felonies.

Mr. ABERNETHY. Indeed they are.

Mr. CELLER. We are dealing with a criminal statute and the language must be exact. This is not exact language. If you had defined those crimes which you deem to be felonies, I would not argue with you. But everything you put there under the category of violent crimes is also a felony.

Mr. ABERNETHY. If the gentleman will look at the language on page 302, beginning with line 9, the gentleman will see the following:

Except as provided in subsection (b) . . .

Does that answer the gentleman's question?

Mr. CELLER. I do not think it does.

Then you go on to say if any person is convicted in the District of Columbia of a felony, and before the commission of such felony was convicted of at least two felonies—additional felonies—I think the language must before it leaves this Chamber be made more precise. Otherwise you are going to get yourself in a heap of trouble.

Mr. ABERNETHY. I would say that the gentleman is absolutely correct if felonies were limited to those which are set forth on page 304. But, there are many felonies other than those set forth on page 304 of the bill.

Mr. CELLER. I am sorry that I cannot convince the gentleman, but I think subsequent events will show that he is in error and that I am correct, and that will be rather dangerous because it might mean freedom for some very desperate criminals. At least, you might not be able to sentence him for life because of discrepancy here which I pointed out.

I think it would be well to address yourself before you conclude to get the language nailed down so that there will be no doubt about it.

Mr. GUDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in response to my colleague from Maryland, I would like to point out, in getting back to the subject of the amendment which we are presently considering, that judges now have the option of waiving a juvenile to the adult court on the first offense, so that 16-year-old juveniles who commit brutal, serious offenses can be waived. My amendment would merely make the mandatory provision applicable to second offenders, rather than first offenders.

Mr. HOGAN. Mr. Chairman, would the gentleman yield?

Mr. GUDE. I yield to the gentleman from Maryland.

Mr. HOGAN. The restrictions which the appellate court has placed on this procedure has resulted in the waiver of only 10 juveniles in the past year, in spite of the fact that there have been 22 murders and 88 rapes, all serious crimes, there have been only 10 waivers.

Mr. GUDE. I believe the gentleman will find that this legislation itself eases the waiver procedure, so that the old restrictions on waiver will no longer apply. In addition, the court will have, for the first time, the power to waive 15-year-olds to the regular courts for prosecution as adults.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I would just point out that in the bill you have a new transfer procedure which was discussed by the gentleman from Maryland who just spoke, at page 128, which allows the court to transfer, they can transfer clear down to the 15-year-old. The amendment offered by the gentleman from Maryland, who offered this amendment in committee, is an amendment on the mandatory section, which says it is mandatory if you are over 16, and if you are accused of any of those crimes that are listed on page 304, then you are in the adult court.

I want to say that it has also been suggested on page 306—and I hope the members of the committee will listen to this—you have now made the breaking into of a vending machine for bubble gum burglary in the second degree, and burglary is included under the definition on page 304 at line 7 as one of the crimes of violence.

Now, a second burglary conviction would put you in the position of being a 17-year-old, and automatically placed into the adult court, and if you were accused of a third one, as the chairman of the Committee on the Judiciary pointed out, it is not in the discretion of the judge as to a mandatory sentence, but it is without the judicial discretion that it is a mandatory sentence. I think the amendment offered by the gentleman is very well taken on the definitional area. We have left the transfer arrangement in so you can transfer a violent child, and the problem that the courts have had in the past is corrected. I appreciate the gentleman offering the amendment.

Mr. KYL. Mr. Chairman, I move to strike the necessary number of words.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, in connection with the observations made about the bubble gum machine. This amendment was in one of my bills, and it responds to the fact that some of the very sophisticated vending machine operations cost hundreds of thousands of dollars, and under the present law most such break-ins are prosecuted as misdemeanors, but this provision in the bill will also still allow the U.S. attorney the discretion of proceeding under the "bubble gun case" as a misdemeanor.

I thank the gentleman for yielding.

Mr. KYL. Mr. Chairman, of course one of the things involved in the waiving of juveniles is the fact that under a Federal court decision, evidence adduced against juveniles while so assigned cannot be used against the juvenile if he is waived to an adult court.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The question was taken; and on a division (demanded by Mr. ADAMS), there were—ayes 29, noes 63.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY: On page 22, strike out lines 3 through 5 and insert in lieu thereof the following:

"(b) Thirteen additional associate judges shall be appointed to the Superior Court as follows: Eighteen months after such effective date, nine additional associate judges shall be appointed, and thirty months after such effective date, four additional associate judges shall be appointed."

Mr. FOLEY. Mr. Chairman, the purpose of this amendment is to restore the number of judges recommended by the President and the administration in their original submissions to the committee.

There are presently 27 judges, local judges, in the District of Columbia, and the proposal of the administration is to raise that number to 50—adding 23 additional judges. These were to be phased in by immediate appointment of 10, with the creation of the court, and the appointment of nine additional judges in 2 years, and the appointment of four adtional judges in 3 years.

My amendment changes that staging to 18 months and 30 months to comport with the jurisdictional staging in the bill as reported by the committee.

Like the gentleman from Mississippi (Mr. ABERNETHY) and the gentleman from Washington (Mr. ADAMS) who are both members of the committee, my trial experience has been largely involved in the past with the prosecution of criminal offenses.

I think it is very clear that where dockets are crowded and where the backload is great, and we have now in the District courts 1,500 felonies backed up, it is inevitable that there will be management of the backload by the acceptance of pleas to reduce charges, which does not necessarily lead to the proper administration of justice.

I asked Chief Judge Harold H. Green of the District of Columbia Court of General Sessions for his advice on this matter and I would like to report briefly what he has advised me.

I quote:

It may reasonably be estimated that between 10 and 13 of the District Court's 20 active, working retired, and visiting judges are now handling local, as distinguished from federal, matters. Thus, the addition of 13 judges to the Superior Court contemporaneously with the transfer of the local jurisdiction to that court would not significantly add to the total judgepower available for the handling of the local cases. Court reorganization would relieve pressure on the District Court to rely on visiting and retired judges, and it would free that court to take on additional federal litigation now filed in other

federal districts. But with the addition of only 13 more judges to the local bench it would do little to speed the disposition of local litigation.

The number of judges presently assigned to that litigation (in local and federal courts combined) has proved to be inadequate and has led to the continually mounting backlogs, trial delays and wholesale reduction of criminal charges which are the prime target of the court reorganization bill. Even with increased efficiency resulting from consolidation, it cannot be expected that the number of judges found to be grossly inadequate for the local caseload would thereafter be sufficient.

Specifically, with the addition of only 13 more judges, little or no additional judgepower would be available to handle the case overflow which is now causing almost every month an increase in Juvenile Court, General Sessions Court, and District Court backlogs and is thereby preventing swift trials and punishments, little or no additional judgepower would be available to permit the institution of tougher charging policies and a halt in the unwarranted reduction of felonies to misdemeanors; and little or no additional judgepower would be available to set up effective intra-family and juvenile proceedings. In short, without the additional judges, it would be difficult to achieve the aims of court reorganization.

Mr. Chairman, if we are serious about attacking the crime problem in the District of Columbia, one of the essential areas to reach is the inadequate number of judges in this city. The administration has recommended an additional 23 judges. The District Committee has reported 13. I think the President's letter contained the suggestion that Congress not take halfway measures. I believe the Committee has taken a halfway measure in the authorization of new judges.

The explanation of the District Committee in its report is that it does not feel the additional judges are justified considering the need for economy. I suggest that one of the areas that we should put on the lower level of priority in this problem is the problem of economy. We must realize that effective judicial administration and the removal of the backlog of cases, require the expenditure of funds. We are taking some strong action in this bill. One of the things we must do is to strengthen up the court system, to give it the full number of judges necessary to carry on the prompt and efficient administration of justice.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment.

I fully understand and appreciate the reasons assigned by my friend from the State of Washington for offering the amendment. Let me get the picture before you, and we will tell you what we did and why we did it.

There are now 27 judges of the court of general sessions. That is a great many judges. They are judges who will have jurisdiction of cases which will be common to State courts in your own States. The administration asked for 10 additional judges now, nine additional judges 2 years from now, and four additional judges, I believe, 3 years from now. I have forgotten the exact wordage. That is 23. That would be the equivalent, were they all granted now, of 50 judges with one judge for every 20,000 people, including men, women, and children. These judges do not work for nothing, although we were not exactly making an economy move. The salaries of these judges will be around $34,000 or $35,000. Inasmuch as the administration asked for only 10 judges now for a period of 2 years, we said, "Well, let us try with 10 now and three 2 years from now and see if that will not be enough, and if that will not be enough, the Congress will still be here and we will give you some more."

We went down to the Attorney General's office, and I never had a more satisfactory conference on a bill. This was one of the items we discussed. I presented it in this manner. I said, "Let us try this. It will not slow down what you are trying to do. You will get just exactly what you are seeking for this year and for next year, and it might be enough."

One of the learned judges was sitting there, an interesting man, a good friend of mine. He said, "Why not give the President the authority to appoint all 23 judges now, and then if he does not want to appoint all of them, he does not have to appoint them." Everybody laughed.

Members know they are not going to let a plum like that go by. I would not, if I had the authority to appoint them. Do Members know of any judgeships that go vacant in their district? A judgeship is the juiciest plum of all. That would not go vacant.

But the limitation we put on, the limitation of judges now, does not slow down what they requested. They went along with us. They are agreeable to it. They did want to appoint the judges for life, which we did not agree to, and which I think is better. So we decided to give them the 10 now and the nine 2 years from now if found they have not enough. We will still be in business here—I hope we will—and we can then authorize the others.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman suggested if 2 years from now additional judges are needed, the Congress will be here, but is it not true that 2 years from now the additional criminal jurisdiction and thus a heavier load of cases will be thrust upon the Supreme Court?

Mr. ABERNETHY. Yes; and this is another thing I want to put in. I say it reluctantly, but the judges do not put in the hours that the gentleman and I put in. The courts do not open until about 10 in the morning. I think that is a little late. Most of the time they adjourn at 4. They take out 1½ to 2 hours for lunch. I am not criticizing them. There is nothing more delightful than being a judge. It is just the most delightful thing of all. I used to look at my judge when I was a district attorney and observe that easy job he had, sitting there and just saying "sustained" or "overruled." And that is about all he had to do.

If the courts would open earlier and work longer—and we have suggested that, I will say to the gentleman—that would help.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, if the gentleman from Mississippi will give me his attention, if, in fact, additional judges are needed after the 18-month period, we will only know this in terms of further backlogs being created in the courts of the District. Is that not correct?

Mr. ABERNETHY. Yes. If the backlog shows up, that would happen. But they will ask for it themselves 2 years from now.

Mr. FOLEY. Are we not taking the risk of creating a backlog and reducing the efficiency of the courts by denying the request requiring the addition of these additional judges as the transfer of jurisdiction occurs? Is that not the theory?

Mr. ABERNETHY. I have made a lot of mistakes, but I do not think this is a mistake. We have made an evaluation, and we have made available to them just exactly what they asked for in the next 2 years. Next year or the year after, after a year of operation of this court, if this backlog does not begin to be depleted, the committee can go back to work and consider giving them additional judges.

Mr. FOLEY. Was that decision of the committee as explained in the report, based primarily on economy?

Mr. ABERNETHY. I do not know what is in the report, because I did not write it, but my decision—I did not handle the whole thing—was based on what I just said in the well of the House, that I thought this city could make it with 40 judges, and keep up. At least they will have an opportunity to try that. I do not know if they can do it. But they will try it on the outline sent up by the administration.

Mr. FOLEY. I know the gentleman had a distinguished record as a prosecutor.

Mr. ABERNETHY. It was quite ordinary, but I got by.

Mr. FOLEY. Where prosecuting officials face crowded calendars and courts, the eventual result is for them to tend to reduce cases, to get pleas and to move the docket, is that not correct?

Mr. ABERNETHY. Yes.

Mr. FOLEY. And are we not risking, if we have a shortage of judges, just that sort of conduct in the U.S. attorney's office as a result of not having adequate trial calendars to move cases along at the proper times?

Mr. ABERNETHY. I honestly do not think we have that risk here.

Mr. YATES. Mr. Chairman, may I ask the gentleman what the current backlog of criminal cases is? There was a statement on the floor a few minutes ago that there was a backlog of 1,500 felonies.

If that is true, with due respect to the gentleman's charming delineation of the life of a judge, the fact remains that those who want speedy trials for defendants charged with heinous crimes believe there ought to be the means of disposing of the cases quickly, of providing sufficient number of judges to do the job. The administration has recommended more judges to deal with the situation than the committee has provided.

I yield to the gentleman from Mississippi.

Mr. ABERNETHY. These judges the gentleman speaks of will not go on the court until 2 or 3 years from now.

Mr. YATES. Then there will be a bigger backlog.

Mr. ABERNETHY. They do not have any place to put them. They have to build a courthouse for them. They have to have facilities. There is no place to put these we are adding now.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. FOLEY. Under the amendment I have offered, is it not true we would provide the same number of judges immediately that the committee has called for and that the administration has called for?

Mr. ABERNETHY. That is correct.

Mr. FOLEY. The purpose of the amendment, as I am sure the gentleman knows, is to phase in in 18 months nine additional judges instead of the three authorized by the committee bill, exactly as was recommended by the Justice Department and by the administration. At the end of 30 months, when additional civil jurisdiction goes to this court, which will require additional civil cases to be handled, there would be an additional four judges.

I did not want the gentleman to misunderstand, and I am sure he does not. We are not adding these additional judges now. We are adding them in a phased way exactly in terms of number and roughly in terms of time as the original administration request.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield to me in regard to the backlog of cases?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. In my experience as a prosecutor, I have never found that these people are always ready for trial. Lawyers come into court and ask for continuances. Sometimes the backlog is the result of lawyers saying, "I have to try a lawsuit in Baltimore and I cannot be here tomorrow."

Mr. YATES. I agree with the gentleman. That is why I wondered why he compared congressional activity with that of the courts. There is a difference between the two types of activity. Judges cannot control their calendars. They can try, but lawyers, especially good ones have more than one client and more than one case and lawyers cannot be in two courts at the same time. Yes, there are judges who can work harder and spend more time in their courtrooms, but the fact remains that even if they do, a very substantial part of the backlog will remain. Defendants are entitled to a quick trial, and quick trials, too, are desirable to protect the community. Let's make sure there are enough judges to handle the cases.

Mr. JACOBS. Mr. Chairman, I rise in opposition to the amendment.

I should like to endorse what the gentleman from Mississippi said. When we made a determination about the number of additional judges we were recommending to the committee for authorization, we made that determination on the basis of actual need and not what the need might be. If we would err we would err on the side of safety of having enough judges.

The point is that we have several years to determine whether it would be an error. When the time comes we will have a better picture of what is needed.

Surely, it was partly a fiscal responsibility to make the adjustment, but it was a fiscal responsibility consistent with the needs and the facts as our committee understood them.

I stand with the gentleman from Mississippi on this matter.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman just made a very impassioned speech a few minutes ago about the necessity for handling violent crime.

Mr. JACOBS. That is right.

Mr. FOLEY. I supported the gentleman on that amendment. Unfortunately, it did not carry.

Perhaps one of the ways we can speed the trials for violent crimes is to have sufficient judges available and to have them available at the time the defendant is ready for trial, and not anticipate by saving a few hundred thousands dollars a year we will do the people of this district or the people of the United States any good in the fight against crime.

Mr. JACOBS. I respond to the gentleman by saying obviously I offered my amendment in the context of those judges authorized under this bill. I am convinced that was a sufficient number of judges for that purpose.

When the time comes, if additional judges are required, we will not have to guess at it. That is the point. When the time comes we can find out definitely whether any additional judges are needed.

Mr. FOLEY. The way we will find out is by having another backlog build up.

Mr. JACOBS. One does not have to have his basement fill up with water before he calls a plumber. If the water begins to leak a little he will call a plumber. But he will not call a plumber if he does not have any trouble at all.

Our best recommendation is that proposed by the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington, Mr. FOLEY.

The amendment was rejected.

The CHAIRMAN. Are there any further amendments? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—CRIMINAL LAW AND PROCEDURE

SENTENCING OF MULTIPLE OFFENDERS

SEC. 201. (a) Section 907 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 22–104), is amended to read as follows:

"SEC. 907. Except as provided in section 907A(b), if any person—

"(1) is convicted of a criminal offense (other than a non-moving traffic offense) under a law applicable exclusively to the District of Columbia, and

"(2) was previously convicted of a criminal offense under any law of the United States or of a State or territory of the United States which offense, at the time of the conviction referred to in paragraph (1), is the same as, constitutes, or necessarily includes the offense referred to in that paragraph,

such person may be sentenced to pay a fine in an amount not more than one and one-half times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than one and one-half times the maximum term of imprisonment prescribed for that conviction. If such person was previously convicted more than once of an offense described in paragraph (2), he may be sentenced to pay a fine in an amount not more than three times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than three times the maximum term of imprisonment prescribed for that conviction. No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Such Act is amended by adding after section 907 the following new section:

"SEC. 907A. (a)(1) Except as provided in subsection (b), if any person—

"(A) is convicted in the District of Columbia of a felony, and

"(B) before the commission of such felony, was convicted of at least two felonies,

and the court is of the opinion that the history and character of such person and the nature and circumstances of his criminal conduct indicate that extended incarceration or lifetime supervision, or both, will best serve the public interest, the court may, in lieu of any sentence otherwise authorized for the felony referred to in subparagraph (A), impose such greater sentence as it deems necessary, including imprisonment for the natural life of such person.

"(2) For purposes of subparagraph (B) of paragraph (1)—

"(A) a person shall be considered as having been convicted of a felony if he was convicted (i) of a felony in a court of the District of Columbia or of the United States, or (ii) in any other jurisdiction of a crime classified as a felony under the laws of that jurisdiction or punishable by imprisonment for more than two years; and

"(B) a person shall be considered as having been convicted of two felonies if his initial sentencing under a conviction of one felony preceded the commission of the second felony for which he was convicted.

No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection.

"(b)(1) If any person—

"(A) is convicted in the District of Columbia of a violent crime, and

"(B) before the commission of such violent crime, was convicted of at least two violent crimes,

the court shall (unless it imposes the death sentence) sentence him to imprisonment for his natural life, with eligibility for parole only after the expiration of twenty years from the date his imprisonment begins. Imposition or execution of sentence under this subsection shall not be suspended, probation shall not be granted, and chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply.

"(2)(A) For purposes of this subsection, the term 'violent crime' means any violation of the laws of the United States (including laws applicable exclusively to the District of Columbia) or of a State or territory of the United States, which violation would constitute under the laws applicable exclusively to the District of Columbia any of the following crimes: Murder, manslaughter, rape, arson, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, rob-

bery, housebreaking, indecent acts against children, assault with intent to kill, to commit rape, or to commit robbery, assault with a dangerous weapon, assault on a police or correctional officer, or assault with intent to commit any offense punishable by imprisonment for more than one year.

"(B) For purposes of this subsection, (i) a person shall be considered as having been convicted of two violent crimes in his initial sentencing under a conviction of one such crime preceded the commission of the second violent crime for which he was convicted, and (ii) no conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection."

CONSPIRACY

SEC. 202. Such Act of March 3, 1901, is further amended by adding after section 908 the following new section:

"SEC. 908A. (a) If two or more persons conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than $10,000 or imprisoned not more than five years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than five years, the maximum penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.

"(b) No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by one of the conspirators pursuant to the conspiracy and to effect its purpose.

"(c) When the object of a conspiracy contrived within the District of Columbia is to engage in conduct in a jurisdiction outside the District of Columbia which would constitute a criminal offense under an Act of Congress applicable exclusively to the District of Columbia if performed therein, the conspiracy is a violation of this section if (1) such conduct would also constitute a crime under the laws of the other jurisdiction if performed therein, or (2) such conduct would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia even if performed outside the District of Columbia.

"(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia if performed within the District of Columbia is a violation of this section when an overt act pursuant to the conspiracy is committed within the District of Columbia. Under such circumstances, it is immaterial and no defense to a prosecution for conspiracy that the conduct which is the object of the conspiracy would not constitute a crime under the laws of the other jurisdiction."

SECOND DEGREE BURGLARY EXTENDED TO BREAKING AND ENTERING VENDING MACHINES AND SIMILAR DEVICES

SEC. 203. Section 823(b) of such Act of March 31, 1901 (D.C. Code, sec. 22–1801), is amended by inserting after "deposited and kept for the purpose of trade," the following: "or any parking meter, coin telephone, vending machine dispensing goods or services, money changer, or any other device designed to receive currency,".

PENALTY FOR RAPE

SEC. 204. Section 808 of such Act of March 31, 1901 (D.C. Code, sec. 22–2801), is amended to read as follows:

"SEC. 808. Whoever has carnal knowledge of a female forcibly and against her will or whoever carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for any term of years or for life."

COMMITTING CRIME OF VIOLENCE WHILE ARMED

SEC. 205. (a) Section 2 of the Act entitled "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes", approved July 8, 1932 (D.C. Code, sec. 22–3202), is amended to read as follows:

"SEC. 2. (a) If any person commits a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon (including a sawed-off shotgun, shotgun, machinegun, rifle, dirk, bowie knife, butcher knife, switchblade knife, razor, blackjack, billy, or metallic or other false knuckles) he shall, in addition to the punishment provided for the crime of violence—

"(1) if he is convicted for the first time of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than three years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(2) if he is convicted more than once of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than ten years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(b) Where the maximum sentence imposed under this section is life imprisonment the minimum sentence imposed under subsection (a) may not exceed fifteen years' imprisonment.

"(c) Any person sentenced under this section may be released on parole in accordance with the Act of July 15, 1932 (chapter 2 of title 24 of the District of Columbia Code), at any time after having served the minimum sentence imposed under this section.

"(d)(1) Chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply with respect to any person sentenced under paragraph (2) of subsection (a).

"(2) The execution or imposition of any term of imprisonment imposed under this section may not be suspended and probation may not be granted. Nothing contained in this section shall be construed as reducing any sentences otherwise imposed or authorized to be imposed.

"(e) No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Section 13 of such Act is amended by striking out "This" and inserting in lieu thereof the following: "Except as provided in section 2 and section 14(b) of this Act, this".

RESISTING ARREST

SEC. 206. Subsection (a) of section 432 of the Revised Statutes relating to the District of Columbia (D.C. Code, sec. 22–505(a)) is amended by inserting at the end thereof the following: "It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such arrest is made by an individual he has reason to believe is a law enforcement officer, whether or not such arrest is lawful."

INSANE CRIMINALS

SEC. 207. Section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24–301), is amended—

(1) by striking out "Whenever a person is arrested" and all that follows down through "period of probation" in the first sentence of subsection (a) and inserting in lieu thereof the following: "Whenever a person is arrested or indicted for, or charged by information with, an offense, or a child is the subject of a transfer motion in the Family Division of the Superior Court of the District of Columbia pursuant to section 16–2331 of the District of Columbia Code, and before the imposition of sentence, the expiration of any period of probation, or prior to hearing on the transfer motion, as the case may be,";

(2) by striking out the period at the end of the second sentence of subsection (a) and inserting in lieu thereof "or to participate in transfer proceedings.";

(3) by inserting after "stand trial" in the third sentence of subsection (a) "or to participate in transfer proceedings";

(4) by inserting after "stand trial" in both places it appears in subsection (b) "or to participate in transfer proceedings";

(5) by amending subsection (d) to read as follows:

"(d) if any person tried upon an indictment or information for an offense raises the defense of insanity and is acquitted solely on the ground that he was insane at the time of its commission, he shall be committed to a hospital for the mentally ill until such time as he is eligible for release pursuant to subsection (e).";

(6) by adding at the end of subsection (j) the following sentence: "No person accused of an offense shall be acquitted on the ground that he was insane at the time of its commission unless his insanity, regardless of who raises the issue, is affirmatively established by a preponderance of the evidence."; and

(7) by adding at the end thereof the following new subsection:

"(k)(1) A person in custody or conditionally released from custody, pursuant to the provisions of this section, claiming the right to be released from custody, the right to any change in the conditions of his release, or other relief concerning his custody, may move the court having jurisdiction to order his release, to release him from custody, to change the conditions of his release, or to grant other relief.

"(2) A motion for relief may be made at any time.

"(3) Unless the motion and the files and records of the case conclusively show that the person is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. On all issues raised by his motion, the person shall have the burden of proof. If the court finds that the person is entitled to his release from custody, either conditional or unconditional, a change in the conditions of his release, or other relief, the court shall enter such order as may appear appropriate.

"(4) A court may entertain and determine the motion without requiring the production of the person at the hearing.

"(5) A court shall not be required to entertain a second or successive motion for relief under this section more often than once every six months. A court for good cause shown may in its discretion entertain such a motion more often than once every six months.

"(6) An appeal may be taken from an order entered under this section to the court having jurisdiction to review final judgments of the court entering the order.

"(7) An application for habeas corpus on behalf of a person who is authorized to apply for relief by motion pursuant to this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court having jurisdiction to entertain a motion pursuant to this section, unless it also appears that the remedy by motion is inadequate or ineffective to test the validity of his detention."

NARCOTIC DRUGS

SEC. 208. Section 23 of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–423) is amended to read as follows:

"SEC. 23. (a) Except as hereinafter provided, a person violating any provision of this Act, or any regulation made by the Commissioner of the District of Columbia or the District of Columbia Council under authority of this Act, for which no specific penalty is otherwise provided, shall be fined not less than $100 nor more than $1,000, or imprisoned for not more than one year, or both.

"(b) A person convicted of an offense punishable pursuant to this section, who shall have previously been convicted in the District of Columbia of such an offense, or who shall have previously been convicted, either in the District of Columbia or elsewhere, of a violation of the laws of the United States or of a State or subdivision thereof which would have been a violation of this Act and punishable pursuant to this section if committed in the District of Columbia and prosecuted pursuant to this Act, shall be fined not less than $500 nor more than $5,000 or imprisoned for not more than ten years, or both.

"(c) For additional penalties for two or more violations of this Act, see sections 907 and 907A of the Act of March 3, 1901 (as amended by title II of the District of Columbia Court Reform and Criminal Procedure Act of 1970)."

CODIFICATION OF TITLE 23 OF DISTRICT OF COLUMBIA CODE

SEC. 209. (a) The general and permanent laws of the District of Columbia relating to criminal procedure are revised, codified, and enacted as title 23 of the District of Columbia Code, "Criminal Procedure", and may be cited "D.C. Code, sec. ", as follows:

"TITLE 23.—CRIMINAL PROCEDURE

"Chapter 1.—GENERAL PROVISIONS

"§ 23–101. Conduct of prosecutions

(a) Prosecutions for violations of all police or municipal ordinances or regulations and for violations of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisonment not exceeding one year, shall be conducted in the name of the District of Columbia by the Corporation Counsel for the District of Columbia or his assistants, except as otherwise provided in such ordinance, regulation, or statute, or in this section.

"(b) Prosecutions for violations of section 6 of the Act of July 29, 1892 (D.C. Code, sec. 22–1107), relating to disorderly conduct, and for violations of section 9 of that Act (D.C. Code, sec. 22–1112), relating to lewd, indecent, or obscene acts, shall be conducted in the name of the District of Columbia by the Corporation Counsel or his assistants.

(c) All other criminal prosecutions shall be conducted in the name of the United States by the United States attorney for the District of Columbia or his assistants, except as otherwise provided by law.

"(d) An indictment or information brought in the name of the United States may include, in addition to offenses prosecutable by the United States, offenses prosecutable by the District of Columbia, and such prosecution shall be conducted by the United States attorney in the name of the United States, if the written consent of the Corporation Counsel (or his assistant authorized to consent to such prosecution) is filed in such case.

"(e) Separate indictments or informations, or both, charging offenses prosecutable by the District of Columbia and by the United States may be joined for trial if the offenses charged therein could have been joined in the same indictment. Such prosecution may be conducted either solely by the Corporation Counsel or his assistants or solely by the United States attorney or his assistants if the other prosecuting authority consents.

"(f) If in any case any question shall arise as to whether, under this section, the prosecution should be conducted by the Corporation Counsel or by the United States attorney, the presiding judge shall forthwith, either on his own motion or upon suggestion of the Corporation Counsel or the United States attorney, certify the case to the District of Columbia Court of Appeals, which court shall hear and determine the question in a summary way. In every such case the defendant or defendants shall have the right to be heard in the District of Columbia Court of Appeals. The decision of such court shall be final.

"§ 23–102. Abandonment of prosecution; enlargement of time for taking action

"If any person charged with a criminal offense shall have been committed or held to bail to await the action of the grand jury and within nine months thereafter the grand jury shall not have taken action on the case, either by ignoring the charge or by returning an indictment, the prosecution of such charge shall be deemed to have been abandoned and the accused shall be set free or his bail discharged, as the case may be: but, the court having jurisdiction to try the offense for which the person has been committed, when practicable and upon good cause shown in writing and upon due notice to the accused, may from time to time enlarge the time for the taking action in such case by the grand jury.

"§ 23–103. Statements prior to sentence

"Before imposing sentence the court may disclose to the defendant's counsel and to the prosecuting attorney, but not to one and not to the other, all or part of any presentencing report submitted to the court in the case. The court also prior to imposing sentence shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. At any time when the defendant or his counsel addresses the court on the sentence to be imposed, the prosecuting attorney shall, if he wishes, have an equivalent opportunity to address the court and to make recommendation to the court on the sentence to be imposed and to present information in support of his recommendation. Such information as the defendant or his counsel or the prosecuting attorney may present shall at all times be subject to the applicable rules of mutual discovery.

"§ 23–104. Appeals by United States and District of Columbia

"(a)(1) The United States or the District of Columbia may appeal an order, entered before the trial of a person charged with a criminal offense, which directs the return of seized property, suppresses evidence, or otherwise denies the prosecutor the use of evidence at trial, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge who granted such motion that the appeal is not taken for purpose of delay and the evidence is a substantial proof of the charge pending against the defendant.

"(2) A motion for return of seized property or to suppress evidence shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion.

"(b) The United States or the District of Columbia may appeal a ruling made during the trial of a person charged with a criminal offense which suppresses or otherwise denies the prosecutor the use of evidence on the ground that it was invalidly obtained, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of the charge being tried against the defendant. The court shall either adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved.

"(c) The United States or the District of Columbia may appeal an order dismissing an indictment or information or otherwise terminating a prosecution in favor of a defendant or defendants as to one or more counts thereof, except where there is an acquittal on the merits.

"(d) The United States or the District of Columbia may appeal any other ruling made during the trial of a person charged with an offense which the United States attorney or the Corporation Counsel certifies as involving a substantial and recurring question of law which requires appellate resolution. Such an appeal may be taken during a trial only with leave of the court, and upon allowing such an appeal during a trial the court shall adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved. Such an appeal may be taken after trial, and the appellate court shall decide the question of law which has been certified as substantial and recurring, but a verdict in favor of the defendant shall not be set aside.

"(e) Any appeal taken pursuant to this section either during or prior to trial shall be expedited.

"(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with chapter 13 of this title or chapter 207 of title 18, United States Code.

"§ 23–105. Challenges to jurors

"(a) In a trial for an offense punishable by death, each side is entitled to twenty peremptory challenges. In a trial for an offense punishable by imprisonment for more than one year, each side is entitled to ten peremptory challenges. In all other criminal cases, each side is entitled to three peremptory challenges. If there is more than one defendant, or if a case is prosecuted both by the United States and by the District of

Columbia, the court may allow additional peremptory challenges and permit them to be exercised separately or jointly, but in no event shall one side be entitled to more peremptory challenges than the other.

"(b) The court may direct that jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In addition to those otherwise allowed, each side is entitled to one peremptory challenge if one or two alternate jurors are to be impaneled, to two peremptory challenges if three or four alternate jurors are to be impaneled, and to three peremptory challenges if five or six alternate jurors are to be impaneled.

"(c) Any juror or alternate juror may be challenged for cause.

"(d) No verdict shall be set aside for any cause which might be alleged as ground for challenge of a juror before the jury is sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, such disqualification was not known to or suspected by the defendant or his counsel before the juror was sworn, and the basis for such disqualification was the subject of examination or request for examination of the prospective jurors by or on request of the defendant.

"§ 23–106. Witnesses for defense; fees

"The court shall order at any time that a subpoena be issued for service upon a named witness on behalf of a defendant if the defendant makes an application for such an order and makes a satisfactory showing that he is financially unable to pay the fees of the witness and that the presence of the witness is necessary to an adequate defense. If the court orders the subpoena to be issued the costs incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner in which similar costs and fees are paid in case of a witness subpoenaed in behalf of the prosecuting authority.

"§ 23–107. Discharge or acquittal of joint defendant during trial in order to be witness

"(a) When two or more persons are jointly indicted or charged by information, or charged by separate indictments or informations which have been joined for trial, the court may, with the consent of the prosecuting authority, direct that a defendant who has not gone into his defense be discharged so that he may be a witness for the prosecution.

"(b) When two or more persons are jointly tried, a person desiring that another defendant testify on his behalf may request a judgment of acquittal on behalf of such defendant, which the court shall consider in the same manner as a motion made by such defendant.

"(c) At the request of a defendant who wishes to testify on behalf of another person with whom he is jointly tried, if the evidence against such defendant is sufficient to be submitted to the jury and if such other person consents, the court may submit the case concerning such defendant to the jury separately so that his testimony may not be considered against him by such jury.

"(d) A discharge granted pursuant to subsection (a), or an acquittal secured pursuant to subsection (b) or (c), shall be a bar to another prosecution for the same offense of the defendant so discharged or acquitted.

"§ 23–108. Depositions

"(a) If a material witness for either the prosecution or the defendant resides more than twenty-five miles from the place of holding court, is sick or infirm, or is about to leave the District of Columbia, and the prosecution or the defendant applies in writing to the court for a commission to examine such witness when the deposition is to be taken beyond the District of Columbia, the court may grant the commission and enter an order stating for what length of time notice shall be given to the other party before such witness shall be examined. At or before the time fixed in the notice, when the examination is upon written interrogatories, the other party may file cross-interrogatories, but if he fails to do so the clerk shall file the following interrogatories:

"(1) Are all your statements in the foregoing answers made from your own personal knowledge? If not, show what is stated upon information and give its source.

"(2) State everything you know in addition to what is stated in your above answers concerning this case favorable to either the prosecution or the defendant.

"(b) The court may order in any case that the examination be conducted orally.

"(c) The commission shall issue from the clerk's office, the examination of the witnesses shall be made and certified, and the return thereof made in the same manner as in civil cases, and unimportant irregularities or errors in the proceedings under the commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the prosecution or the defendant by such irregularities or errors.

"§ 23–109. Powers of investigators assigned to United States attorney

"Any special investigator appointed by the Attorney General and assigned to the United States attorney for the District shall have authority to execute all lawful writs, process, and orders issued under authority of the United States, and command all necessary assistance to execute his duties, and shall have the same powers to make arrests as are possessed by members of the Metropolitan Police Department of the District of Columbia.

"§ 23–110. Remedies on motion attacking sentence

"(a) A prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that (1) the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, (4) the sentence is otherwise subject to collateral attack, may move the court to vacate, set aside, or correct the sentence.

"(b) A motion for such relief may be made at any time.

"(c) Unless the motion and files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. If the court finds that (1) the judgment was rendered without jurisdiction, (2) the sentence imposed was not authorized by law or is otherwise open to collateral attack, (3) there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner, resentence him, grant a new trial, or correct the sentence, as may appear appropriate.

"(d) A court may entertain and determine the motion without requiring the production of the prisoner at the hearing.

"(e) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

"(f) An appeal may be taken to the District of Columbia Court of Appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

"(g) An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section shall not be entertained by the Superior Court or by any Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

"§ 23–111. Proceedings to establish previous convictions

"(a)(1) After conviction of (but before pronouncement of sentence on) a person for an offense under the laws applicable exclusively to the District of Columbia the United States attorney or the Corporation Counsel, as the case may be, shall file an information informing the court of any previous convictions that would subject such person to increased punishment. A copy of such information shall be served upon counsel for the person before sentence is imposed.

"(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecustion by indictment for the offense for which such increased punishment may be imposed.

"(3) Whenever an information has been filed under this section with respect to a person who stands convicted following a plea of guilty, the court shall allow the person to withdraw the plea upon a showing that, at the time the plea was entered, the person did not know that his previous convictions would subject him to increased punishment.

"(b) If the prosecutor files an information under this section, the court shall inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

"(c)(1) If the person denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

"(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a previous conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

"(d)(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

"(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the prosecutor, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by

law. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

"§ 23–112. Consecutive and concurrent sentences

"A sentence imposed on a person for conviction of an offense shall, unless the court imposing such sentence expressly provides otherwise, run consecutively to any other sentence imposed on such person for conviction of an offense, whether or not the offense (1) arises out of another transaction, or (2) arises out of the same transaction and requires proof of a fact which the other does not.

"Chapter 3.—INDICTMENTS AND INFORMATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.

"23–301. Prosecution by indictment or information.

"SUBCHAPTER II—JOINDER

"23–311. Joinder of offenses and of defendants.

"23–312. Joinder of indictments or informations for trial.

"23–313. Relief from prejudicial joinder.

"23–314. Joinder of inconsistent offenses concerning the same property.

"SUBCHAPTER III—SUFFICIENCY

"23–321. Description of money.

"23–322. Intent to defraud.

"23–323. Perjury.

"23–324. Subornation of perjury.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 23–301. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court.

"SUBCHAPTER II—JOINDER

"§ 23–311. Joinder of offenses and of defendants

"(a) Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

"(b) Two or more offenses may be charged in the same indictment or information as provided in subsection (a) even though one or more is in violation of the laws of the United States and another is in violation of laws applicable exclusively to the District of Columbia and may be prosecuted as provided in section 11–502(a)(3) of title 11.

"(c) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

"§ 23–312. Joinder of indictments or informations for trial

"The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

"§ 23–313. Relief from prejudicial joinder

"If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection in camera any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial.

"§ 23–314. Joinder of inconsistent offenses concerning the same property

"An indictment or information may contain a count for larceny, a count for obtaining the same property by false pretenses, a count for embezzlement thereof, and a count for receiving or concealing the same property, knowing it to be stolen or embezzled, or any of such counts, and the jury may convict of any of such offenses, and may find any or all of the persons indicted guilty of any of said offenses.

"SUBCHAPTER III—SUFFICIENCY

"§ 23–321. Description of money

"In every indictment or information, except for forgery, in which it is necessary to make an averment as to any money or bank bill or notes, United States Treasury notes, postal and fractional currency, or other bills, bonds, or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes, currency, or bonds simply as money, without specifying any particular coin, note, bill, or bond; and such allegation shall be sustained by proof that the accused has stolen or embezzled any amount of coin, or any such note, bill, currency, or bond, although the particular amount or species of such coin, note, bill, currency, or bond be not proved.

"§ 23–322. Intent to defraud

"In an indictment or information in which it is necessary to allege an intent to defraud, it shall be sufficient to allege that the party accused did the act complained of with intent to defraud, without alleging an intent to defraud any particular person or body corporate. On the trial of such an indictment or information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove a general intent to defraud.

"§ 23–323. Perjury

"In every information or indictment for perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court, or before whom the oath was taken (averring such court, or person or persons, to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record of proceeding either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage, or custom to the contrary notwithstanding.

"§ 23–324. Subornation of perjury

"In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed, any law, usage, or custom to the contrary notwithstanding.

"Chapter 5.—WARRANTS AND ARRESTS

"SUBCHAPTER I—DEFINITIONS

"Sec.

"23–501. Definitions.

"SUBCHAPTER II—SEARCH WARRANTS

"23–521. Nature and issuance of search warrants.

"23–522. Applications for search warrants.

"23–523. Time of execution of search warrants.

"23–524. Execution of search warrants.

"23–525. Disposition of property.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"23–541. Definitions.

"23–542. Authorization for interception of wire or oral communications.

"23–543. Procedure for interception of wire or oral communications.

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"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"23–561. Issuance, form, and contents.

"23–562. Execution and return.

"23–563. Territorial and other limits.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"23–581. Arrests without warrant by law enforcement officers.

"23–582. Arrests without warrant by other persons.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"23–591. Authority to break and enter under certain conditions.

"SUBCHAPTER I—DEFINITIONS

"§ 23–501. Definitions.

"As used in subchapters II, IV, and V of this chapter—

"(1) the term 'judicial officer' means a judge of the Superior Court of the District of Columbia or of the United States District Court for the District of Columbia, or a United States commissioner or magistrate for the District of Columbia;

"(2) the term 'law enforcement officer' means an officer or member of the Metropolitan Police Department of the District of Columbia, or of any other police force operating in the District of Columbia, or an investigative officer or agent of the United States;

"(3) the term 'prosecutor' means the United States attorney for the District of Columbia or his assistant, the Corporation Counsel of the District of Columbia or his assistant, or an attorney employed by, and who has entered an appearance on behalf of, the United States or the District of Columbia in a criminal case or in an investigation being conducted by a grand jury.

"SUBCHAPTER II—SEARCH WARRANTS

"§ 23–521. Nature and issuance of search warrants

"(a) Under circumstances described in this subchapter, a judicial officer may issue a search warrant upon application of a law enforcement officer of prosecutor. A warrant may authorize a search to be conducted anywhere in the District of Columbia and may be executed pursuant to its terms.

"(b) A search warrant may direct a search of any or all of the following:

"(1) one or more designated or described places or premises;

"(2) one or more designated or described vehicles;

"(3) one or more designated or described physical objects; or

"(4) designated persons.

"(c) A search warrant may direct the seizure of designated property or kinds of property, and the seizure may include, to such extent as is reasonable under all circumstances, taking physical or other impressions, or performing chemical, scientific, medical, or other tests or experiments of, from, or upon designated premises, vehicles, objects, or persons.

"(d) Property is subject to seizure pursuant to a search warrant if there is probable cause to believe that it—

"(1) is stolen or embezzled;

"(2) is contraband or otherwise illegally possessed;

"(3) has been used or is possessed for the purpose of being used, or is designed or intended to be used, to commit or conceal the commission of a criminal offense; or

"(4) constitutes evidence of or tends to demonstrate the commission of an offense or the identity of a person participating in the commission of an offense.

"(e) A search warrant may be addressed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police Department of the District of Columbia or other designated agency authorized to make arrests or execute process in the District of Columbia.

"(f) A search warrant shall contain—

"(1) the name of the issuing court, the name and signature of the issuing judicial officer, and the date of issuance;

"(2) the name, classification, or department or agency of the officer or agent to whom it is addressed;

"(3) a designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

"(4) a description of the property whose seizure is the object of the warrant;

"(5) a direction that the warrant be executed during the hours of daylight or, on the basis of a request made in accordance with section 23–522(c), an authorization for execution at any time of day or night;

"(6) where the judicial officer has found cause therefor, including one of the grounds set forth in paragraph (1), (2), (3), or (5) of section 23–591(c), an authorization that the executing officer may enter premises or vehicles to be searched without giving notice of his identity and purpose; and

"(7) a direction that the warrant and an inventory of any property seized pursuant thereto be returned to the court on the next court day after its execution.

"§ 23–522. Applications for search warrants

"(a) Each application for a search warrant shall be made in writing upon oath or affirmation to a judicial officer.

"(b) Each application shall include—

"(1) the name and title of the applicant;

"(2) a statement that there is probable cause to believe that property of a kind or character described in section 23–521(d) may be found in designated premise in a designated vehicle or object, or upon designated persons;

"(3) allegations of fact supporting such statement; and

"(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.

"(c) The application may also contain—

"(1) a request that the search warrant be made executable at any hour of the day or night, upon the ground that there is probable cause to believe that (A) it cannot be executed during the hours of daylight, (B) the property sought may be removed or destroyed if not seized forthwith, or (C) the property sought may not be found except at certain times or in certain circumstances; and

"(2) a request that the search warrant authorize the executing officer to enter premises or vehicles to be searched without giving notice of his identity and purpose, upon reasonable grounds to believe that one of the conditions set forth in paragraph (1), (2), (3), or (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed.

"Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such statement.

"§ 23–523. Time of execution of search warrants

"(a) A search warrant shall not be executed more than ten days after the date of issuance and shall be returned to the court after its execution or expiration in accordance with section 23–521(f)(7).

"(b) A search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to section 23–521(f)(5), shall be executed only during the hours of daylight.

"§ 23–524. Execution of search warrants

"(a) An officer executing a warrant directing a search of a dwelling house, other building, or a vehicle shall, except as provided in sections 23–521(f)(6) or 23–591(c), give, or make reasonable effort to give, notice of his identity and purpose to an occupant thereof before breaking and entering therein.

"(b) An officer executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, and, if such person thereafter resists or refuses to permit the search, may use such force against the person or any other person aiding his resistance or refusal as is necessary to execute the warrant.

"(c)(1) An officer or agent executing a search warrant shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

"(2) If the search is of a person, a copy of the warrant and of the return shall be given to that person.

"(3) If the search is of a place, vehicle, or object, a copy of the warrant and of the return shall be given to the owner thereof if he is present, or if he is not, to an occupant, custodian, or other person present; or if no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

"(d) A copy of the warrant shall be filed with the court whose judge or magistrate authorized its issuance on the next court day after its execution, together with a copy of the return.

"(e) An officer or agent executing a search warrant may seize any property discovered in the course of such execution which he reasonably believes to be subject to seizure pursuant to section 23–521(d), even if the property is not enumerated in the warrant or the application therefor, and no additional warrant shall be required to authorize such seizure, if the property is fully set forth in the return. Such seizure may include taking physical or other impressions or performing chemical, scientific, or other tests or experiments.

"(f) An officer or agent executing a search warrant may take photographs and measurements during the execution.

"(g) An officer executing a warrant directing a search of premises or a vehicle may search any person therein (1) to the extent reasonably necessary to protect himself or others from the use of any weapon which may be concealed upon the person, or (2) to the extent reasonably necessary to find property enumerated in the warrant which may be concealed upon the person.

"§ 23–525. Disposition of property

"An officer or agent who seizes property in the execution of a search warrant shall cause it to be safely kept for use as evidence. No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States attorney or Corporation Counsel for the District of Columbia or one of their assistants.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"§ 23–541. Definitions

"As used in this subchapter—

"(1) the term 'wire communication' means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;

"(2) the term 'oral communication' means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the expectation;

"(3) the term 'intercept' means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device;

"(4) the term 'electronic, mechanical, or other device' means any device or apparatus which can be used to intercept a wire or oral communication other than—

"(A) any telephone or telegraph instrument, equipment, or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

"(B) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

"(5) the term 'investigative or law enforcement officer' means any officer of the United States or of the District of Columbia who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this subchapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

"(6) the term 'contents', when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication;

"(7) the term 'judge' means a judge of the Superior Court of the District of Columbia, a judge of the District of Columbia Court of Appeals, a judge of the United States District Court for the District of Columbia, and a judge of the United States Court of Appeals for the District of Columbia;

"(8) the term 'judge of competent jurisdiction' means in addition to the judges included in paragraph (7)—

"(A) a judge of a United States district court or a United States court of appeals not in the District of Columbia; and

"(B) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire or oral communications;

"(9) the term 'aggrieved person' means a person who was a party to any intercepted wire or oral communication or a person

against whom the interception was directed; and

"(10) the term 'communication common carrier' has the same meaning which is given the term 'common carrier' by section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)).

"§ 23-542. Authorization for interception of wire or oral communications

"(a) The United States attorney for the District of Columbia may authorize an application to a judge for, and the judge may grant, in conformity with section 2518, title 18, United States Code, and section 23-543 of this subchapter, an order authorizing or approving the interception of wire or oral communications by investigative and law enforcement officers when the interception may provide or has provided evidence of the commission of or a conspiracy to commit any of the following offenses:

"(1) Any of the offenses specified in the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Abortion	section 809 (D.C. Code, sec. 22-201).
Arson	sections 820, 821 (D.C. Code, secs. 22-401, 22-402).
Blackmail	section 819 (D.C. Code, sec. 22-2305).
Bribery	section 861 (D.C. Code, sec. 22-701).
Burglary	section 823 (D.C. Code, sec. 22-1801).
Destruction of property of value in excess of $200.	section 848 (D.C. Code, sec. 22-403).
Gambling	sections 863, 866, 869e (D.C. Code, secs. 22-1501, 22-1505, 22-1513).
Grand larceny	section 826 (D.C. Code, sec. 22-2201).
Kidnaping	section 812 (D.C. Code, sec. 22-2101).
Manslaughter	section 802 (D.C. Code, sec. 22-2405).
Murder	sections 798, 800 (D.C. Code, secs. 22-2401, 22-2403).
Obstruction of justice	section 862 (D.C. Code, sec. 22-703).
Receiving stolen property of value in excess of $100.	section 829 (D.C. Code, sec. 22-2205).
Robbery	section 810 (D.C. Code, sec. 22-2901).

"(2) Bribery as specified (A) in the second paragraph under the center heading 'General Expenses' in the first section of the Act of July 1, 1902 (D.C. Code, sec. 22-702), and (B) in the Act of February 26, 1936 (D.C. Code, sec. 22-704).

"(3) Extortion and threats as specified in sections 1501 and 1502 of the Omnibus Crime Control and Safe Streets Act of 1968 (D.C. Code, secs. 22-2306, 22-2307).

"(4) Offenses involving dealing in narcotic drugs, marihuana, and other dangerous drugs as specified in sections 2 and 16 of the Uniform Narcotic Drug Act (D.C. Code, secs. 33-402, 33-416) and section 203 of the Dangerous Drug Act for the District of Columbia (D.C. Code, sec. 33-702).

"§ 23-543. Procedure for interception of wire or oral communications

"(a) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge and shall state the applicant's authority to make the application. Each application shall include—

"(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

"(2) a full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including (A) details as to the particular defense that has been, is being, or is about to be committed, (B) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (C) a particular description of the type of communications sought to be intercepted, and (D) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

"(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(4) a statement of the period of time for which the interception is required to be maintained, and if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communications has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

"(5) a full and complete statement of the facts concerning all previous applications, known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each such application; and

"(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

"(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

"(c) Upon application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the District of Columbia, if the judge determines on the basis of the fact submitted by the applicant that—

"(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 23-542;

"(2) there is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

"(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

"(4) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the individual referred to in paragraph (1).

"(d) Each order authorizing or approving the interception of any wire or oral communication shall specify—

"(1) the identity of the person, if known, whose communications are to be intercepted;

"(2) the nature and location of the communication facilities as to which, or the place where, authority to intercept is granted;

"(3) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

"(4) the identity of the agency authorized to intercept the communications, and of the person authorizing the applications; and

"(5) the period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

"(e) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this subchapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

"(f) Whenever an order authorizing interception is entered pursuant to this subchapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Reports shall be made at such intervals as the judge may require.

"(g) Notwithstanding any other provision of this subchapter, any investigative or law enforcement officer, specially designated by the United States attorney for the District of Columbia, who reasonably determines that—

"(1) An emergency situation exists with respect to conspiratorial activities threatening the national security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing the interception can with due diligence be obtained, and

"(2) there are grounds upon which an order could be entered under this subchapter to authorize interception,

may intercept the wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, the interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event the application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this subchapter, and an inventory shall be served as provided for in subsection (h)(4) of this section on the person named in the application.

"(h)(1) The contents of any wire or oral communication intercepted by any means authorized by this subchapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subchapter shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, the recordings shall be made available to the judge issuing the order

and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517, title 18, United States Code, for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 2517 of title 18, United States Code.

"(2) Applications made and orders granted under this subchapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

"(3) Any violation of the provisions of subsection (h) may be punished as contempt of court.

"(4) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 22–543(g) which is denied, or the termination of the period of any order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine, in his discretion, are necessary in the interest of justice, an inventory which shall include notice of—

"(A) the fact of the entry of the order or the application;

"(B) the date of the entry and the period of authorized, approved, or disapproved interception, or the denial of the application; and

"(C) the fact that during the period wire or oral communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to the person or his counsel for inspection such portions of the intercepted communications, applications, and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge, the serving of the inventory required by this subsection may be postponed.

"(i) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

"(j) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States or the District of Columbia, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

"(A) the communication was unlawfully intercepted;

"(B) the order of authorization or approval under which it was intercepted is insufficient on its face; or

"(C) the interception was not made in conformity with the order of authorization or approval.

The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subchapter. The judge, upon the filing of the motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

"(2) In addition to any other right to appeal, the United States attorney shall have the right to appeal from an order granting a motion to suppress made under paragraph (1) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying the application that the appeal is not taken for purposes of delay. Appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

"§ 23–544. Procedure for approval of interception of wire or oral communications

"When an investigative or law enforcement officer while engaged in intercepting wire or oral communications in the manner authorized by section 23–543, intercepts wire or oral communications relating either to offenses other than those specified in the order of authorization or to offenses other than those offenses for which interception was made pursuant to section 23–543(g), he shall make an application to a judge as soon as practicable for approval for disclosure and use of the information intercepted, in accordance with section 2517 of title 18, United States Code.

"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"§ 23–561. Issuance, form, and contents

"(a) (1) A judicial officer may issue a warrant for the arrest of any person upon a sworn complaint which states facts constituting an offense over which the judicial officer has jurisdiction for trial or preliminary examination, and establishing probable cause to believe that the person committed the offense. More than one warrant may issue on the same complaint.

"(2) Upon request of the prosecutor a summons shall issue instead of an arrest warrant. More than one summons may issue on the same complaint. If a person fails to appear in response to a summons, a warrant shall issue for his arrest.

"(b) (1) An arrest warrant shall be signed by the judicial officer and shall state or contain the name of the issuing court, the date of issuance of the warrant, a description of the offense charged, and the name of the person to be arrested or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall command that the person be arrested and brought before the issuing court or officer. If the complaint establishes reasonable grounds to believe that one of the conditions set out in paragraphs (1) through (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed, the warrant may contain an authorization that it be executed as provided in subsection (a) of section 23–591.

"(2) A summons shall be in the same form as an arrest warrant except that it shall summon the person named to appear before the issuing court or officer at a stated time and place.

"(c) An arrest warrant may be directed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police of the District of Columbia or other designated agency authorized to make arrests or execute process.

"(d) Each complaint shall be made in writing upon oath or affirmation. Except for good cause shown, no warrant shall be issued unless the complaint has been approved by an appropriate prosecutor.

"§ 23–562. Execution and return

"(a) (1) A warrant issued pursuant to this subchapter shall be executed by the arrest of the person named. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the person as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the person of the offense charged and of the fact that a warrant has been issued.

"(2) A summons shall be served upon a person by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the person's last known address.

"(b) (1) The officer executing a warrant shall make return thereof to the judicial officer before whom the person is brought for preliminary examination. At the request of the appropriate prosecutor any unexecuted and unexpired warrant shall be returned to the issuing court or judicial officer and shall be canceled.

"(2) On or before the return day the person to whom a summons was delivered for service shall make return thereof to the court or officer before whom the summons is returnable.

"(3) At the request of the appropriate prosecutor made at any time while the complaint is pending, a warrant returned unexecuted and not canceled or expired or a summons returned unserved or a duplicate thereof may be delivered by the judicial officer to the marshal or other authorized person for execution or service.

"(c) (1) A law enforcement officer within the District of Columbia making an arrest under a warrant issued pursuant to this subchapter, making an arrest without a warrant, or receiving a person arrested by a special policeman or other person pursuant to section 23–582, shall take the arrested person without unnecessary delay before the court or other judicial officer empowered to commit persons charged with the offense for which the arrest was made. This subsection, however, shall not be construed to conflict with or otherwise supersede section 3501 of title 18, United States Code. When a person arrested without a warrant is brought before a judicial officer, a complaint or information shall be filed forthwith.

"(2) Before taking an arrested person to a judicial officer, a law enforcement officer shall perform all recording, fingerprinting, photographing, and other preliminary police duties required in the particular case, and if such duties are performed with reasonable promptness, the period of time required therefor shall not constitute a delay within the meaning of this section.

"§ 23–563. Territorial and other limits

"(a) A warrant or summons for an offense punishable by imprisonment for more than one year issued by the Superior Court of the District of Columbia may be served at any place within the jurisdiction of the United States.

"(b) No warrant or summons issued by the Superior Court of the District of Columbia for an offense punishable by imprisonment

for not more than one year, or by a fine only, or by such imprisonment and a fine, may be executed at any place more than twenty-five miles from the place where the court is held, or more than one year after the date of issuance.

"(c) A person arrested outside the District of Columbia on a warrant issued by the Superior Court of the District of Columbia shall be taken before a judge, commissioner, or magistrate, and held to answer in the Superior Court pursuant to the Federal Rules of Criminal Procedure as if the warrant had been issued by the United States District Court for the District of Columbia.

"(d) When an application alleges that an act which would constitute a felony if committed by an adult has been committed by a child, and that the child may not with due diligence be found within the District of Columbia, a judicial officer may issue a warrant for the arrest of the child as if he were an adult. When the child is brought before the issuing court or officer pursuant to the warrant he shall be ordered transferred to the Family Division of the Superior Court pursuant to section 16–2302.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"§ 23–581. Arrests without warrant by law enforcement officers

"(a)(1) A law enforcement officer may arrest, without a warrant having previously been issued therefor—

"(A) a person whom he has probable cause to believe has committed or is committing a felony;

"(B) a person whom he has probable cause to believe has committed or is committing an offense in his presence;

"(C) a person whom he has probable cause to believe has committed or is about to commit any offense listed in paragraph (2) and, unless immediately arrested, may not be apprehended, may cause injury to others, or may tamper with, dispose of, or destroy evidence.

"(2) The offenses referred to in subparagraph (C) of paragraph (1) are the following:

"(A) The following offenses specified in the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Assault	section 806 (D.C. Code, sec. 22–504).
Petit larceny	section 827 (D.C. Code, sec. 22–2202).
Receiving stolen goods.	section 829 (D.C. Code, sec. 22–2205).
Unlawful entry	section 824 (D.C. Code, sec. 22–3102).

"(B) Attempts to commit the following offenses specified in such Act and listed in the following table:

"Offense:	Specified in—
Burglary	section 823 (D.C. Code, sec. 22–1801).
Grand larceny	section 826 (D.C. Code, sec. 22–2201).
Unauthorized use of vehicles.	section 826b (D.C. Code, sec. 22–2204).

"(b) A law enforcement officer may, even if his jurisdiction does not extend beyond the District of Columbia, continue beyond the District, if necessary, a pursuit commenced within the District of a person who has committed an offense or whom he has probable cause to believe has committed or is committing a felony, and may arrest that person in any State the laws of which contain provisions equivalent to those of section 23–901.

"§ 23–582. Arrests without warrant by other persons

"(a) A special policeman shall have the same powers as a law enforcement officer to arrest without warrant for offenses committed within premises to which his jurisdiction extends, and may arrest outside the premises on fresh pursuit for offenses committed on the premises.

"(b) A private person may arrest another—

"(1) whom he has probable cause to believe is committing in his presence—

"(A) a felony, or

"(B) an offense enumerated in section 23–581 (a) (3); or

"(2) in aid of a law enforcement officer or special policeman, or other person authorized by law to make an arrest.

"(c) Any person making an arrest pursuant to this section shall deliver the person arrested to a law enforcement officer without unreasonable delay.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"§ 23–591. Authority to break and enter under certain conditions

"(a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

"(b) Breaking and entry shall not be made until after such officer or person makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house, building, or vehicle is being denied or unreasonably delayed.

"(c) An announcement of identity and purpose shall not be required prior to such breaking and entry if the warrant expressly authorizes entry without notice, or where such officer or person reasonably believes—

"(1) his identity or purpose is already known to any person in the premises;

"(2) such notice may result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed;

"(3) such notice may endanger the life or safety of the executing officer or another person;

"(4) such notice may enable the party to be arrested to escape; or

"(5) such notice would otherwise be a useless gesture.

"(d) Whoever, after notice is given under subsection (b) or after entry where such notice is unnecessary under subsection (c), destroys, conceals, disposes of, or attempts to destroy, conceal, or dispose of, or otherwise prevents or attempts to prevent the seizure of evidence subject to seizure shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

"(e) As used in this section, and in section 23–524(a), the terms 'break and enter' and 'breaking and entering' include any use of physical force or violence or other unauthorized entry but does not include entry obtained by trick or strategem.

"(f) With regard to (1) the execution of a warrant directing a search of a person under section 23–524(b), (2) the execution of a warrant directing the arrest of a person under subchapter IV of this chapter, or (3) an arrest authorized by law without a warrant under subchapter V of this chapter, the notice requirements of this section are applicable only where it is necessary to enter a dwelling house, building, or vehicle to effect such a search or arrest.

"Chapter 7.—EXTRADITION AND FUGITIVES FROM JUSTICE

"Sec.

"§ 23–701. Warrants for the arrest of fugitives from justice

"Whenever any person who is (1) within the District of Columbia, (2) charged with any offense committed in any State, and (3) liable by the Constitution and laws of the United States to be delivered over upon the demand of the Governor of that State, any judge of the Superior Court may, upon complaint on oath or affirmation of any credible witness, setting forth the offense, that the person is a fugitive from justice, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the Superior Court, to answer the complaint.

"§ 23–702. Procedure on arrest of fugitives

"(a) Any person arrested upon a warrant issued pursuant to section 23–701, or arrested within the District of Columbia as a fugitive from justice without a warrant having been issued, shall be taken before the Criminal Division of the Superior Court for preliminary examination on a complaint charging him as a fugitive.

"(b) If, upon the examination of the person charged, it shall appear to the court that there is reasonable cause to believe that the complaint is true and that the person may be lawfully demanded of the chief judge, the person shall be detained or released according to law, in like manner as if the offense had been committed in the District of Columbia, to appear before the court at a future date, allowing thirty days to obtain a requisition from the Governor of the State from which the person is a fugitive. The complaint of fugitivity from another jurisdiction shall create a presumption that the person is unlikely to appear if released, which may be overcome only by clear and convincing proof.

"(c) If the person so released or detained shall appear before the court upon the day ordered, he shall be discharged, unless he shall be demanded by requisition pursuant to subsection (g) of this section or section 23–704, or unless the court shall find cause to detain or to release him as provided by subsection (b) until a later day; but regardless of whether the person shall be detained or released as provided in subsection (b) or discharged, his delivery to any person authorized by the warrant of the Governor shall be a discharge of any bond or obligation.

"(d) The Chief of Police of the Metropolitan Police Department shall give notice to the police official or sheriff of the city or county from which the person is a fugitive that the person is so held in the District of Columbia.

"(e) A person detained as provided by this section shall not be detained in jail longer than to allow a reasonable time for the person receiving the notice required by subsection (d) to apply for and obtain a proper requisition for the person detained according to the circumstances of the case and the distance of the place where the offense is alleged to have been committed.

"(f)(1) At any time prior to the filing of a requisition, a person arrested pursuant to this section may in open court waive further proceedings pursuant to this chapter.

"(2) Following waiver, a judge of the Superior Court may, in his discretion, if the United States attorney consents, release the person upon such conditions as the judge shall deem necessary to insure his appearance before the proper official in the State from which he is a fugitive, and shall otherwise order his return to the jurisdiction of that State in the custody of a proper official.

"(3) Following waiver, a person not released pursuant to paragraph (2) of this subsection shall be ordered to return to the jurisdiction from which he is a fugitive in the custody of a proper official, and may be detained to await return.

"(4) A person detained pursuant to paragraph (3) for more than three days (not including Saturdays, Sundays, and holidays) shall be returned to the court and shall thereupon be released pursuant to paragraph (2), unless the court shall find good reason to extend his detention for an additional three days to obtain the attendance of a proper official of the damanding jurisdiction.

"(g) If a person has not waived further proceedings pursuant to subsection (f), and a requisition from the Governor of the jurisdiction from which the person is a fugitive is presented to the court, the court shall order the requisition to be filed and referred to the chief judge for extradiction proceedings pursuant to section 23–704, and shall order the person committed pending those proceedings.

"§ 23–703. Failure to appear

"Any person released pursuant to section 23–702 who fails to appear as required shall be punished by a fine not exceeding $5,000 or imprisonment for not more than five years, or both.

"§ 23–704. Extradition

"(a) In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief judge of the Superior Court shall cause to be apprehended and delivered up fugitives from justice who shall be found within the District of Columbia, in the same manner and under the same regulations as the executive authority of a State is required to do by the provisions of chapter 209 of title 18, United States Code, and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in that delivery.

"(b) The chief judge of the Superior Court may also surrender, on demand of the Governor of any State, any person in the District of Columbia charged in that State in the manner provided in subsection (a) of this section with committing an act in the District of Columbia, or in another State, intentionally resulting in a crime in the State whose executive authority is making the demand, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

"(c) No person apprehended in accordance with the provisions of subsections (a) and (b) of this section shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken before the chief judge of the Superior Court of the District of Columbia who shall inform him of the demand made for his surrender, and of the crime with which he is charged, and that he has the right to demand and procure legal counsel.

"(d) If the person or his counsel shall state that he desires to test the legality of the person's arrest, the chief judge shall hold a hearing to determine whether the person shall be delivered over as demanded. At the hearing, the person shall have the same rights to challenge his detention and extradition as if the hearing were upon a writ of habeas corpus.

"(e) If the chief judge shall order the person delivered over, he may appeal, within twenty-four hours, from that order to the District of Columbia Court of Appeals if the chief judge who rendered the order, or a judge of the District of Columbia Court of Appeals, issues a certificate of probable cause. The appeal shall be expedited by the District of Columbia Court of Appeals. An application for a writ of habeas corpus on behalf of a person who is authorized to demand a hearing pursuant to this subsection shall not be entertained if it appears that the applicant has failed to demand such a hearing or that the chief judge, after hearing, has ordered him delivered over, unless it also appears that the remedy by hearing is inadequate or ineffective to test the legality of his detention.

"(f) Nothing contained in this subsection shall prevent a person from waiving his right to appear before the chief judge of the Superior Court and voluntarily returning in custody of a proper official to the jurisdiction of the State which is demanding him.

"(g) No person demanded by the Governor of a State pursuant to this section shall be released upon bond or other obligation except pursuant to an order of a court of the demanding State.

"(h) Any associate judge designated by the chief judge or acting chief judge shall have the same power to act pursuant to this section as the chief judge.

"§ 23–705. Removal proceedings and returns to foreign countries not affected

"Nothing contained in this chapter shall repeal, modify, or in any way affect existing law concerning the procedure for the return of any person apprehended in the District of Columbia to a Federal judicial district to answer a Federal charge, or repeal, modify, or affect existing law or treaty concerning the return to a foreign country of a person apprehended or detained in the District of Columbia as a fugitive from a foreign country.

"§ 23–706. Confinement

"(a) The agent of the demanding State to whom the prisoner may have been delivered in accordance with the provisions of section 23–704, may, when necessary, confine the prisoner in a facility of the District of Columbia Department of Corrections, and the Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or person having charge of him to proceed on his route, such officer or person being chargeable with the expense of keeping.

"(b) The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in the other State, and who is passing through the District of Columbia with a prisoner for the purpose of immediately returning the prisoner to the demanding State, may, when necessary, confine the prisoner in a facility of the Department of Corrections. The Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or agent to proceed on his route, such officer or agent being chargeable with the expense of keeping. That officer or agent shall produce and show to the Department of Corrections satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding State after a requisition by the executive authority of the demanding State. The prisoner shall not be entitled to demand a new requisition while in the District of Columbia.

"§ 23–707. Definitions

"For purposes of this chapter—

"(1) the term 'State' includes any territory or possession of the United States; and

"(2) the term 'Governor' means the executive authority of a State.

"Chapter 9.—FRESH PURSUIT

"§ 23–901. Arrests in the District of Columbia by officers of other States

"Any member of a duly organized peace unit of any State (or county or municipality thereof) of the United States who enters the District of Columbia in fresh pursuit and continues within the District of Columbia in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in such State shall have the same authority to arrest and hold that person in custody as has any member of any duly organized peace unit of the District of Columbia to arrest and hold in custody a person on the ground that he is believed to have committed a felony in the District of Columbia. This section shall not be construed so as to make unlawful any arrest in the District of Columbia which would otherwise be lawful.

"§ 23–902. Hearing; commitment; discharge

"If an arrest is made in the District of Columbia by an officer of another State in accordance with the provisions of section 23–901, he shall without unnecessary delay take the person arrested before a judge of the Superior Court of the District of Columbia, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful, he shall order the release or detention of the person arrested, pursuant to section 23–702, to await for a reasonable time a requisition from the Governor of the State demanding the extradition of the person arrested. If the judge determines that the arrest was unlawful he shall order the person discharged.

"§ 23–903. 'Fresh pursuit' defined

"For the purposes of this chapter, the term 'fresh pursuit' shall include fresh pursuit as defined by the common law, also the pursuit of a person who has committed a felony or one whom the pursuing officer has reasonable grounds to believe has committed a felony. It shall also include the pursuit of a person whom the pursuing officer has reasonable grounds to believe has committed a felony, although no felony has actually been committed, if their is reasonable ground for believing that a felony has been committed. Such term shall not necessarily imply an instant pursuit, but pursuit without unreasonable delay.

"Chapter 11.—PROFESSIONAL BONDSMEN

"§ 23-1101. Definitions

"For purposes of this chapter—

"(1) the term 'bonding business' means the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia; and

"(2) the term 'bondsman' means any person or corporation engaged in the bonding business either as a principal or as an agent, clerk, or representative of another engaged in such business.

"§ 23-1102. Bonding business impressed with public interest

"The bonding business is impressed with a public interest.

"§ 23-1103. Procuring business through official or attorney for a consideration prohibited

"It shall be unlawful for any bondsman, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, lend, or contribute any money, property, entertainment, or other thing of value whatsoever to any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, or other attaché of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ the bondsman to execute as surety any bond for compensation in any criminal case in the District of Columbia. It shall be unlawful for any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, bailiff, or other attaché of a criminal court, or public official of any character, to accept or receive from a bondsman any money, property, entertainment, or other thing of value whatsoever for procuring or assisting in procuring a person to employ a bondsman to execute as surety any bond for compensation in a criminal case in the District of Columbia.

"§ 23-1104. Attorneys procuring employment through official or bondsman for a consideration prohibited

"It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan, donate, contribute, or to promise to give, loan, donate, or contribute any money, property, entertainment, or other thing of value whatever to, or to split or to divide any fee or commission with, any bondsman, police officer, deputy United States marshal, probation officer, bailiff, clerk, or other attaché of any criminal court for causing or procuring or assisting in causing or procuring a person to employ the attorney to present him in a criminal case in the District of Columbia.

"§ 23-1105. Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement

"It shall be lawful to charge for executing a bond in a criminal case in the District of Columbia, but it shall be unlawful for a bondsman, either directly or indirectly, to charge, accept, or receive a sum of money, or other thing of value, other than the regular fee for bonding, from a person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information, or charge upon which the person is bailed or held in the District of Columbia. It also shall be unlawful for any bondsman to settle, or attempt to settle, or to procure or attempt to procure the dismissal of any indictment, information, or charge against any person in custody or held upon bond in the District of Columbia, with a court, or with the prosecuting attorney in a court in the District of Columbia.

"§ 23-1106. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsmen; record to be kept by police

"A typewritten or printed list alphabetically arranged of all persons engaged under the authority of any of the courts of criminal jurisdiction in the District of Columbia in the business of becoming surety upon bonds for compensation in criminal cases shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock, house of detention, and every other place in the District of Columbia in which persons in custody of the law are detained, and one or more copies thereof kept on hand; and when a person who is detained in custody in a place of detention shall request a person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, the list shall be furnished to the person in charge of the place of detention within a reasonable time to put the person detained in communication with the bondsman selected, and the person in charge of the place of detention shall contemporaneously with that transaction make in the blotter or book of record kept in the place of detention, a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve that as a permanent record in the book or blotter in which entered.

"§ 23-1107. Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept

"It shall be unlawful for a bondsman to enter a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia for the purpose of obtaining employment as a bondsman, without having been previously called by a person detained or by some relative or other authorized person acting for or on behalf of the person detained. Whenever a bondsman enters a police precinct, jail, prisener's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia, he shall forthwith give to the person in charge thereof his mission there and the name of the person calling him and requesting him to come to such place. That information shall be recorded by the person in charge of the place of detention and preserved as a public record, and the failure of the bondsman to give that information, or the failure of the person in charge of the place of detention to make and preserve a record of that information, shall constitute a violation of this chapter.

"§ 23-1108. Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications

"(a) It shall be the duty of the United States District Court for the District of Columbia and the Superior Court of the District of Columbia, each, to provide, under reasonable rules and regulations, the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the District of Columbia, and the terms and conditions upon which the business shall be carried on, and no person or corporation shall, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in either court until he shall, by order of the court, be authorized to do so. The courts, in making these rules and regulations, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the bonding business, who has ever been convicted of an offense involving moral turpitude, or who is not known to be a person of good moral character. It shall be the duty of each of the courts to require every person qualifying to engage in the bonding business as principal to file with the court a list showing the name, age, and residence of each person employed by the bondsman as agent, clerk, or representative in the bonding business, and require an affidavit from each of these persons stating that he will abide by the terms and provisions of this chapter. Each of the courts shall require the authority of each of those persons to be renewed from time to time at such periods as the court may by rule provide, and before the authority shall be renewed the court shall require from each of those persons an affidavit that since his previous qualification to engage in the bonding business he has abided by the provisions of this chapter, and any person swearing falsely in any of the affidavits shall be guilty of perjury.

"(b) Each court shall prescribe such rules and regulations as may be necessary to insure that whenever a bondsman becomes surety for compensation upon a bond in a criminal case before the court, the bondsman shall make a record, which shall be accurate to the best of the maker's knowledge and belief and shall thereafter be open for inspection by the court or its designated representative, and by the designated representative of other law enforcement agencies of the District of Columbia, of the following matters:

"(1) the full name and address of the person for whom the bond is executed (referred to in this subsection as the 'defendant') and the full name and address of his employer, if any;

"(2) the offense with which the defendant is charged;

"(3) the name of the court or officer authorizing the defendant's admission to bail;

"(4) the amount of the bond;

"(5) the name of the person who called the bondsman, if other than the defendant;

"(6) the amount of the bondsman's charge for executing the bond;

(7) the full name and address of the person to whom the bondsman presented his bill for the charge;

"(8) the full name and address of the person paying the charge; and

"(9) the manner of payment of the charge.

Whoever violates any rule or regulation prescribed under this subsection shall be fined not more than $500 or imprisoned not more than six months, or both, and if he is a bondsman shall be disqualified from thereafter engaging in any manner in the bonding business for such period of time as the trial judge shall order.

"§ 23-1109. Giving advance information of proposed raid prohibited

"It shall be unlawful for any police officer or other public official, in advance of any raid by police or other peace officers or public officials or the execution of any search warrant or warrant of arrest, to give or furnish, either directly or indirectly, any information concerning the proposed raid or arrest to any person engaged in any manner in the bonding business, or to any attorney at law; but it shall not be unlawful for any police or other peace officer, in conducting any raid or in executing any search warrant or warrant of arrest, to communicate to any attorney at law or person engaged in the bonding business, any fact necessary to enable the officer to obtain from the attorney at law or person engaged in the bonding business information necessary to enable the officer to carry out the raid or execute the process.

"§ 23–1110. Designation of official to take bail or collateral when court is not in session.

"(a) The judges of the Superior Court of the District of Columbia shall have the authority to appoint some official of the Metropolitan Police Department to act as a clerk of the court with authority to take bail or collateral from persons charged with offenses triable in the Superior Court at all times when the court is not open and its clerks accessible. The official so appointed shall have the same authority at those times with reference to taking bonds or collateral as the clerk of the Municipal Court had on March 3, 1933; shall receive no compensation for those services other than his regular salary; shall be subject to the orders and rules of the Superior Court in discharge of his duties, and may be removed as the clerk at any time by the judges of the court. The United States District Court for the District of Columbia shall have power to authorize the official appointed by the Superior Court to take bond of persons arrested upon writs and process from that court in criminal cases between 4 o'clock postmeridian and 9 o'clock antemeridian and upon Sundays and holidays, and shall have power at any time to revoke the authority granted by it.

"(b) (1) An officer or member of the Metropolitan Police Department who arrests without a warrant a person for committing a misdemeanor may, instead of taking him into custody, issue a citation requiring the person to appear before an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court.

"(2) Whenever a person is arrested without a warrant for committing a misdemeanor and is booked and processed pursuant to law, an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court may issue a citation to him for an appearance in court or at some other designated place, and release him from custody.

"(3) No citation may be issued under paragraph (1) or (2) unless the person authorized to issue the citation has reason to believe that the arrested person will not cause injury to persons or damage to property and that he will make an appearance in answer to the citation.

"(4) Whoever willfully fails to appear as required in a citation, shall be fined not more than the maximum provided for the misdemeanor for which such citation was issued or imprisoned for not more than one year, or both. Prosecution under this paragraph shall be by the prosecuting officer responsible for prosecuting the offense for which the citation is issued.

"§ 23–1111. Penalties.

"Any person violating any provision of this chapter shall be fined not less than $50 nor more than $100, or imprisoned for not less than ten nor more than sixty days, or both, where no other penalty is provided by this chapter; and if the person so convicted is (1) a police officer or other public official, he shall upon recommendation of the trial judge also be forthwith dismissed from office, (2) a bondsman, he shall be disqualified from thereafter engaging in any manner in the bonding business for such a period of time as the trial judge shall order, or (3) an attorney at law, he shall be subject to suspension or disbarment as attorney at law.

"§ 23–1112. Enforcement.

"It shall be the duty of the Superior Court and of the United States District Court for the District of Columbia to see that this chapter is enforced, and upon the impaneling of each grand jury in the District of Columbia it shall be the duty of the judge impaneling such jury to charge it to investigate the manner in which this chapter is enforced and all violations thereof in connection with the matter under investigation by such jury.

"Chapter 13.—BAIL AGENCY AND PRETRIAL DENTENTION

"SUBCHAPTER I—DISTRICT OF COLUMBIA BAIL AGENCY

"Sec.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"SUBCHAPTER I—DISTRICT OF COLUMBIA BAIL AGENCY

"§ 23–1301. District of Columbia Bail Agency

"The District of Columbia Bail Agency (hereafter in this subchapter referred to as the 'agency') shall continue in the District of Columbia and shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made.

"§ 23–1302. Definitions

"As used in this chapter—

"(1) the term 'judicial officer' means, unless otherwise indicated, the Supreme Court of the United States, the United States Court of Appeals for the District of Columbia Circuit, the District of Columbia Court of Appeals, United States District Court for the District of Columbia, the Superior Court of the District of Columbia or any justice or judge of those courts or a United States commissioner or magistrate; and

"(2) the term 'bail determination' means any order by a judicial officer respecting the terms and conditions of detention or release (including any order setting the amount of bail bond or any other kind of security) made to assure the appearance in court of—

"(A) any person arrested in the District of Columbia, or

"(B) any material witness in any criminal proceeding in a court referred to in paragraph (1).

"§ 23–1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations

"(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in section 23–1302(1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States attorney for the District of Columbia, to the Corporation Counsel of the District of Columbia (if pertinent), and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information concerning the person accused, his family, his community ties, residence, employment, and prior criminal record (if any), and may include such additional verified information as may become available to the agency.

"(b) With respect to persons seeking review under subchapter II of this chapter of their detention or conditions of release, the agency shall review its report, seek and verify such new information as may be necessary, and modify or supplement its report to the extent appropriate.

"(c) The agency when requested by any appellate court or a judge or justice thereof, or by any other judicial officer, shall furnish a report as provided in subsection (a) of this section respecting any person whose case is pending before any such appellate court or judicial officer or in whose behalf an application for a bail determination shall have been submitted.

"(d) Any information contained in the agency's files, presented in its report, or divulged during the course of any hearing shall not be admissible on the issue of guilt in any judicial proceeding, but such information may be used in proceedings under sections 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceeding.

"(e) The agency, when requested by a member or officer of the Metropolitan Police Department acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

"(f) The preparation and the submission by the agency of its report as provided in this section shall be accomplished at the earliest practicable opportunity.

"(g) A judicial officer in making a bail determination shall consider the agency's report and its accompanying recommendation, if any. The judicial officer may order such detention or may impose such terms and set such conditions upon release, including requiring the execution of a bail bond with sufficient solvent sureties as shall appear warranted by the facts, except that such judicial officer may not order any detention or establish any term or condition for release not otherwise authorized by law.

"(h) The agency shall—

"(1) supervise all persons released on nonsurety release, including release on personal recognizance, personal bond, nonfinancial conditions, or cash deposit or percentage deposit with the registry of the court;

"(2) make reasonable effort to give notice of each required court appearance to each person released by the court;

"(3) serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility, avail-

ability, and capacity of such agencies and organizations;

"(4) assist persons released pursuant to subchapter II of this chapter in securing employment or necessary medical or social services;

"(5) inform the judicial officer and the United States attorney for the District of Columbia of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate;

"(6) prepare, in cooperation with the United States marshal for the District of Columbia and the United States attorney for the District of Columbia, such pretrial detention reports as are required by Rule 46(h) of the Federal Rules of Criminal Procedure; and

"(7) perform such other pretrial functions as the executive committee may, from time to time, assign.

"§ 23–1304. Executive committee; composition; appointment and qualifications of Director

"(a) The agency shall function under authority of and be responsible to an executive committee of five members of which three shall constitute a quorum. The executive committee shall be composed of the respective chief judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, the District of Columbia Court of Appeals, the Superior Court, or if circumstances may require, the designee of any such chief judge, and a fifth member who shall be selected by the chief judges.

"(b) The executive committee shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia Court of Appeals.

"§ 23–1305. Duties of Director; compensation; tenure

"The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall receive such compensation as may be set by the executive committee but not in excess of the compensation authorized for GS–16 of the General Schedule contained in section 5332 of title 5, United States Code. The Director shall hold office at the pleasure of the executive committee.

"§ 23–1306. Chief assistant and other agency personnel; compensation

"The Director, subject to the approval of the executive committee, shall employ a chief assistant and such assisting and clerical staff and may make assignments of such agency personnel as may be necessary properly to conduct the business of the agency. The staff of the agency, other than clerical, shall be drawn from law students, graduate students, or such other available sources as may be approved by the executive committee. The chief assistant to the Director shall receive compensation as may be set by the executive committee, but in an amount not in excess of the amount authorized for GS–14 of the General Schedule contained in section 5332 of title 5, United States Code, and shall hold office at the pleasure of the executive committee. All other employees of the agency shall receive compensation, as set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director, subject to the approval of the executive committee, may set merit and longevity salary increases.

"§ 23–1307. Annual reports to executive committee, Congress, and Commissioner

"The Director shall on June 15 of each year submit to the executive committee a report as to the agency's administration of its responsibilities for the previous period of June 1 through May 31, a copy of which report will be transmitted by the executive committee to the Congress of the United States, and to the Commissioner of the District of Columbia. The Director shall include in his report, to be prepared as directed by the Commissioner of the District of Columbia, a statement of financial condition, revenues, and expenses for the past June 1 through May 31 period.

"§ 23–1308. Budget estimates

"Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"§ 2321. Release in noncapital cases prior to trial

"(a) Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or the safety of any other person or the community, or, if no single condition gives that assurance, any combination of the following conditions:

"(1) Place the person in the custody of a designated person or organization agreeing to supervise him.

"(2) Place restrictions on the travel, association, or place of abode of the person during the period of release.

"(3) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

"(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

"(5) Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes.

No financial condition may be imposed to assure the safety of any other person or the community.

"(b) In determining which conditions of release, if any, will reasonably assure the appearance of a person as required and the safety of any other person or the community, the judicial officer shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against such person, his family ties, employment, financial resources, character and mental conditions, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

"(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release, shall advise him that a warrant for his arrest will be issued immediately upon any such violation, and shall warn such person of the penalties provided in section 23–1328.

"(d) A person for whom conditions of release are imposed and who, after twenty-four hours from the time of the release hearing, continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer may review such conditions.

"(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release, except that if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

"(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

"(h) The following shall be applicable to any person detained pursuant to this subchapter:

"(1) The person shall be confined, to the extent practicable, in facilities separate from convicted persons awaiting or serving sentence or being held in custody pending appeal.

"(2) The person shall be afforded reasonable opportunity for private consultation with counsel and, for good cause shown, shall be released upon order of the judicial officer in the custody of the United States marshal or other appropriate person for limited periods of time to prepare defenses or for other proper reasons.

"§ 23–1322. Detention prior to trial.

"(a) Whenever a judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community, he may, subject to the provisions of this section, order pretrial detention of a person charged with—

"(1) a dangerous crime as defined in section 23–1331(3);

"(2) a crime of violence, as defined in section 23–1331(4), if (i) the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or (ii) the crime of violence was allegedly committed while the person was, with respect to another crime of violence, on bail or other release or on probation, parole, or mandatory release pending completion of a sentence; or

"(3) any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

"(b) No person described in subsection (a) of this section shall be ordered detained unless the judicial officer—

"(1) holds a pretrial detention hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is a person described in subsection (a) of this section;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) except with respect to a person described in paragraph (3) of subsection (a) of this section, on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to pretrial detention hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 23–1321 and it subsequently appears that such person may be subject to pretrial detention, the United States attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person and if such person is outside the District of Columbia, he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section.

"(3) The pretrial detention hearing shall be held immediately upon the person being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance on motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under section 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders of detention may be taken pursuant to section 23–1322.

"(d) The following shall be applicable to persons detained pursuant to this section:

"(1) To the extent practicable, the person shall be given an expedited trial.

"(2) Such person shall be treated in accordance with section 23–1321—

"(A) upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person; or

"(B) whenever a judicial officer finds that a subsequent event has eliminated the basis for such detention.

"(3) The person shall be deemed detained pursuant to section 23–1323 if he is convicted.

"(e) The judicial officer may detain for a period not to exceed five calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the five day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal probation or parole officials. If such officials fail or decline to take the person into custody during such period, the person shall be treated in accordance with section 23–1321, unless he is subject to detention under this section. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.

§ 23–1323. Detention of addict

"(a) Whenever it appears that a person charged with a crime of violence, as defined in section 23–1331(4), may be an addict, as defined in section 23–1331(5), the judicial officer may, upon motion of the United States attorney, order such person detained in custody for a period not to exceed three calendar days, under medical supervision, to determine whether the person is an addict.

"(b) Upon or before the expiration of three calendar days, the person shall be brought before a judicial officer and the results of the determination shall be presented to such judicial officer. The judicial officer thereupon (1) shall treat the person in accordance with section 23–1321, or (2) upon motion of the United States attorney, may (A) hold a hearing pursuant to section 23–1322, or (B) hold a hearing pursuant to subsection (c) of this section.

"(c) A person who is an addict may be ordered detained in custody under medical supervision if the judicial officer—

"(1) holds a pretrial detention hearing in accordance with subsection (c) of section 23–1322;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is an addict;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) on the basis of information presented to the judicial officer by proffer or otherwise, there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(d) The provisions of subsection (d) of section 23–1322 shall apply to this section.

"§ 23–1324. Appeal from conditions of release

"(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to section 23–1321(d) or section 23–1321(e) by a judicial officer, other than a judge of the court having original jurisdiction over the offense with which he is charged or a judge of a United States court of appeals or a Justice of the Supreme Court, may move the court having original jurisdiction over the offense with which he is charged to amend the order. Such motion shall be determined promptly.

"(b) In any case in which a person is detained after (1) a court denies a motion under subsection (a) to amend an order imposing conditions of release, (2) conditions of release have been imposed or amended by a judge of the court having original jurisdiction over the offense charged, or (3) he is ordered detained or an order for his detention has been permitted to stand by a judge of the court having original jurisdiction over the offense charged, an appeal may be taken to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, the court may remand the case for a further hearing, or may, with or without additional evidence, order the person released pursuant to section 23–1321(a). The appeal shall be determined promptly.

"(c) In any case in which a judicial officer other than a judge of the court having original jurisdiction over the offense with which a person is charged orders his release with or without setting terms or conditions of release, or denies a motion for the pretrial detention of a person, the United States attorney may move the court having original jurisdiction over the offense to amend or revoke the order. Such motion shall be considered promptly.

"(d) In any case in which—

"(1) a person is released, with or without the setting of terms or conditions of release, or a motion for the pretrial detention of a person is denied, by a judge of the court having original jurisdiction over the offense with which the person is charged, or

"(2) a judge of a court having such original jurisdiction does not grant the motion of the United States attorney filed pursuant to subsection (c),

the United States attorney may appeal to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, (A) the court may remand the case for a further hearing, (B) with or without additional evidence, change the terms or conditions of release, or (C) in cases in which the United States attorney requested pretrial detention pursuant to sections 23–1322 and 23–1323, order such detention.

"§ 23–1325. Release in capital cases or after conviction

"(a) A person who is charged with an offense punishable by death shall be treated in accordance with the provisions of section 23–1321 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the property of others. If such a risk of flight or danger is believed to exist, the person may be ordered detained.

"(b) A person who has been convicted of an offense and is awaiting sentence shall be detained unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the property of others. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(c) A person who has been convicted of an offense and sentenced to a term of confinement or imprisonment and has filed an appeal or a petition for a writ of certiorari shall be detained unless the judicial officer finds by clear and convincing evidence that (1) the person is not likely to flee or pose a danger to any other person or to the property of others, and (2) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for new trial. Upon such findings, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(d) The provisions of section 23–1324 shall apply to persons detained in accordance with this section.

"§ 23–1326. Release of material witnesses

"If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence

by subpena, a judicial officer shall impose conditions of release pursuant to section 23–1321. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 23–1327. Penalties for failure to appear

"(a) Whoever, having been released under this title prior to the commencement of his sentence, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari prior to commencement of his sentence after conviction of any offense, be fined not more than $5,000 and imprisoned not less than one year and not more than five years, (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor and imprisoned for not less than ninety days and not more than one year, or (3) if he was released for appearance as a material witness, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Any failure to appear after notice of the appearance date shall be prima facie evidence that such failure to appear is willful. Whether the person was warned when released of the penalties for failure to appear shall be a factor in determining whether such failure to appear was willful, but the giving of such warning shall not be a prerequisite to conviction under this section.

"(c) The trier of facts may convict under this section even if the defendant has not received actual notice of the appearance date if (1) reasonable efforts to notify the defendant have been made, and (2) the defendant, by his own actions, has frustrated the receipt of actual notice.

"(d) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23–1328. Penalties for offenses committed during release

"(a) Any person convicted of an offense committed while released pursuant to section 23–1321 shall be subject to the following penalties in addition to any other applicable penalties:

"(1) A term of imprisonment of not less than one year and not more than five years if convicted of committing a felony while so released; and

"(2) A term of imprisonment of not less than ninety days and not more than one year if convicted of committing a misdemeanor while so released.

"(b) The giving of a warning to the person when released of the penalties imposed by this section shall not be a prerequisite to conviction under this section.

"(c) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23–1329. Penalties for violation of conditions of release

"(a) A person who has been conditionally released pursuant to section 23–1321 and who has violated a condition of release shall be subject to revocation of release, an order of detention, and prosecution for contempt of court.

"(b) Proceedings for revocation of release may be initiated on motion of the United States attorney. A warrant for the arrest of a person charged with violating a condition of release may be issued by a judicial officer and if such person is outside the District of Columbia he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section. No order of revocation and detention shall be entered unless, after a hearing, the judicial officer finds that—

"(1) there is clear and convincing evidence that such person has violated a condition of his release; and

"(2) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure that such person will not flee or pose a danger to any other person or the community.

The provisions of subsections (c) and (d) of section 23–1322 shall apply to this subsection.

"(c) Contempt sanctions may be imposed if, upon a hearing and in accordance with principles applicable to proceedings for criminal contempt, it is established that such person has intentionally violated a condition of his release. Such contempt proceedings shall be expedited and heard by the court without a jury. Any person found guilty of criminal contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than $1,000, or both.

"(d) Any warrant issued by a judge of the Superior Court for violation of release conditions or for contempt of court, for failure to appear as required, or pursuant to subsection (c)(2) of section 23–1322, may be executed at any place within the jurisdiction of the United States. Such warrants shall be executed by a United States marshal or by any other officer authorized by law.

"§ 23–1330. Contempt

"Nothing in this subchapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

"§ 23–1331. Definitions

"As used in this subchapter:

"(1) The term 'judicial officer' means, unless otherwise indicated, any person or court in the District of Columbia authorized pursuant to section 3041, title 18, United States Code, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court; and.

"(2) The term 'offense' means any criminal offense committed in the District of Columbia, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress.

"(3) The term 'dangerous crime' means (A) taking or attempting to take property from another by force or threat of force, (B) unlawfully entering or attempting to enter any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, (C) arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business, (D) rape, carnal knowledge of a female under the age of sixteen, assault with intent to commit either of the foregoing offenses, or taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, or (E) unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress) if the offense is punishable by imprisonment for more than one year.

"(4) The term 'crime of violence' means murder, forcible rape, carnal knowledge of a female under the age of sixteen, taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, assault with a dangerous weapon, or an attempt or conspiracy to commit any of the foregoing offenses, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(5) The term "addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare.

"§ 23–1332. Applicability of subchapter

"The provisions of this subchapter shall apply in the District of Columbia in lieu of the provisions of sections 3146 through 3152 of title 18, United States Code.

"Chapter 15.—OUT-OF-STATE WITNESSES

"Sec.

"23–1501. Definitions.

"23–1502. Hearing on recall of out-of-State witnesses by State courts; determination; travel allowance; penalty.

"23–1503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty.

"23–1504. Exemption from arrest.

"§ 23–1501. Definitions

"As used in this chapter—

"(1) The term 'witness' includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

"(2) The term 'State' includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

"(3) The term 'summons' includes a subpena order, or other notice requiring the appearance of a witness.

"§ 23–1502. Hearing on recall of out-of-State witnesses by State court; determination; travel allowance; penalty

"(a) If a judge of a court of record in any State which by its laws has made provision for commanding persons within that State to attend and testify in the District of Columbia certifies under the seal of the court (1) that there is a criminal prosecution pending in that court, or that a grand jury investigation has commenced or is about to commence, (2) that a person within the District of Columbia is a material witness in the prosecution or grand jury investigation, and (3) that his presence will be required for a specified number of days, upon presentation of that certificate to any judge of the Superior Court of the District of Columbia, except as provided in subsection (c), such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

"(b) If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to attend and testify in the prosecution or grand jury investigation in the requesting State, and that the laws of such State and of any other State through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the prosecution or grand jury investigation, as the case may be, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

"(c) If the certificate presented under subsection (a) recomemnds that the witness be taken into immediate custody and delivered to an officer of the requesting State to assure

his attendance, in the requesting State, the judge may in lieu of notification of hearing, direct that the witness be forthwith brought before him for a hearing. If the judge at the hearing is satisfied of the desirability of the custody and delivery of the witness, he may, in lieu of issuing subpena or summons, order the witness to be forthwith taken into custody and delivered to an officer of the requesting State. The certificate shall be prima facie proof of the desirability of the custody and delivery of the witness.

"(d) Any witness who is summoned as above provided and, after being paid or tendered by some properly authorized person the fees and allowances authorized for witnesses in criminal cases in United States district courts, fails without good cause to attend and testify as directed in the summons, shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from the Superior Court.

"§ 23–1503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty

"(a) If a person in any State, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations in the District of Columbia, is a material witness in such a prosecution or a grand jury investigation in the District of Columbia which has commenced or is about to commence, a judge may issue a certificate under seal stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of the United States or the District of Columbia to assure his attendance in the District of Columbia. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

"(b) If the witness is summoned to attend and testify in the District of Columbia he shall be tendered the fees and allowances authorized for witnesses in criminal cases in United States district courts. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within the District of Columbia for a period longer than that specified in the certificate, unless otherwise ordered by the court. If the witness, after coming into the District of Columbia, fails without good cause to attend and testify as directed in the summons, he may be punished in the manner provided for the punishment of any other witness who disobeys a summons issued from the court in the District of Columbia where the prosecution has been instituted or the grand investigation has commenced or is about to commence.

"§ 23–1504. Exemption from arrest

"(a) Any person who comes into the District of Columbia in obedience to a summons directing him to attend and testify in the District of Columbia shall not, while in the District of Columbia, pursuant to the summons, be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose before his entrance into the District of Columbia under the summons.

"(b) Any person who is in the process of passing through the District of Columbia for the purpose of proceeding to or returning from a State which has summoned him to attend and testify shall not be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose at some other time.

"Chapter 17.—DEATH PENALTY

"Sec.
"23–1701. Capital punishment.
"23–1702. Provision for death chamber; appointment of executioner and assistants; fees.
"23–1703. Sentences to be in writing and certified copy furnished.
"23–1704. Who may be present at executions; fact of execution to be certified to clerk of court.
"23–1705. Place of execution.

"§ 23–1701. Capital punishment.

"The mode of capital punishment in the District of Columbia shall be by the process commonly known as electrocution. The punishment of death shall be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of the current shall be continued until the convict is dead. The time fixed for the execution of the sentence shall not be considered an essential part of the sentence, and if it be not executed at the time therein appointed, by reason of the pendency of an appeal or for other cause, the court may appoint another day for carrying the same into execution.

"§ 23–1702. Provision for death chamber; appointment of executioner and assistants; fees

"The Commissioner of the District of Columbia shall provide a death chamber and necessary apparatus for inflicting the death penalty by electrocution and designate an executioner and necessary assistants, not exceeding three in number. The District of Columbia Council shall fix the fees for the executioner and his assistants.

"§ 23–1703. Sentences to be in writing and certified copy furnished

"If a person is sentenced to death for a conviction in the District of Columbia the presiding judge shall sentence the convicted person to death according to the terms of this chapter, and make the sentence in writing, such sentence shall be filed with the papers in the case against the convicted person, and a certified copy thereof shall be transmitted, by the clerk of the court in which such sentence is pronounced, to the District of Columbia Department of Corrections not less than ten days prior to the time fixed in the sentence of the court for the execution.

"§ 23–1704. Who may be present at execution; fact of execution to be certified to clerk of court

"At the execution of the death penalty there shall be present only the following persons: The executioner and his assistant; the prison physician and one other physician if the condemned person so desires; the condemned person's counsel and relatives, not exceeding three, if they so desire; the prison chaplain and such other ministers of the Gospel, not exceeding two, as may attend by desire of the condemned; the superintendent of the prison, or, in the event of his disability, a deputy designated by him; and not fewer than three nor more than five respectable citizens whom the superintendent of the prison shall designate, and, if necessary to insure their attendance, shall subpena to be present. The fact of execution shall be certified by the prison physician and the executioner to the clerk of the court in which sentence was pronounced, which certificate shall be filed by the clerk with the papers in the case. No person under the age of twenty-one years shall be allowed to witness any execution.

"§ 23–1705. Place of execution

"Any person adjudged to suffer death shall be executed within the walls of the designated facility of the Department of Corrections, or within the yard or inclosure thereof, and not elsewhere."

(b) The following provisions of law are repealed on the effective date of this Act, except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this Act:

(1) Sections 397 and 398 of the Revised Statutes of the District of Columbia (D.C. Code, secs. 4–140, 4–141).

(2) The following provision of British law in effect in the District of Columbia: 23 Geo. II, chapter 11, sections 1 and 2 (D.C. Code, secs. 23–204, 23–205).

(3) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Sections 911 to 914 (D.C. Code, secs. 23–301 to 23–304).

(B) Sections 915 to 917 (D.C. Code, secs. 23–201 to 23–203).

(C) Sections 918 to 924 (D.C. Code, secs. 23–107 to 23–113).

(D) Section 926 (D.C. Code, sec. 23–114).

(E) Sections 930 and 931 (D.C. Code, secs. 23–401, 23–402).

(F) Sections 932 and 933 (D.C. Code, secs. 23–101, 23–102).

(G) Sections 935 and 938 (D.C. Code, secs. 23–105, 23–106).

(H) Section 939 (D.C. Code, sec. 23–104).

(I) Section 1200 (D.C. Code, sec. 23–706).

(J) Section 1203 (D.C. Code, sec. 23–705).

(4) Act of January 30, 1925 (43 Stat. 798; D.C. Code, secs. 23–701 to 23–704).

(5) Act of April 21, 1928 (45 Stat. 440; D.C. Code, secs. 23–403 to 23–410).

(6) Act of March 3, 1933 (47 Stat. 1482; D.C. Code, secs. 23–601 to 23–612).

(7) Section 5 of the Act of April 5, 1938 (52 Stat. 198, 199; D.C. Code, sec. 23–305).

(8) Uniform Act on Fresh Pursuit (53 Stat. 1124; D.C. Code, secs. 23–501 to 23–504).

(9) Act of March 5, 1952 (66 Stat. 15; D.C. Code, secs. 23–801 to 23–804).

(10) Sections 207, 402, and 407(b) of the District of Columbia Law Enforcement Act of 1953 (67 Stat. 90, 96, 102, 106; D.C. Code, secs. 23–306, 23–115, and 23–411).

(11) The District of Columbia Bail Agency Act (80 Stat. 327; D.C. Code, secs. 23–901 to 23–909).

(12) Act of July 30, 1968 (82 Stat. 460; D.C. Code, sec. 23–101a).

Mr. McMILLAN during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and the title be open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ADAMS. Mr. Chairman, reserving the right to object, I ask the chairman, as we have now gone through title I, if the chairman might offer to us the opportunity now that the bill be considered as read and open to amendment at any point.

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. Is the gentleman from Washington suggesting that the entire bill be open to amendment at any point or only the sections after the section which has already been read or that part of the bill which has already been read?

Mr. ADAMS. Only the sections after the part of the bill that has already been read.

Mr. NELSEN. Mr. Chairman, I object to that. This is the request that was

made before the Committee on Rules, and it is my understanding that we proceed in the regular manner, taking title by title in this bill. I hope it will be the decision of this body to continue in the same manner.

Mr. ADAMS. Mr. Chairman, further reserving the right to object, I might state that the gentleman knows before the Committee on Rules the suggestion was made that this bill go over to next week. This recommendation was carried forward, and it was decided that we should proceed today with the matter. One of the reasons was that there was hope that this bill could be open for amendment at any point so that we could proceed with orderly consideration of some of these amendments this afternoon as opposed to later tonight. I could object and have the bill read, which would simply put it on endlessly, but we are trying to cooperate. I hope the gentleman from Minnesota will cooperate, since we have gone through title II, which the gentleman indicated was the only reason some Members did not want the bill open to amendment at any point. The reason was that they had amendments to title I. I am hopeful that we can open title II now, because some of these provisions go back and forth through various titles. I hope he will not object so that we can proceed with the entire bill.

Mr. NELSEN. Mr. Chairman, in the Committee on Rules the gentleman made a plea to them and they denied his request. I do not see any reason why we should skip around in this bill. I think we should proceed in the regular manner, and I hope that will be the wish of the House.

The CHAIRMAN. Will the gentleman from South Carolina restate his request?

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that further reading of title II be dispensed with and the title be open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 306, line 22, insert "SEC. 808." immediately after the quotation marks.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 331, line 22, strike out "11-502(a)(3) of title 11" and insert in lieu thereof "11-502(3)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 340, line 14, strike out "ground that there is probable cause to believe" and insert "reasonable belief".

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Mr. Chairman, I am inquiring if this is the amendment that is putting in a whole series of additional words and is changing the bill in terms of probable cause for the issuance of search warrants. We have a number of amendments to change that back to the bill as it originally came over.

Therefore, at this point, if this amendment of the committee is adopted, then we would be foreclosed from offering our amendments to put the bill back to the "probable cause" standard?

The CHAIRMAN. The Chair will advise the gentleman that if the committee amendment at this point is agreed to, it would not later be subject to further amendment.

Mr. ADAMS. Well, Mr. Chairman, I wish to offer a substitute amendment for the committee amendment. I understand the committee amendment is on page 340, starting at line 14 to change the words "probable cause to believe" to "reasonable belief"; is that correct?

The CHAIRMAN. The Chair will state that that is the committee amendment under consideration.

PARLIAMENTARY INQUIRY

Mr. ROBERTS. Mr. Chairman, if we act on the committee amendment which goes through page 340, are we precluded from offering other amendments to the previous pages?

The CHAIRMAN. No; title II will be open to amendments.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that the committee amendment be reread.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk reread the committee amendment.

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, is this an amendment in the nature of a substitute?

The CHAIRMAN. It is a committee amendment to strike out and insert, the Chair will state to the gentleman.

Mr. ADAMS. That is the reason for my parliamentary inquiry. This is the committee amendment that changes the "probable cause to believe" provision and then my amendment is in order at this point and I would like it read.

The CHAIRMAN. The gentleman's amendment is to line 16 on page 340?

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Maybe I can straighten out where we are. In terms of the first amendment as I understand the intent of the committee is to strike "that there is probable cause to believe" to "reasonable belief." "(A) It cannot be executed during the hours of daylight" and that is being stricken and in place of it there is being inserted "reasonable belief." Now, is that what is pending?

The CHAIRMAN. The Chair will state that the only committee amendment pending at the moment has to do with lines 14 and 15, to strike out "ground that there is probable cause to believe," and insert "reasonable belief." That is the only committee amendment that is before the House at the moment.

Mr. ADAMS. Then, Mr. Chairman, I ask unanimous consent to withdraw my amendment that I have proposed at this point, and I will rise in opposition to the committee amendment to substitute that wording.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The gentleman from Washington is recognized for 5 minutes.

Mr. ADAMS. Mr. Chairman, I apologize to the committee for taking the time, but we are not allowed by the rules to have a clerk, and we are therefore having to run all these amendments at the same time, and it is difficult when they come up rapidly to put them together.

There are three parts, or three changes, that I will be talking about. One will involve the substitute of a new standard for issuing of—well, they all involve a new standard for the issuing of a search warrant. What the committee has done, and I hope those of you who are lawyers who have practiced in the criminal courts or have a concern with constitutional law will understand that the committee through a series of amendments starting first at line 14, changed the whole standard of how you can issue a search warrant.

This will later tie in with the problems involved with the "no-knock" search warrant, because these provisions allow the issuance of a search warrant on very, very liberal grounds. All the officer has to say is that instead of having probable cause to believe that the search warrant cannot be executed during the hours of daylight, it has been changed to a standard called "reasonable belief."

Now, probable cause to believe is a very well-defined standard within the courts of the United States, and it requires that the officer, before he breaks into your house or before he comes to your house with a search warrant, has got to establish probable cause to believe that he cannot go there in the daylight.

What this means is that if you change this standard, if he has some reasonable belief that there appears to be, for example, let us say in a nice suburban neighborhood, some marihuana cigarettes circulating around, because he has seen some kids who have them, but he is not quite sure whether there is one in your house or not, but he has reasonable cause to believe that there might be one, then he meets the statutory standard for the issuance of a nighttime search warrant.

Later on we will describe how he will also meet the standards for a "no-knock" search warrant.

The amendment that I offered, because I thought these would be offered en bloc, indicates how even worse this is because the standard is what does he have to know about that property in order to get a search warrant, instead it

used to be that the test is that the property sought will be destroyed or the property sought will not be found under certain circumstances. And that is what I want the test to be. That is what the test always has been in the United States.

The committee will—and this will be the next set of amendments after this one, for which I will offer a substitute, the committee has changed it to say the property is likely to be removed. Before that it was may be removed. We are saying that the officer should have probable cause to believe that the property will be destroyed or will be removed.

Now, this standard has worked very well on search warrants in the United States for many, many years. As a U.S. attorney, I have obtained search warrants under the standard that I am suggesting. It is a so-called positive standard. In other words, the officer really has to know what he is doing before he breaks into your house.

I hope, therefore, that the Committee will vote down this committee amendment to change the probable cause standard to reasonable belief, and then will vote for the substitute which I will offer next, so that we get a decent, and a really decent standard, for search warrants.

Mr. Chairman, this is the forerunner to the no-knock provisions. Remember—they build one on the other. You are going to allow people under the standards being suggested by the committee to enter at hours, day or night, without notice—and this is the first part of it.

Mr. HOGAN. Mr. Chairman, I rise in support of the committee amendment.

Mr. Chairman, I frankly am surprised by the gentleman's amendment because I would have thought he would have recalled that he and some of his allies in committee objected to the original language which was in the bill on the grounds that the words in line 14 and the words in line 16 which state "that there is probable cause" and then "may" is a double probability.

In order to clarify this, working with the Department of Justice, we came up with what is a compromise between the "may" and the "will." That is a "reasonable belief," that it cannot be executed between the hours of daylight and that the property is "likely" to be removed—then on below—that "the property sought is not likely to be found."

All of these things have to be taken together and not in separate consideration.

Mr. ADAMS. Mr. Chairman, will the gentleman yield since he used my name?

Mr. HOGAN. When I am finished.

Mr. Chairman, in the leading case on no-knock which has been quoted here earlier in the case of Ker against California, the U.S. Supreme Court said that the officer's quick action was "justified because of the likelihood that the marihuana would be destroyed or hidden."

What we have in the version adopted by the other body is the use of the word "will." I submit it is impossible for a law-enforcement officer to go before a judge and prove that something "will" be destroyed. It is just impossible to prove.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. FRASER. Is it not a fact that what the language provides is "probable cause" to believe it will happen? He does not have to prove it as a fact.

Mr. HOGAN. It is right. This is the standard criterion for probable cause.

Mr. FRASER. That is right.

Mr. HOGAN. You do not have to use the words "probable cause."

Mr. FRASER. Well, except that the amendment we are talking of waters it down.

Mr. HOGAN. The gentleman is correct. The amendment does not water it down and reaches a closer compromise with the version enacted by the other body.

Mr. FRASER. Except in one change under the subsection you are changing "probable cause to believe" to "reasonable belief."

Mr. HOGAN. I said we are not changing "probable cause."

Mr. FRASER. Yes, you are—that is what we are talking about.

Mr. HOGAN. This is the standard definition of probable cause—"reasonable belief" that something is likely to happen.

Mr. FRASER. If that is true, then why not leave the language as it is—if that is the standard interpretation.

Mr. HOGAN. I would have no objection to the language as it was originally in the bill. But to replace it with the word "will", as the gentleman from Washington has indicated he will do——

Mr. FRASER. But that is not in front of us now.

Mr. HOGAN. That is right. So I am just explaining how we came to adopt this committee amendment in committee.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. HALL. As a nonlawyer, I would simply inquire of the distinguished gentleman, if we do insert the committee amendment and change it to "reasonable belief," and if that were subsequent to it becoming law, misused by an officer of the law; would he not be culpable and have to defend his action if a counter civil suit was brought against him?

Mr. HOGAN. The gentleman is correct; he would.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. ADAMS. The whole point of this was that the original language which came from the other body and was suggested, is the standard throughout the United States, is a probable cause to believe that the property will be removed.

That was our position in the committee. It is our position now.

Mr. HOGAN. Excuse me—would the gentleman define "our"—it is yours but not the committee's.

Mr. ADAMS. No; I am saying, you said a number of us on the committee have taken an inconsistent position. We have not. We have stayed with the standard of "probable cause to believe" that the property will be removed. It was this moving back and forth of the language that was done by the gentleman from Maryland and not by any of us, on varying the standards and there is considerable doubt that the standard you are establishing will meet the fourth amendment test.

In my opinion, the Department of Justice, if they came in and testified again, would be just as happy to stay with the standards as they now know them.

Mr. HOGAN. The Department of Justice drafted this particular provision and it was adopted in the committee.

Mr. ADAMS. Mr. Santarelli drafted it.

Mr. HOGAN. I would like to clarify one thing before I yield to the distinguished chairman of the subcommittee. The alternatives we have are as follows: The original committee bill, which used the word "may"; the version adopted by the other body, which used the word "will," which the gentleman from Washington prefers, and which places an impediment in the hands of a police officer, and I submit the officer could not prove it. What the committee has done with this amendment is to take the middle ground by using the words "likely to."

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(On request of Mr. ABERNETHY, and by unanimous consent, Mr. HOGAN was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. I wish to commend the gentleman for his statement and to corroborate the fact that the language which appears in the bill, the committee amendment, was drafted in the Department of Justice. It did have the consideration of others than Mr. Santarelli, and even if it were limited to him, I have a very high regard for his opinion. But it went all the way to the top of the Criminal Division of the Department of Justice, and I hope the language stays in the bill.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Ohio.

Mr. WYLIE. I think the statement of the gentleman from Washington is misleading, in that he stated that the removal of the language "ground that there is probable cause to believe" would remove the probable cause test from the "no-knock" provision. Paragraph (1)(A), states:

(1) A request that the search warrant be made executable at any hour of the day or night, upon the reasonable belief that—

(A) it cannot be executed during the hours of daylight,

This paragraph relates to the time of execution. Paragraphs (B) and (C) relate to obtaining evidence and say: "the property sought is likely to be removed or destroyed if not seized forthwith" or, "the property sought is not likely to be found except at certain times or in certain circumstances." This is the probable cause test suggested by the Court in Ker against California.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. ADAMS. Mr. Chairman, will the gentleman yield so that I might clarify the question to which the gentleman from Ohio alluded?

Mr. DENNIS. I yield to the gentleman from Washington.

Mr. ADAMS. Just briefly, if the gentleman will look at the line 17, he will observe the word "or" is there. So probable cause applies to finding or seizing.

Mr. WYLIE. Mr. Chairman, will the gentleman yield to permit an observation?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. WYLIE. It is in the disjunctive, that is true, but in the first paragraph, paragraph (A), it states:

(A) it cannot be executed during the hours of daylight,

Then in paragraph (B) it states:

(B) the property sought is likely to be removed or destroyed if not seized forthwith,

And in (C) it states:

(C) the property sought is not likely to be found except at certain times or in certain circumstances;

Prior to that time the words were "may not." I think this language of the committee actually strengthens the language of the bill. That is the point I want to make.

Mr. DENNIS. Mr. Chairman, I had not intended to get into the debate at this point, and I am not particularly concerned at this point with the difference between "likely to," "will," or "may." Certainly "likely to" is stronger than "may" and not as strong as "will." But I am concerned about this change from "probable cause" to "reasonable belief." I frankly do not understand the reason for it.

The reason I am concerned is that "probable cause" is a very, very well-known legal and, indeed, constitutional phrase that the courts have interpreted time and again, and all lawyers know what it means. I do not know what "reasonable belief" means. The gentleman from Maryland has indicated that he thinks it means something less than and weaker than "probable cause," and that seems to me probable and logical. It is true that this is basic to the "no-knock" business, as the gentleman from Washington said. I have been prepared to go along with the "no-knock." I do not think it, in itself, is any new departure in the law, but I am a little concerned with this "probable cause." Departing from the phrase "probable cause," it seems to me perhaps is a new departure and, frankly, I do not see why the committee did it. They can change this other language down below just the same, it seems to me, but I think they ought to go back to using the familiar term "probable cause"; I should think the committee would want to do that.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Maryland.

Mr. HOGAN. There is no intention to change the doctrine of probable cause. It is our opinion and the opinion of the Department of Justice that we have not done that in this amendment. But I would like to point out the present statute on warrants, search warrants and arrests, only requires that a police officer prove good cause to believe that they are concealed in the house, good cause, which could be what we say, or just the possibility that they were there.

Mr. DENNIS. I am glad to have the gentleman's assurance that there is no intention of deserting the term "probable cause." I am happy to have that in the legislative record. I still do not understand why the term is departed from.

I take it, if the gentleman from Maryland would give me his attention just for a moment, and for the purpose of further developing the record, that when the gentleman indicated a moment ago in the well that he thought "reasonable" meant something less than "probable cause," that on reflection he does not think that, he thinks it means the same thing. Is that correct?

Mr. HOGAN. That is correct.

Mr. DENNIS. And that is the intention of the committee?

Mr. HOGAN. That is correct.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, do I understand the gentleman from Maryland, in response to this plea of the gentleman from Indiana, is restricting his definition, that the committee amendment is not a watering down of the phrase "probable cause"?

Mr. HOGAN. No. If I said it was a watering down of "probable cause" I was mistaken. I had no intention of doing so. What I said is, it is a watering down of the authority of the police officer who, under the version of the other body, has to show that the evidence will be destroyed. That is so strong the officer cannot prove with certainty that something will happen. The original version of the committee was that it may be destroyed. Now it is the compromise between the two. The language which the committee is offering as a committee amendment was proposed and adopted in the committee.

Mr. YATES. If it does change the phrase "probable cause," why leave it? The phrase has been defined by the courts of the country. Why should we change to a new phrase upon which there has been no judicial determination? Would it not be better to adhere to the original language of the committee?

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 58, noes 23.

Mr. YATES. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 340, line 16, strike out "may" and insert in lieu thereof "is likely to".

Mr. ADAMS. Mr. Chairman, I would ask the indulgence of the Chairman of the Committee, that we might read those amendments that all apply to that same section, and consider them en bloc, and I would offer a substitute en bloc, in order to expedite the proceedings.

The CHAIRMAN. Is there objection to the request that the two committee amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The Clerk will read the second committee amendment.

The Clerk read as follows:

Committee amendment: Page 340, line 18, strike out "may not" and insert in lieu thereof "is not likely to".

Mr. ADAMS. Mr. Chairman, is there another amendment in line 17, to substitute "is not likely to" for "may not"?

The CHAIRMAN. There are two committee amendments, one at line 16 and one at line 18, which are presently being considered en bloc. The Chair does not have information on an amendment at line 17.

Mr. ADAMS. That is correct, Mr. Chairman. Those are the two amendments being considered en bloc.

The CHAIRMAN. These two committee amendments on page 340, one on line 16 and one on line 18, are now being considered en bloc.

SUBSTITUTE AMENDMENTS FOR COMMITTEE AMENDMENTS OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer amendments in the nature of a substitute for the two committee amendments being considered en bloc.

The Clerk read as follows:

Substitute amendments for committee amendments offered by Mr. ADAMS: Page 340, line 16, strike out "may" and insert in lieu thereof "will".

Page 340, line 18, strike out "may not" and insert in lieu thereof "will not".

Mr. ADAMS. Mr. Chairman, I shall be brief, because the argument has already preceded on this. They have to be taken together.

I would call the attention of the members of the committee to the entire paragraph, starting in line 12 and continuing through line 18. What that is is the standard by which a search warrant is issued.

In the United States at the present time we have a standard—and this is the Federal standard—which says that the officer must have probable cause to believe that the warrant cannot be executed during the hours of daylight, that the property sought will be removed or destroyed if not seized forthwith, or that the property sought will not be found except at certain times or in certain circumstances.

This is a clearly defined standard under the fourth amendment.

The gentleman from Maryland says this requires that the officer must be positive. That is not true. The officer must only have probable cause to believe that the property will be destroyed. The new standard which the committee is asking us to accept, in my opinion, casts doubt on all search warrants issued under it under the fourth amendment, because now all he would have to know or say is that he has reasonable belief that the property sought is likely to be destroyed and so on.

I am not going to press the argument on the amendment any further. I believe we should go with a positive standard and not go to some new one when we do not know what will happen under it.

The effect of it is going to be that there will be some officers who will try some things they otherwise would not. Some houses will be broken into. Some people will have property removed and so on. If an officer were a lot more careful about being more certain, then it would not happen.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. I want to ask the gentleman if his substitute amendments are the same as the language which was considered and passed in the Senate?

Mr. ADAMS. Yes. Our language is the same as was passed in the Senate.

(By unanimous consent, Mr. BRINKLEY was allowed to speak out of order.)

THE LATE HONORABLE E. L. "TIC" FORRESTER

Mr. BRINKLEY. Mr. Chairman, it is my sad duty to announce to the House the death at 2 p.m. today of a former colleague of many of you, a friend of all of us, the Honorable E. L. "Tic" Forrester, of Leesburg, Ga.

"Tic" represented his country and the Third District of Georgia with honor and distinction for many years. The severity of his loss is profound and I grieve for him and express heartfelt sympathy to his dear wife, Thursba.

Next week I will ask the permission of the House for a special order to eulogize this great American.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington.

The gentleman was correct when he said he is putting back into the bill language that was adopted in the Senate. While I do not mean anything disrespectful of the Senate, I do not necessarily agree that the Senate language is the best language and I often find it is not. In fact, my judgment is that bills which pass the Senate fall far short of doing that which is needed in the District in order to solve the crime problem of the District.

To insert the word "will" instead of "may" just puts a burden upon the officer which is impossible for him to meet. This is reasonable language which we have in the bill. Reasonable men drafted this language, and I think those who approved it are reasonable. I hope that the House will vote down the gentleman's amendment and approve the committee amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am glad to yield to the gentleman.

Mr. HARSHA. As a matter of fact, the language that the committee is offering—was it not offered in an endeavor to conform this bill to the Supreme Court decision in the case of Ker against California?

Mr. ABERNETHY. I am sorry. I cannot answer that. Perhaps the gentleman is correct.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

The amendment offered by the gentleman from Washington would substantially narrow the authority of police officers under this bill, which is the proposal offered by the President, because by insisting that we use the word "will" as the standard we will be forcing the officer to prove in advance that property will be destroyed or that the officer's life will be endangered. The proposal offered by the administration and adopted by the committee provides that the police can obtain permission to dispense with announcing if there is reason to believe that the announcing in advance means that the property is likely to be destroyed or that the action is likely to endanger the officer's life. This proposal of the committee in the bill is reasonable and deals with probabilities. For example, if a police officer obtains a search warrant for 50 capsules of heroin, it is reasonable to believe that if he announced his identity or his purpose in advance, the drugs would be flushed down the toilet. The administration proposal would allow the warrant to be issued under these circumstances. The amendment offered by the gentleman from Washington would prohibit it, and it would state that the officer must have specific information that, if he announces in advance, the person will destroy the evidence. Such specific information is practically impossible to obtain. So the amendment offered by the gentleman from Washington would seriously hamper law enforcement and is not in conformity with the provision asked for by the administration.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am glad to yield to the gentleman from Florida.

Mr. CRAMER. Mr. Chairman, I agree with the gentleman.

Mr. Chairman, I rise in opposition to the proposed amendment that would substitute the word "will" for "may" on line 16, and the words "will not" for "may not" on line 18 of page 340 of the House bill, under the section entitled "Applications for Search Warrants."

I am opposed to these two amendments because they would substantially weaken the no-knock provision providing for search where the property sought to be seized or discovered is stolen, embezzled, contraband, intended to be used to commit or to conceal a criminal offense, and for other improper purposes. The present language in the bill indicates that an application to the court can be made to request on reasonable belief that the property sought is likely to be removed if not seized or that the property sought is not likely to be found except at certain times, thus justifying the application. It is obvious that substituting "will" for "may" in both of those instances would be an impossible burden of proof and would destroy the no-knock provision.

I take this opportunity to also state that I support the bill as reported out of the committee, and I had hoped I would be available to vote for its passage by the House. Unfortunately, however, I cannot be present, as I have to return immediately to Florida to continue my efforts to get the Federal courts of Florida, and of the Nation, to abide by the Cramer antibusing amendment to the 1964 Civil Rights Act.

I also take this opportunity to state my strong support for this legislation which is essential if crime in the streets in the District of Columbia is to be controlled and our Nation's Capital made safe. This legislation also contains many provisions that are requested by the administration in other nationwide bills and proposals, which I believe of necessity must be passed by the Congress, and my support of this legislation before us today evidences my support for those nationwide proposals as well.

I have long been an advocate of effective anticrime legislation and have introduced many bills to accomplish adequate law enforcement in America. I am glad to support the bill now before us, the principal provisions of which include: First, restructuring of the courts in the District of Columbia to create one local court of general, civil, criminal, and juvenile jurisdiction; second, creation of an improved bail agency to supervise pretrial release of criminal defendants, including the allowance of limited pretrial detention of dangerous hardcore repeat offenders; third, establishment of a full-fledged public defender office to serve indigent adult and juvenile offenders; and fourth, revisions of the Juvenile Procedures Code to update and improve the administration and procedures of courts handling juvenile and family matters.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am happy to yield to the gentleman.

Mr. WYLIE. The gentleman from Ohio asked a question awhile ago. Does not the committee language conform the bill to the decision of the Supreme Court in Ker against California, which I read from the committee print earlier, where they say that the officer's quick action was justified because of "the likelihood that the marihuana would be destroyed or hidden"? I submit when we are passing a bill of this nature that we ought to, insofar as possible, meet the tests which have been upheld by the Supreme Court of the United States. Therefore, I oppose the amendment.

Mr. HOGAN. I thank the gentleman for his contribution.

In that Supreme Court case of Ker against California the exact quote which the Supreme Court used was it said that the officer's quick action was justified because of "the likelihood that the marihuana would be distributed or hidden."

So "likely" is the word which we have in our bill which the Supreme Court called for in Ker against California.

The language in the other body's Federal drug bill, S. 3246, was "probable cause" to believe danger or destruction of evidence "will" result, if notice is given. In effect, the other body's test, succinctly stated, is a "probably will" test. The difficulty with this language is that it attempts to define "probable cause" by using the phrase "probable cause" in its definition.

The language in H.R. 16196 appropriately defines the probable cause standard by using the phrases "reasonably believes" danger or destruction of evidence "is likely to" result.

The cases dealing with unannounced entry by police officers do not enunciate a specific formulation of words. However, a reading of the "no-knock" cases and cases in related fourth amendment areas establish that what is required to justify no-knock entry is something less than absolute certainty and more than mere possibility. It can be argued that the word "will" expresses absolute certainty and the word "may" expresses possibility. The correct language is "likelihood"; that is, "of such a nature or so circumstanced as to render something probable"—Webster's New Collegiate Dictionary. The "is likely to" languages of H.R. 16196 comports with controlling case law.

In the leading case on no-knock entries, Ker against California, the U.S. Supreme Court said that the officer's quick action was justified because of "the likelihood that the marihuana would be distributed or hidden"—374 U.S. at 42.

The probable cause standard in the no-knock area of the law is best expressed by the phrase "is likely to."

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. ADAMS) as a substitute for the committee amendments.

The substitute amendments for the committee amendments were rejected.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 355, line 9, strike out "sec. 22–543(g)" and insert in lieu thereof "subsection (g)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 366, strike out "may" in lines 17, 20, and 22 and insert in lieu thereof "is likely to".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 405, line 19, strike out "23–1322" and insert in lieu thereof "23–1324".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 406, line 10, strike out "23–1323" and insert in lieu thereof "23–1325".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 410, line 9, strike out the period and insert in lieu thereof a comma.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 414, line 8, strike out "conviction under" and insert in lieu thereof "the application of".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 416, line 17, strike out "; and" and insert in lieu thereof a period.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer two amendments, the "no-knock" amendments.

The CHAIRMAN. Does the gentleman desire that they be considered en bloc?

Mr. HUNGATE. I do not, Mr. Chairman. I want them considered separately.

The CHAIRMAN. The Clerk will report the first amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The Clerk read as follows:

Amendment offered by Mr. HUNGATE: Page 339, insert "and" at the end of line 6; strike out lines 7 through 12; and on line 13 strike out "(7)" and insert in lieu thereof "(6)".

Page 340, beginning in line 19, strike out "; and (2)" and all that follows down through line 2 on page 341 and insert in lieu thereof a period.

Page 341, beginning in line 17, strike out ", except as provided in sections 23–521 (f) (6) or 23–591(c),".

Page 359, beginning in line 11, strike out "If the complaint establishes" and all that follows down through and including line 16.

Page 366, strike out line 11 and all that follows down through and including line 2 on page 367.

Page 367, line 3, strike out "(d)" and insert in lieu thereof "(c)"; and beginning in line 4, strike out "or after entry where such notice is unnecessary under subsection (c)".

Page 367, line 10, strike out "(e)" and insert in lieu thereof "(d)"; and in line 15, strike out "(f)" and insert in lieu thereof "(e)".

Mr. ADAMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Eighty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 55]

Addabbo	Fallon	Ottinger
Ashley	Fisher	Podell
Ayres	Gaydos	Purcell
Baring	Gray	Randall
Barrett	Griffiths	Reid, Ill.
Boland	Grover	Reid, N.Y.
Bolling	Halpern	Reifel
Broomfield	Hawkins	Reuss
Brown, Calif.	Hays	Rivers
Bush	Hébert	Rosenthal
Camp	Helstoski	St Germain
Cederberg	Ichord	Schneebeli
Chisholm	Kirwan	Schwengel
Clark	Koch	Sisk
Clay	Lukens	Stanton
Colmer	McCarthy	Steiger, Ariz.
Davis, Ga.	McDonald, Mich.	Stephens
Dawson	McEwen	Stubblefield
de la Garza	Mann	Teague, Tex.
Dent	Meskill	Tiernan
Derwinski	Mills	Tunney
Eckhardt	Mollohan	Udall
Edwards, La.	Murphy, N.Y.	Vander Jagt
Esch	Nichols	Wydler
Evans, Colo.		

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16196, and finding itself without a quorum, he had directed the roll to be called, when 357 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes in support of his amendment.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, I wonder if the Members who have amendments which they desire to offer to the remainder of the bill would have them delivered to the desk so that we may have prompt consideration of them. I think every person is anxious to get out later this evening. It is my opinion that we can complete this bill by 7 o'clock, if not before. It is my desire to cooperate in every way possible in voting up or down every amendment. I just mention that to speed up the action because I do know of certain Members who already have plane reservations for departure later this evening.

Mr. HUNGATE. Mr. Chairman, in line with what I hope to be the temper of the Committee of the Whole House on the State of the Union, the hour is late. I think most of us have heard about the no-knock provision contained in this bill. This amendment is directed to the no-knock provision.

Mr. Chairman, I ask unanimous consent that all debate on this no-knock amendment and all substitutes and amendments thereto cease in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HUNGATE. Mr. Chairman, this amendment is rather long. The heart of it is page 366, from line 11 on to line 2 of page 367. What it really does is take out the no-knock provision.

Mr. Chairman, in the words of a currently popular hillbilly song:

If you hang them all, you get the guilty.
If you hang them all, you cannot miss.
If you hang them all, you get the guilty.
There's been a lot of problems solved like this.

Let us hope that does not become the theme song of the 91st Congress.

You have all read and heard of the recent case in Iowa—and I see my distinguished friends from Iowa are here—where a farmer, tired of burglaries and vandals destroying his property, set up a spring gun so that whoever invaded his uninhabitated cottage would be shot. Someone did. They were. And he was sued and found liable for a judgment large enough to cost him his farm.

I know many were outraged at that result. Yet let me make one thing perfectly clear: Unless the no-knock provisions are removed from this bill we will make it hazardous for the householder to use force to repel invaders, even of inhabited dwellings. I do not believe this is your intent.

When the founders of this Nation met, now nearly two centuries ago, we had no standing armies sufficient to support the cause of freedom from Wheelus to Saigon. There were no nuclear submarines to insure us freedom of the seas. The blessings of a continental defense system sustained by ABM's, MIRV, and nerve gas, were unknown. But the colonists were well aware of the tyrannies available from a too-powerful Central Government. Their confidence in the principles upon which this Nation is based were such that they could write:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

That is amendment No. 4 to the Constitution, as I think you recognize.

It is true that the courts have sanctioned a no-knock entry under exigent circumstances in narcotics cases, but this provision is not limited to narcotics cases. It is true the courts have sanctioned a no-knock entry under exigent circumstances in gambling cases, but this provision is not limited to gambling cases.

Someone has stated earlier in the debate—and I believe I am correct on this—that this injection of the no-knock provision would give the police no powers they do not have. So I say do not do it.

Removal of the no-knock provisions from this bill will not repeal the no-knock authority already given by the courts in gambling and narcotics cases in exigent situations. Passage of this no-knock provision will lessen the freedom of every householder in the District, and will lessen the freedom of every visitor to Washington.

Now we are going to have judicial safeguards, you will hear all about that. You will have to go before a judge to get an order to be free from having a no-knock warrant issued on you. You can go before some judge like Judge Douglas, to get protection of your rights, or you can go before some judge like Judge Haynsworth, to get protection of your rights. I do not believe we want to go that far.

There are many in the Congress who support the recent campaigns to have all police officers wear an American flag insignia as part of their uniforms. This is a splendid idea. However, an American flag may be worn on the uniform, or it might be worn on the pajamas or even tattooed on the navel, but none of this will be to any avail if we lose sight of the principles for which that flag stands: Freedom, individual liberty, and the right to be secure in our homes against unannounced intruders.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New Jersey (Mr. HUNT).

(By unanimous consent, Mr. HUNT and Mr. HARSHA yielded their time to Mr. WYLIE.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri. This is a very important provision in the bill, the no-knock provision, and it should be retained.

The thrust of this no-knock provision is announcement and identity. It has been called a no-knock provision which, in my judgment, is a misnomer. More properly, it should be called a must-knock amendment rather than a no-knock amendment, with certain exceptions.

I think the gentleman from Missouri does not mean to suggest a situation like the one out in Iowa is applicable here.

You do not get to the question of no-knock until the law enforcement officer has obtained a search warrant, if the purpose for entering the premises is for search only; or he has obtained an arrest warrant, or he has entered the premises in hot pursuit of a felon.

It is then and only then that you get to the question of no-knock.

Now if we are to assume violations of the law by law enforcement officers, then we might as well forget about enacting any law and go back to the law of the jungle.

I, for one, would much rather take my chances, as a law-abiding citizen, to the possibility of an unauthorized entry by a police officer which is infinitesimal, in my opinion, compared to the possibility of being the victim of a crime.

Recent FBI reports indicate one of every 50 persons in the United States will be the victim of a crime.

There are no reported cases of illegal entry under no-knock provisions which are now in existence in 29 of our States. The no-knock provision is placed in this bill to provide police officers with clear statutory guidelines, and I think it is protection against an invasion of privacy. Entry must be authorized in advance by a search warrant. That warrant must authorize entry by no-knock after a showing of probable cause. The officer cannot enter on a frolic of his own and knock down the doors in the day or night or at any other time; or, the officer must have an arrest warrant. Again, probable cause must be shown, in any case. The third possibility exists where a felony is about to be committed or is being committed. Again, the element of probable cause must be present.

Now, the debate and controversy over the so-called no-knock issue makes it obvious to me that some clear guidelines must be enacted to define for our law enforcement officers when they must announce and when they need not. Imagine the dilemma of a police officer faced with a dangerous situation which he reasonably believes calls for dispensing with the announcement of his identity and purpose. What is the police officer to do? If judges and Congressmen cannot agree, how can we expect our law enforcement officers to know what to do on the spur of the moment in a dangerous situation. The lack of clear standards can only lead to police abuse. Mr. Speaker, this Congress has a duty to clearly define when a police officer must announce and when he need not.

In my judgment, section 23–591(b) of the bill correctly states the general rule by providing that breaking and entry shall not be made until after the officer announces his identity and purpose and the officer reasonably believes that admittance to the premises is being denied or unreasonably delayed. This general requirement is modeled after the Federal statute, 18 U.S.C. 3109.

It is also my view that section 23–591 (c) of the bill sets out correctly as exceptions the five specific circumstances in which law enforcement officers should not be required to announce their authority and purpose. Briefly stated, these five circumstances are: First, the officer's identity or purpose is already known; second, notice is likely to result in evidence being destroyed; third, notice is likely to endanger the officer's life; fourth, notice is likely to enable the suspect to escape arrest; and, fifth, notice would be a useless gesture, such as announcing an officer's intention to search an abandoned automobile. These five exceptions to the general rule requiring announcement are found in existing State and Federal law. They are necessary to protect the lives of our police officers and for the preservation of valuable evidence.

If the purpose of the announcement rule and the fourth amendment to the Constitution on search and seizure is to serve as an effective deterrent to prevent police officers from breaking down doors before entering premises, it is vitally important and only fair that Congress specify, for the benefit of both the citizens and law enforcement officers, when the latter must announce and when they need not. Requiring law enforcement officers to rely on uncertain and shifting case law, instead of providing them with an ascertainable standard of conduct, hardly supports the deterrent purpose of the law. Therefore, I support the purpose of section 23–591 of the bill which provides the District of Columbia with comprehensive statutory language to make clear those situations in which law enforcement officers must announce before entering and when they need not announce.

From early English times to today the law has recognized certain exceptions to the general rule requiring announcement of identity and purpose. In the 1963 landmark Supreme Court case of Ker against California, both the Justices supporting the opinion of the Court and the dissenters agreed that exceptions exist to the general rule requiring the announcement of identity and purpose. The specific exceptions to the general announcement rule listed in the bill are consistent with the opinion of the Court in Ker against California. In 1966, 3 years after the Ker decision, the Supreme Court refused to deviate from its position in Ker against California. In the case of *People* v. *Delago* (N.Y. 1966), a no-knock entry, pursuant to a New York statute, was authorized along with a search warrant for gambling paraphernalia. The no-knock warrant was based on the general experience of the police officers that gambling records are frequently quickly destroyed, if announcement is given. The New York Court of Appeals, the State's highest court, approved this no-knock method of entry. The U.S. Supreme Court denied certiorari thereby refusing to review the decision of the New York Court of Appeals.

The New York no-knock statute which was approved in Delago and which provided a model for the provision in this bill provides, in pertinent part, that a judicial officer may direct entry without announcement upon proof under oath "that the property sought may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result if such notice were to be given" (N.Y. Code Crim. Proc. § 799). Other States such as North and South Dakota, Nebraska, and Utah have also enacted no-knock statutes similar to the New York law. In fact, 29 States allow no-knock entries either through express statute or judicial application of the common law exceptions to the general rule.

Those who oppose no-knock entries cannot argue on the ground of unconstitutionality for these police activities have been upheld by the courts.

Are no-knock opponents saying that they can do a job superior to that of the learned justices of the highest courts in this land when it comes to interpreting such weighty legal issues as what constitutes "unreasonable searches and seizures"?

Let us look at these provisions. They deal only with the method of entry, not with whether the entry or invasion of the premises is legal. The entry must be authorized by an arrest or search warrant issued by a judicial officer on probable cause, by the law sanctioning arrests without a warrant which requires the officer to have before the fact probable cause to believe that the person has committed a felony. There is no unreasonable invasion of privacy for a judicial officer or the law of arrests has already sanctioned the entry on reasonable grounds. No-knock relates only to the method of entry and not the entry itself which is the alleged unconstitutional invasion of privacy issue.

I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CHAMBERLAIN).

(By unanimous consent, Mr. CHAMBERLAIN yielded his time to Mr. HOGAN.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, in response to the comment of the gentleman from Missouri about the violence that might ensue, I submit that, on balance, less violence will occur if the law-enforcement officers can get to the suspect before the suspect can get to his gun to shoot the police officers. This was recognized by the District of Columbia Corporation Counsel when he appeared before the committee and testified:

> Although these provisions, particularly the so-called no-knock rule, have engendered much controversy, and are fraught with some danger to those serving the warrants, there are some instances in which the life of an officer or the existence of valuable evidence can only be protected by serving a warrant . . . without notice.

The ugly fact is, Mr. Chairman, that there are a number of dangerous criminals in the District of Columbia who will shoot a police officer much quicker than they would shoot a burglar, and I do not think any of us want our law-enforcement officers to become targets for criminals.

I would like to cite the case of the notorious bank robber, Billie Austin Bryant who escaped from Lorton. Two FBI agents were on their way to arrest him at the apartment of his wife. They knocked on the door. He came to the door armed, fired, and killed the FBI agents. I submit, if they had in that instance entered without knocking, they would be alive today. I do not think we need to put our law-enforcement officers in that jeopardy.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Minnesota.

Mr. FRASER. Is it not a fact that these officers already had authority under common law to enter without knocking?

Mr. HOGAN. That is beside the point. The point is we are not giving them any more authority under this law. That is the point the gentleman overlooks. Their authority for arrest and search will be the same under the law as it is today. A police officer giving criminals like Bryant notice is inviting trouble.

(Mr. DOWDY, by unanimous consent, yielded his time to Mr. HOGAN.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Ohio.

Mr. HARSHA. Is it not a fact that all we are trying to do here is to codify the case law to make a statute available with certain technical guidelines so the police officer will always know the limits of their bounds and how far they can go and not resort or rely upon the indefiniteness or inadequacy of case law, which fluctuates from time to time?

Mr. HOGAN. The gentleman from Ohio is correct. We are giving the police no new authority. We are only clarifying the authority they already have and codifying the case law. The gentleman is absolutely correct.

I would like to quote the California Appellate Court which recently said announcement by the officer "could have been the equivalent of an invitation to be shot. Reasonable conduct on the part of a police officer does not require that he extend such an invitation."

Mr. Chairman, if we review this area of the law as I have done, I am sure we will agree with the California Supreme Court which said, People against Maddox:

> Suspects have no constitutional right to destroy or dispose of evidence, and no basic constitutional guarantees are violated because an officer succeeds in getting to a place where he is entitled to be more quickly than he would, had he entered without notice.

In spite of the misrepresentations which have been made by the foes of this legislation, police will not be barging into private homes. As in every other arrest or search situation, the officer must show probable cause. The provision in H.R. 16196 is simply a clarification, so I urge my colleagues not to be confused by the hysteria and the misinformation in circulation about this provision and to join the committee in approving this measure, which was approved by them 17 to 7, and by the President of the United States, and by the Department of Justice, and by the District of Columbia government, and by the District of Columbia Bar Association, and by the 29 States which recognize this no-knock authority, and see that this stays in the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri, in support of the committee provisions.

The gentleman from Missouri, as I understood him to say, concedes that the present case law provides or permits no-knock under the provisions set forth in this bill. Then it is very clear that all this provision of the committee bill does is simply to codify and put it into statutory language.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I think my statement was it permits it in narcotics and gambling cases. It would not be my statement that this codifies what the law is in all cases.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for the clarification, but I am not persuaded by his argument.

I think that this language in the bill simply does set forth the case law. It clarifies the situation for everyone, not only the police officer, but everyone connected with the law. I think the provision is a very worthy one and a necessary one in the District of Columbia at this time. I want simply to state that I

support the committee provision in the bill and oppose the amendment offered by the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I am not about to restate the clarification purposes of this bill, I have listened to these arguments as I have listened to the arguments presented to the State legislature. In New York we have now the no-knock authority which has been sustained by the courts. It seems that the same arguments are being advanced here as were in New York prior to its enactment. Then the opponents said the very same things about possible violation, about possible encroachment upon the people, as though the law enforcement officials of the State were absolutely irresponsible.

When they saw their position was untenable, they were willing to accept the no-knock principle as it related to narcotics and to confine it to narcotics. When the advocates wanted to address themselves to an even greater area, the opponents finally agreed to the application of the no-knock provision to gambling, but the opponents were there opposing it every step of the way offering the same specious arguments we have heard today.

Experience has dictated that the no-knock warrant authority in New York State has been sustained and has been highly effective. That is the critical point. It has been highly effective. Some of the largest gambling rings in organized crime have been destroyed and some of the largest arrests in narcotics effected only 2 weeks ago in the Bronx as a result of the no-knock warrant, District Attorney Roberts was able to effect arrests involving narcotics of over $1 million. Judge Louis Fusco, the presiding judge in the arraignment fixed bail at $1.5 million for the defendants.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I compliment the gentleman from New York (Mr. BIAGGI), on his very distinguished police service record in New York City, and I associate myself with the remarks of the gentleman.

Mr. McMILLAN. The Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from South Carolina.

(By unanimous consent, Mr. McMILLAN yielded his time to Mr. BIAGGI.)

Mr. HUNT. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I compliment my colleague, the gentleman from New York. We worked in police affairs with each other, and I am happy to see the gentleman, with his stature and police experience behind him, support this no-knock provision and fight against the amendment.

I am opposed to the amendment because, like the gentleman, I was engaged in law enforcement for a number of years prior to coming to the Congress.

We know the danger we have at times. We obtain a warrant legally, go through the certification, and go to a door, and if we miss we are dead. Sometimes to knock is to invite the gunfire from within the building. To move in fast and quickly has always been the method that has protected us from criminal action from the other side of the door.

I am happy to join with the gentleman, and I congratulate him for his fine comments.

Mr. BIAGGI. I thank the gentleman.

In connection with some of the objections, if the law enforcement officer fails to strictly comply with the procedures as prescribed by law he will be held accountable, and he should be held strictly accountable. I will be among those lending their voices of criticism in that area.

Second, the people of the District of Columbia are not second-class citizens, despite the fact that this Capital City can well be characterized as the Sin City of the Nation because of the huge crime picture. The people are being victimized. Oddly enough, the statistics prove here, as they prove in every large city area of the country, that the poor people, the ghetto people, are the ones who are most victimized. They should be given as much protection here as they have been given in New York City.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I certainly cannot speak from the same basis of experience as the gentleman who just addressed the House, the gentleman from New York (Mr. BIAGGI). My experience was in the realm of the prosecutive rather than law enforcement as such.

But I would certainly echo what the gentleman has just said, and particularly that the people in the ghettos deserve no less law enforcement than those who live elsewhere.

I was reminded of that this morning in the statement that one out of 70 people living in city ghettos today, in 1969, had the experience of being raped, robbed or assaulted, as against one out of 10,000 living in white suburbia. In other words, the chances were 100 times better for being a victim of some kind of criminal assault if they lived in the ghettos.

The words the gentleman said have been well documented by our experience. I have been waiting all afternoon in the debate on this particular bill to hear some documentation for the charge that there is going to be some great abuse if we clearly define what is the authority of the police in this regard. I have not heard any clear explanation or any documentation with respect to the 29 States where this provision already exists either by virtue of statute or by virtue of case law, as to whether there has been any extensive abuse.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Washington.

Mr. ADAMS. We have not been able to discuss it, because we just got to this point.

If the gentleman will turn to page 367 he will find this item in section 5: He can break in at any time when "such notice would otherwise be a useless gesture."

That just completely wipes out the Ker case and all the standards talked about by all the people here so far.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I yield to the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Chairman, I should like to propound a question to the gentleman with reference to notice.

We read on page 366 that the officer serving the warrant need not give any notice if, and I read from page 367, "such notice would otherwise be a useless gesture."

Does that not mean that the officer making the knock does not have to give any notice to the occupant of the building if he feels it would be a useless gesture, and then all these other standards and restraints which are set forth prior thereto, also on page 366, are nullified?

So that the officer is given very wide discretion to enter without giving any notice whatsoever and if he deems that notice would be a useless gesture. A "useless gesture" is not to be defined by the courts and it need not be defined by the courts. It is wholly within the discretion of the officer himself. Am I correct in that interpretation?

Mr. ADAMS. The gentleman is correct.

Mr. CELLER. Thus the officer is really the determinator factor. He comes to a judgment that the notice would in his view be useless and he then goes ahead and forces entrance. There is naught to deter him his discretion governs.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I yield to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. I was also appalled by the statement of tacking two things together here and saying that there was going to be probable cause for the search warrant when we just argued before in this House that you could knock out the probable cause reason for a search warrant.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I cannot yield now because I do not have the time.

There are three tests in the Ker case of when you can enter a house. Men have done that. The one that the gentleman from New York (Mr. BIAGGI) mentioned is a case in point. He and I are both aware of the common law right of an officer to enter a house when his life is in danger or when someone else's life is in danger or when he has to protect the safety of another individual. This goes beyond that. The useless gesture means that he can go in at any time.

Mr. FRASER. Mr. Chairman, I would like to make an additional point that none of these requirements at the time apply when the warrant has been secured by the officer which enables him to go in without advance notice or knocking. In other words, if he makes sufficient statements so that he gets a warrant—and very probably he will—then none of these provisions apply to the time when he approaches a dwelling in question. It is a very wide open thing, I think.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I have so little time.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY) to close debate.

Mr. HOGAN. Mr. Chairman, will the gentleman yield for a brief observation?

Mr. ABERNETHY. I yield to the gentleman.

Mr. HOGAN. I thank the gentleman.

The gentleman from Washington I am sure did not want to deceive the House when he referred to the "useless gesture" provisions of the bill. I am sure he knows that in Miller against the United States the Supreme Court specifically recognized the exception of a "useless gesture" in no-knock cases.

I thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. Let me have just one-half a minute.

I want to compliment the gentleman from Ohio on his speech, which was certainly a very fine one; and I also want to compliment the gentleman from New York (Mr. BIAGGI).

May I say to the members of the committee that we did not approach this in any haphazard fashion. We realized this was extraordinary procedure. We knew this kind of procedure or search arouses the concern of the American people. Therefore, we were very careful in writing into it appropriate safeguards that would protect the law-abiding. The man we are after is the violator. As Mr. BIAGGI stated, this thing has worked well in New York. I hold in my hand now a news report that came out of New York City just a few days ago where they entered under a no-knock warrant and recovered about $10 million worth of narcotics, which they could never have done without a no-knock warrant.

Mr. Chairman, I ask the House to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HUNGATE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. HUNGATE and Mr. MCMILLAN.

The committee divided, and the tellers reported that there were—yeas 52, noes 120.

So the amendment was rejected.

(Mr. BURLISON of Missouri asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BURLISON of Missouri. Mr. Chairman, after examining the crime statistics for the District of Columbia one wonders just what effect law-enforcement agencies have had upon the crime rate. A more shocking collection of figures could hardly be compiled. Twice as many people were murdered in 1969 as in 1966. There were 336 forcible rapes in the District of Columbia during 1969. Just 3 years before, the rate was less than one-half that. In the same 3-year period the number of robberies has gone up more than 230 percent. In the past 12 years serious crime has increased 489 percent. Projecting ahead it is predicted that there will be 80,000 serious crimes committed in the District of Columbia in 1972. This projection is made more appalling when you consider that the police estimate that no more than 50 percent of all serious crimes are even reported. Because of embarrassment and social stigma probably only a fraction of all forcible rapes are reported.

In 1969 there were 56,419 felonies reported in the District of Columbia. In response the police made 11,504 arrests. Of these, 2,583 were indicted and 948 entered a plea of guilty. Only 513 were convicted at trial. This means that a criminal in the District of Columbia has less than three chances in 100 of being convicted of his criminal act.

No one claims that the District of Columbia crime bill will dispose of the problem, but a good case can be made that it will help.

It is a controversial bill which prescribes strong measures, but strong measures are needed.

Some have claimed that the bill unconstitutionally deprives the people of their personal liberty and right of privacy. I cannot agree. How is our personal liberty enhanced if we are not at liberty to walk in our neighborhood at night; if we are afraid to patronize many downtown restaurants and stores? How secure is our right to privacy when 23,000 homes were burglarized last year in this city? The equity of personal liberty and individual rights must be balanced against that of the protection and interest of society.

Not very long ago I visited friends at one of the large apartment complexes in Washington. I drove up to what can only be described as a guardhouse where I was stopped by the security police who inquired as to the reason for my visit. He then called my friend to confirm my story. I was instructed to drive in the courtyard and park. I then walked to a glass-enclosed lobby which, of course, was locked. When I picked up the telephone on a nearby concrete column and again identified myself I was told that when I heard a buzzing sound the door would unlock and I could enter the lobby. After entering the lobby I picked up another telephone identified myself again and was told that in a moment the elevator would open. I finally gained entrance to my friend's apartment after he released the two locks that secured his apartment door. It was an altogether frightening experience. The only difference between this and a maximum security penitentiary is that the tenants—inmates—have their own keys.

I do not know anyone who wants to live like this and if we can ever get crime under control they would not have to.

Against this backdrop let us examine a few of the controversial sections of the bill.

It would give judges authority to consider "danger to the community" in setting conditions of release on bail. A defendant charged with commission of a crime such as bank robbery or sale of narcotic drugs may be subject to pretrial detention on this basis.

Courts would also be authorized to detain repeat offenders who have been charged with at least two crimes of violence.

It is felt that these provisions are necessary to overcome the weakness of the 1966 Bail Reform Act. The act was designed to eliminate the injustice of locking up defendants simply because they did not have enough money to post bail. As a result the only criterion for denying bail in the District of Columbia is the likelihood that the defendant will flee the jurisdiction.

A recent study by the Justice Department revealed that 70 percent of those who were indicted for robbery and released before trial were rearrested while on pretrial release. Many were rearrested several times. The crime bill deals with this problem by providing for the pretrial detention of those who pose the greatest threat to the community.

This brings up the related problem of concurrent and consecutive sentencing. Under present law unless the judge uses the magic word "consecutive" when sentence is pronounced the sentences for unrelated offenses run concurrently. Thus, if a judge is sentencing a man for rape and he is unaware that the man has been previously sentenced for burglary, the sentences will run concurrently. Since the sentence for rape will, doubtless, be longer than the one for burglary, in effect the crime of burglary goes unpunished.

Say a man is arrested for robbery and released on bail. He knows that his trial will not be for several months and probably not for more than a year. Let us assume further that the evidence against him will almost certainly result in a conviction. What does that man have to lose by committing another crime? If he robs a store or house and is caught, his ultimate punishment will probably be no greater because of the near certainty that the sentences will be concurrent. Under the new law if a judge wanted the sentences to run concurrently he must so specify. If not they run consecutively.

The so-called no-knock provision relates to when law enforcement officers entering a home must announce their identity and purpose and when they need not. If the bill is enacted the rule for the District of Columbia will be similar to the Missouri rule. In cases where entry into the premises has been sanctioned by a judicial officer in a warrant or by the law of arrest on the basis of reasonable grounds to believe that criminals or evidence of criminal activity is secreted in those premises, the new law would not require the officer to announce his identity and purpose in certain situations. If the warrant expressly au-

thorizes entry without notice or the officer reasonably believes his identity or purpose is already known to any person in the premises or such would otherwise be a useless gesture, he need not announce his identity or purpose. Nor is such announcement necessary if it is likely to result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed.

As a former three-term prosecuting attorney I have long advocated the right of appeal by the Government. Society should have the assurance of a fair trial, just as does the defendant. There can be no State appeal when the defendant has been acquitted after a full trial, but this bill would permit the Government to appeal adverse rulings by the court suppressing evidence or otherwise denying the prosecutor the use of evidence at trial. Often serious felony cases have been lost because of an evidentiary ruling the judge made and from which the prosecutor had no appeal. Obviously judges do not like to be reversed on appeal and they know that if they rule against the defendant their decision will probably be appealed. The natural inclination is to accept the defendants argument if it has any basis whatsoever because the judge knows the Government cannot appeal an adverse decision.

I do not feel that the rights of the accused are jeopardized. The traditional constitutional safeguards remain. But in this bill we also considered the interests of the law abiding public who have an equal right to the quiet enjoyment of their property and the security of their persons. Mr. Chairman, some of the points here discussed are innovative and have far-reaching implications and ramifications. Some of our social scientists are vigorously opposed to this approach. My response is that the trial period of leniency and permissiveness in criminal law enforcement has left our Nation, and especially our Nation's Capital, in appalling disarray. Throughout my professional career as a lawyer and a prosecuting attorney, my firm position on stringent law enforcement has been unequivocal. After 15 months service in the Congress I am more convinced than ever before that this position is in the best interest of our country.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 303, strike out lines 13 through 26 in their entirety.

Page 304, strike out lines 1 through 21 in their entirety, thus striking out all of subsection (b) of section 907A of the bill.

Mr. DENNIS. Mr. Chairman, this seems to be a bad day for amendments, but this is the good amendment, which ought to be the exception. I ask the Committee seriously to give me their attention, and to give this amendment support, because it is not an amendment that goes to the thrust of this bill, or whether you are for the bill or against the bill; it is truly a good amendment.

On page 303 of this bill there is a section 907(A)(b)(1), and what this section says is that if anyone is three times convicted of a crime of violence, as defined in this bill, he is mandatorily sentenced to life imprisonment. The court has no discretion whatsoever. Moreover, he is not eligible for consideration for parole for a minimum of 20 years, and the court cannot suspend the sentence.

Now, that might not be as bad as it is if you really had nothing but crimes of violence. As the gentleman from Washington (Mr. ADAMS) has pointed out, burglary is a crime of violence under this bill, and to break into a gumball machine is burglary, and it makes it a crime of violence. So you can have a man convicted three times of a crime like that, and he would have to go to jail for life.

I cannot see for the life of me why, no matter how much you are against crime in the District of Columbia, or anywhere else, why you want to write a clause like that into a statute adopted by this Congress. What is the sense in it? What is just about it? What is right about it? And I want somebody to tell me what is just and right about it before you go ahead by rote here and vote it down just because it is an amendment, and this committee brought it in.

I have a lot of respect for this committee, a lot of respect for them and their work, and what they have done, and I am for their bill basically, but I did not abdicate my commonsense when I came here, and neither did the rest of you.

Now, just think of it. Under this section here, this one little section in this bill, a fellow at 18 years of age might break into a gumball machine. He might be sentenced to the reformatory. There he might get into a fight with a guard, and hit him, and that, too, is a crime of violence. There is conviction No. 2. He gets out, and for 30 years behaves himself, works, goes to church, raises a family, and stays out of trouble, and then at 50 years of age he knocks somebody down with an automobile, and is convicted of manslaughter.

Or maybe he finds somebody in bed with his wife and attacks the man—and that is conviction No. 3.

Now no judge on earth would, or should under these circumstances, send that man to jail for life, with no possibility of probation, and no parole for 20 years.

But a judge has to do that under this section. All I am trying to do is to strike the section out. It is a bad law and it is a bad procedure to ever make it mandatory on the court. What the courts are for is to decide on the facts of a particular case and to do what is right in that case. It is foolish to think we can sit here and in our wisdom see 30 years ahead to every little individual case that comes up and determine what the judge ought to do, and bind him in a straitjacket. It would not be good under any circumstances.

But when you tell him he has got to send a man to jail for life under circumstances such as I have described here—it is not only foolish, it is wrong. It is not necessary in this bill and there is no reason for doing it. So support my amendment and strike it out.

Mr. WIGGINS. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I do not intend to speak for 5 minutes in support of something that is obviously as worthwhile and so deserving of support as this amendment. I hope the Committee in its understandable desire to achieve some law and order in this community does not lose its sense of justice. We are very close to losing our sense of justice if we adopt the language of the bill with respect to mandatory sentences for life for crimes of violence as defined.

We are denying to judges the power to do the very thing they were hired to do and that is to judge cases. We deny to judges the power to consider the circumstances of an offense. We are denying to them the power to consider the age of the offender. We are denying to them the power to consider the provocation under which he may have acted. All of these things are essential to a just sentence.

All of you know that justice is not something that is ground out on a mass production basis. Justice is an individual thing. Each individual defendant accused and convicted of a crime is entitled to have the separate consideration of the circumstances of his offense by a judge.

What we are doing in the language of this bill, gentlemen, is to substitute our judgment for that of the judge. There may be judges who have caused us to have some concern about their judgment. But the solution to that problem is to appoint better judges. It is not to take away the judgment of all judges, the great bulk of whom are just as sensitive to the problem of crime as any Member of this House.

Mr. Chairman, I urge most earnestly that Members support this worthwhile amendment.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, for years in my own State the entire penalty for driving a motor vehicle under the influence of alcohol was in the discretion of the judge. Finally, a statute was passed which mandated the suspension of driving privileges on the first conviction for such a crime.

The results were salutary so far as that problem was concerned.

The same is true of the Scandinavian countries where the penalties are even more stringent and mandated by law. The effect has been so good there that it has become a common practice in some countries that when four people are out on the town, they draw straws, and one becomes the driver and just does not drink anything during the evening.

My judgment is that after a person has been convicted of three separate—and it should be clear to the Committee that this provision requires that one be convicted of three separate violent felonies—that this individual is a bad bet for society. I do not like it. I think it is tragic that such should be the case. But three strikes are just too many in the kind of society in which we live. We realize all of the arguments against it. I feel them myself. The better judgment, I think,

after weighing both sides of the argument is that this provision should be supported and that is why I introduced it in the Committee.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Mr. Chairman, every time this House considers a crime bill someone gets in the well of the House and sheds large crocodile tears for the criminals. One of the problems with the crime situation in this country has been that the courts have been too lenient, have been too free to grant probation, that sentences imposed have been too light. As a result, there is no respect for law and order. Enforcement has totally broken down. The criminal has no respect for penalties because he knows they are not imposed. There is no deterrent to the commission of crime.

What is wrong with giving a three-time loser, a man who has been convicted of violent crimes three times in his life, a life sentence, eligible for parole after 20 years? He has a recourse if he wants to stay out of jail—just do not violate the law. Why does he not conform to the rules of society like the rest of us? Then he will not be confronted with going to the penitentiary for life. If a stiff sentence could be imposed this will act as a deterrent to the commission of crime. It will bring a halt to some of this murder, rape, and plundering that is far too prevalent in the District of Columbia.

Mr. Chairman, I urge support for the provisions in H.R. 16196 which provides a mandatory 20-year-to-life sentence for persons convicted of their third violent crime. In order for this sentencing provision to apply, the criminal defendant's third violent crime conviction must occur after he has had two previous opportunities to reform his violent criminal behavior. Any provision of law which gives an individual not one but two opportunities to reform his ways cannot be called unfair or harsh.

Society needs protection from the robber, rapist, and kidnaper who after two chances for rehabilitation commits yet another heinous crime. It is the duty of this Congress to give the law-abiding citizens of the District of Columbia the security they need from the habitual violent criminal.

The criminal justice system in the District of Columbia has proven totally inadequate. The criminals feel they can commit crimes without fear of punishment. The provision will go a long way toward changing this unacceptable attitude. It will make it clear to the criminal that if he does not amend his violent behavior, he will receive certain punishment.

Uniformity and certainty of punishment is necessary to deter crime. It is interesting to note that in the spring of 1969 there was a substantial reduction in armed robberies immediately after the imposition of several life sentences for persons convicted of armed robbery. These sentences made front-page news and made an impression on the criminal community. In the opinion of the Chief of Police, the imposition of these life sentences along with the publicity, had a substantial deterrent effect immediately thereafter. It is true that the crime rate for armed robberies swung back up after several months, but this is attributable to the fact that the criminal community recognized that only one or two Federal judges were willing to consider imposing substantial sentences.

The provision in this bill will provide a necessary deterrent to curb continuous violent criminal activity. The habitual violent criminal is less likely to chance a third round with the criminal justice system if he is assured of a certain, unequivocal sentence.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

I wish to point out that the Department of Justice, the District of Columbia Chief of Police, the District of Columbia government, and then District of Columbia Bar Association overwhelmingly approved the provision as it is contained in the bill calling for mandatory penalties.

I will admit to the gentleman from Indiana, who offered the amendment that, yes, we are taking the discretion out of the hands of the judge in these cases of multiple offenders, because judicial leniency has been a contributing factor in this whole crime problem.

In the District of Columbia the crime statistics are just getting out of sight. Among cities with a population of a half million to a million, the District of Columbia ranks first in the actual number of murders and robberies committed and in the number of murders and robberies committed per capita. In 1969 there were 289 murders, while 10 years ago, in 1958, there were only 79.

The statistics indicate that something needs to be done. Everyone who has ever testified on the crime situation in Washington has indicated that recidivism is one of the big contributing factors. The President's Commission on Crime in the District of Columbia reports that two-thirds of convicted adult felons studied have been previously institutionalized. The provision in this bill providing a mandatory 20-year-to-life sentence for a person convicted of his third violent crime would be an important deterrent to the habitual violent criminal.

In my judgment, the provision is extremely fair. It gives the individual two distinct opportunities to reform his violent criminal behavior. If, after rejecting two opportunities for rehabilitation, he still commits another violent crime, then I think Congress has the duty to see that the law-abiding citizens of the District of Columbia are protected. This provision makes the decision that the violent criminal who fails to reform after two opportunities should be punished rather than the community. I urge that the amendment be defeated.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am happy to yield to the gentleman from New York.

Mr. BIAGGI. The gentleman from Indiana who offered the amendment raised a point to which an answer has not yet been provided. Perhaps a man with three convictions of violent crime should be sentenced to life imprisonment. However, there is a description of a crime in the bill that defies comprehension. We say at one point that breaking into a slot machine is burglary, and then we go further and find that burglary is classified as violent crime. How do we resolve that particular problem? If we could resolve that question, perhaps the proposal would be more palatable. Unless we do so, obviously there could be gross injustice. We can conceive of three convictions of breaking into a slot machine and the man being sentenced to life imprisonment That would be grave injustice and a distortion of our entire objective.

Mr. HOGAN. I appreciate the contribution of the gentleman from New York. For purposes of clarification, I would certainly be willing to accept an amendment to restrict this provision to first-degree burglary. The analogy of slot machines is a distortion. Vending machine breaking would only be second-degree burglary anyway. So I would be willing to accept that change. Does the gentleman wish to offer an amendment?

The CHAIRMAN. The amendment before the Committee is the amendment offered by the gentleman from Indiana (Mr. DENNIS).

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

The gentleman from Maryland (Mr. HOGAN) just said that the example of second-degree burglary was distorted, but I think most Members in the Chamber who have had anything to do with criminal trials know that the inclusion of minor offenses in a mandatory life sentencing provision can lead to results which the Congress neither anticipated nor designed.

Let me read for the benefit of the committee the crimes defined as violent crimes in this bill: Murder, forcible rape, carnal knowledge of a female under age 16.

Let me just stop here to point out that any child over the age of 16 is defined as an adult if he commits a violent crime, so a 16-year-old boy having intercourse with a 15-year-old girl with her consent has committed a violent crime. If a 16-year-old boy takes indecent liberties with a girl of 15 years with her consent, he commits a violent crime.

Simple assault includes pilfering of coin-operated machines. It is not difficult to imagine a series of minor offenses leading to convictions and a mandatory life sentence for a 16-year-old boy who under most State laws would not even be eligible for penitentiary confinement.

The bill goes on to describe violent crime as mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion, or blackmail if accompanied by threats of violence, arson with intent to commit any offense against a person, an assault with a dangerous weapon, or an attempt or a conspiracy to commit any of the foregoing offenses as defined above if the object of the conspiracy is a criminal offense punishable by imprisonment for more than 1 year.

The gentleman from Indiana (Mr. JACOBS) was talking about how effective the law and the mandatory confinement is for driving under the influence of

liquor. I recall when I was acting as a deputy prosecutor we had such a law in the State of Washington for second offenders. I recall one defendant who pleaded guilty to a charge of driving under the influence of liquor was a veteran who had just come back from the Korean war with a whole series of battle ribbons and a Silver Star.

He knew he had been drinking too much and wisely drove his car off the road but forgot to turn off the engine, so technically he was in operation of the motor vehicle and was convicted. We then discovered he had a previous conviction before his military service which made it legally necessary for us to send him to jail for 30 days. He had a new job which he would lose if this occurred. Neither the prosecuting attorney nor the judge nor I felt this man should be subjected to this kind of punishment, but not even the Governor could commute the 30-day sentence. We finally all conspired to walk around the law—let the defendant file an appeal for a de novo trial—released him on his own recognizance and simply never called him for trial.

Provisions of this sort will necessitate prosecutors, judges, and perhaps juries finding some way around a totally obvious injustice, in many cases. No act of Congress can conceive of every situation that comes before a court. In the tremendous scope of human circumstances that come before a judge, it is wrong to try to hamstring his judgment to force actions which may in the circumstances be monstrously most unjust especially is it wrong when we have, by the inclusion of relatively minor offenses, laid this framework for a life sentence without the opportunity of parole before 20 years. Not just for serious offenders but juvenile and minor offenders as well.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I commend the Speaker in the well, because I think he summed up in concise legal language the problems connected with the mandatory sentence provision.

However, Mr. Chairman, I would like to go beyond that, because I have heard today here on the floor of the Congress more hysterical and unreasonable talk about crime in the District of Columbia than I have ever heard in my entire career here in the House of Representatives. Is it not about time we recognize that crime has specific roots and causes, and that we will not be able to solve crime here or anywhere with all the omnibus crime bills in the world? There are some things we should be doing, but very few of them are being done here today, Mr. Chairman. I weep to think of the kind of record we are making. Why do we not simply declare martial law in the District of Columbia and be done with it?

I am ashamed, deeply ashamed that this supposedly deliberative body could diminish the rights of our citizens with such casualness.

So far not one of the responsible amendments, the amendments that were eminently sound, have been successful today. And it looks like none are going to be successful as we work toward the conclusion of this bill.

I, for one, am not going to be a party to the setting aside of the Bill of Rights for citizens in Washington, D.C.

The CHAIRMAN. For what purpose does the gentleman from Washington (Mr. ADAMS), a member of the committee, rise?

Mr. ADAMS. Mr. Chairman, I have an amendment to the amendment which has been offered in respect to mandatory sentences. I will give copies to the minority side.

We were going to offer this amendment at a later date. In view of the offering by the gentleman from Maryland of what I regard as the bubble-gum machine amendment, which he put into the bill——

The CHAIRMAN. The Chair will advise the gentleman from Washington that the pending amendment is a motion to strike page 303, and the gentleman's amendment does not come at that point in the bill.

Mr. ADAMS. Then, Mr. Chairman, I will withdraw the amendment and ask for recognition by moving to strike the requisite number of words.

The CHAIRMAN. The Chair recognizes the gentleman from Washington for 5 minutes.

Mr. ADAMS. Mr. Chairman, the proposal which I would put before the Committee and which, because of the rules under which we are operating, cannot be put in at this point, is a definition of the crime of violence which applies to the pretrial detention later on, which applies to the mandatory sentences that the gentleman has, and is the basis on which one defines violent crime.

The gentleman from Washington (Mr. FOLEY) just gave an excellent explanation of what presently is in this bill. He really did not go far enough, because if we look at the bottom of page 417, in addition to all of the things he read, it is set forth there:

> Or conspiracy to commit any of the foregoing offenses, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

The best I can figure that out is that if there is any kind of a violence that has never been ever defined by a Congress or by any State, this sweeps it into this definition, or any conspiracy, or any attempt to commit any of the things that are there. They all become crimes of violence.

I guess that because of the offering of the amendments by some of us today some Members may believe we must be either very soft on crime or do not understand the problem or that we really do not care. It is not that at all. Our problem is that this statute is very badly and broadly drafted in certain parts.

I will offer at the appropriate time a new definition of the crime of violence, which will say as follows:

> The term "crime of violence" means murder, forcible rape, mayhem, kidnapping, robbery, burglary in the first degree, voluntary manslaughter, extortion or blackmail accompanied by threat of violence, arson, or assault with a dangerous weapon, as defined by any Act of Congress.

I can tell you that those are the violent crimes. That is what this Congress ought to be doing.

The second amendment I will offer—or maybe one of the other Members wants to offer it—is on page 406 to get rid of the earlier amendment I referred to which makes a break into any kind of a vending machine a burglary and a second-degree offense. If you want to define a burglary as a second-degree offense and breaking into some particular kind of vending machine or general telephone booth or using explosives, then I think that is fine, but what you are doing in this statute is you might as well say forget all of this and declare martial law in the District of Columbia. Then we will pick up everybody that we think should be picked up and put them away.

Mr. Chairman, that is all I have to say on this. I will offer an amendment later on, and I hope that the gentleman's amendment is adopted.

I talked with the head of the prison system, and he said that under the present definitions of violence and the present mandatory system in Lorton that you will have one-third of all the men there placed under a mandatory life sentence. I do not know where you will keep them or how you will keep them there, because you have not put any money into building anything new, but you will have mandatory sentences that will keep them there.

I yield to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I would simply like to say that I continue my opposition to the amendment, but I intend to support the amendment offered by the gentleman from Washington at such time as it is offered. I believe it is a more equitable definition of the very bill that I introduced and the provisions that I put into this bill.

So, Mr. Chairman, I oppose the amendment pending, and I believe after the gentleman from New York's comments and those of others that it would be a matter of good prudence for the entire committee to accept the more reasonable definition of violent crimes.

PERFECTING AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARSHA: On page 304, line 7, after the word "burglary" insert "in the first degree".

PARLIAMENTARY INQUIRY

Mr. DENNIS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENNIS. Mr. Chairman, there is a motion here to strike that is pending. I query whether this amendment offered by the gentleman from Ohio is in order under those circumstances. Only a motion to strike is before the committee.

The CHAIRMAN. The motion of the gentleman from Indiana is to strike the section. The amendment offered by the gentleman from Ohio is a perfecting

amendment in that language that is moved to be stricken.

Mr. DENNIS. Pardon me, Mr. Chairman. I think it is a perfecting amendment in connection with the bill but not as to my amendment. I raise a point of order against it.

The CHAIRMAN. The Chair will advise the gentleman that the amendment offered by the gentleman from Ohio is in the nature of a perfecting amendment that falls within that section of the bill that the gentleman from Indiana would strike by his amendment. Therefore it is in order.

Mr. ABERNETHY. Mr. Chairman, would the gentleman yield to me for a unanimous-consent request?

Mr. HARSHA. Yes. I yield to the gentleman.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on the Harsha amendment and the Dennis amendment and all amendments thereto conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. DENNIS. Mr. Chairman, I object to that. I think we ought to have 15 minutes if we are going to have two amendments considered here.

The CHAIRMAN. Objection is heard.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on the Harsha amendment and the Dennis amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) is recognized for 5 minutes in support of his amendment.

Mr. HARSHA. Mr. Chairman, the so-called "bubble gum" amendment was adopted or placed in the bill after this section with which we are dealing now was inserted in the bill. It inadvertently was kept in without appropriate changes. There was no intention on the part of the committee to have this section apply to an incident that was described heretofore as the "bubble gum" situation.

All my amendment would do, if adopted, is simply limit the description of violent crimes to burglary in the first degree, which would exclude the "bubble gum" amendment or the section dealing with coin-operated machines from coming under the purview of this section of the three-time loser. That should eliminate the question that was raised heretofore about the young man breaking into a vending mechine on several occasions and then being confronted with this type penalty.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. SANDMAN).

Mr. SANDMAN. Mr. Chairman, at the outset may I say to you that I am prepared to vote for the toughest bill we can bring together that I hope will do something about crime in the District of Columbia.

I want to compliment the committee for the work it has done. I think this is a good bill. However, this is one section that arouses a great deal of pain on my part. Let me deal with what I know the gentleman from Indiana has in mind. He is talking about not the viciousness of the crime. He is addressing himself purely to the mandatory penalties. As a person who conducted a survey in my State in 1963 on this subject, let me tell the members of the committee something about this. Mandatory penalties defeat the very idea they are designed to accomplish. Once you attach a tremendous penalty and make it mandatory, you do not get convictions. This is always the result. This is what we found happened in my State. This, in my opinion, is what we should address ourselves to. Why should there have to be a mandatory life sentence on the third conviction? Let us assume that a man did get convicted on two violent offenses and let us further assume that some people including you and me and everyone else wants to see this man get life. As soon as that jury knows that upon conviction this man gets life, the chances are that you will get no conviction. It is that simple. This is what I think we should address ourselves to.

Mr. Chairman, this is the first amendment today that I propose to vote for, and I am voting for it because I know from experience that this will get more convictions and not less convictions.

(By unanimous consent, Mr. SANDMAN yielded the remainder of his time to Mr. DENNIS).

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS.)

Mr. DENNIS. Mr. Chairman, I really appreciate the remarks which my friend, the gentleman from New Jersey has made, not merely because they are in support of my position, but because they are remarks of a man who has experience and who knows what he is talking about. What the gentleman says is so true.

Now, I do not know very much about a lot of things myself, but I, too, know something about this field. I have spent a lot of time in it. I am not a bleeding heart here. I have represented criminal cases on both sides of the table. What the gentleman from New Jersey (Mr. SANDMAN) says is true. When you get these Draconian penalties you do not get convictions.

Mr. Chairman, they used to hang people in England for about 100 offenses. The reason they do not hang them any more for all those offenses is simply based upon the fact, not that they got religion, or anything of that sort, but because those concerned came to Parliament and said that the juries would not convict. That is history and it is still true.

I am not opposed to the amendment of the gentleman from Ohio, because he makes the situation a little less heinous than otherwise, of course; but that is just a debating point, whether you send this person to jail for first degree burglary or second degree burglary.

The point is it is wrong to act ahead of time when, without any knowledge of the particular case that is going to come up, you try to tie the hands of the judge who has the facts before him. It is just as wrong in the case of the man who breaks into the corner grocery store when he was 18 years of age, and later when he is 50, and has been a law-abiding citizen for 40 years, is convicted of an assault. It is just as wrong as the bubble-gum case, not quite as dramatic, but just as wrong and just as unjust. So it is all right to support the amendment offered by the gentleman from Ohio if you want to, but you still ought to support my amendment, because this is a no-good provision in this bill from any point of view, and the committee ought to accept the amendment I offer. I am trying to improve their bill. I would like to have a bill I can vote for, for one thing. I do not want to have to vote for something like this, and if anybody feels they are going to cure crime in the District, or teach those judges a lesson, or something, because we write a mandatory sentence like this into the bill, then he just does not know what he is talking about. It is not going to have that much effect. But this mandatory penalty is a bad law, it is bad in principle, and it ought not to be imposed as provided in this bill.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. Mr. Chairman, I rise in opposition to the amendment. As much as I hate to dispute and debate with my colleague, the gentleman from New Jersey, who cited some figures back to 1963, let me tell you this is nothing new. I was serving in the New Jersey Senate at that time, and debated my colleague on the floor in regard to the same situation.

We have a peculiar thing in New Jersey that, after the fourth offense you can be sentenced to life imprisonment in the State of New Jersey. Why do they not talk about this? The law specifically says that you may be sentenced to life in the New Jersey State prison for the fourth offense. We do not have felonies there—and I am not a lawyer, but I have been in the law enforcement field and engaged in it for about 33 years. A mandatory sentence seems to strike a chord of fear in the hearts of some attorneys, and—let us face it—we know why. They simply say this type of sentence does not permit the judge or the judiciary to extend mitigating circumsances. Let me tell you that I have a friend who lies paralyzed in his home where he has been for 17 years. He was a member of a detective bureau, and a very fine gentleman, who was shot down by a felon who was committing his fourth offense by committing armed robberies. This friend of mine has been totally paralyzed for 17 years, and the man who shot him is again on the street. If you were this man's wife, or if you were his children, let me ask you the question now: Could you find mitigating circumstances in your heart to turn him loose again?

Let us be factual about this. We are trying to curb crime in the District of Columbia. We do not need the bleeding hearts—and I challenge anybody in this particular room, this body, or in the gallery, to show me in Washington, D.C., a bubble gum machine on the street. Let us stop beclouding the issues with minor

things that they bring up from somewhere or some place.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. HUNT. I cannot yield, as I have only a few seconds left.

Mr. ADAMS. The gentleman asked a question, and I want to answer it. If you want to come along with me to Macomb Street, I will show the gentleman——

Mr. HUNT. I will meet with the gentleman any time. I will be happy to go. But what else do we find on Macomb Street?

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Chairman, I would like to call the attention of the Members of this House that when a man is being tried for a serious offense in a jury trial the jury knows nothing about his prior offenses. I have sat here today, and I have heard the statement made that we have listened to hysteria on the floor of this House, and we are making a disgraceful record here today.

I am one Member who is proud of the record that this House is making today. I have been on the floor of the House almost all of this afternoon, and I have not heard any hysteria.

I have, rather, heard logic and I am proud of the record that is being made in this House today because it shows that we are concerned about people.

Now the statement was made that we should not make second-class citizens out of the people of Washington, D.C. The fact is that we have made second-class citizens out of the residents of the District of Columbia. How do you think the families feel—the families of the 280 people who were murdered last year, the 336 people who were forcibly raped, or the 12,500 people who were robbed—how do you think their families feel? You can go right down the list and come up with the shocking statistic that we have had 62,575 crimes committed in this District of Columbia last year.

I say that I am in favor of the amendment to the amendment offered by the gentleman from Ohio (Mr. HARSHA). I am against the amendment offered by the gentleman from Indiana (Mr. DENNIS), if his amendment is not amended by the amendment offered by the gentleman from Ohio (Mr. HARSHA).

I urge you to vote for the amendment offered by the gentleman from Ohio (Mr. HARSHA) so that we can stop making second-class people out of the residents of the District of Columbia and stop subjecting them to the violence of the criminal element.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Michigan (Mr. CONYERS) if I have some time left.

Mr. CONYERS. Mr. Chairman, the gentleman does have some time left, and I thank the gentleman for yielding.

Do you really seriously believe that people are going to stop committing murder or rape if they know that there is a mandatory sentence? These are crimes of passion, sir. Those who commit them are not contemplating what legal tools may or may not be available to the prosecutor at the time of the commission of such an offense. Nor do they spend much time anticipating whether their case, if apprehended would come before a soft judge.

These are crimes that simply do not turn on the legal considerations that we are attempting to deal with here today.

Mr. WILLIAMS. The crimes I am referring to are not crimes of emotion.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Chairman, I think the gentlemen of the committee who are so concerned about the amendments, those favoring the amendments, are overlooking a statistic which is of interest—and that is that there are, for every three arrests and convictions of crime in the District of Columbia, 100 crimes are committed. So I am saying that the average criminal in the District of Columbia who is convicted three times has committed approximately 100 offenses.

Now if you want to show this concern for a man who on the average has committed 100 offenses that is up to you, but I stand in opposition to that.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am pleased to yield to the gentleman.

Mr. CONYERS. I thank my colleague for yielding.

Do you recognize, my dear colleague, what you have said on the floor of the Congress?

Mr. BURLISON of Missouri. Yes; very well.

Mr. CONYERS. Well, then, I do not have anything to add to that.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am pleased to yield to the gentleman.

Mr. WILLIAMS. I would like to say that from my considered experience after a number of years of association with law enforcement work that mandatory penalties do help. Furthermore, if anybody commits three violent crimes of passion, they do not belong on the public streets of Washington. We have to do everything we can to help our law enforcement officers stamp out crime here in the District of Columbia and turn back the tide of violence.

Mr. BURLISON of Missouri. I appreciate the gentleman's contribution.

The gentleman from Michigan has said that if the defendant has committed three crimes and has been convicted of those three crimes, he said crimes of passion, the defendant should not be subject to a mandatory life sentence. My response to that is simply that in such case he should be, for protection of society, placed where he cannot commit another crime of passion.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY).

Mr. ABERNETHY. Mr. Chairman, I rise in support of the Harsha amendment and in opposition to the Dennis amendment. I recommend and hope that the House will act accordingly.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 53, noes 64.

Mr. DENNIS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. DENNIS and Mr. MCMILLAN.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HARSHA. As I understand, my amendment was adopted.

The CHAIRMAN. The gentleman is correct.

Mr. HARSHA. If the amendment offered by the gentleman from Indiana (Mr. DENNIS), is defeated, is my amendment still adopted by the Committee?

The CHAIRMAN. Yes, the gentleman is correct.

The Committee again divided, and the tellers reported that there were—ayes 67, noes 84.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 304, line 12, strike the word "punishable" and insert in lieu thereof the word "punished".

Mr. WIGGINS. Mr. Chairman, I think we have probably debated the issue of mandatory sentences long enough. I will not unnecessarily prolong this debate on this question.

I am sure all of my colleagues who voted in support of mandatory sentences have in mind some heinous criminal who committed a truly violent act, and who was sentenced to the State prison therefor, not once but on two occasions, and on a third occasion when he commits such an act feel he should be sentenced to prison for life.

I can understand that. I may disagree, but I understand it. However, the bill is not drafted to be limited to such offenses. It merely is required that the defendant be convicted of an offense punishable by a year in prison. In fact, he may be fined $10; or the offense and the circumstances surrounding it may be such that justice require that he receive probation.

I offer in this amendment the requirement that we deal only with the truly serious offenses and that the defendant actually spend a year in jail, not once but on two occasions. If so limited, I am quite sure that we will be dealing only with those offenses which are truly serious.

I will not prolong this debate beyond that. I urge the support of all Members for this worthwhile amendment.

Mr. HARSHA. The gentleman says if a man commits a crime of violence, even

though it is a severe violent crime which could be punishable by a year in prison, if the court did not give the man that year in prison for some reason, he would not come under the purview of this statute.

Mr. WIGGINS. That is absolutely correct. The situation I envision is that of a man for example, who may be convicted of housebreaking under circumstances which would merit a 30-day or 90-day sentence; on a second offense he may be convicted under mitigating circumstances which would require a simple fine; and, on a third offense, I feel he should not in all cases go to prison for life.

If, however, on the first two he did, indeed, spend time in prison for 1 year, then I am more satisfied it was the type of serious offense which should be considered for an extended sentence.

Mr. HARSHA. In other words, the gentleman is making it mandatory that the court sentence the man, and he should serve at least 1 year in jail on each charge.

Mr. WIGGINS. To restate my true intention, it is that the previous convictions of felonies must have resulted in sentences of at least a year in jail before they trigger the mandatory life provisions of this bill.

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. WIGGINS. I yield further.

Mr. HARSHA. In other words, what the gentleman is saying is that irrespective of the seriousness of the crime the triggering factor is whether or not the judge has been lenient or made the defendant serve at least a year in the penitentiary.

Mr. WIGGINS. That is true, although I do not believe or endorse the implication. It is true that the manner in which the offense is punished is the triggering item and not the name or the designation of the crime.

Mr. HARSHA. Or the severity of the crime.

Mr. WIGGINS. The severity of the crime is usually manifested in the punishment and not its title. There are murders, as the gentleman knows, and there are murders. Some of them, in my judgment, should receive straight probation, and others should result in execution. Simply using the label "murder" does not designate the severity of the crime.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. HOGAN. I should like to clarify what the gentleman said, that the individual must receive a sentence of 1 year. Is it not the purport of the amendment that the individual has to serve the time in prison? In other words, if the individual got a sentence which was suspended this would be excluded under the amendment.

Mr. WIGGINS. That is absolutely correct. He must be punished, and not merely punishable.

Mr. HOGAN. And if he served in prison, if he were sentenced to 5 years and actually were paroled after 11 months and 29 days, he would be excluded under the amendment.

Mr. WIGGINS. That is true.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. POFF, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Virginia.

Mr. POFF. As I understand the gentleman's purpose, he fails to accomplish it by the amendment he proposes. I direct the gentleman's attention to the fact that the clause "punishable by imprisonment for more than 1 year" modifies only that clause which it follows; namely, "or assault with intent to commit any offense."

If the gentleman intended to achieve the object he has professed, I believe it would be more appropriate for him to amend the language which appears on the previous page, 303, at line 17, in order that it may be clearly understood what his purpose is.

Mr. WIGGINS. I appreciate the gentleman's remarks. I understand and had previously considered the ambiguity in the language.

I believe the gentleman has stated one possible construction. For the purpose of legislative history I wish to give another possible construction; that is, that the language, "punishable by imprisonment for more than 1 year," modifies all the previous sentences listed. It is susceptible of that construction. My amendment adopts my construction of that ambiguous language.

Mr. POFF. I strongly disagree with the gentleman and urge him, if he cares to put his purpose into statute, to change his amendment.

Mr. WIGGINS. We will see how I do on this amendment, I will say to the gentleman, and I will make up my mind thereafter.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment.

With all deference to my distinguished friend from California, I believe he is really fouling this up, although I am sure he does not intend to do so.

If the word "punishable" is changed to "punished" then we would close the paragraph thusly: "or assault with intent to commit any offense punished."

And so on. The gentleman is speaking of the past. We are speaking of something out into the future, "punishable" by imprisonment for more than 1 year. We are not speaking of some act that someone has already committed.

Mr. WIGGINS. Will the gentleman yield?

Mr. ABERNETHY. Yes. I yield to the gentleman.

Mr. WIGGINS. I was going to differ with the gentleman. Crimes of violence referred to in this section refers to previous crimes of violence.

Mr. ABERNETHY. I have discussed this with some knowledgeable people—two members of the legislative counsel sitting here with us. They feel as I do about it. With all deference to the gentleman, they feel that the amendment will foul up the entire paragraph. I hope we defeat this amendment. If we are wrong, then, when we go to conference we can work it out.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Virginia.

Mr. POFF. I agree altogether with the statement that the distinguished gentleman has just made. I call your attention to the fact that in the paragraph concerned we are undertaking to define the term "violent crime." As it has application elsewhere in the section, violent crime concerns not only crime committed in the past, but crime which brings the defendant before the court. For that reason I am constrained to believe that the word "punishable" is the only form of the word that could be appropriately used at that point.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

I agree with what the distinguished chairman of the subcommittee, the gentleman from Mississippi, has just said. This will destroy the entire strength of this section. This body just indicated overwhelming support for the mandatory sentence provisions in this bill. This amendment would completely negate what we did by that vote.

What the gentleman's amendment will do is say that it does not make any difference what kind of an offense the individual committed. No matter how heinous it might be, as long as he did not spend a year physically in prison, it would not be applicable. I submit that the individual might be convicted of committing a violent crime and sentenced to 10, 15, 20, or 25 years and only actually be physically present in a prison for 11 months and 29 days. This amendment would deny society the right to have this section apply to such an offender.

Therefore, I urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DIGGS

Mr. DIGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DIGGS: Page 344, strike out line 1 and all that follows down through and including line 14 on page 358.

Page 335, in the table of contents following line 13, strike out the items relating to subchapter III.

Mr. DIGGS. Mr. Chairman, when Congress in 1968 enacted, as part of the Omnibus Crime Control Act, a wiretap and electronic surveillance statute, it indicated both in committee and on the floor that the intent of that section was to combat highly specialized crime: serious Federal offenses, organized crime, and activities which threaten national security. Because of inherent dangers in the use of electronic surveillance, numerous procedural safeguards were provided. Congress also indicated in that act that States were authorized to enact State

wiretap statutes where need dictated such extraordinary measures.

Although no such need for electronic surveillance has been demonstrated in the District of Columbia, the committee has nevertheless reported a statute unconscionably broad, lacking in effective safeguards, costly to enforce, and violates the right to privacy. It falsely assumes that crime will be reduced by wiretaps—yet it will in fact result in more police officers being taken off the streets and put on phone taps and will thus likely lead to a continuation in the rising crime rate.

Since the Federal law has been used in the District of Columbia in a series of recent narcotics raids and has already resulted in approximately 75 arrests, it is absurd to justify the proposed local wiretap statute as a tool required to fight narcotics trafficking. That it has been so justified demonstrates the extreme weakness in the case made by its proponents.

That the statute authorizes taps and bugs for such crimes as simple robbery, fencing stolen articles, destruction of property, and abortion—none of which normally involve concert and conspiracy—shows the great extent to which proponents will go to advocate a so-called "law and order" tool of questionable utility and constitutionality.

Again, what need has been documented for such broad use of phone taps and electronic bugs?

As a general proposition, wiretap and surveillance equipment is expensive, not only to acquire but to maintain, install, and use. It is time consuming to keep proper records and to prepare the necessary applications and affidavits.

More dangerous, however, is its unwarranted invasion of the right to privacy. The 1967 report of the President's Commission on Law Enforcement and Administration of Justice, which endorsed a limited use of electronic devices against organized crime, nevertheless stated:

> In a democratic society privacy of communication is essential if citizens are to think and act creatively and constructively. Fear or suspicion that one's speech is being monitored by a stranger, even without the reality of such activity, can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas. When dissent from the popular view is discouraged, intellectual controversy is smothered, the process for testing new concepts and ideas is hindered and desirable change is slowed.

As a tool for the improvement of law enforcement, even the Federal wiretap law has not been in effect long enough to be adequately evaluated. We do not yet know, for instance, whether it has had any impact on the incidence of crime in the United States. We do not yet have the means of knowing the scope of the prosecutions to which such secret observations have led or how essential the evidence gathered through them has been. We do not even know how many convictions will result from the 75 arrests in the District of Columbia.

The wiretap and electronic surveillance section of the committee bill does not meet minimum due process standards. There are no provisions controlling the discretion of a local judge to authorize the placing of wiretaps on the business telephones of lawyers, clergymen, or physicians, nor the placing of electronic eavesdropping devices in their offices, confessionals, or consulting rooms. There are no provisions controlling the placing of taps on public telephones or of mikes in public places such as restaurants or lockerrooms.

The bill would grant the authority to eavesdrop electronically for such a multitude of offenses as to create a suspicion that it was drawn without adequate consideration of police logistics. One cannot imagine a reasonable police administrator seeking to enforce the laws against robbery, burglary, the fencing of petty stolen articles, or even arson by means of wiretaps. These crimes normally involve a single individual and are simply not crimes of concert and conspiracy. To use the tool against such crimes would be self-defeating, particularly where—as is true in the District of Columbia—there is universal complaint about the lack of adequate manpower to deal with violent street crime. To fan rumors that the authorities are conducting "fishing expeditions" into the thoughts, beliefs, and personal lives of private citizens is to unnecessarily create suspicion of police motives without even providing an improvement in law enforcement efficiency.

Subchapter III is additionally defective because it does not carry a prohibition—such as that contained in section 2515 of the Omnibus Crime Control Act of 1968—prohibiting the use of illegally obtained wiretaps, not only in criminal prosecutions but also in collateral matters before courts of law, administrative agencies, or legislative committees. The additional fact that subchapter III, unlike section 2520 of the Omnibus Crime Control Act, does not provide a civil remedy against public officials who abuse their authority can only lead to suspicion of the intent of the legislation. Clearly, civil suits should be permitted, not only against the offending official but also against the government of the District which is charged with responsibility for overseeing the official's actions.

This subchapter is also particularly inadequate in its absence of a requirement for periodic reports to the legislature on the operations undertaken under its authority. Title III of the Omnibus Crime Control Act specifically calls for systematic analyses of the law's effectiveness and usefulness to be presented to Congress each year. This insures that a careful and intelligent evaluation of the utility of such surveillance can be made. Both Congress and the public should have available to them reports of the number of electronic observations made during the course of each year, their length, the offenses for which they were used, their effectiveness in uncovering specific types of criminal activty, the numbers of prosecutions and convictions to which they have led, and their total cost in manpower and money to the department as contrasted with other means of detection and enforcement. Subchapter III, as presently approved, merely calls for nonmandatory reports to be made to the judge who has authorized a particular intercept.

A number of procedural weaknesses in subchapter III are very disturbing. Among these is the failure to include in the definition of "aggrieved person" innocent third parties who may be injured as the result of disclosing the contents of an intercept. The lack of a stiff minimum sentence for the illegal divulgence of an intercept is another glaring defect. No authority is given to a judge to terminate or to modify an order permitting a wiretap or intercept of his own motion. Thus, once a judge signs the order, he appears to be committed to the length of time specified therein, in spite of the fact that the periodic reports which he receives from the law enforcement authorities indicate that the tap is useless or even pernicious. Finally, guarantees of procedural fairness require that greater notice and greater access to the logs of intercepts be given to defendants for the preparation of motions to suppress.

In addition, we note that subchapter III fails adequately to expand upon the language of the Omnibus Crime Control Act of 1968 by failing to prohibit the advertising, manufacture, possession, sale, loan, gift, or use by private parties of equipment designed for wiretapping or electronic eavesdropping within the District.

No explanation has been offered why the proposed wiretap statute should authorize not only the local courts, but also the U.S. district court, to grant orders for wiretaps and interceptions wholly within the District.

We urge the wiretap and electronic surveillance section of the bill be rejected as ineffective, costly, dangerous and destructive of both the constitutional guarantees of basic due process and the protections afforded by the first, fourth, and fifth amendments.

Mr. MACGREGOR. Mr. Chairman, I rise in opposition to the amendment.

Mr. ABERNETHY. Mr. Chairman, would the gentleman yield to me for a unanimous consent request?

Mr. MACGREGOR. I am pleased to yield to the chairman.

Mr. ABERNETHY. Mr. Chairman, I believe that this amendment was fully considered in the committee, and I would ask unanimous consent at this time that all debate on this amendment and all amendments thereto close in 10 minutes.

Mr. ADAMS. Mr. Chairman, reserving the right to object, we started early on the bill today, and we asked that we be given the opportunity at every point to offer important amendments that some of us, at least, consider to be important, and some of the Nation does, such as wire tapping, Lorton, preventive detention, mandatory sentences——

Mr. ABERNETHY. Mr. Chairman, I will withdraw my unanimous-consent request. I take it that this time is coming out of the gentleman's time, so I will withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman withdraws his unanimous-consent request.

Mr. MACGREGOR. Mr. Chairman, in title IV of Public Law 90–351, the Omnibus Crime Control and Safe Streets Act

of 1968, Congress enacted a comprehensive Federal electronic surveillance and wiretapping law. This law specified the Federal offenses for which wiretapping was authorized. Congress also authorized States and other political subdivisions to engage in wiretapping and other forms of electronic surveillance, but only if permitted by a specific State statute and only if the State statute conformed to Federal standards. Congress also specified those crimes for which a State could authorize wiretapping.

Sections 23–541 through 23–544 of the pending bill would authorize wiretapping and other forms of electronic surveillance for the District of Columbia in accordance with Public Law 90–351. Federal standards to provide procedural safeguards and protections are followed word for word and electronic surveillance is authorized only for those offenses specified by the Congress by the 1968 legislation.

The omnibus crime bill sanctions wiretapping for only Federal offenses. It does not include local or State offenses such as planned, premeditated murder, organized burglary and fencing, and local narcotic and dangerous drug violations. Congress itself recognized this deficiency by specifically including in its 1968 legislation a detailed provision in which it authorized State and local jurisdictions to engage in wiretapping for local offenses but only if authorized by a statute. Congress specified minimum procedural standards which any such State statute would have to satisfy and also specified those local offenses for which wiretapping could be authorized.

It is inconceivable that we in Congress would have taken the pains to provide such detailed provisions for State and local wiretapping for non-Federal offenses if we had not concluded that such wiretapping was necessary and desirable. Sections 23–541 through 23–544 of this bill implement the congressional policy as reflected in the wiretap law we enacted by providing the District of Columbia with legislation authorizing wiretapping for local, non-Federal offenses. The proposed statute conforms almost verbatim with the corresponding sections of the Federal wiretap law and incorporates the identical procedural safeguards, protections, and restrictions. It authorizes wiretapping for only those offenses permitted by the Congress all of which are serious felonies bearing characteristics of the operations of organized crime.

The present U.S. attorney in the District, a law enforcement officer of vast experience, has stated that wiretapping is absolutely essential in the fight against organized crime and has supported the inclusion of every crime contained in these provisions, recognizing the beneficial role that electronic surveillance may play in both preventing and solving the commission of these crimes.

The District of Columbia government, representing the Mayor, Corporation Counsel, and Chief of Police, supported the proposed provision authorizing wiretapping for local offenses circumscribed by appropriate procedural safeguards.

In a recent referendum, the Bar Association of the District of Columbia approved extending the wiretapping authority of the 1968 omnibus crime control bill to local District of Columbia offenses.

The committee provision has widespread approval. Its need as a tool to effectively fight organized aspects of local crime is clear. It should be enacted, and this amendment should be defeated.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. ADAMS. There is no prohibition in this for illegal activities. It is in the Federal law.

On pages 352 and 353, it says—and it is in the Federal law:

(g) Notwithstanding any other provision of this subchapter, any investigative or law enforcement officer, specially designated by the United States attorney for the District of Columbia, who reasonably determines that—

And then it goes on to say:

(2) There are grounds upon which an order could be entered under this subchapter to authorize interception.

In other words, the bill goes far beyond what was done with the Federal law both in crimes and in people who can authorize it. I was going to ask the gentleman if he would support amendments to limit crimes, as was done in the Federal area, and to limit to the U.S. attorney designated.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. MACGREGOR) has expired.

Mr. ADAMS. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended an additional minute.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. MACGREGOR. The gentleman asked me a question very similar to a suggestion that I buy a package located in the gentleman's office without knowing the contents of the package or being given any opportunity to inspect it. I am somewhat cautious in answering such a suggestion. I would like an opportunity to see precisely what crimes it is you wish to see eliminated.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. HOGAN. The gentleman from Washington knows that this matter was discussed in committee and I specifically brought up the fact that criminal penalties now existing under the Federal law would be applicable to this statute. We have been assured by the legislative counsel and the Department of Justice and the committee's counsel that that is the case so that the repetition of criminal penalties for a violation is unnecessary in this law.

Furthermore, this only conforms 100 percent with the Federal statute by enacting the will of the Congress for local jurisdictions to enact wiretapping legislation to provide this authority for local offenses as opposed to Federal offenses. That is all we have done here.

(Mr. MACGREGOR asked and was given permission to revise and extend his remarks.)

PERFECTING AMENDMENT OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer an amendment to this section which is a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 347, strike out the table following line 12 and insert in lieu thereof the following:

"Offense:	Specified in—
Arson	sections 820, 821 (D.C. Code, secs. 22–401, 22–402).
Blackmail	section 819 (D.C. Code, sec. 22–2305).
Gambling	sections 863, 866, 869e (D.C. Code, secs. 22–1501, 22–1505, 22–1513).
Kidnapping	section 812 (D.C. Code, sec. 22–2101).
Murder	sections 798, 800 (D.C. Code, secs. 22–2401, 22–2403).
Obstruction of justice.	Section 862 (D.C. Code, sec. 22–703).

The CHAIRMAN. The gentleman from Washington is recognized in support of his amendment.

Mr. ADAMS. Mr. Chairman, I have now supplied the gentleman from Minnesota and Members on the minority side as well as on the majority side the list of crimes with which we are attempting to perfect this section under the motion to strike. I am not at all convinced that this section can be perfected. But I certainly think we should make every attempt to do so.

What I have done is to take the crimes wherever wiretapping or electronic surveillance might be useful in their solution and have included those, and have removed those which some investigative officer might just feel would be helpful so then has tapped somebody's wire.

I want to tell the committee what some of these things are about which they may be going to tap your wire for:

Abortion, destruction of property of the value of $200, grand larceny, manslaughter—I do not know how you would tap to detect manslaughter, but maybe you do—receiving stolen property of a value in excess of $100, robbery.

The ones we have left in are the ones where wiretapping helps. On the following pages we have narcotics, bribery, extortion, and so on covered.

I think we ought to be reasonable about what we are trying to do with wiretapping. In the first place, the Federal statute applies to all the subjects that people have been talking about in terms of convictions, and so forth. That has already been accomplished with Federal law. Narcotics convictions and narcotic investigations are done in the first instance by the Bureau of Narcotics working with the local enforcement agencies. They have the wiretap power. They have already exercised it in Washington, D.C. It has happened. The same is true with organized crime, and so on.

I hope you gentlemen look at this statute, particularly those of you who

live, deal, have your business in, and participate in the District. This is not merely a wiretapping bill; this is a bugging bill. It covers not only taps, but any type of electronic surveillance, as I read it, in any fashion, such as driving a spike into the building in which you have an apartment, which turns every pipe and every type of radiator into a microphone for the area. It covers electronic dishes which will pick up any conversation in a room 500 yards away. You can put in various types of devices so you can wire into the wires of a house and pick up conversations throughout the house.

There may be areas in which wiretapping can protect the country and has some use, such as matters involving internal security, hard narcotics, gambling, and certain types of organized crime. But this gives carte blanche authority to conduct tapping any place any time.

I shall also offer a perfecting amendment. If you are going to make it a wiretapping bill, let us call it wiretapping, but do not run it over into every type of oral communication that can be picked up electronically in the country. That would be the second perfecting amendment. This is the first amendment which will limit the statute to crimes where wiretapping is useful. That is all I have to say on it, Mr. Chairman. I hope the committee will support the amendment.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. GUDE. I understand the gentleman's amendment would limit the areas to extortion, gambling, drug violations, and that type of crime?

Mr. ADAMS. That is correct; corruption, organized crime, narcotics.

Mr. GUDE. And those were the very crimes which the Department of Justice testified before the District of Columbia Committee they wanted to get after in the District of Columbia, and this is what they wanted that section of the law for. I want to commend the gentleman for his amendment. It is an excellent addition to the bill.

Mr. ADAMS. The gentleman is correct. I know of no testimony in support of tapping somebody's line or installing a piece of electronic surveillance equipment in a house because the suspect destroyed property of a value in excess of $200.

Mr. HOGAN. Mr. Chairman, I submit the gentleman from Maryland is not correct. The Department of Justice asked for the violations which are specified in the bill before the House right now. Is the gentleman saying that crimes which he will exclude by his amendment are not handled by organized crime?

Mr. ADAMS. I will say to the gentleman, yes. The destruction of property of a value in excess of $200—that is not what you go tapping for.

I will say to the gentleman yes, upon destruction of property in excess of a value of $200, this is not what you go tapping for. If we have organized crime, we have the authority under other sections to so tap. In answer to the other questions, we asked the direct questions—and Mr. Santorelli was there—and we asked: "What do you tap for in the case of destruction of property in excess of $200?" And I do not recall that he answered that.

Mr. ABERNETHY. Mr. Chairman, I rise to ask unanimous consent that debate on the Diggs amendment and all amendments thereto and other pending amendments close in 5 minutes.

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry: Would that also include another perfecting amendment?

The CHAIRMAN. The request was to cover the Diggs amendment and all amendments to the Diggs amendment.

Mr. ADAMS. Mr. Chairman, I object.

MOTION OFFERED BY MR. ABERNETHY

Mr. ABERNETHY. Mr. Chairman, I hesitate to do this. I move that all debate on the Diggs amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 60, noes 36.

So the motion was agreed to.

(By unanimous consent, Mr. ABERNETHY yielded his time to Mr. ADAMS.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I will submit that I had amendments to this section to correct on the bugs and to correct on the U.S. attorney being the only one authorized to designate a tap, and to say that there would be only electronic surveillance by wire and not electronic surveillance by bugs. I cannot present these amendments under these conditions. I will not. I will stand by the amendments as they have been offered, because the time has been so limited, the House cannot give consideration to them, and it would be improper for the Members to have to vote them up or down in the time they have.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I wonder why the gentleman from Washington did not offer these amendments in the committee?

Mr. ADAMS. We did. And there we got the same kind of treatment as we are getting now.

Mr. HOGAN. The gentleman did not offer the one on these offenses.

Mr. ADAMS. We did. I will state that was offered, as were others in the committee, and we have a repeat performance now of what we had in the committee.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I wish to state that the Department of Justice requested each and every one of the offenses which are specified in the bill as it is before us today, notwithstanding the comments made by the gentleman from Washington.

These are the kinds of crimes he would strip from the provisions:

Arson and destroying property. Electronic surveillance is useful in uncovering plots to engage in terroristic bombings such as those we recently witnessed in Maryland.

Plans for riots and disturbances are frequently made by telephone.

Blackmail and bribery arrangements are usually made by telephone.

On grand larceny, the organized theft rings operate by telephone.

On receiving stolen property, the fencing operations operate by the use of telephone.

As to robbery, the robbery ring which operated in metropolitan Washington used the telephone as an integral part of its operation.

LIST OF CRIMES FOR WHICH ELECTRONIC SURVEILLANCE IS AUTHORIZED WITH EXPLANATION OF USEFULNESS OF ELECTRONIC SURVEILLANCE

Abortion: Clandestine arrangements for performing illegal abortions are frequently made by telephone. Arrangements and planning are necessary aspects of this offense.

Arson and destroying property: Electronic surveillance is useful in uncovering plots to engage in terroristic bombings such as those recently in New York and Maryland or to plan riots and civil disturbances.

Extortionists, particularly of small businessmen, resort to arson or destruction of property. Usefulness of electronic surveillance to detect these offenses is clear.

Blackmail and bribery: The planning and arrangements for these offenses are clearly susceptible to electronic surveillance. Congress specifically lists bribery as offense for which local jurisdictions can wiretap.

Burglary: Burglars usually dispose of the property they steal to fences, covered in this statute by receiving stolen property of a value in excess of $100. Wiretaps of locations of fences are useful in detecting burglary rings and the manner in which stolen property is disposed of.

Recent examples of burglary rings—Robert Earl Barnes as burglar cooperating with local jewelers as fence. Beltway Burglars.

Destruction of property: See "Arson."

Extortion: An offense specifically listed by Congress in 1968 as appropriate for local electronic surveillance. Use of telephone frequent to plan and arrange these offenses.

Gambling: Congress in 1968 specifically approved of electronic surveillance to uncover local gambling. Relationship to organized crime is clear.

Grand larceny: Organized theft rings at transportation depots exist. Kennedy Airport in New York is an example, recently cited as such by the Attorney General. Washington has rings at bus and train stations.

Kidnaping: Congress in 1968 specifically approved of wiretapping for local kidnaping. The use of the telephone to call victim's relatives and to plan the kidnaping is clear.

Murder: This past year alone, Washington has recently had a number of gangland type slayings in the narcotics underworld. Electronic surveillance can manifestly be useful in detecting these prearranged murders.

Congress specifically authorized wiretapping for this offense by local authorities.

Narcotics and dangerous drugs—"dealing in": Congress specifically authorized local authorities to wiretap for these offenses. This applies only to dealers, not to those who possess solely for their own use.

Obstruction of justice: The use of the telephone to threaten or in other ways to intimidate witnesses is clear.

Receiving stolen property of value in excess of $100: This applies to fences. Fencing operations almost necessarily involve planning and organization. The potential value of wiretaps of fencing locations is clear.

Robbery: Congress specifically included this offense in its list of offenses for which local jurisdictions are authorized to wiretap. Washington has had semiorganized gangs of robbers perpetrating numerous robberies. One such gang was the Madden gang. Wiretapping can obviously be useful to detect the planning of such robberies.

Nowhere has the need for and success of this law been more convincingly demonstrated than here in the District of Columbia. In the last 6 months three raids have resulted in the arrest of over 70 narcotic violators, several of them major dealers, and recoveries of substantial quantities of heroin and cocaine. Three taps and 60 arrests, 43 indictments so far. The local U.S. attorney has reported that wiretaps provided most of the evidence leading to these arrests and seizures and that without these wiretaps, investigation would have been impossible.

The existing Federal statute approves wiretapping for only Federal offenses. H.R. 16196 fills in the gap now existing for local offenses.

In the 1968 law, Congress specifically authorized State and other local jurisdictions to provide for wiretapping for local, non-Federal offenses.

The proposed sections authorize wiretapping for a carefully selected list of offenses which either were approved specifically by the Congress in 1968 or meet the specific conditions imposed by the Congress. All have characteristics of the operation of organized crime. The procedural safeguards, protections, and restrictions imposed by the 1968 Federal bill are, of course, fully applicable to wiretapping done pursuant to the provisions in this bill, H.R. 16196. The evidence is overwhelming that electronic surveillance, with carefully drawn limitations, is a necessary tool in fighting organized crime. I favor providing local law enforcement officials with this tool.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I yield to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. I thank the gentleman for yielding.

All I can say is that we have done the best we can to try to correct and to correct the wiretapping section and the electronic surveillance so that they will be, first, constitutional, and second, a proper thing to put forth in the community.

I have been involved in cases involving wiretap evidence. I know the dangers involved that what people say over a line can be clipped and how it can be cut. This is the sort of thing, when it comes into a case, that one has to be terribly careful about to see to it that the parties who are accused can have an opportunity to respond.

I believe it does have a function, and a proper one, but this bill is as wide as one could create and covers every possible kind of offense that can take place, or might take place so you would have grounds to tap.

I thank the gentleman for yielding.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Michigan (Mr. DIGGS).

Mr. DIGGS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. DIGGS and Mr. MCMILLAN.

The committee divided, and the tellers reported that there were—ayes 37, noes 93.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: Page 314, insert after line 13 the following new section:

"POSSESSION OF CERTAIN DESTRUCTIVE DEVICES

"SEC. 208A. Section 14 of the Act of July 8, 1932 (D.C. Code, sec. 22-3214), is amended in subsection (c) by striking out 'this section' and inserting in lieu thereof 'subsection (a) or (b) of this section' and by adding at the end therof the following new subsection:

"'(d)(1) No person shall, without lawful authority, possess any incendiary device within the District of Columbia.

"'(2) For the purpose of this subsection, the term "incendiary device" means any flame producing—

"'(A) bomb,

"'(B) grenade,

"'(C) mine, or

"'(D) device similar to any of the devices described in the preceding clauses.

"'(3) Whoever violates this subsection shall be imprisoned—

"'(A) in the case of a first offense, for a period of not less than two years;

"'(B) in the case of a second or subsequent offense, for a period of not less than ten years'.".

Page 3, insert after the item relating to section 208 the following: "SEC. 208A. Possession of certain destructive devices."

Mr. ROBERTS. Mr. Chairman, it is late and I shall not take the 5 minutes. All of this language simply makes it a felony to possess a Molotov cocktail in the District of Columbia. A man might have a gun and he might have a reason for it. He might have it for self-protection. However, a man going around with a carload of Molotov cocktails has no such protection in mind.

I shall not belabor the point. I ask the committee to approve the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ROBERTS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 398, strike out line 1 and all that follows down to and including line 10 on page 418 and insert in lieu thereof the following:

"§ 23-1309. Release procedure

"Chapter 207 of title 18, United States Code, shall continue to apply with respect to any person detained pursuant to law or charged with an offense in the District of Columbia."

Page 389, beginning in line 13, strike out "and pretrial detention".

Page 389, in the table of contents following line 14, strike out "Subchapter I—District of Columbia Bail Agency".

Page 389, in the item in the table of contents relating to section 23-1303, strike out "with detainees".

Page 389, in the table of contents, add after the item relating to section 23-108 the following:

"23-109. Release procedure.

Page 390, in the table of contents, strike out the items relating to subchapter II.

Page 390, strike out lines 1 and 2.

Page 391, line 6, strike out "detention or".

Page 391, line 13, strike out "with detainees".

Page 391, line 18, strike out "detained pursuant to law or".

Page 392, beginning in line 7, strike out "or detained under any of the conditions specified in subchapter II of this chapter".

Page 392, line 21, strike out "detention or".

Page 393, beginning in line 10, strike out "proceedings under sections 23-1327, 23-1328, and 23-1329, in perjury proceedings, and" and insert in lieu thereof "perjury proceedings and".

Page 393, beginning in line 24, strike out "order such detention or may".

Page 394, line 4, strike out "order any detention or".

Page 394, strike out lines 19 through 21.

Page 394, line 22, strike out "(5)" and insert in lieu thereof "(4)".

Page 395, after the semicolon at the end of line 2 insert "and".

Page 395, strike out lines 3 through 7.

Page 395, line 8, strike out "(7)" and insert in lieu thereof "(5)".

Page 321, beginning in line 7, strike out "be detained or released in accordance with chapter 13 of this title or" and insert in lieu thereof "be released".

Page 33, line 8, strike out "or detain".

Page 290, after line 4, insert the following:

"(f) Section 3152(1) of title 18, United States Code, is amended by striking out 'District of Columbia Court of General Sessions' and inserting in lieu thereof 'Superior Court of the District of Columbia'."

Mr. JACOBS. Mr. Chairman, as has been indicated by the reading of this amendment it is not a complicated one. It is designed to strike out the preventive detention section of this bill.

Mr. Chairman, this, of course, is one of the principal amendments that was anticipated to this bill. I realize the hour is late. I also realize that much discussion has already taken place concerning the concept of so-called preventive detention.

We simply say that the adoption of this novel departure in our system of criminal justice in this country would alter the traditional concept that a man is innocent until proved guilty, to read that "a man is innocent until proved probably guilty" so far as detention is concerned for 60 days.

Also, there would be a departure from the rules of evidence at the hearing with reference to determination of the danger of the individual to the community. At the preventive hearing the rules of evidence would not apply. As those who like wizardry and remember the stories of the witch hunts will recall, witchism determinations were made on the basis of hearsay evidence. That is precisely what would be admissible to detain a person for 60 days under this provision.

Furthermore, the judicial officer is required to determine that a person is "probably" guilty. He is required to determine that a person would be a danger to the community.

Mr. Chairman, I think of Red Skelton when I think of this part of the bill. In comes the defendant before the judge and the regular rules of evidence are not applied, but the judge after a very, very brief hearing, determines along with Red Skelton, "You just don't look right to me."

I presume the way the votes have been going today, this amendment will be voted down. But let me raise my voice at this point in the history of our Republic against what I believe to be a very serious departure from our concept of freedom.

I intend to see crime fought in the District of Columbia and I intend to see it fought effectively. But I do not want to see it fought unconstitutionally. I really do not think that the Senator from North Carolina would be so vociferous in his complaint about this provision if he did not have very serious doubts about its constitutionality.

Mr. LOWENSTEIN. Mr. Chairman will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from New York.

Mr. LOWENSTEIN. Mr. Chairman, I want to thank the gentleman for offering this amendment, and for his contributions to this debate. I think most Members realize that he is one of the finest men in Congress, one of the brightest and most dedicated to the common good. But many Members do not realize that he has had a lot of experience in law enforcement and brings to this discussion much practical knowledge about crime and prisons. We would do well to listen to him carefully—that would be true on *any subject*—and to adopt the Jacobs amendment. This is a bad bill in many ways, and this amendment would help it considerably.

Mr. JACOBS. What is our problem? Our problem is that our courts are crowded and the dockets are crowded.

The dockets are crowded. Do we want to lock up for 60 days a person charged with a crime, in the District of Columbia, when the average wait before trial is 9 months? Why do they only make it 60 days if those who authorized and sponsored this kind of legislation did not have grave doubts in their own minds about the constitutionality? If it is constitutional, and if it is proper, why not a detention for the entire time before trial? The answer to that question is that there is grave doubt, I think, in the minds of those who have offered this radical departure to the constitutional guarantees of freedom in our country.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. ADAMS TO THE AMENDMENT OFFERED BY MR. JACOBS

Mr. ADAMS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS to the amendment offered by Mr. JACOBS: Page 417, strike out lines 15 through 24 and insert in lieu thereof the following:

"(4) The term 'crime of violence' means murder, forcible rape, mayhem, kidnaping, robbery, burglary in the first degree, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, or assault with a dangerous weapon, as defined by any Act of Congress or any".

Mr. ADAMS. Mr. Chairman, this is a perfecting amendment to the motion to strike. I also support the motion to strike.

This is the amendment that was offered before, and it is a definition of crimes of violence for which people can be detained prior to trial.

Mr. Chairman, on the point of preventive detention I hope that the long afternoon of debate and the sudden flaring from time to time of temper by perhaps this gentleman and others will not obscure the problem that is faced by this House in putting into effect preventive detention.

I call upon those of you who are strict constructionists of the Constitution to examine this carefully, and to understand that we are saying by definition, and that is what my amendment is all about, by definition that the list of crimes that appears on page 417 are crimes of violence; that on preventive detention on page 403 a crime of violence is the basis upon which a man can be detained.

What I have attempted to do here, as before, is to make a crime of violence truly a crime of violence, murder, forcible rape, mayhem, kidnaping, robbery, burglary in the first degree—not the bubble gum machine burglar, but first-degree burglary—voluntary manslaughter—not involuntary manslaughter—assaults, or blackmail accompanied by threats of violence.

We are going to take a number of people in this community and place them in detention without a trial other than a mini-trial—and if there were time today I would offer amendments that would at least say there would be rules of evidence in mini-trials, but as I understand the bill as we have analyzed it you do not use rules of evidences in the mini-trials, and the man can be put away for 60 days.

Many of us have written to the Department of Justice and to the administration, and said "Give us some information on when a man commits a crime, if he is out on bail." We have not received a reply to that, although the Bureau of Standards has been doing a study on it. We do have a survey that was made by the bail agency, and it is in the record and in our report which indicates that crimes generally occur if they are going to after 4 months.

What you are going to do in this bill by detaining a man, particularly a man who is accused of a crime that is not a violent one, and who is not what could be defined as a professional, hardened hoodlum, you are going to cause him to lose his job when you detain him, and you are going to cause him to be in effect placed in prison for 60 days, which will break his connection with the community.

Then you are going to let him out, because we have a 10 month trial-waiting period here and we have not been able to pass our amendments to get quick trial of these various offenses. We have not been able to get enough judges. Therefore, you are going to put him out on the streets and he is going to be on the streets 6 or 7 months.

The final point I would like to make is you would have with the 1,500 pending felony cases and not enough judges that this would simply break the back of the present trial system and the heavy backlog would grow even more.

I agree that men have to be held, but we are not using at the present time the right to put narcotic addicts into commitment under the civil commitment procedures which could be done.

There has been a law here for years for that and it is not done.

We do not use the regulation of the parole facilities and the regulations of the probation facilities that are available for the very hard core people. We are not saying that there are problems here—we are just trying to say you already had a problem with the fourth amendment in this bill, and a severe one, in two different places.

Now you have the due process clause involved. You have the presumption of innocence involved and you have the right to bail involved. When you say you can define any crime as being nonbailable because somebody defined it in the Judiciary Act of 1791, I would like you to analyze a paper that was circulated by Senator ERVIN who shows how this is not so.

I would say this: The Justices of the Supreme Court, in my opinion, when they examine this type of thing, will look very carefully at what your definitions of crimes are. I think if the Court becomes a strict constructionist court, it will do so even more so because you are dealing with the fundamental rights of man and having his freedom taken away from him without trial by simply a petition being filed under a series of definitions that could cover almost anything.

Mr. HOGAN. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, contrary to the objection raised, the dangerous-crime category is very restrictively defined. This category covers the most dangerous violent crimes which by their very nature ordinarily involve repeat offenders; that is robbery, burglary, rape, arson, and unlawful drug sales. The words "robbery" and "burglary" are not used in the statutory definition because as defined in the District of Columbia Code they include nonviolent offenses. Robbery, for example, includes pickpockets under the District of Columbia Code. This is why robbery in the pretrial detention statute is limited to the taking or threat of taking property by force. Burglary under the District of Columbia Code includes entry into lumber yards. This is why burglary in the pretrial detention statute is described as unlawful entry with intent to commit an offense into premises where people are likely to be. Thus, this definition is aimed at burglary with an attendant risk of bodily harm to a person, not mere unlawful entry.

The committee report also makes clear an intent to define this category of crime restrictively. It also makes clear that the sale or distribution of marihuana is not covered. This category of dangerous crimes is intended to reach those offenses which are the most dangerous and in which recidivism is the norm. All these crimes involve planning, premeditation, a profit or sex motive which usually would continue, a deliberate singling out of a victim, normally a stranger. Law enforcement experience with such offenders is that they are recidivists. Rare indeed is one arrested on his first criminal venture.

It should also be remembered, however, that the mere charge of one of these crimes does not lead to automatic pretrial detention. The charge acts merely as a triggering device to set off the hearing procedure, following which he cannot be detained unless it is shown that no condition or condition of release to be imposed on him will reasonably assure the safety of the community.

Mr. DOWDY. Mr. Chairman, I move to strike out the last word and rise in opposition to both pending amendments.

Mr. Chairman, the sections of this bill, authorizing judges to consider danger to the community in noncapital cases and to detain certain dangerous defendants before trial, is urgently needed in the District of Columbia.

It is needed because experience under the mandatory release provisions of the Bail Reform Act has revealed that a significant amount of crime—serious and frequently violent crime—is committed by persons released before trial. Of 130 persons indicted for robbery and released before trial in fiscal 1967, 34 percent were reindicted for at least one felony committed during pretrial release. In calendar 1968, 70 percent of 345 robbery defendants indicted and released were subsequently rearrested for a new crime.

These high rates have prompted at least three commissions on crime in the District of Columbia to recommend the enactment of pretrial detention.

Pretrial detention is needed because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public. Nor does it provide for the custody of defendants who have been released once, only to go out and commit a new crime. Let me illustrate:

In St. Louis last summer, a policeman with no record was identified by five women as the phantom rapist who had terrorized the city by attacking more than 50 women. He was released on bail. Three weeks later he broke into a woman's apartment, attempted to rape two girls, slashed them with a knife, and shot one of them in the face with a pistol. Since he was originally charged with rape, bail could have been denied because rape is a capital offense in Missouri. In Washington, however, under the Bail Reform Act, he would be entitled to pretrial release as a matter of statutory law both before and after his attack on the girls. There was no evidence in that case that the defendant would try to escape. It is obvious that speedy trials are no answer at all to a person like this.

Under the language of the Bail Reform Act, a man could be caught in the middle of an armed robbery, he could shoot at police, he could be a heroin addict, and he could have a long record of violent crime—and he would still be entitled to pretrial release. We must change this law.

A third reason why pretrial detention is needed is that today the courts are detaining some noncapital defendants before trial by the dishonest and hypocritical device of setting high bond. The law should be above this subterfuge. If a person is dangerous he should be detained openly, in a way that does not discriminate against indigent defendants.

This bill is a reasonable bill which permits detention only under special circumstances in a limited category of serious cases. There is a 60-day time limit. A defendant may not be detained unless the court finds in writing, after an adversary hearing, that there is a substantial probability that the defendant committed the violent crime with which he is charged and that there is no condition or combination of conditions of release that would reasonably assure the safety of the community.

This law is urgently needed and I trust the amendment to strike will be defeated.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from New York.

Mr. SMITH of New York. I wish to commend the gentleman on his statement and I want to associate myself with his remarks. I think the fact is plain to all of us that this city is under siege by the criminal elements. The law-enforcement people in this city and the courts need the tools to try to bring back the order in this city that we should have. Certainly this pretrial detention, surrounded as it is in this bill with constitutional guarantees and the guarantees of due process, is one of the tools that certainly this Congress should approve.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the distinguished lawyer and member of the committee yielding. I have only one question. Is there application for a prejudicial determination prior to the so-called preventive detention?

Mr. DOWDY. There will be a hearing to determine whether the accused is likely to be dangerous to the community, and whether he should be detained or released.

Mr. HALL. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

I take this time to direct a question to the author of the perfecting amendment, the gentleman from Washington (Mr. ADAMS). Included in his definitions of crime applicable to preventive detention is burglary in the first degree, if I am correct. Is that correct?

Mr. ADAMS. That is correct, yes.

Mr. HARSHA. I would like to inquire whether the gentleman meant to limit that to first degree burglary, because first degree burglary includes only burglaries in a dwelling house with the occupant present.

Mr. ADAMS. That is correct.

Mr. HARSHA. It does not include unoccupied dwelling houses, where more than 95 percent of the burglaries in the District of Columbia occur. That would be burglary in the second degree. Is that your intention?

Mr. ADAMS. It depends entirely on what the situation is, as to whether or not someone was expected or could have been in there at the time of the burglary. I have limited it to first degree to avoid the crime of breaking into, as we mentioned, a vending machine, or avoid breaking into a warehouse as being the type of crime that would come under the definition. I do not know any other way to define it, unless you want to redefine burglary.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. HARSHA I yield to the gentleman from Virginia.

Mr. POFF. As I read the amendment offered by the gentleman from Washington, it would omit several of the crimes included in the definition of crimes of violence in the committee bill.

Mr. ADAMS. That is correct, it would, such as carnal knowledge of a female——

Mr. POFF. Among those would be carnal knowledge of a female under the age of 16, taking or attempting to take improper liberties with a child under the age of 16 years, and any attempt or conspiracy to commit any of the offenses cataloged in that definition.

So I most urgently submit that this amendment would do grave mischief to this bill, and I urge it be defeated.

Mr. ADAMS. Mr. Chairman, if the gentleman would yield further, the reason for omitting those—and we do not omit forcible rape—is that we are involved now with children of 16 being defined as adults and being treated in the adult courts, and we have a 16-year-old boy and 15-year-old girl and he and she may

engage in voluntary intercourse, and then we are involved with a situation of his committing a crime of violence. I just think we have to define the crimes a little better. That is not what is in mind when we say somebody can be put in detention without a trial.

Mr. POFF. Mr. Chairman, if the gentleman will yield further, I wonder if the gentleman would care to comment upon his omission of the attempt to commit a crime of violence.

Mr. ADAMS. Mr. Chairman, my omitting of the intent to commit any offense in there is that if we have in all the offenses, when we go into attempt—in other words, the act has not occurred—we get into a whole series of what can be actually misdemeanors. In other words, there is a street fight with intent to hit somebody, an assault with intent to commit an offense. I felt that was too broad.

If that particular one bothers the gentleman, I would be happy to accept an amendment by the gentleman to include that.

Mr. Chairman, I am trying to get a definition of the types of problems we want to include and not include a lot of things which would be real abuses.

Mr. HARSHA. Mr. Chairman, I would like to point out to the committee, apropos of what the gentleman from Washington said, that he intended to omit the crime of second-degree burglary from the purview of this preventive detention section. In order to commit a first-degree burglary the store or home must have had an occupant in it at the time the burglary was committed. In other words, any home where the occupant was out, or downtown, or a store where there is no manager or other occupant, or is closed for the evening, can be burglarized, and this is second-degree burglary, and 95 percent of the burglaries committed in the District of Columbia are second-degree burglaries. Therefore, under the definition of the gentleman from Washington, the greatest number of burglaries in the District of Columbia would not be included in the pretrial detention provision.

Mr. GUDE. Mr. Chairman, I move to strike the last word. Mr. Chairman, I rise in opposition to amendments to strike the preventive detention section.

I think it is an essential feature of this bill to reduce crime. I am going to offer amendments which will strengthen the preventive detention section if it remains in the bill, and I hope it will.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I rise in support of the preventive detention section also.

Mr. DENNIS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, unlike the wiretap and no-knock provisions of this bill, both of which I accept and support, I do have considerable difficulty, reservation, and objection as to the preventive detention section.

Part of that, I suppose, is a visceral reaction. If I walk into court with a client, normally in this country and under our constitution, I would expect him to be able to make bond. It is rather surprising and shocking to me that, when he has not been convicted of anything, some judge can guess he is probably guilty and shut him up until a jury finally decides it.

As has been said, there are constitutional questions and there are policy questions because, under preventive detention, it is certain that some innocent men will go to jail, and I believe the very serious problem—which I acknowledge—that this preventive detention section is addressed to, could be faced in a less drastic way, probably by restoring to the trial courts some of the rights they had to fix bond prior to the bail law.

I see no reason why, in the case of these dangerous crimes which are covered by preventive detention, the type of crime does not bear directly on the likelihood of a man's appearance, and his bond could be fixed accordingly.

One of the things which disturbs me most about this section—and I should like to address an inquiry on this to some member of the committee or some authority here for the sake of legislative history—is the question that there is a pretrial here and the court must find that there is a substantial probability of guilt before he can detain anyone? Now, that goes a long way, it seems to me, to reverse the usual presumption of innocence until proved guilty.

At any rate, and be that as it may, it certainly is going to be very dangerous, damaging, and unfair to a man on trial if in some manner it comes to the attention of the jury trying the case that the judge trying the case has already previously decided the defendant is probably guilty.

I should like to ask some member of the committee whether it is the intention to keep that type of information from the jury; and, further, whether they would agree that if such information reached the jury it would be a ground for a mistrial and a ground for reversible error on appeal in the event of conviction.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I am glad to yield to the gentleman from Ohio.

Mr. HARSHA. Clearly a disclosure like that would be grounds for a mistrial. I do not know of a court in the country which would hesitate in granting a mistrial if there were a revelation such as mentioned in the gentleman's statement. I believe it is the clear intention of the committee under those circumstances that the court would act in that manner.

Mr. DENNIS. In like manner, it would be reversible error in the appellate situation?

Mr. HARSHA. In my opinion it would. I would think the trial court would act. I do not believe one would have to go to the appellate court to get that.

Mr. DENNIS. I thank the gentleman.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Missouri.

Mr. HUNGATE. I believe the gentleman makes a good point. We certainly want the presumption of innocence to carry as far as possible in preserving the rights of the accused.

I would think that the preventive detention would be no more damaging than the situation we have in many cases which do not proceed to the grand jury, where the prosecutor advances the information and there is a preliminary hearing in which there must be a determination of reasonable grounds or probable grounds in connection with the matter. It involves a similar problem.

Mr. DENNIS. I would suggest to the gentleman from Missouri that there is a distinction between a finding of probable cause to hold a man for trial, which is what he is talking about, and a finding of substantial probability of guilt, which is what we are talking about here. I believe it is a very different thing.

I do appreciate the remarks of the gentleman from Ohio.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 20, noes 73.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 403, line 12, insert "clear and convincing evidence that" after "there is".

Page 405, beginning in line 12, strike out "on the issue of guilt" and all that follows down through and including line 17 and insert in lieu thereof the following:

in any other judicial proceeding. No person shall be considered as waiving his privilege against self-incrimination in any proceeding by testifying at the hearing.

Page 405, strike out lines 22 and 23 and insert in lieu thereof the following:

"(1) The detained person shall have his case placed on an expedited trial calendar and the handling of motions and other preliminary matters pertaining to the case shall also be expedited. Continuances shall be granted only upon a showing of extraordinary cause. If a continuance is granted upon motion of the defense or if the trial of the person has begun but not been completed before the expiration of sixty days after the order of detention of the person, the person shall remain subject to such order until the conclusion of the trial."

Mr. GUDE. Mr. Chairman, this amendment would modify three sections of the preventive detention section. It would require that the judge must have clear and convincing evidence of the dangerousness of the individual to be detained and would provide that no person shall be considered as waiving his privileges against self-incrimination in any proceeding by testifying at the hearing. Also, it would provide an expedited trial calendar for the cases of individuals detained.

Because I support pretrial detention, I want to take care to assure that the bill

provides the strictest standards of due process, so that it will pass the court test that will surely be forthcoming. My amendment proposes three very simple changes to improve the bill. None of these changes will dilute its effectiveness in the crime fight or make the procedures for detaining dangerous individuals more cumbersome.

The first involves the standard of proof for the finding that the accused is dangerous and should not be released.

The committee bill requires the judicial officer at the detention hearing to find first that there is clear and convincing evidence that the accused fits one of the four categories of potential detainees. The judicial officer must then find that no condition of release will "reasonably assure" the safety of any person or the community.

The bill does not say whether this second finding must be made on the basis of clear and convincing evidence, so we must assume it does not require such evidence. I think it should.

If we are going to take a man and put him behind bars for up to 60 days, I think this requirement is essential.

The finding that no condition of release will protect the community is the finding of dangerousness—the critical finding—and I think we must require that the judge be more sure of his judgment than is required if he can find the accused dangerous on a mere preponderance of the evidence.

The second part of my amendment would bar the subsequent use of the testimony of the accused at the detention hearing in any other judicial proceeding. I think it is vital to maintain a strict separation between the detention hearing and the trial if we are to preserve the presumption of innocence at the trial. And I see no reason why the prosecution would suffer from the loss of testimony at a detention hearing that the prosecution has not benefited from before. The whole point of pretrial detention is to protect the community from dangerous defendants who can be identified and detained. It is not intended to give the prosecution the use of testimony it would not have but for the detention hearing. I do not think the provision in the committee bill will stand a court test.

Finally, my amendment would require that the cases of persons detained be placed on an expedited trial calendar. I see no argument against a requirement that these cases be expedited, and that they be set aside from other cases for this purpose.

When an accused is detained, it means he is charged with a serious crime, that there is a substantial probability that he is guilty, and that a judge has found him likely to endanger the community if released, surely the community as well as the individual has every interest in obtaining a prompt disposition of his case. The expedited trial calendar would facilitate such a speedy disposition, and I believe the courts would insist on it.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Florida.

Mr. HALEY. The gentleman from Maryland is a member of the Committee on the District of Columbia, is he not?

Mr. GUDE. That is right.

Mr. HALEY. Did you offer this amendment in the committee?

Mr. GUDE. We offered amendments on pretrial detention but they were defeated. We are still attempting to perfect the bill. As we said, we took defeats in the committee and we are taking them here on the floor. But I think we should have the opportunity to perfect this bill.

Mr. HALEY. Mr. Chairman, if the gentleman will yield further, I agree that the gentleman should have that opportunity. However, it would appear to me that serving on the committee these amendments would have been offered.

Mr. GUDE. There were amendments offered in the committee, as I pointed out to the gentleman, on pretrial detention and we did try to perfect it. In fact, an amendment was offered by the gentleman from Washington in regard to pretrial detention.

Mr. HALEY. Mr. Chairman, if the gentleman will yield further, does not the gentleman want to clean up crime in the District of Columbia and in the adjoining areas?

Mr. GUDE. Yes; I certainly do want to clean up crime. That is precisely why I want to make sure that the pretrial detention section is well written. I am suggesting that some people—and I know the chairman of the subcommittee has been worried about the constitutionality of certain sections——

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. GUDE was allowed to proceed for 1 additional minute.)

Mr. GUDE. Mr. Chairman, I strongly support the provision allowing pretrial detention. However, the chairman of the subcommittee has raised questions about other proposals with regard to their constitutionality. I have the same concern about the pretrial detention section as it is drafted. I simply want to make sure that this important provision is not held to be unconstitutional by the courts, so that our efforts are not wasted and the section is not lost. That is why I am offering my amendment.

Mr. POFF. Mr. Chairman, I move to strike the last two words.

Mr. Chairman, it should be noted that the amendment which has been offered by the gentleman from Maryland is in three parts. Two of those parts are inoffensive, if not altogether acceptable. However, the third part I find unacceptable.

Mr. Chairman, that part addresses itself to a section of the bill which is of extreme importance in the total scheme of the mechanism which has been provided for pretrial detention. It would provide that if a person testifies at a detention hearing his testimony shall not be admissible in any other judicial proceeding. The committee's proposal prohibits use of his testimony on the affirmative issue of guilt in his trial. This is consistent with Supreme Court law (*Simmons* v. *United States*, 390 U.S. 377). The committee's proposal would specifically permit use of a defendant's testimony in perjury proceedings and as impeachment as well as prosecution for bail jumping.

The proposed amendment would permit a defendant to commit blatant perjury at this hearing and be immunized from prosecution for his perjury and from its use as impeachment. Deliberate perjury is a crime in itself and goes to the root of the system of criminal justice in this country.

And yet he would be immunized from prosecution for perjury, and from its use as impeachment in any additional judicial proceeding. No court in the land can with impunity permit such a bizarre result—one which in effect sanctions deliberate perjury. It is contrary to the law in the District of Columbia, as it has been pronounced by the courts.

So, Mr. Chairman, I repeat that while two of the three parts of the amendment do no violence, the third is so mischievous I am obliged to urge that the entire amendment be defeated.

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNGATE: Page 309, line 19, strike out the quotation marks and insert in lieu thereof the following: "However, no person may be punished for defying or violating unlawful government authority when obedience would have subjected him to significant and irreparable harm, unless the government is able to demonstrate the existence of an overriding public interest in demanding compliance with that authority."

Mr. HUNGATE. Mr. Chairman, at this time, if I might, I would like to read the section on resisting arrest on page 309 of the bill, beginning at line 16, and then read the amendment, and then I will yield back my time.

The present resisting-arrest section states:

It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such arrest is made by an individual he has reason to believe is a law enforcement officer, whether or not such arrest is lawful.

The amendment would simply provide:

However, no person may be punished for defying or violating unlawful government authority when obedience would have subjected him to significant and irreparable harm, unless the government is able to demonstrate the existence of an overriding public interest in demanding compliance with that authority.

Mr. Chairman, I yield back the balance of my time, and I ask that this amendment be considered as soon as the opposition is heard.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my good friend from Missouri and I have argued this in committee. It was my bill that originally proposed this provision. I am not going to take the time of the committee today to reargue that issue, and I will insert my remarks regarding this matter. However, I just want to say that I strongly

oppose this amendment because it will defeat the whole purpose of this provision if it is adopted. It will add additional confusion in the minds of the police officer and citizens at a time that we are trying to clarify the issue.

Mr. HOGAN. Mr. Chairman, I rise in support of the provision in H.R. 16196 which prohibits the use of force to resist an arrest, whether or not the arrest subsequently turns out to be lawful. The purpose of this provision is to encourage tranquility in the community by requiring that disputes as to the legality of an arrest be decided in the courts and not in the streets.

The prestigious American Law Institute recognized the soundness of this provision when it drafted the model penal code. Section 3.04 of the 1962 Official Draft of the model penal code provides:

> The use of force is not justifiable . . . to resist an arrest which the actor knows is being made by a peace officer, although the arrest is unlawful.

The language of the provision in this bill is substantially the same as that recommended in the model penal code.

Support for this provision also comes from the Uniform Arrest Act which was drafted by the Interstate Commission on Crime. Section 5 of the Uniform Arrest Act provides:

> If a person has reasonable ground to believe that he is being arrested by a peace officer, it is his duty to refrain from using force or any weapon in resisting arrest regardless of whether or not there is a legal basis for the arrest.

A number of States have followed the recommendations of the model penal code and Uniform Arrest Act and have enacted legislation to prohibit the use of force to resist an arrest, which subsequently turns out to be unlawful. These States include: New York, California, Illinois, Delaware, New Hampshire, and Rhode Island.

In addition, one State, New Jersey, in the famous 1965 case of State against Koonce, adopted the rule prohibiting the use of force to resist any arrest by court decision.

There is no valid reason for the outdated principle allowing the use of force to resist an arrest which subsequently turns out to be unlawful. The issue of the legality of an arrest in a civilized and urbanized society should be decided in the courts and not in the streets. One arrested and accused of a crime is taken immediately before a commissioner or judge. The person arrested is entitled to apply for release on bond. In addition, the person arrested is assured of a hearing with the advice of counsel to challenge the legality of the arrest. Moreover, the person arrested may vindicate himself civilly in a false arrest suit under the Civil Rights Act of 1871.

To permit an individual to forcibly resist an arrest on the basis of his judgment as to its legality is to permit him to act in folly. The individual is in no position to make an intelligent decision as to the legality of the arrest for he cannot know what information, correct or incorrect, the officer may be acting upon. The difficult question of probable cause—not guilt or innocence—which determines the legality of an arrest has, in many instances, taken the courts in this country, including the Supreme Court, years to decide.

Society's interest in protecting the entire community from the threat of physical harm also demands that an individual peacefully submit to an arrest, regardless of its legality. It is the street altercation between the police officer who is attempting to perform his duties and the individual who forcibly resists that, in our urban society, has increasingly become the springboard to general rioting. The report of the National Advisory Commission on Civil Disorders is sprinkled with examples of riots being ignited by individuals forcibly resisting arrests and assaulting police officers.

The concept of self-help in our modern and urbanized society is antisocial, dangerous, and outmoded. This provision recognizes this and requires that disputes as to the legality of an arrest be decided in the courts. I enthusiastically support this modernization of the law.

[From the Washington Post, Mar., 18, 1970]

MAN FREED IN GUN DEATH OF PASSERBY

(By Peter Osnos)

A 24-year-old Western Union messenger was acquitted yesterday on charges of murdering a Coast Guard officer last May during a struggle with a policeman on Connecticut Avenue NW near Dupont Circle.

The Coast Guard officer—a 40-year-old father of six—was a passerby as the accused man, William E. Johnson Jr., argued with a metropolitan policeman who was questioning him about a $3 theft.

"This was a fiasco brought about by an overzealous police officer," declared Joseph A. Rafferty in his closing defense of Johnson, who sat gripping the sides of his chair and shaking. Johnson has been in jail since the shooting.

Testimony during the two-day trial centered on whether the shots that killed Coast Guard Cdr. Warren D. Andrews were fired by Johnson or Officer Paul E. Grasso, the officer with whom he was struggling. There was no dispute that the bullets came from Grasso's gun.

The jury took barely 30 minutes to acquit Johnson of a second-degree murder charge and a charge that he shot Grasso who was wounded in the leg during the struggle. Johnson's mother fainted at the verdict and had to be assisted from the courtroom.

As he faced the jury standing across the courtroom, Johnson appeared more confused than pleased, but smiled when Rafferty turned to him and said, "You're a free man."

The key defense contention in the case was that Johnson was defending himself against a wrongful arrest by Grasso, who accused the messenger of taking the $3 from a Western Union customer's purse.

Although Johnson never was formally arrested for the $3 theft, witnesses testified that Grasso warned the messenger not to flee and, according to one witness, was trying to handcuff him.

Grasso came to the Western Union office located at 1354 Connecticut Ave. NW when a woman complained that the $3 was missing from her purse after a messenger had delivered a telegram.

U.S. District Court Judge John Pratt ruled that Grasso had "no probable cause" to arrest Johnson. Pratt instructed the jury on the right of a person to resist wrongful arrest.

Witnesses testified that Johnson and Grasso talked for almost 30 minutes before the struggle between the two men began and Grasso's revolver came loose from its holster.

The time was 1:52 p.m. and Cdr. Edwards was walking from Coast Guard headquarters to Boy Scout headquarters on Connecticut Avenue to run errands for a scout troop.

At that moment, Grasso and Johnson tumbled out onto the street and five shots were fired—three into Grasso's leg, one into a wall and one into Edwards' brain.

Johnson was seized and charged with first-degree murder. The charge was reduced to second-degree murder before his trial because, prosecutors said, there was no evidence of premeditation.

In summing up his case yesterday, Assistant U.S. Attorney Stephen M. Schuster said the issues hinged on the "credibility" of various witnesses. He derided the testimony of Norman (Chico) Wood, a passerby, who said Grasso had pulled out his revolver and fired at Johnson.

Other witnesses agreed on the basic fact that a tussle took place between Johnson and Grasso, during which shots were fired. Schuster argued that the presence of certain marks on Grasso's hand proved he was holding the gun barrel and not the trigger, during the shooting.

The thin, nervous Western Union messenger was held without bond on the first-degree murder charge and was sent to St. Elizabeths Hospital for a mental examination during the time he was jailed.

Johnson, a drop-out from junior high school, was born and reared in Washington. He held a series of messenger jobs before coming to Western Union. Although his speech is slurred and halting, his teachers always had told his mother he was capable of doing more in school than he did.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GALLAGHER

Mr. GALLAGHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GALLAGHER: On page 427, after line 20, insert:

"INDOOR PLUMBING

"SEC. 210. Whoever owns a building or other structure in the District of Columbia which contains indoor plumbing shall be fined $5,000."

Mr. GALLAGHER. Mr. Chairman, I know the hour is late. I feel, however, that the hour is even later for liberty.

As I sat here through the debate, it struck me how terrible it was that the invention of indoor plumbing has become the apparatus to cause the fourth amendment to disappear.

The rationale for the no-knock provision is that if the policeman knocks before he enters a home, evidence of narcotic or other violations could be flushed down the drain. There just has to be a viable alternative to putting a match to the fourth amendment. Ridiculous as my proposal may sound, I would rather opt for liberty than indoor plumbing, if there is really no other option.

I have no argument with the intention of this bill. I can see that drug addiction and drug abuse is perhaps the most serious problem going on in America today. I have a bill that would make the nonaddicted pusher liable for a capital offense. But that is not really what I am discussing here today.

The amendment I have just introduced will make it a crime, punishable by a $5,000 fine, for any dwelling in the District to have indoor plumbing. I propose to

substitute a "no-flush" law for a "no-knock" law.

That clearly seems to me to solve the problem of preserving evidence and so there will not be the necessity for the police to use the very threatening provision of this bill we approved earlier.

Next, of course, we will want to confiscate all the matches in the District to prevent the evidence from being burned. Further, what we must eventually do, to be wholly consistent with the thrust of provisions of this legislation and others offered recently, would be to require all doors and houses of dwellings in the District to be made of glass.

But, as a first step, a drop in the bucket as it were, I am proposing to ban indoor plumbing.

In order to avoid having civil and constitutional rights go down the drain in an attempt to stop evidence going down the drain, we will obviously have to do away with indoor plumbing. Since we have already approved taps for his phones, he certainly will not miss the water taps. And what good really are modern conveniences when they become the rationale for the destruction of our freedom.

I know that many people might say at first flush that this amendment does not stand much of a chance and will probably go down the drain when the vote comes.

Quite seriously, Mr. Chairman, it seems that we have really not carefully considered the aggregate effect of the legislation we are so eagerly and totally embracing. When you restrict one freedom, today, it becomes that much easier to restrict another tomorrow. The "no-knock" provision strikes deeply at one of the central features of Anglo-Saxon jurisprudence. Perhaps it is really the most basic concept of our law. That is, a man's home is his castle, and he must be able to raise the drawbridge from time to time. We have splintered that drawbridge this evening; so perhaps we should saw away the plumbing fixtures as well.

The inviolability of a man's home was clearly enunciated by William Pitt, the Elder, in 1763:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rains may enter—but the Kings of England cannot enter; all his forces dare not cross the threshold of that ruined tenement.

What we have passed not only permits that threshold to be crossed; we have permitted it to be shattered.

This amendment will, of course, give additional evidence to those who say that because I oppose the unevaluated use of new technology, I am against progress. Naturally, I do not take any such position at all, for revolutionary new tools like the computer are as essential to modern society as civil liberties are to the continuation of democratic government. And so the efforts I have been making with my privacy subcommittee for the past two administrations are an attempt to humanize technology and to make human values relevant to our sophisticated ways to gain and handle information.

I have often said in the past that I would not have opposed the introduction of indoor plumbing because it destroyed a society based around the village pump. But when it permits such things as the "no-knock" provision to be enacted and to clearly threaten our constitutional government, then I reluctantly must oppose it.

So, I lament for liberty here today. I lament for the problems we all have in trying to work out the correct approach to the great difficulties posed by urbanization and the increased crime rate. For what we are really discussing is the need to find a way to make society survive.

But I do not believe that our society will survive if we do not vigorously reassert the basic concepts of liberty and freedom.

As I said earlier, liberty and progress are compatible, but only if we find a place to reestablish the responsibility and the awesome accountability that we have to history. That rests here in this body.

Mr. Chairman, we must take effective action about crime while retaining the virtues that make society livable and truly worthwhile for all our citizens. We must serve the needs of society, as this committee is trying to do today, but we must do more than merely substitute fear for understanding and terror for meaningful programs. That way, we can make crime grow instead of lessening it.

We must preserve the freedom that our Bill of Rights guarantees to each American. I am afraid we are losing confidence in ourselves and faith in each other. If we do, freedom is doomed.

The no-knock provision as well as several others in this bill is a vote of no confidence in the American people and in the American system of government—history's noblest experiment.

Mr. HALEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be very brief. I think we may dispose of this very quickly. Let us flush it down the drain.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GALLAGHER).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer two amendments.

I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HALL. Mr. Chairman, reserving the right to object, let us hear them read before we decide whether they will be considered en bloc or not.

The CHAIRMAN. The Clerk will read the two amendments.

The Clerk read as follows:

Amendments offered by Mr. MIKVA: On page 389, insert after line 12 the following new chapter:

"Chapter 12—SPEEDY TRIALS

"Sec.
"23–1201. Time limits on commencement of trials.
"23–1202. Sanctions.
"23–1203. Application of section 23–1201.
"23–1204. Implementation plans; suspension of application of section 23–1201.

"23–1201. Time limits on commencement of trials

"(a) The trial of a defendant charged with a criminal offense under a law applicable exclusively in the District of Columbia shall be commenced within the 120-day period, or in the case of a defendant charged with a crime of violence, the 60-day period, beginning on the date (1) the defendant is arrested, (2) summons for his arrest is issued, or (3) the information or indictment charging him with commission of a crime is filed, whichever occurs first. However, if an indictment or information is dismissed on the motion of the defendant, and the defendant is subsequently charged with the same crime or a crime based on the same conduct or arising from the same criminal episode, the applicable period shall begin to run from the date the latest information or indictment charging him with such crime is filed. In the case of a trial of a defendant to be held as the result of an order declaring a mistrial, granting a new trial, or otherwise permitting a new trial, the applicable period for such trial shall begin to run from the date such order is issued.

"(b) The following periods shall be excluded in computing the time for trial:

"(1) Any period of delay resulting from other proceedings concerning the defendant, including periods during which the defendant is incompetent to stand trial or during which he is subject to examination and hearing on competency, examination and treatment pursuant to section 4 of the Act of June 24, 1953 (D.C. Code, sec. 24–603), or section 16A of the Act of June 20, 1938 (D.C. Code, sec. 33–416a), hearings on pretrial motions and interlocutory appeals, and trial of other charges.

"(2) Any period of delay during which prosecution is deferred by the United States attorney or the Corporation Counsel for the District of Columbia pursuant to written agreement with the defendant for the purpose of allowing the defendant to demonstrate his good conduct.

"(3) Any period of delay resulting from the absence or unavailability of the defendant.

"(4) Any reasonable period of delay beginning on the date an information or indictment is dismissed and ending on the date a new information or indictment is filed, if the information or indictment was dismissed on the motion of the United States attorney or the Corporation Counsel for the District of Columbia and the new information or indictment was filed against the defendant within a reasonable period and was based on the same offense or an offense required to be joined with such offense.

"(5) Any reasonable period of delay when the defendant is joined for trial with a defendant as to whom the time for trial has not run and there is good cause for not granting a severance. In all other cases the defendant shall be granted a severance so that he may be tried within the time limits applicable to him.

"(6) Any period of delay resulting from a continuance granted at the request of the defendant or his counsel upon a showing of good cause.

"(7) Any period of delay (not to exceed sixty days in duration) resulting from one continuance granted at the request of the United States Attorney for the District of Columbia or the Corporation Counsel for the District of Columbia upon a showing of good cause and special circumstances peculiar to that case which justify such continuance.

"(c) For purposes of this chapter, the term 'crime of violence' means a crime referred to in section 11–502(2)(A).

"§ 23–1202. Sanctions

"(a) When a trial date has been determined and on such date the defendant, his counsel, or both, fail to proceed to trial without justification, the court may punish for

criminal contempt the person responsible for the delay.

"(b) Subject to the provisions of section 23–1204(g), if a defendant is not brought to trial within the time prescribed by section 23–1201, the information or indictment shall be dismissed on motion of the defendant. Such dismissal shall forever bar prosecution for the offense charged and for any other offense required to be joined with the offense. Failure of the defendant to move for dismissal of his case prior to trial or entry of a plea of guilty shall constitute a waiver of the right to dismissal.

"23–1203. Application of section 23–1201

"(a) Except as suspended under section 23–1204, the time limitations in section 23–1201 shall apply—

(1) with respect to defendants charged with crimes of violence in informations or indictments filed more than six months after the effective date of the District of Columbia Court Reorganization Act of 1970, and

(2) with respect to defendants charged with any other criminal offenses in informations or indictments filed more than twelve months after the effective date of the District of Columbia Court Reorganization Act of 1970.

"§ 23–1204. Implementation plans; suspension of application of section 23–1201

"(a) The United States District Court for the District of Columbia and the Superior Court of the District of Columbia shall each prepare an implementation plan for the trial or other disposition of offenses in accordance with section 23–1201.

"(b) Implementation plans shall be formulated after considering the recommendations of the Federal Judicial Center, the United States Attorney for the District of Columbia, the Corporation Counsel for the District of Columbia, and attorneys experienced in the trial of criminal cases. Such plans shall include a description of the procedural techniques, innovations, systems, and other methods by which the courts have expedited or intend to expedite the trial or other disposition of criminal cases. In the case of the implementation plan of the Superior Court of the District of Columbia, the plan shall indicate what consideration has been given to an accelerated criminal trial calendar for trial of cases involving crimes of violence.

"(c) The United States District Court of the District of Columbia shall, with the approval of the Judicial Council for the District of Columbia Circuit, file its implementation plan with the Administrative Office of the United States Courts on or before the effective date of the District of Columbia Court Reorganization Act of 1970. The Superior Court of the District of Columbia shall, with the approval of the Joint Committee on Judicial Administration in the District of Columbia, file its implementation plan with the Executive Officer of the District of Columbia courts within the six-month period following the effective date of the District of Columbia Court Reorganization Act of 1970.

"(d) In the event that either court is unable because of limitations of manpower or resources to carry out its implementation plan within the time prescribed by section 23–1203, its plan shall, with approval of the Judicial Council for the District of Columbia Circuit or the Joint Committee on Judicial Administration in the District of Columbia (as the case may be) be submitted to the Judicial Conference of the United States (with a copy to the Attorney General) together with a request for suspension of the time for application of section 23–1201, as specified in section 23–1203. In addition to the information required under subsection (b), if a suspension is requested, the plan shall specify the necessary authorizations and appropriations for additional judges, prosecutors, probation officers, full-time defense counsel, court administrators, supporting personnel, and other resources without which compliance with section 23–1203 cannot be achieved.

"(e) On or before six months from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall determine, after considering such views as the Attorney General may offer on the proposed implementation plan of the United States District Court for the District of Columbia, whether and to what extent section 23–1203 is to be suspended and shall grant such suspension accordingly. On or before one year from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall determine, after considering such views as the Attorney General may offer on the proposed implementation plan of the Superior Court of the District of Columbia, whether and to what extent section 23–1203 is to be suspended and shall grant such suspension accordingly.

"(f) If an implementation plan and request for suspension is submitted for the United States District Court for the District of Columbia under subsection (d) to the Judicial Conference, then, within six months from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall submit a report to Congress describing such plan. If an implementation plan and request for suspension is submitted for the Superior Court of the District of Columbia under subsection (d) to the Judicial Conference, then, within one year from such effective date, the Judicial Conference shall submit a report to Congress describing such plan. Each report shall indicate the action taken by the Judicial Conference under subsection (e), and the legislative proposals and appropriations necessary to achieve compliance with the time limitations specified in section 23–1201.

"(g) If at any time after section 23–1201 applies to a court and such court finds that it will be unable to meet the time limitations specified in that section, the Chief Judge of such court may apply to the Judicial Conference for suspension of the application of such time limitations. The Judicial Conference may grant any such suspension for such periods as it deems necessary."

Page 315, line 1, in the table of contents, insert after the item relating to chapter 11 the following new item:

"12. Speedy Trials..... 23–1201."

Page 439, line 8, strike out "section 601" and insert in lieu thereof the following:

"Section 601 and chapter 12 of title 23 of the District of Columbia Code (as codified by section 209 of this Act)"

Page 398, beginning in line 11, strike out "or the safety of any other person or the community" and after the period in line 12 insert the following new sentence: "In making such determination in the case of a person convicted of a crime of violence within the ten years immediately preceding the alleged commission of the present offense, the judicial officer may consider the likelihood that while released the person charged may commit a crime of violence, to the extent that such likelihood affects or involves factors common to evaluation of the probability of his appearance at trial."

Page 398, beginning in line 16, strike out "or the safety of any other person or the community,".

Page 399, strike out lines 13 and 14; and in line 17, strike out "and the safety of any other person or the community".

Page 402, strike out line 7 and all that follows down to and including line 2 on page 403, and insert in lieu thereof the following:

"§ 23–1322. Detention prior to trial

"(a) A judicial officer may, subject to the provisions of this section, order pretrial detention of a person charged with—

"(1) a crime of violence as defined in section 23–1331(3), if (A) the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged, (B) the crime of violence was allegedly committed while the person was on probation, on parole, or on mandatory release pending completion of a sentence, and (C) the judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community; or

"(2) any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

Page 403, line 17, strike out "(3)" and insert in lieu thereof "(2)".

Page 407, line 5, strike out "23–1331(4)" and insert in lieu thereof "23–1331(3)" and, in line 6, strike out "23–1331(5)" and insert in lieu thereof "23–1331(4)".

Page 416, strike out line 23 and all that follows down to and including line 6 on page 418 and insert in lieu thereof the following:

"(3) The term 'crime of violence' means murder, forcible rape, indecent acts against children, mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, or assault with a dangerous weapon, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(4) The term 'addict' means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare."

Mr. MIKVA (during the reading). Mr. Chairman, one of these amendments is a very long and complicated amendment. I ask unanimous consent that the amendments be considered as read. I will explain them in a much simpler manner than having them read in detail. I have distributed copies to all members of the committee, and I have other copies that I shall distribute to any Member who desires them. I shall be happy to have them printed in the RECORD. It will take about 10 minutes to read them. I think I can do a much better job explaining them than having them read. I ask unanimous consent that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. WIGGINS. Mr. Chairman, reserving the right to object, I would like to ask the gentleman whether the amendment follows the language of H.R. 14822, which he previously introduced with respect to speedy trials?

Mr. MIKVA. Substantially. It conforms to the different procedures in the District of Columbia, and there are a couple of slight differences, which I shall explain, which preserve more of the language of the committee bill than would be in my original bill. Substantially they are the bills that I introduced in the Judiciary Committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois to dispense with reading of the amendments and that they be printed in the RECORD?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illi-

nois that the two amendments be considered en bloc?

Mr. HALL. Mr. Chairman, further reserving the right to object to that unanimous-consent request, I have since been supplied with a copy of the amendments. Do I correctly understand that the second one the gentleman from Illinois wants is a simple conforming amendment?

Mr. MIKVA. No; they are two separate amendments. Perhaps if I give the gentleman copies, he will see that they are, in fact, two substantive amendments.

Mr. HALL. Mr. Chairman, I have no right to prolong the proceedings, but I cannot for the life of me see how we can grant unanimous consent with respect to amendments which no Member of the House, outside of members of the committee, have previously seen or that have not been explained.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois is recognized in support of his amendments.

Mr. MIKVA. Mr. Chairman, I realize the hour is late. I suspect at this late hour, even I were to tell you that the law against murder was being repealed in this bill—and I question how many Members would know for sure that it was not—no amendments will pass. The committee intends to stand pat, which I think is unfortunate, because a great deal of this bill, with all due deference to the committee, appears to be the result of clipping and pasting. I must confess that I was a little unhappy because the committee would not let me bring in my paste pot. Apparently there was some administrative mixup and I never had an opportunity to offer these amendments to the committee, even though I requested permission to testify in due order and the chairman assured me that I would have an opportunity to do so. Somewhere between that assurance and the subcommittee hearings I was lost in the shuffle. So these amendments were never seen by the committee.

Nevertheless, I consider them very important because of what these amendments propose to do. The reason I asked to have them considered en bloc is that they propose to take the concept of preventive detention and make it do something that would help solve the crime problem in the District of Columbia—which I thought was what we were talking about. The main amendment would set up a proposal for a speedy trial. It would say that all criminal cases must be tried within 60 days. It does not propose mayhem or capricious nonsense. There are provisions in the bill for the judges to advise the Judicial Conference, and in turn the Attorney General and the Congress, if certain circumstances prevent them from holding trials within 60 days.

But basically the amendment says what we ought to do is get our criminal trials started in 60 days, so instead of locking up people for 60 days on preventive detention, and clogging up the courts with two sets of trials instead of one, we would have a trial take place within 60 days.

The second amendment provides that within a set of circumstances and under constitutional safeguards and policy safeguards, we would authorize people to remain under detention during that 60-day period. So the trial would take place when it ought to, and if the person is a danger to the community, he could be detained until it was completed.

Specifically, my amendment provides that anybody out on bail or probation or parole would have that revoked during the period until his trial is held. Anybody who is a narcotics addict would be detained for treatment, as in the committee bill, until such time as the trial is held.

Specifically, my amendment would confirm what most judges do now anyway; namely, authorize them to take dangerousness to the community into account in determining what conditions, if any, should be set for that person's release.

That may sound like a legal quibble, but the quibble is the difference between preserving the presumption of innocence and saying we will presume somebody temporarily guilty during the pretrial detention period.

We should be setting up a procedure for trying all criminal procedures within 60 days. If there is anyone against such an arrangement, I do know who it is. The courts are not against it, the police are not against it, and I cannot believe Congress likes the idea of a 10-month pretrial period.

My proposal on pretrial detention would stay within limits of the Constitution, and a policy, that will protect the community against dangerous people, but won't throw away our Constitution, wisdom, and judgment just because we are concerned about crime. We are trying to do something other than push the panic button.

There are provisions within the present bill which I know are not consistent with the committee's intention, not only as a matter of the preventive detention which is in the committee bill, but other provisions as well which the Supreme Court of the United States will find an opportunity to strike down. And we will be back where we are today. If the Congress is as concerned as it says, I think we ought to consider these amendments favorably.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I compliment the gentleman. The amendments which the gentleman offers and his comments show the type of work going on in the Judiciary Committee on the problem of preventive detention and how this can be done. I think it is a great tragedy that this matter has gone the way it has, and that the gentleman cannot be heard on this matter by the committee on a bill which involves a matter of such importance.

Mr. POFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join in the compliment just paid to my distinguished friend, the gentleman from Illinois. He is indeed one of the good lawyers in this body and he has indeed addressed a most complex subject.

Having paid the gentleman that tribute, I am obliged to oppose his amendment, not in its entirety, but in its principal thrust.

The Mikva amendment, so-called, is more appropriately called a substitute. In major part, it displaces the pretrial detention clause of the committee bill. Specifically, here is what it does:

First, while the Mikva substitute authorizes the judge to consider the likelihood that a person may commit a crime of violence while released pending trial, he may consider it only as it may affect the probability of his appearance at trial.

Second, the Mikva substitute strikes out the words "or the safety of any other person or the community" at two vital points in the committee bill.

Third, the Mikva substitute would not disturb the committee provision which permits the judge to detain narcotic addicts, but it would altogether eliminate the committee provision which permits the judge to detain a person charged with a dangerous crime as defined in the bill.

Fourth, the Mikva substitute would permit the judge to detain a person charged with a crime of violence only if it was committed while on probation, parole, or mandatory release from sentence and only if it is the second crime of violence committed within a 10-year period. The Mikva language is in the conjunctive. The language of the committee bill is in the disjunctive. The committee bill permits the judge to detain the person charged with a violent crime if either, it was the second such crime committed within a 10-year period or it was committed while on probation, parole, or mandatory release from sentence.

Fifth, the Mikva substitute definition of "crime of violence" omits certain crimes included in the committee definition. For example, it omits the crimes of attempt or conspiracy to commit all of the other crimes cataloged in the definition of violent crimes.

Parenthetically, it is interesting to note that the Mikva substitute retains the committee bill's hearing procedure and the full complex of due process safeguards which some critics have claimed will clog court calendars.

It is also significant to note that some who support the Mikva substitute argue that the eighth amendment guarantees pretrial detention in both capital and noncapital cases, even though the latter is a limited category.

In summary, the Mikva substitute would substantially unhinge a vital mechanism of the committee bill. That mechanism is a crime prevention mechanism. Prevention of violent crime by dangerous, repeat offenders while free on bail is a reasonable measure of self-defense which this community deserves.

Not unlike my colleagues, I am anxious to see that criminals are tried and punished as rapidly as possible, and I deplore the present backlog of criminal cases in this city. I do not believe, however, that the imposition of arbitrary deadlines by Congress is the right approach.

We have before us today a comprehensive bill to reorganize courts in the District of Columbia, transfer both civil and criminal jurisdiction, improve the administration of the local courts, revise the criminal procedures for the District. All of these measures are designed to upgrade and speed up the criminal justice system in this city. It is our job to give the courts, the prosecutors and the defenders the tools with which to provide fair and efficient justice. It is not our job to second guess the judges and court administrators as to how the details of the system are best worked out. Can we honestly sit in this Chamber and tell the judges, the prosecutors, the defense attorneys and all the supporting personnel involved in a criminal trial what is a reasonable time for trial for each and every defendant in this city for all the years to come? Can any of us honestly say that he knows that such and such a time limit will work in the District of Columbia in various types of cases next year, 5 years from now?

I submit that the persons who are directly and constantly involved in this system of justice are in a far better position to judge what is feasible and desirable than we are in this body. Let us give the courts the tools and the manpower they need as we have here and leave to them the implementation of the system.

The bill offered by the gentleman from Illinois, in effect, defines what is a speedy trial for violent crimes and for other crimes. Sixty days for the violent crimes is speedy trial, we are told, and 120 days for other offenses. Speedy trial, I will remind my colleagues, is mandated by the sixth amendment. Since that amendment was adopted, however, the courts have scrupulously avoided defining speedy trial in terms of a specific number of days. The courts have always viewed speedy trial as a relative thing to be judged in each case on the basis of the facts. We are asked here today to second guess the courts. We are asked to tell them—from the Supreme Court on down—you judges may not know what speedy trial is in every case, but Congress knows.

If we say this as to the District of Columbia, can it not be argued that Congress has defined constitutional speedy trial for all. Will not the next defendant in any Federal court throughout the country approach the bench to argue that he was not tried in 60 or 120 days, as the case may be, and since Congress has defined the Constitution in these terms he must be released. And think about the defendants in the courts in the many States. The sixth amendment applies to the States. State courts throughout the country will be told that they must dismiss charges because Congress has defined speedy trial in rigid terms and any defendant not tried in time must be released.

Mr. Chairman, I do not always believe the courts are right in all their decisions. I do however believe they are right and very wise in their constant refusal to reduce the speedy trial guarantee to rigid numerical terms. In this we should follow their lead and reject the proposal of the gentleman from Illinois.

Let me just add one other thought on this proposal. The reorganization of court jurisdiction we are considering today will provide for the transfer of all local cases—civil as well as criminal—to the local courts. This will be done over a period of 3 years. Despite the careful consideration that has gone into the implementation of this transfer and the planning that is already underway, the course of this transition is bound to be rough and rocky. Unforeseen problems will arise, newness is bound to generate confusion. If, on top of these problems, we impose rigid time limits for the trial of criminal cases we may cripple the very system of criminal justice we are trying to improve. We must give the courts time to work out the problems of transition. We cannot impose time limits on top of the other problems.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for his kind words.

So that the record is clear, does the gentleman agree with me that in my proposed amendment in the nature of a substitute on probation, parole, and bail revocation, the procedure allowed to the court is as summary as the committee provided, and is not designed to clog up the procedure?

Mr. POFF. No, I do not; because the gentleman's language is in the conjunctive, while the committee bill is in the disjunctive. That means under the gentleman's amendment a person must not only be on probation or parole when he commits the offense but also must have committed a second crime of violence in the 10-year time span.

Mr. MIKVA. I must only say that this is one of the prices I must pay for not having been allowed to testify before the committee. I am sure I could persuade my distinguished colleague from Virginia that for the first time since I have known him he may have misread an amendment, just as I am sure I could persuade the committee that these provisions do not clog up the procedure.

But this is not the place to get into that kind of legalistic argument. I should like to invite my colleague from Virginia to sit down sometime to discuss it further.

Mr. POFF. I thank my colleague.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

It is regrettable that we did not have an opportunity in the committee to study the gentleman's amendment. I am sure he understands there was no intention to not consider it, but it must have been just an inadvertence.

There is a problem we need to think about here. There are many good things in the gentleman's amendment to which I would like to give a great deal more study. However, with this court reorganization bill we are trying to give the local court system the tools with which to unsnarl the tremendous backlog of cases they now have.

My fear is that by putting this additional burden on them, with a time restraint on the cases, it might jeopardize their ability in the best orderly way possible to eliminate those conditions.

I am not saying that there is not a great deal of merit to the gentleman's amendment, because I think there is.

Mr. Chairman, I wish to speak in opposition to the amendment which requires trials for violent crimes in 60 days and nonviolent crimes in 120 days.

This amendment operates on the mistaken assumption that Congress can legislate speedy trials, that somehow Congress can decree that trials shall occur within a certain number of days and that miraculously the trials shall occur.

I certainly am in favor of speedy criminal trials. We all, I expect, favor speedy trials. The way for Congress to provide speedy trials is not, however, to enact a statute which says, "Speedy trials shall occur." Rather, the way is to provide a more efficient court system with modern management, to increase the number of judges, and to enact an up-to-date code of criminal procedure. This is what this court reorganization bill—H.R. 16196—is attempting to do. It represents an admirable comprehensive effort to improve and streamline the fair and effective administration of justice, both criminal and civil.

But to superimpose by legislative fiat a 60- or 120-day trial decree would create chaos in the administration of criminal justice and release into the community, never tried, many murderers, rapists, narcotic dealers, and armed robbers. For it is no more than a pipedream to imagine that in a busy urban court all violent felony cases can be brought to trial in 60 days and all other felonies within 120 days. Even under the proposed court reorganization, many trials will not be brought to trial within the required time either because of court congestion or because more preparation for trial is necessary.

For example, recent narcotics raids in the District of Columbia have resulted in the arrests of major dealers and seizures of large amounts of narcotics. These cases require considerable additional investigation after the arrest and months of extensive trial preparation. Under this amendment, however, the charges against all the dealers would be dismissed because not tried in the required time limit. The same is true of many fraud cases, conspiracy indictments, and complex murder trials.

It simply is not possible to decree an arbitrary time limit for a trial. Too many unforeseen circumstances can arise.

In this regard, I should point out that in enforcing the sixth amendment right to speedy trial the courts have never prescribed a set time period in which a criminal trial must take place. Instead they have carefully analyzed the facts of the particular case before them to determine whether or not there was a violation.

Congress should not require the courts to depart from this sensible case-by-case approach and impose on them an arbitrary time limit. Only one group will benefit from such an arbitrary rule—criminals. Only one group will lose—society.

Though this amendment is obviously well intentioned, it clearly is misguided. To avoid the disastrous results it will cause, the amendment should be defeated.

The speedy-trial amendment proposed by the gentleman from Illinois seeks a most laudable goal. Ironically, it carries within itself the seeds of chaos and failure because of the consequences flowing from a detailed statutorily-mandated speedy-trial scheme. Legislation requiring a set of actions and designating a host of exceptions—in this case, time-period exceptions—confers litigable rights and duties. Applicable, as this is, to the process of adjudicating guilt or innocence—a process already loaded with litigable rights and responsibilties regarding such matters as: warrants, arrests, indictments, evidence, competency, counsel, joinder of offenses and defendants, and so forth—the amendment will produce a new and multiple caseload of time-consuming litigation.

Rulings and findings of the court regarding the event from which the time for trial is to be calculated will be challenged by defendants. The same is true of the numerous events which constitute an exclusion in computing the time for trial. The inevitable result is numerous collateral proceedings to be adjudicated before the case can be disposed of.

The amendment affords many statutory bases on which a defendant can move for dismissal of his case. Even if we assume that all issues are resolved against the defendant, and he goes to trial, the delays produced will make a mockery of the goal of trial in 60 or 120 days. This amendment will apply to a much enlarged criminal caseload in a city experiencing some 70,000 serious crimes a year.

Delay in adjudicating guilt or innocence is built into the adjudicatory and adversary system. It necessarily takes time to establish facts and apply the law. However, a major purpose of H.R. 16196 is to minimize that delay without impairing the quality of the process. The proposed amendment tragically will increase delay and impair the process. It provides new incentives for dilatory proceedings. From a defendant's point of view, at the worst he may delay his trial—something preferred by most defendants—while at best he has several new opportunities to secure dismissal on grounds unrelated to guilt or innocence.

The problem is not an accelerated calendar with time limits. The problem is a statutorily mandated accelerated calendar system. The key to speedy trial via accelerated calendar is court initiation and implementation, administratively. This assures flexibility and removes the litigable features of a system imposed by Congress.

I support speedy trial of criminal cases. I expect, and the Congress insists, that the judiciary develop and implement a speedy-trial system in the District of Columbia. The responsibility for efficient and fast disposition of cases is the judiciary's, and only they can achieve this goal.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Illinois.

Mr. MIKVA. I believe even the gentleman from Virginia is not suggesting that I add anything to the burden the committee imposed on the courts. I suggest that I deduct from that burden substantially.

I say to the gentleman, we both can be sorry, and the chairman of the committee can be sorry, and the chairman of the subcommittee can be sorry that these amendments were not considered by the committee, but we are dealing with difficult concepts constitutionally, policy-wise, and every other wise.

It will be a poor excuse to the citizens of the District of Columbia as to why pretrial detention was not given a chance to be effectively and constitutionally implemented, why they were not given this extra tool in the arsenal of weapons against crime, why they were not given speedy trials. To say it is because somehow amendments fell in a crack between the subcommittee and the full committee is not a particularly good answer. Many provisions worth trying are not going to pass a constitutional muster because of looseness and insufficient concern for the fundamentals of due process and the Bill of Rights.

Mr. HOGAN. I assure the gentleman that pretrial detention was given our most thorough consideration. There will be another legislative day, and the gentleman is authorized to introduce legislation at any time which will amend the law which I hope we will pass today.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. MIKVA).

The amendments were rejected.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on all amendments to this title close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENT OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 306, strike out lines 11 through 18, and redesignate the succeeding sections accordingly.

Page 3, in the table of contents, strike out the item relating to section 203 and redesignate the succeeding section references accordingly.

Mr. ADAMS. Mr. Chairman, I shall not take all my time, but since we have not been able to define crimes of violence, this is known as striking the bubble gum amendment. There was put into the bill on page 306 a provision that said second-degree burglary is extended to breaking and entering vending machines and similar devices. This provides that a second-degree burglary conviction is a felony. It is also now a crime of violence if you happen to break into a parking meter, a coin phone, a vending machine dispensing goods, or any one of numerous other devices designed to receive currency. Since we have made it a crime automatically in the adult court for anyone over 16 years of age, I think this type of provision is not something that we need in the law automatically to give a kid a conviction because he will probably be convicted of a felony when he is 16 years old and breaks into a vending machine. If you want to put an amount of money on it or something else, all right, but I do not see what this will do in this bill. I hope that we strike it out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was rejected.

Mr. McMILLAN. Mr. Chairman, in order to provide assistance to the Members of the House, may I at this time introduce into the RECORD this section-by-section analysis of sections 23–1321 through 23–1332 of H.R. 16196 dealing with release and detention prior to trial.

SECTION-BY-SECTION ANALYSIS

SUBCHAPTER II—PRETRIAL DETENTION

Section 23–1321 continues the practice under the Bail Reform Act of 1966 of providing for the release of persons charged with noncapital offenses upon their own personal recognizance or upon execution of an unsecured bond in an amount specified by the judicial officer. The Bail Reform Act prohibits such release only if the judicial officer, in his discretion, determines that it would not reasonably assure the appearance in court of the person as required. This section, however, authorizes the judicial officer to consider "the safety of any other person or the community" as a basis for denying release on personal recognizance and as a basis for setting pretrial conditions of release which will reasonably assure both court appearance and the safety of any other person or the community.

The specific conditions of release proposed by this section to be utilized by judicial officers are essentially the same as those provided in the Bail Reform Act, both in substance and in order of preference. The condition provided in subsection (a)(5), has been modified to eliminate its restriction to assuring court appearance and to make clear that the court may release a person for employment or other limited purposes and then require his return to custody. Subsection (a)(5), within the requirements of reasonableness and due process, is intended to give the judicial officer wide latitude in imposing conditions he deems necessary to assure appearance and to protect the safety of any other person and the community.

One condition which a judicial officer cannot impose to protect the safety of any person and the community is a financial condition. The purpose of this limitation is to terminate the hypocrisy of using money bond to detain dangerous defendants. If defendants are dangerous, a judicial officer will have broad discretion as to the conditions of release he may impose and if no condition or conditions of release will reasonably assure the safety of the community, then he can detain such person pursuant to sections 23–1322 and 1323. This prohibition of financial conditions to assure safety of the community is not intended, however, to preclude their use as a condition to assure court appearance when appropriate.

Subsection (b) lists the factors which the judicial officer may take into account in making his determination under subsection (a). This list of factors is not exclusive; the judicial officer may consider any factor reasonably appropriate. One factor listed in subsection (b) but not in the Bail Reform Act is "past conduct". This factor has been added because of its obvious relevance to dangerousness. For example, in setting conditions of

release for any defendant, but especially for a young adult, the court should consider his juvenile record. "Past conduct" would also allow a judicial officer to consider prior charges against a defendant. For example, if a defendant had once been charged with three armed robberies and the government accepted a plea to one, to avoid three trials, for which he could receive life imprisonment, a court could appropriately consider such information. "Past conduct" is, however, not limited to prior involvement with the law.

Subsections (c), (d), (e), (f), and (g) conform nearly word for word with 18 U.S. Code 3146 (c), (d), (e), (f), and (g), the comparable sections under the Bail Reform Act.

Subsection (h) provides the following:

(1) Persons detained shall be confined to the extent practicable in facilities separate from persons convicted. Your Committee is informed that this provision conforms with present practice. As a general rule, persons detained pending trial are confined in the District of Columbia jail, while persons convicted and serving sentences are at Lorton or other Federal institutions. There may be situations, however, ordinarily of an emergency nature, in which strict separation in different facilities, is not possible. For example, convicted persons receiving medical treatment in District medical institutions may, from time to time, be held for short periods at the District jail. In such a situation, the Committee would expect that prison officials not permit commingling of pretrial and post-sentence detainees. But to prevent confinement in the same institution, in such a situation, would be too restrictive. This is why the separation must be maintained only "so far as practicable".

(2) Persons detained shall have reasonable opportunity to consult with counsel. They may be released by the court for limited periods of time to prepare a defense, such as looking for a witness, and for other reasons. When released, they shall be in the custody of a United States marshal or other appropriate person, such as their attorney.

Section 23–1322 authorizes pretrial detention on grounds of dangerousness of limited categories of criminal defendants. The detention is authorized only if the judicial officer determines that no condition or conditions of pretrial release will reasonably assure the safety of any other person or the community. While existing law permits pretrial detention of any defendant on the grounds of likelihood of flight (*United States* v. *Melville*, — F. Supp. — (S.D. N.Y., Nov. 15, 1969) (Frankel, J.) and the detention of capital defendants on grounds of dangerousness to the community (18 U.S. Code 3148), it does not permit pretrial detention of non-capital defendants on grounds of dangerousness. Heretofore such defendants have routinely been detained by setting high money bonds on the subterfuge that such a bond is necessary to assure court appearance. Section 23–1321 specifically forbids this sham; this section in turn confronts the question of dangerousness squarely and permits detention of non-capital defendants on grounds of their dangerousness under certain limited circumstances.

This section delineates the three classes of defendants who can be detained prior to trial. The first class includes defendants charged with a "dangerous crime" as defined in section 23–1331(3). With certain minor exceptions explained in the analysis of section 23–1331(3), the category of dangerous crimes includes those charged with felonious sale of drugs such as heroin, robbery, burglary, arson, and rape or indecent liberties with a child under sixteen, and attempts to commit the same. While it is anticipated that pretrial detention of a person charged with such crimes will not frequently be ordered by a judicial officer if the person has no prior conviction of, or has not been previously charged with, serious felonies, such detention is permitted by the statute for the following reasons: The continuing danger presented by sellers of heroin is obvious. The other four categories of crime were at common law and in 1791 generally punishable by death and therefore not bailable as a matter of right, even as first offenses. These crimes usually result from a continuing motivation of pecuniary profit or sexual gratification. Ordinarily they involve planning, deliberation, and the purposeful selection of a victim who almost always is a stranger. Moreover, apart from sex offenses, these dangerous crimes frequently involve cooperation with other criminals on a continuing basis.

The nature of these offenses, the fact that the arrest rate for such crimes is about ten percent, and the long experience of law enforcement officers with such offenders, compels the conclusion that a person charged with commission of one of these crimes is rarely apprehended on his first criminal venture. When the police at last succeeded in apprehending such an offender for the first time, they often are able, by investigating such matters as his method of operation and evidence recovered, to connect him with a number of previously unsolved offenses, and therefore though not having been previously charged or convicted, such a person frequently is subject to indictment for a number of crimes. For all these reasons, therefore, persons charged with these crimes, can, if the judicial officer makes the other findings required by this section, be detained despite absence of proof of a prior charge or conviction of a serious felony.

The second class of defendants who can be detained are those charged with a "crime of violence" as defined in section 23–1331(4). "Crimes of violence" is defined to include "dangerous crimes" and other violent crimes such as murder, kidnapping, and assault with a dangerous weapon which expose the victim to death or serious bodily harm. Because those who commit these latter offenses are not necessarily as likely to be repeat offenders as those charged with a "dangerous crime", this class of defendants cannot be ordered detained pursuant to this section unless they have been convicted of such a crime of violence within the ten preceding years or are on pretrial release, probation, or parole, or mandatory release pending completion of a sentence for a crime of violence. Thus a defendant charged with a crime of violence cannot be detained absent specific proof of a recent conviction or pending charge of a crime of violence.

The third class of defendants who can be detained prior to trial are those charged with any offense who, in order to obstruct or attempt to obstruct justice, attempt to or do threaten, intimidate, or injure any witness or juror. Detention for this class merely codifies existing case law. *Carbo* v. *United States*, 82 S. Ct. 662 (1962); *United States* v. *Gilbert*, — F. 2d — (D.C. Cir., Dec. 17, 1969).

Subsection (b) prescribes the findings which a judicial officer must make after a hearing before he can order pretrial detention.

First, the judicial officer must find that the defendant comes within one of the three categories listed in subsection (a).

Second, the judicial officer must find, based on the factors set out in section 23–1321(b), that there is no condition or combination of conditions of release which will reasonably assure the safety of the community. This finding is required to make certain that no person is detained unless the judicial officer has given due consideration to the conditions of release specifically listed in section 23–1321(a) and other reasonable conditions, and concluded that their imposition on the defendant will not reasonably assure the safety of any other person or the community.

Third, except for the third class of defendants who can be detained as described above (those who threaten or injure jurors or witnesses), the judicial officer must find a substantial probability that the defendant committed the offense charged. The purpose of this third finding is to minimize so far as practicable the possibility of detaining defendants prior to trial who are innocent of the charge lodged against them. In this regard, the Committee concluded that the probable cause standard necessary both to bind a defendant over to the grand jury and to justify indictment by a grand jury, is not sufficient to achieve this objective. For obvious reasons the Committee did not feel justified in imposing the ultimate trial standard of "beyond a reasonable doubt". The language it selected was "substantial probability" which can best be equated with that used to secure a civil injunction—likelihood of success on the merits.

Such a finding is not required for those defendants charged with any offense who obstruct justice by threatening or injuring witnesses or jurors. Their detention is warranted not on the basis of the original criminal charge placed against them, but on the fact that their conduct will prevent a fair and orderly disposition of that charge, however serious it may be or however strong or weak the evidence against them may be.

The finding of substantial probability is to be based on information presented to the judicial officer "by proffer or otherwise". The information upon which the officer makes his finding need not be sworn testimony. Indeed, it is anticipated that, as is the present practice under the Bail Reform Act, that the use of sworn testimony will be the exception and not the rule. In the District of Columbia, the courts now predicate their bail determinations almost exclusively upon information proffered by the prosecutor, defense counsel, and bail agency, including such matters as the "weight of the evidence", one of the factors listed in section 23–1321(a). Only rarely does a judge require a witness to testify. To insure that a judge may so require, the Committee added the words "or otherwise". But the usual presentation of information would be by way of proffer, the prosecutor briefly outlining before the judicial officer the nature of his evidence. As provided in subsection (c) of this section, the defendant has the right to call witnesses in his behalf, to testify, and to prevent other information by proffer to challenge the obligation of substantial probability. He may not, of course, call witnesses who ordinarily would be expected to testify for the Government at trial, unless he can proffer to the court in reasonable detail how he expects their testimony to negate substantial probability. The hearing provided by subsections (b) and (c) is not designed to afford defendants a discovery device. Discovery is to be obtained pursuant to the rules of court.

Subsection (b) requires the judicial officer who orders a defendant detained to issue an order accompanied by written findings of fact and his reasons for issuing the order.

Subsection (c) prescribes the procedures applicable to the pretrial detention hearing held pursuant to this section. No prior federal statute has ever accorded to defendants in bail hearings such procedural safeguards as the right to counsel, right to testify and present other information in their own behalf.

The hearing may be initiated by oral motion of the United States attorney if the defendant is before a judicial officer. If the defendant has been released, the United States attorney may initiate such a hearing by *ex parte* written motion upon the basis of which a judicial officer may issue a warrant for apprehension of the defendant.

Once before a judicial officer, a defendant can secure a continuance for only five days

absent extenuating circumstances. The United States attorney can secure a continuance for good cause for only three days. Pending the hearing, the defendant may be detained, after a threshold finding by the judicial officer that no condition or combination of release conditions will reasonably assure the safety of any other person or the community under the first sentence of Section 23–1322(a).

Pursuant to subsection (c)(4), the defendant can present information in his own behalf by proffer or otherwise can call witnesses in his behalf, and testify in his own behalf. He is entitled to representation by counsel.

If he chooses to testify in his own behalf, his testimony, pursuant to subsection (c)(6) is not admissible on the issue of guilt in any other judicial proceeding (*Cf., Simmons* v. *United States,* 390 U.S. 377 (1968)) except that such testimony is admissible in proceedings under sections 32–1327 (Penalties for failure to appear), 23–1328 (Penalties for offenses committed during release), and 23–1329 (Penalties for violation of conditions of release) and in perjury proceedings and for impeachment. See, *Woody* v. *United States,* 379 F. 2d 130 (D.C. Cir., 1967); *Bailey* v. *United States,* 389 F. 2d 305 (D.C. Cir., 1967). This provision prevents the Government from using his testimony affirmatively to establish guilt of the offense charged, for example, but at the same time permits such use if the defendant, having by aid of his testimony secured his release, is subsequently accused of failing to appear, violating other conditions of release, or committing another crime while on release.

The provision also does not permit a defendant testifying in his own behalf to perjure himself and what he says may be used for impeachment. To provide otherwise would be to interfere unreasonably with the truth-seeking process of court proceedings. A defendant clearly has a right to testify in his own behalf; he does not have a right to lie under oath with impunity.

Subsection (c)(5) provides that information stated in or offered in connection with any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law. This subsection reenacts existing law; 18 U.S. Code 3146(f) of the Bail Reform Act of 1966 is exactly the same. As explained above, bail hearings under the Bail Reform Act, which frequently result in detention of the accused, proceed primarily by way of proffers. They are not formal trials requiring strict adherence to technical rules of evidence. If the court is dissatisfied with the nature of the proffer, it can always, within its discretion, insist on direct testimony. But the discretion should be left to the court without imposing on it the burden of limiting admissibility to that it would permit a jury to hear.

Subsection (c)(7) provides that appeals from order of detention may be taken pursuant to section 23–1324, discussed *infra.*

Subsection (d) provides that persons detained under this section shall, to the extent practicable, be given an expedited trial. Moreover, unless the trial is in progress or has been delayed by the defendant, he must be treated in accordance with section 23–1321 after sixty days. In other words, detention pursuant to this section is limited to sixty days. This period of time was selected as the approximate time necessary in a busy urban court to bring to trial a defendant charged with a serious felony. The Government needs this period of time to marshal its evidence, to locate and interview witnesses, and to conduct laboratory and other scientific examinations to secure the kind of evidence desired by the courts. Pretrial proceedings such as motions for discovery, preliminary hearings, motions to suppress, grand jury proceedings, mental examinations, preparation of transcripts—usually at government expense—can also reasonably be expected to consume about sixty days. Most of these procedures, moreover, serve to protect the rights of the defendant. For these reasons the Committee concluded that imposing a shorter period of detention would not only be impractical and unrealistic but would also interfere, with legitimate trial preparations of both the Government and defendants.

Should at any time during the sixty-day period circumstances change in such a way as to affect the basis for pretrial detention, subsection (d) provides for the defendant's release pursuant to section 23–1321. One such circumstance might be the court's granting a motion to suppress most of the Government's evidence. At the pretrial detention hearing, which can normally be expected to occur immediately or shortly after arrest, the judicial officer would not be expected to make formal rulings on the legality of such matters as searches, seizures, and eyewitnesses identification since at that time in the proceedings, such rulings would be premature. Should, however, a defendant succeed in suppressing substantial evidence by appropriate motion following a hearing, this might well provide a basis for the court to reconsider its earlier ruling. This procedure, it should be observed, is no different from that which exists under the Bail Reform Act. If a person is either detained outright or has a high money bond set on grounds of likelihood of flight, one of the factors being the strong "weight of the evidence against him" and should a significant part of that evidence be suppressed, then the court may amend its earlier bail determination. In addition a changed circumstance leading to release would include an acquittal or dismissal of a pending charge pursuant to which the defendant was released at the time of the present charge and which formed the basis for detention under Section 23–1322(a)(2).

Subsection (e) permits a court to detain for five days a person charged with any offense who is on probation, parole, or mandatory release, to give the appropriate officials an opportunity to decide whether he should be returned to custody. This detention may be ordered if the court concludes the defendant is likely to flee or pose a danger to the community.

Section 1323 authorizes the pretrial detention of a narcotics addict, as defined in section 23–1331(5), charged with a crime of violence. It is common knowledge that addicts must continue to commit crimes to support their drug habits. Thus, pretrial detention of such persons who are charged with a crime of violence is warranted.

A person charged with a crime of violence, who appears to be an addict, may be detained for three days under medical supervision to determine whether he is an addict. If found to be an addict, the person may be ordered detained prior to trial for sixty days, but only after he has been accorded the hearing and other procedural safeguards contained in section 23–1322, and the court has concluded that no conditions of release will reasonably assure the safety of the community and available information established a substantial probability he committed the offense charged.

Section 1324 preserves the right of appeal of defendants who are detained or who are required to return to custody after specified hours of release. The section is identical to the comparable provision of the Bail Reform Act except that it specifically adds the right to appeal from an order of detention.

The Bail Reform Act of 1966 fails to provide the Government with the right to appeal. The Committee could see no reason to grant such a right to a defendant but at the same time preclude the Government from appealing a ruling it considered without support. The integrity of the judicial process and the public interest are as much jeopardized by the wrongful release of a defendant as they are by his wrongful detention. Accordingly, subsections (c) and (d) of this section provide the Government with the right of appeal comparable to that granted the defendant in subsections (a) and (b).

Subsection (a) of section 23–1325 provides the same standard for release for defendants charged with capital offenses as that provided in 18 U.S. Code 3148, of the Bail Reform Act of 1966, that is, such a defendant may be detained prior to trial if the court determines that no conditions of release will reasonably assure that he will not flee or pose a danger to any other person or to the property of others. The procedure to be followed pursuant to this subsection will continue that followed under 18 U.S. Code 3148.

Under subsection (a) the burden is on the judicial officer to find that the defendant is likely to flee or pose a danger. Presumably, however, a court would routinely make such a finding, particularly for any defendant charged with felony-murder.

Once guilt of a crime has been established in a court of law, however, the statutory presumption should be weighted in favor of detention by requiring detention unless the court finds no likelihood of flight or danger. Subsections (b) and (c) contain such a provision for those convicted and awaiting sentence and for those sentenced and on appeal. In practice, release would often be granted for those not yet sentenced but convicted of nonviolent crimes, with little if any prior difficulty with the law, and strong community ties, particularly in those instances in which probation or suspended sentence is anticipated.

For those convicted and sentenced to prison, however, release on appeal should be very infrequent for the reasons discussed in detail below, a practice not presently followed because of recent appellate decisions applying present 18 U.S. Code 3148.

Three separate decisions within the past year of the United States Court of Appeals for the District of Columbia Circuit have resulted in the release pending appeal of a defendant convicted as follows:

"(1) Robbery and assault with a dangerous weapon (Knife and Gun). Sentenced to 5 to 15 years. Defendant had two prior convictions of forgery, one of larceny. *Banks* v. *United States* decided May 26, 1969.

"(2) Carnal Knowledge (a gang rape). Sentenced to 5 to 15 years. *United States* v. *Forrest,* decided September 11, 1969. Defendant had one prior conviction of housebreaking and larceny, one conviction of larceny reduced from robbery, one juvenile conviction of robbery, and several other arrests.

"(3) Burglary, *United States* v. *Seegers,* decided February 19, 1970. Defendant, 19 years old, had 4 prior convictions of burglary as a juvenile, one conviction of attempted unauthorized use of an auto as an adult, and there was an outstanding warrant for his arrest for violation of probation."

In *United States* v. *Harrison* (D.C. Cir., decided October 23, 1968) (slip op. at 5), the court interpreted 18 U.S. Code 3148 as follows:

"Under the statutory guidelines imposed by Congress, it is our duty, if possible to set conditions under which appellant may be released."

In *Banks* v. *United States, supra* (slip op. at 4), the Court stated that on appeal "the Bail Reform Act plainly favors release."

In *United States* v. *Forest, supra* (slip op. at 3), the majority of the court (Judge Robb dissenting) stated:

"There is * * * the possibility that continued responsible behavior on [appellate] release would constitute meaningful support for a motion for reduction of sentence even if the conviction is affirmed."

Contrary to the underlying assumption of these cases, once a person has been convicted and sentenced to jail, there is absolutely no reason for the law to favor release pending appeal or even permit it in the absence of exceptional circumstances. First and most important, the conviction, in which the defendant's guilt of a crime has been established beyond a reasonable doubt, is presumably correct in law, a presumption factually supported by the low rate of reversal of criminal convictions in the Federal system. Second, the decision to send a convicted person to jail and thereby reject all other sentencing alternatives, by its very nature includes a determination by the sentencing judge that the defendant is dangerous to the person or property of others, and dangerous when sentenced, not a year later after the appeal is decided. Third, release of a criminal defendant into the community, even after conviction, destroys whatever deterrent effect remains in the criminal law. Finally, contrary to the suggestion in the *Forrest* case, the purpose of the appellate process is not to give a convicted criminal, by means of release pending appeal, an opportunity to demonstrate a basis for reducing a sentence after the conviction has been affirmed.

The proposed changes contained in subsections (b) and (c) would, therefore, prohibit release pending appeal unless the court finds as an affirmative fact by clear and convincing evidence that the appeal raises a substantial question of law or fact likely to result in a reversal or order for a new trial and that the person is not likely to flee or pose a danger to the person or property of others. This changes the present law in two respects. First, instead of requiring the court to find that the appeal is frivolous or taken for delay before he can deny release, the amendment requires him to find likelihood of reversal before he can grant release, a more reasonable standard for the obvious reason that the conviction is presumably correct. Second, instead of requiring the court to find likelihood of danger or flight before he can deny release, the proposed amendment requires the court by clear and convincing evidence to find no likelihood of danger and flight before he can grant release.

Because the Court of Appeals in its decisions appears to disregard property offenses in assessing danger to other persons or the community under the present statute and because of the vagueness of the word "community", the phrase "dangerous to other persons or to the community" has been amended to read, "dangerous to any other person or to the property of others". See *United States* v. *Forrest, supra*, dissenting opinion (Robb, J.). There is no reason why a defendant convicted and awaiting sentence or sentenced and on appeal should be allowed to steal, forge checks, or commit other frauds.

SECTION 23–1326 RELEASE OF MATERIAL WITNESSES

This section, concerning material witnesses, reenacts the provisions of 18 U.S.C 3149 presently applicable to the District of Columbia and applies them under this bill with no change in the existing law. It vests authority in judicial officers to impose conditions for release in the case of material witnesses whose presence cannot practicably be secured by subpena. The section, provides, however, that no material witness shall be detained because of inability to comply with any condition of release if his testimony can adequately be secured by deposition and detention is not necessary to prevent a failure of justice.

SECTION 23–1327 PENALTIES FOR FAILURE TO APPEAR

Section 23–1327 sets forth the penalties for failure to appear, commonly called bail jumping. A number of substantive changes have been made in the existing applicable law, 18 U.S.C. 3150.

To eliminate the difficulty of proving willfulness in bail jumping prosecutions under present law, a difficulty which has discouraged such prosecutions, subsection 23–1327 (b) provides that failure of a defendant to appear after notice of the appearance date will be deemed prima facie evidence that such failure to appear is willful.

To prevent defendants from avoiding bail jumping statutes by moving so that they do not receive formal notice of their due date in court or in other ways frustrating attempts to notify them of the court date, subsection 23–1327(c) permits conviction even if actual notice of the appearance date has not been received by the defendant provided that reasonable efforts to notify the defendant have been made and, second, that the defendant, by his own actions, has frustrated the receipt of actual notice. Reasonable efforts to notify the defendant would be met by certified mail to the defendant at his last known place of residence. Frustrating receipt of actual notice would mean, among other things, the defendant moving his place of residence without leaving a forwarding address or notifying the court or bail agency.

The present Bail Reform Act, 18 U.S.C. 1346(c) requires in mandatory language that upon release the judicial officer must warn the defendant of the penalties applicable for failure to appear. Two recent District Court cases outside of the District of Columbia have interpreted these warnings as prerequisites to a prosecution for bail jumping, and two indictments of flagrant bail jumpers were dismissed for lack of these warnings. *United States* v. *Campbell*, Cr. 68–72 (D.C. Oreg., decided March 10, 1969); *United States* v. *Graves*, Cr. R. 14110 (D.C. Nev., decided August 11, 1969). Subsection 23–1327(b) provides that failure to be warned of the penalties applicable for failure to appear is not to be a prerequisite to prosecution but may be considered as a factor in determining willfulness.

A court upon imposing sentence may permit the defendant to remain on release for a few days to get his affairs in order prior to surrender for sentencing. A recent court concluded that flight in that situation did not amount to a bail jumping violation. *United States* v. *Andrews*, Cr. 25330 (N.D. Ga., decided Jan. 23, 1968). Because your committee believes this result erroneous, the phrase "prior to commencement of his sentence" was added to section 23–1327(a) to make it clear that a period of release related to an appeal does not end when the appeal is decided, but runs until surrender to commence service of sentence. Thus, failure to appear at the end of such a period, even if extended, will clearly be deemed to be bail jumping.

Section 23–1327(a) provides the same maximum penalties for bail jumping as present 18 U.S.C. 3150 (five years if the underlying charge is a felony and one year if the underlying charge is a misdemeanor). To strengthen the deterrent effect of a bail jumping charge, the committee has included mandatory minimum punishments—at least one year in the case of a felony and ninety days in the case of a misdemeanor. The punishment for a material witness who fails to appear remains unchanged.

To deter bail jumping, section 23–1327(d) also requires that any term of imprisonment for bail jumping must be consecutive to any other sentence of imprisonment.

SECTION 23–1328 PENALTIES FOR OFFENSES COMMITTED DURING RELEASE

Your committee believes that added penalties for offenses committed during a period of pretrial release will be an important deterrent to such crime. At present there are no specific additional penalties applicable to these offenses. This lack, coupled with the present practice of moving the crowded trial calendar by prosecuting only one offense of several pending and the prevalent concurrent sentencing practice in our courts, results in the underworld knowing that once a defendant is out on bail charged with an offense, every other crime he commits is a virtual free ride.

Section 23–1328(a) permits the court to impose an added penalty for any offense committed during pretrial release. The additional sentence will be imposed by the court following conviction for the crime while released. If the crime committed while released is a felony, the added penalty is a mandatory minimum of one year's imprisonment with a maximum of five years. In the case of a misdemeanor committed while released the punishment is a mandatory minimum term of ninety days with a maximum of one year's imprisonment.

Section 23–1328(b) makes clear that warning a defendant of this potential added penalty at the time of his release is not intended as a prerequisite to the additional sentence.

Section 23–1328(c), as in the case of bail jumping sentences, requires that any added penalties for crimes committed while released must be consecutive to any other sentence of imprisonment. A concurrent sentence for a crime committed while released would defeat the deterrent effect of this section.

SECTION 23–1329 PENALTIES FOR VIOLATION OF CONDITIONS OF RELEASE

The Bail Reform Act does not provide realistic sanctions for violations of conditions of release.

The sanctions which do in fact exist under present law are weakly expressed and poorly implemented. A defendant who violates conditions can have those conditions changed and made more stringent under 18 U.S.C. 3146(e) and this will be continued under section 23–1321(e). Recent appellate cases indicate that violation of travel restrictions can lead to forfeiture of money bond if any has been set. (*Brown* v. *United States*, 410 F. 2d 212 (5th Cir. 1969); *United States ex rel Brown* v. *Fogel*, 395 F. 2d 291 (4th Cir. 1968)). Further, 18 U.S.C. 3151 leaves existing contempt powers unaffected by the Bail Reform Act as does section 23–1330 of this subchapter.

These existing sanctions have proven illusory at best. Experience with the Bail Reform Act over the past three years indicates that the power to change conditions is totally ineffective as a deterrent to violations of conditions. Forfeiture of bond has only been sanctioned recently in two circuits and a local court decision casts doubt on its use in the District of Columbia. *United States* v. *Penn.* 2 Crim. L. Rep. 3139 (D.C. Court of General Sessions 1968). Forfeiture, of course, is inapplicable if only nonfinancial conditions are set. Lastly, the contempt power spelled out in 18 U.S.C. 3151 is anything but a clear direction to the court to take action.

To remedy this situation section 23–1329 contains two specific sanctions to punish violators of release conditions.

The first sanction is that of revocation of release and detention until trial for a period of up to sixty days. This is based on a two-part finding at a detention hearing. The court must find clear and convincing evidence; first, that the person has violated a condition of his release and, second, that there is no condition or combination of conditions of release which will assure that the defendant will not flee or pose a danger to the community.

Because revocation is based on a betrayal of trust placed in the defendant by the court, there is no requirement that there be a showing of substantial probability that the defendant committed the offense for which he was originally released or that the offense

must be a felony. Revocation will require the same procedures required for pretrial detention described in earlier sections, and many of the same safeguards and protections are afforded.

The right to initiate a revocation proceeding is vested in the United States Attorney. Section 23–1939(b) contemplates the issuance of an arrest warrant to bring the defendant before the court and further permits the arrest of a defendant released in the District of Columbia in any other district where he is found. In such case the defendant is to be brought before a judicial officer in the district of arrest and then he is to be transferred to the District of Columbia. Revocation hearings are not to be held in any other district but the District of Columbia.

The second sanction is a clear and specific contempt section to supplement the vague provision in 18 U.S.C. 3151 which is reenacted in section 23–1330 of this Act. Under section 23–1329(c) the court can impose a penalty of up to six months in jail and/or a $1,000 fine if the defendant is found guilty of criminal contempt for violation of a release condition. The contempt may be tried by the court without a jury and is to be expedited. For conviction the Government need only establish that the defendant has intentionally violated a condition of his release.

Section 23–1329(d) permits a warrant issued by a judge of the Superior Court for violation of release conditions, for contempt of court, for failure to appear as required or for a hearing pursuant to section 23–1322(c)(2) to be executed at any place within the jurisdiction of the United States. This subsection is intended to clear up any uncertainty about the enforcement of warrants issued by the District of Columbia judicial officers outside of the District. It is contemplated that an arrest warrant can similarly be executed and issued to effectuate changes in release conditions pursuant to section 23–1321(e).

SECTION 23–1330. CONTEMPT

Section 23–1330 is intended to make it clear that nothing in this Act is to be construed to interfere with or prevent the exercise by any court in the District of Columbia of its power to punish for contempt. Thus the contempt power spelled out in section 23–1329 does not repeal or revoke any other contempt power vested in the courts.

SECTION 23–1331. DEFINITIONS

Section 23–1331(1) defines "judicial officer" to include any person or court in the District of Columbia authorized to release a person before trial, sentencing or pending appeal pursuant to 18 U.S.C. 3041 and the Federal Rules of Criminal Procedure as well as any judge of the Superior Court.

Section 23–1331(2) defines the term "offense" to include offenses against the United States and violations of the District of Columbia Code as long as the offense is committed in the District of Columbia.

Section 23–1331(3) defines the five types of offenses included in the term "dangerous crime" referred to in section 23–1322(a)(1). Each of the five offenses is defined restrictively to stress the element of danger to persons.

Subparagraph (A) of section 23–1331(3) refers to the taking or attempting to take property from another by force or threat of force, a restrictive definition of robbery. This is intended to cover such crimes among others as robbery with a weapon, or by means of intimidation or threat, purse snatching and yoking. It is not intended to include an offense such as picking pockets which involves neither force nor the threat of force, even though the robbery statute, D.C. Code, Section 22–2901, applies to pickpockets.

Subparagraph (B) of section 12–1331(3) refers to the unlawful entry or attempted entry of any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, a definition of burglary limited to situations involving potential danger to persons. This definition excludes the burglarizing of shacks, railroad cars, coal yards and the like where the presence of other persons, and thus the chance of danger and harm to them, is slight.

Subparagraph (C) of section 23–1331(3) refers to arson or attempted arson of any premises adaptable for overnight accommodation of persons or from carrying on business. Thus certain offenses, such as 22 D.C.C. 403 concerning malicious burning of movable property and 22 D.C.C. 402 concerning burning of one's own property with intent to defraud another, would not be included unless a physical danger to another person could demonstrably be shown.

Subparagraph (D) of section 23–1331(3) covers a wide variety of sexually oriented crimes such as rape, attempted rape and taking immoral, improper or indecent liberties with a child under sixteen years of age. Carnal knowledge of a female under the age of sixteen is included to cover offenses dealing with a parent or guardian and their underage daughter or ward or other child abusers. It is not intended to cover the general crime of statutory rape where no force, threat of force or special familial relationship is involved.

Subparagraph (E) of section 23–1331(3) lists as a dangerous crime the unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress). Those persons involved in the sale and distribution of these drugs are often highly organized, as recent District of Columbia arrests indicate, and can clearly be deemed dangerous criminals. The connection between narcotics and violent crime is widely recognized. Moreover, sale of depressant and stimulant drugs, particularly hallucinogens and methamphetamines, often prove highly dangerous to the buyer.

This category is clearly limited to sale and distribution and mere possession without any accompanying intent to sell or distribute is not included. The term distribution can be interpreted to include one college student giving a prohibited pill to another student in a college dormitory. The committee does not intend to cover such distribution, but rather intends that the category should be restricted to commercial distribution or free sampling distribution aimed at establishing a commercial relationship. Limiting language to this effect was not included in the bill because of the myriad ways distribution can occur, and because the safeguards already built into the hearing process make it highly unlikely that students giving free drugs on a rare occasion to friends could be shown to be dangerous enough for detention.

The committee intends that the phrase "as defined by any Act of Congress", should be read to refer to those drug definitions codified in the United States Code only and, in particular, those found in 21 U.S.C. 321(v) and 26 U.S.C. 4731(a). In no circumstances is the sale or distribution of marijuana to be included herein.

The concluding phrase of section 23–1331(3) stating "if the offense is punishable by imprisonment for more than one year" is meant to apply to all of the five categories set out in this section. No detention hearing can arise due to the charge of a dangerous crime, as defined, unless that charge carries punishment in excess of one year's imprisonment.

Section 23–1331(4) defines the term "crime of violence" to include not only "dangerous crimes" but also other serious felonies which either result in death or serious bodily harm to the victim or expose him to such a risk. Because some of the crimes included are crimes of passion, i.e., manslaughter, and therefore are not as likely to involve repeat offenders as the category of "dangerous crimes," a person charged with a violent crime cannot be detained unless he has committed a "crime of violence" in the recent past or is on pretrial release for such a charge.

The inclusion of the offense of murder in this category is intended to include that offense in all its degrees but is not intended to limit the power to detain an individual charged with a capital offense, such as first degree murder, under section 23–1325. The term "voluntary manslaughter" is included to make it clear that involuntary manslaughter is excluded from this category.

The prior charge or conviction of a crime of violence necessary to the holding of a detention hearing under section 23–1322(a)(2) may be an offense under any State or territorial law. However, that State or territorial offense must be punishable by more than one year's imprisonment.

Section 23–1331(5) defines the term "addict." "Addict" is defined as one who habitually uses a narcotic drug defined in section 4731 of the Internal Revenue Code of 1954 so as to endanger the public safety, health, morals, or welfare.

SECTION 23–1332 APPLICABILITY OF SUBCHAPTER

This section makes subchapter II of Chapter 13 relating to release and pretrial detention applicable to the District of Columbia in lieu of the Bail Reform Act of 1966, 18 U.S. Code 3146–52.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 418, at the beginning of line 8, add: "(a)"

On page 418, after line 10, add the following:

"(b) Sections 23–1322, 23–1323 and 23–1329(b)" and the words "revocation of release an order of detention, and" in Section 23–1329(a) of this subchapter shall apply only until the expiration of the three-year period beginning on the effective date of this subchapter.

Mr. WIGGINS. Mr. Chairman, this amendment sounds rather complicated, but let me tell you what it does. It is really quite simple. It applies only to the pretrial detention provisions. It limits the application of those provisions for a period of 3 years.

That is what it does. Let me explain why I offer this amendment.

Mr. Chairman, the Committee on the Judiciary of the House of Representatives has been considering the subject of pretrial detention since late last fall. That committee has heard testimony from the Attorney General, judges, from civil libertarians, from prosecutors, from chiefs of police. We have covered the whole spectrum of support and opposition to the subject of pretrial detention. I daresay that the House Judiciary Committee has given more separate consideration to this subject than any other committee of this House.

Now, Mr. Chairman, I do not wish to anticipate the position which may be taken by my colleagues on that committee, but let me tell you my judgment.

I doubt very much that the Committee believes there is any constitutional infirmity in the principle of pretrial detention. I have become completely satisfied as to the constitutionality of the proposal. I suspect that other Members on the other side of the aisle in the Com-

mittee on the Judiciary have reached the same conclusion.

But I will tell you this: There is a substantial danger that we have built into these proposals more due process guarantees, more procedures than our courts can conveniently digest. I am not saying that we are necessarily performing a disservice by enacting the legislation which will obstruct our courts. But I would say that there is the risk and the serious risk of this happening.

So, I offer this amendment. This amendment is designed merely to give the pretrial detention procedures a trial in the District of Columbia for a period of 3 years. At the end of that 3 years, it will be necessary to bring it back automatically to the Congress for us to incorporate such lessons as we may have learned within that 3-year period. If you oppose pretrial detention, you should not oppose this provision. If you support pretrial detention you similarly should support this amendment.

I urge your support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, pretrial detention is not a panacea that will abolish crime in 3 years. To reverse the current trend and reduce crime would itself be a major accomplishment. The need for this legislation will thus remain well beyond 3 years; it will remain for as long as dangerous men commit crimes and as long as society requires protection.

Moreover, one of the major objectives of this legislation is to eliminate hypocrisy from bail determinations. All too often dangerous defendants are held in custody by the hypocritical expedient of setting high bond. When pressed on the issue, courts will contend that these defendants are sure to flee, but in reality judges are concerned about the public safety. Open pretrial detention of dangerous defendants, based on findings of dangerousness in an adversary hearing, will eliminate the hypocrisy that presently exists. It will eliminate a practice which inevitably discriminates against the poor. To repeal this reform in 3 years would return hypocrisy to the legal system and reestablish the chaos we have now.

To repeal this bill after 3 years is to condemn this reform before it begins. It may also weaken this legislation in the courts, some of which may infer from this repealer a congressional distrust of our own creation and rely on this distrust as a basis for challenging its constitutional validity.

This legislation should be given a fair chance, the same chance the Bail Reform Act was given back in 1966. We should watch its application and collect evidence.

If at the end of 3 years or any other period of time, the bill is unworkable or ill advised, then we can repeal it or make corrections.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—PUBLIC DEFENDER

REDESIGNATION OF LEGAL AID AGENCY AS PUBLIC DEFENDER SERVICE

SEC. 301. The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereafter in this title referred to as the "Service").

AUTHORITY OF SERVICE

SEC. 302. (a) The Service is authorized to represent any person in the District of Columbia who a District of Columbia court determines is financially unable to obtain adequate representation in each of the following categories:

(1) Persons charged with an offense punishable by imprisonment for a term of six months, or more.

(2) Persons charged with violating a condition of probation or parole.

(3) Persons subject to proceedings pursuant to chapter 5 of title 21 of the District of Columbia Code (Hospitalization of the Mentally Ill).

(4) Persons for whom civil commitment is sought pursuant to title II of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411, et seq.) or the provisions of the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, sec. 24–601, et seq.).

(5) Juvenile alleged to be delinquent or in need of supervision.

(6) Persons subject to proceedings pursuant to section 7 of the Act of August 4, 1947 (D.C. Code, sec. 24–527) (relating to commitment of chronic alcoholics by court order for treatment).

Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons annually determined to be financially unable to obtain adequate representation in each of the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above-enumerated categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons specified in subsection (a), but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than $1,000 or imprisoned not more than one year, or both.

BOARD OF TRUSTEES OF SERVICE

SEC. 303. (a) The powers of the Service shall be vested in a Board of Trustees composed of seven members. The Board of Trustees shall establish general policy for the Service but shall not direct the conduct of particular cases.

(b) (1) Members of the Board of Trustees shall be appointed by a panel consisting of—

(A) the chief judge of the United States Court of Appeals for the District of Columbia Circuit;

(B) the chief judge of the United States District Court for the District of Columbia;

(C) the chief judge of the District of Columbia Court of Appeals;

(D) the chief judge of the Superior Court of the District of Columbia; and

(E) the Commissioner of the District of Columbia. The panel shall be presided over by the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit (or in his absence, the designee of such judge). A quorum of the panel shall be four members.

(2) Judges of the United States courts in the District of Columbia and of District of Columbia courts may not be appointed to serve as members of the Board of Trustees.

(3) The term of office of a member of the Board of Trustees shall be three years. No person shall serve more than two consecutive terms as a member of the Board of Trustees. A vacancy in the Board of Trustees shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the effective date of this Act shall serve the unexpired portions of their terms as trustees of the Service.

(d) For the purposes of any action brought against the trustees of the Service, they shall be deemed to be employees of the District of Columbia.

DIRECTOR AND DEPUTY DIRECTOR OF SERVICE

SEC. 304. The Board of Trustees shall appoint a Director and Deputy Director of the Service, each of whom shall serve at the pleasure of the Board. The Director shall be responsible for the supervision of the work of the Service and shall perform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform such duties as he may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia. The Board of Trustees shall fix the compensation to be paid to the Director and the Deputy Director, but such compensation shall not be less than $17,500 nor more than $27,500.

STAFF

SEC. 305. (a) The Director shall employ a staff of attorneys, clerical and other personnel necessary to provide adequate and effective defense services. The Director shall make assignments of the personnel of the Service. The salaries of all employees of the Service, other than the Director and the Deputy Director, shall be fixed by the Director, but shall not exceed the salaries which may be paid to persons of similar qualifications and experience in the Office of the United States Attorney for the District of Columbia. All attorneys employed by the Service to represent persons shall be members of the bar of the District of Columbia.

(b) No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

FISCAL REPORTS

SEC. 306. (a) The Board of Trustees of the Agency shall submit a fiscal year report of the Service's operations to the Congress of the United States, to the chief judges of the Federal courts in the District of Columbia

and of the District of Columbia courts, and to the Commissioner of the District of Columbia. The report shall include a statement of the financial condition of the Service and a summary of services performed during the year.

(b) The Board of Trustees shall annually arrange for an independent audit to be prepared by a certified public accountant or by a designee of the Administrative Office of the United States Courts.

APPROPRIATIONS

SEC. 307. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated for each fiscal year, out of any moneys in the Treasury to the credit of the District of Columbia, such sums as may be necessary to implement the purposes of this title. Such sums shall be appropriated for the judiciary to be disbursed by the Administrative Office of the United States Courts to carry on the business of the Service. The Administrative Office, in disbursing and accounting for such sums, shall follow, so far as possible, its standard fiscal practices. The budget estimates for the Service shall be prepared in consultation with the Commissioner of the District of Columbia.

TRANSITION PROVISION

SEC. 308. All employees of the Legal Aid Agency for the District of Columbia on the effective date of this Act shall be deemed to be employees of the District of Columbia Public Defender Service and shall be entitled to the same compensation and benefits as they are entitled to as employees of the Legal Aid Agency for the District of Columbia.

REPEAL

SEC. 309. The District of Columbia Legal Aid Act (D.C. Code, secs. 2–2201 to 2–2210) is repealed.

TITLE IV—ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST BROUGHT AGAINST OFFICERS OR MEMBERS OF THE METROPOLITAN POLICE DEPARTMENT

ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST

SEC. 401. (a) Chapter 7 of title 5 of the District of Columbia Code (relating to fees and costs) is amended by adding at the end the following new section:

"§ 15–717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department

"In a civil action in the United States District Court for the District of Columbia or any District of Columbia court brought against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member, the judgment of such court, whether for the plaintiff or the defendant, shall include an aware of a reasonable attorney's fee to such member or officer."

(b) The table of sections for chapter 7 of title 15 of the District of Columbia Code is amended by adding at the end the following new item:

"15–717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department."

EFFECTIVE DATE

SEC. 402. The amendments made by this title shall take effect with respect to civil actions in the United States District Court for the District of Columbia or any District of Columbia court brought after the date of enactment of this Act against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member.

TITLE V—TRANSFER TO BUREAUS OF PRISONS OF CERTAIN FACILITIES OF DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

TRANSFER

SEC. 501. (a) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia", approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out ", the Reformatory at Lorton in the State of Virginia,".

(b) Section 6 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, sec. 3–106), is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(c) All the functions, powers, and duties of the Commissioner of the District of Columbia and the District of Columbia Council with respect to (1) the institutions of the District of Columbia that are located in Fairfax County, Virginia, and are operated by the Department of Corrections of the government of the District of Columbia, and (2) the care, custody, discipline, instruction, and rehabilitation of persons committed to, or otherwise residing in, such institutions, are transferred to the Attorney General. The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions, powers, or duties transferred to him by this section by any officer, employee, or organizational entity of the Department of Justice.

(d) the personnel—

(1) who the Director of the Bureau of the Budget determines were employed in connection with any function, power, or duty transferred by this section, and

(2) who are subject to the provisions of title 5 of the United States Code governing appointment in the competitive service and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates shall be transferred to the Attorney General and shall continue to have the employment privileges and rights they had under part III of title 5, United States Code, before their transfer under this section. The transfer of personnel pursuant to this section shall be without reduction in classification or compensation for one year after such transfer.

(e) For the purposes of the twenty-second paragraph under the center heading "UNITED STATES COURTS" in the first section of the Act of March 3, 1915 (D.C. Code, sec. 24–424), each institution of the District of Columbia described in section 2 of this Act shall be considered a Federal penitentiary.

TITLE VI—ABOLITION OF COMMISSION ON REVISION OF THE CRIMINAL LAWS OF THE DISTRICT OF COLUMBIA

ABOLITION OF COMMISSION

SEC. 601. (a) Title IX of the Act entitled "An Act relating to crime and criminal procedure in the District of Columbia", approved December 27, 1967 (Public Law; 90–226), is repealed.

(b) The Committees on the District of Columbia of the Senate and House of Representatives shall make a full and complete review and study of the statutory and case law applicable in the District of Columbia for the purpose of formulating a revised code of criminal law for the District of Columbia.

TITLE VII—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 701. (a) Except as provided in part E of title I, section 402, and subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of its enactment.

(b) Section 601 shall take effect on the date of the enactment of this Act. The amendments made by sections 201 and 205 of this Act shall apply with respect to any person who commits an offense after the effective date of this Act.

Mr. McMILLAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close at 9 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ADAMS. Mr. Chairman, reserving the right to object, we are coming now to the amendment that many of us wanted to have presented first as being the amendment that in the committee was the closest amendment, which is the Lorton transfer.

I would like to inquire of the Chairman how many amendments are pending, so that we will know how long the proponents of the amendment against the transfer of Lorton will have to present their case.

The CHAIRMAN. The Chair will state that there are two amendments at the desk. The Chair would also advise the gentleman that the Chair has no way of knowing how many amendments may be offered from the floor.

Mr. ADAMS. There are two amendments at the desk?

The CHAIRMAN. The Chair will state that that is correct.

Mr. ADAMS. Mr. Chairman, I would ask that the gentleman withdraw his unanimous-consent request until we see what happens with the Lorton amendment. Then I would have no objection, but I think it should have a fair presentation.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. M'MILLAN

Mr. McMILLAN. Mr. Chairman, I move that all debate on the bill and all amendments thereto close at 9 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from South Carolina (Mr. McMILLAN).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 76, noes 36.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. KYROS).

AMENDMENT OFFERED BY MR. KYROS

Mr. KYROS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KYROS: Page 436, strike out line 9 and all that follows down through and including line 9 on page 438.

(By unanimous consent, Messrs. McMILLAN, ADAMS, and OBEY yielded their time to Mr. KYROS.)

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. KYROS).

Mr. KYROS. Mr. Chairman, the purpose of this amendment is that the transfer of the Lorton correctional complex from the District of Columbia to the Federal Bureau of Prisons should not be done at this time.

The fact is that tonight we are debating a crime bill. A bill dedicated to stopping crime in the District and one thing that does not fit in this bill, although I personaly supported every other part of it, is the transfer of Lorton away from the District.

There are several reasons for this. The first is that we should not seek to federalize essentially a local institution. We should not begin to break apart from the District of Columbia a fully coordinated correctional system and we should not begin to reverse the trend where money is going to be poured into Lorton to build a good capital plant.

There were hearings. However, there has never been any specific request from the Department of Justice and no request from this particular administration and none from the District of Columbia Bar Association and none from the District of Columbia judges for Lorton to be transferred.

As a matter of fact, Mr. Chairman, there has been no reason whatsoever except for the fact that there have been some things in Lorton which anyone would well disapprove of. But the fact is that money goes last to the prisons in this country.

Lorton today, I think, as a local agency operating continuously with the Mayor's staff provides a possibility for correction and rehabilitation of District of Columbia prisoners.

I would like to point out a statistic. With few exceptions, inmates at Lorton are all District residents and they all return to Washington after serving their sentence.

If the Federal Bureau of Prisons for one reason or another decided to close Lorton Center or complex and send these inmates to other Federal prisons, they would go several hundred miles away. Now what effect would this have on the rehabilitation of these prisoners? How would the families of these inmates even be able to visit or to see them?

We think we have a comprehensive parole system that has begun at Lorton. How could this be carried out under a federal system?

I will say further that no particular attempt was made during the hearings one way or the other to give a completely balanced presentation of the need for transfering Lorton. I think, for example, that there have been several things at Lorton that were not even looked at. Its narcotics addict treatment program, a correctional training academy, a community correctional center, a youth crime control program—I think for all of the evidence that was taken out and with all since that time that resulted, I do not think there is any warrant tonight for transfering the Lorton correctional complex to the Federal prisons.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. BROYHILL).

(By unanimous consent, Messrs. WAMPLER, BROTZMAN, THOMSON of Wisconsin, SCHWENGEL, and HARSHA yielded their time to Mr. BROYHILL of Virginia.)

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in opposition to the pending amendment, which would strike out the transfer of the Lorton Reformatory complex to the Federal Bureau of Prisons. The gentleman from Maine made a point of the fact that the administration has not requested this proposed transfer. Many Members who have offered amendments today have not seemed to be at all concerned about the opinion of the administration or of the Department of Justice regarding the provisions of this bill, but I point out that the administration and the Department of Justice knew what the committee was doing in regard to the proposed transfer of Lorton to the Federal Bureau of Prisons. They have had every opportunity to advise the committee of their position. Not one Member of this body can stand up and tell us that the administration or the Department of Justice is opposed to this transfer. They have ignored and refused to take any official position whatsoever. And only yesterday, the President advised this body that he favors the enactment of every provision in this bill.

Our Select Investigating Subcommittee of the District of Columbia Committee has put forth a great deal of time and work in their study of the problems at the Lorton Reformatory. We had 4 months of extensive staff investigation. We had 11 days of hearings, some lasting all day. We did not intend to waste our time, and we certainly hope we have not wasted the taxpayers' money in studying this problem.

As a result of our studies and deliberations, we found that conditions at Lorton Reformatory are deplorable. If the Members of this body will read the hearings and the report of our investigation, they will find a fantastic situation existing out there. I say it is positively amazing that the types of conditions we found at Lorton could exist in any quasi-Federal penal institution in modern times.

We have heard the countercharge that all this was the result of the complaints of disgruntled employees. But our committee verified every charge that was made, and insofar as complaints of a few disgruntled employees are concerned, let me say that the career employees who have been out there for a few years and know what is going on, are 100 percent in their feelings and their complaints about what is going on at Lorton. Practically all the employees belong to the American Federation of Government Employees, an affiliate of the AFL–CIO. They also are 100 percent in accord with the report and the recommendations of this committee. They are insisting that this transfer be made.

This is my 18th year as a Member of this body. Lorton Reformatory has been in my congressional district for most of that time. I know many of the employees at Lorton as my friends, as well as my former constituents. I have watched the morale of these employees go steadily down over the period of years as the efficiency of the institution has gone down and the disciplinary problems have gone up. Most of them are resigning, retiring, or requesting transfers to other Federal employment.

Thus we are losing the skillful, trained employees. Our committee found that in an attempt to replace these employees, ads are being put in the paper seeking applicants on the basis of no educational requirements whatsoever, no examination requirement, no character background investigation—and until the committee started its investigation, they were not even taking fingerprints of the applicants. There is no way of assuring that the institution was not getting former convicts, alcoholics, or sex deviates on its staff. Some of the new guards cannot even read or write.

We also found that the inmates are practically controlling the reformatory. There were many examples of the guards being attacked, stabbed, cursed, and disobeyed. And frequently, when a correctional officer has filed a complaint, he has not been backed up by his superiors.

Mr. Chairman, this situation has become intolerable, and the only obvious way to correct it is to place the Lorton complex under the jurisdiction of the Federal Bureau of Prisons.

Mr. SCOTT. Mr. Chairman, this is my bill, and I wish to speak on the bill.

(By unanimous consent, Messrs. ABERNETHY, WILLIAMS, WINN, and SEBELIUS yielded their time to Mr. SCOTT.)

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I appreciate the gentlemen yielding their time.

Mr. Chairman, I rise in opposition to the amendment. Most of the House Members know the Lorton Correctional Institutions are in my congressional district. I sponsored title V that became a part of the bill we now have under consideration.

The correctional officers employed at the institution tell me that when they endeavor to maintain order in the prison, that the inmates contact outside pressure groups such as the Civil Liberties Union, CORE, and the Human Relations Council and that top city officials cater to these groups, which results in harrassment of the officers by their superiors.

The committee, after conducting hearings and taking 561 pages of testimony—and the Members have seen the large transcript of the hearings on Lorton—concluded that these allegations were true. We had further evidence yesterday when the president and executive director of the Council of Churches of Greater Washington wrote to each Member of Congress and urged the defeat of this measure. Now we have a choice of deciding whether to support the correctional officers and the committee of the House which has held extensive hearings or the outside pressure groups who attempt to dictate the operation of this institution.

Let me quote from a report dated January 24 to the Commissioner of the District of Columbia which indicates the attitude of the District Department of Corrections. It states:

Most of the inmates sent to the Lorton Complex come from the economically deprived sections of the city; they are vocal and militant; they are accustomed to stating grievances and they do not respect institutional authority.

Mr. Chairman, I think every Member of this House wants to support a crime bill, but if we are going to control crime, the control does not end at the gates of the penitentiary and it is a penitentiary we are talking about. Sometimes we hear the phrase "Lorton Reformatory." It is not a reformatory, not only because it does not reform, but because it is not for the short-term offenders either. We have a penitentiary at Lorton where those convicted of major crimes are committed. We have murderers at Lorton. There is one area for the incorrigible, where they have cellblocks known as the penitentiary area. In what is known as the Lorton complex, most of the inmates are convicted felons. Then there is the youth center and the minimum security facility.

I have lived for the past 23 years just a few miles from the Lorton Penitentiary. I am familiar with this institution. The leadership of the Department of Corrections of the District of Columbia are not controlling the militancy that exists in the Lorton Institution. This is the finding of the House committee, after extensive hearings.

I am sure that every Member is concerned with the increase in crime in the District of Columbia and this general crime bill is an attempt to bring order in the administration of justice. However, order should not stop at the penitentiary gate. The transfer of these facilities to the Federal Bureau of Prisons will mean that the inmates will benefit from the broad background and experience of that Bureau. Some of the prisoners may well be transferred to prisons away from Washington, trained supervisory personnel will replace those who condone militancy and I am hopeful that efforts will be made to rehabilitate the inmates and to teach them that the rules of society apply equally to all members. If they are permitted to do as they please in prison as your committee report shows is true at this time, we cannot expect them to abide by the rules of society when they are released.

This title is an important part of the overall crime bill. We cannot bring about order in our society by enforcing criminal laws and revising our court procedure and then letting order stop at the prison gates. Convicted criminals must have proper supervision and direction within the prisons. The Committee on the District of Columbia has found that they are not being rehabilitated at Lorton. Therefore, I urge that this amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maine.

We have heard many things said about conditions at Lorton Reformatory. I suggest that those could be said about just about any other prison in any major city in the United States. The problem is to remedy the situations which exist, not to duck our obligations and dump the problem on the Federal Government, which already has more than it can do to handle the problems assigned to it.

It seems to me that if we were to do this in the case of the District of Columbia, to dump the problem in the hands of the Federal Government, of the Department of Justice, and of the Bureau of Prisons, none of whom have said they want to take on the obligation, we should do the same thing for the other major cities of this Nation, where the same deplorable conditions exist as in the District of Columbia.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. CABELL).

(By unanimous consent, Mr. DOWDY yielded his time to Mr. CABELL.)

Mr. CABELL. Mr. Chairman, this very definitely is a movement that will assist in law enforcement and will assist in the purposes for which penal institutions are created.

No other municipal entity, to my knowledge, attempts to operate a complete penal system, from the lifetime hardened criminals, the murderers, right on down through the moderate security, minimum security, and juvenile people.

This will make sense. The Federal Government has trained people. They have facilities, so they can segregate the hardened criminals by transferring them to another Federal institution, and they can then rework the institution under their supervision and under their jurisdiction and with their trained personnel. Lorton can be reworked to handle the moderate security and minimum security prisoners, and they can do a real job of rehabilitation, which is not being done at present.

Our juvenile courts themselves report a recidivism rate of in excess of 64 percent. That does not indicate there is any worthwhile rehabilitation being done at Lorton.

I ask the Members, in the interest of good crime prevention, to take this needed action.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I wish to make a few brief remarks in opposition to the amendment offered by the gentleman from Maine.

First, every prisoner who is in custody in the District of Columbia is right now in the custody of the Attorney General of the United States, so this is not the same thing as taking a local prison system away from some other jurisdiction. They are already prisoners of the Attorney General.

Secondly, studies from 1965 up to last year pointed out the very same deficiencies time after time after time, many of which could be corrected without the expenditure of money. They have not been corrected.

The Bureau of Narcotics has indicated that suggestions which it has made in order to curb narcotics traffic have not been put into effect.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, we seem to have a real logical fallacy here—a real non sequitur—when we score an offender for not having taken advantage of our vaunted rehabilitation system.

It is true that 70 percent of the young people who have gone through Lorton have come back. It is also true that the President's Crime Commission reports that two out of three of all teenagers who have bumped their heads against the criminal justice system have come back into the system within a few years for a far more serious offense.

The fact of the matter is that we do not have rehabilitation or correction systems anywhere in the United States that works.

We can pass this bill. Hopefully we will clean it up before we do. Then we had better get down to the business of seriously acquiring the knowledge which is necessary to create a rehabilitation system that will really work. As Chief Justice Warren Burger has recently stated—"We have developed systems of corrections which do not correct." It is time we developed rehabilitation and corrections systems designed to correct and build, not demean and destroy, human personality and effectiveness.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

(By unanmious consent, Mr. JACOBS yielded his time to Mr. KYROS.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LOWENSTEIN).

Mr. LOWENSTEIN. Mr. Chairman, I support the Kyros amendment, and will yield to my friend, the valued Member from Maine, in a moment, so he may rebut some of the odd statements we have just heard about his amendment. But first I want to take this opportunity to express my distress about many aspects of this bill—a bill which I had hoped I would be able to support in view of the great need for legislation to help with the problem of crime in the District of Columbia.

I do not doubt that many of those who support this bill do so in the honest belief that it will help to curtail crime here. And some of its provisions—most notably those concerning public defenders and overhauling the judicial structure—can be valuable.

But can anyone tell me what we would achieve by trying a 15-year-old "adult" for a serious crime if his conviction sends him to a prison that can do nothing but contribute to furthering his criminality? It seems to me that if we really mean to rehabilitate juveniles, the way to do so is not by changing the definition of the word, as if we can eliminate the problem by eliminating the word. We might more wisely try to improve the rehabilitation system so it has a chance to do what it is supposed to do for those who are incarcerated in it, whatever we call them.

It has taken years of experimenting

with the delicate balance of social justice and individual liberty for our society to establish reasonable standards of conduct for its law enforcement officers as well as for the ordinary citizens whom law enforcement officers are supposed to protect. The kind of "no-knock" searches and night-time search warrants that would be validated by this legislation invite abuse by abandoning reasonable—and reasonably clear—standards of conduct to guide officials, and by thus leaving everyone concerned at sea in a bog of ambiguities. A fair test of probable cause would seem to be the minimum acceptable standard if we are now to adopt procedures that limit established judicial protections.

I have mentioned earlier my concern about the preventive detention provisions of this bill. The provisions governing—if that is the word—the use of wiretapping are not much more reassuring.

In fact, the totality of the bill reeks of the strange notion that the best way to promote individual security is to undercut or evade those constitutional guarantees that have done so much to protect individual security during the history of the Republic—as if somehow the average citizen will be safer if violations of his person by criminals are balanced by invasions of his privacy by officials.

There are many ways to begin to deal with the rise in crime in this city and in this country, but this is certainly not one. I hope the Members of this House who have evinced such concern about crime here today will take the trouble to study a package of proposals I introduced last week. Since time is running out now, I will put a description and an explanation of these proposals in the RECORD next week. In the meantime, I willl include in the Extensions, a letter about this bill that was sent to each Congressman by the American Civil Liberties Union. I wish more Members had read it more carefully before making up their minds about some of the amendments that have been voted down today.

The Congress and the President must take strong action to curb crime, in the District of Columbia and throughout the land. But the strong action authorized in this legislation is far better designed to curb civil liberties than it is to curb crime. The two are not synonymous, and we confuse them at our peril.

I now yield to the gentleman from Maine, in the hope that he will be able to persuade an unlistening House to pass his sensible amendment, though I concede that even if his amendment were to pass I could not vote for this deceptively appealing and dangerous bill anyway.

(By unanimous consent, Mr. LOWENSTEIN yielded his remaining time to Mr. KYROS.)

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. EVANS).

(By unanimous consent, Mr. EVANS of Colorado yielded his time to Mr. KYROS.)

Mr. KYROS. Mr. Chairman, the issue here tonight is not whether the committee worked hard. There is no question about that. They work hard on all of their bills, but we do not pass all of them. The issue here is not whether we will pass a good crime bill—we will pass one—the issue is whether we should transfer Lorton as a part of this bill. Actually, it has no part in this bill. First there is police work. Then there is judicial machinery. Finally there is correctional machinery. This is all part of an integrated whole in the District.

My friend from Virginia talked about the administration, saying that they were not against it. Well, they never said that they were for it, either. The Federal Bureau of Prisons never testified on the matter. The Department of Justice knew that this was going on, but they never testified on it. No one indicated at any time that they desired it to be transferred.

Now, anyone can come into this Chamber this evening and give us a parade of horribles about any prison in the United States. There is no question about it in anybody's mind. But the issue here is that Lorton is having money put into it. The investigation itself that was conducted by this committee was a good one in that corrective action will be taken. However, I do not think we should be talking about some disgruntled employees, as was done here on the floor of the House. Lorton should not be transfered. We should pass the crime bill, and then we will have ample time to study this situation later.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. KYROS).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. ADAMS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. KYROS and Mr. MCMILLAN.

The Committee divided, and the tellers reported that there were—ayes 47, noes 101.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: On page 438, insert after line 23 the following new title:

TITLE VII—INTERSTATE COMPACT ON JUVENILES

FINDINGS AND PURPOSE

SEC. 701. (a) The Congress finds that (1) juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away, are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others, and (2) the cooperation of the District of Columbia with the States is necessary to provide for the welfare and protection of juveniles and other persons in the District of Columbia.

(b) The Congress intends, in authorizing the District of Columbia to adopt the Interstate Compact on Juveniles, to have the District of Columbia cooperate fully with the States (1) in returning juveniles to those States requesting their return, and (2) in accepting and providing for the return of juveniles who are residents of the District of Columbia and who are found or apprehended in a State.

AUTHORITY TO ENTER INTO COMPACT

SEC. 702. (a) The Commissioner of the District of Columbia (hereafter in this Act referred to as the "Commissioner") is authorized to enter into and execute on behalf of the District of Columbia a compact with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE COMPACT ON JUVENILES

"The contracting States solemnly agree:

"ARTICLE I—Findings and purposes

"That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the States party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one State to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party States may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party States shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the States party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

"ARTICLE II—Existing Rights and Remedies

"That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

"ARTICLE III—Definitions

"That, for the purposes of this compact, 'delinquent juvenile' means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; 'probation or parole' means any kind of conditional release of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected or dependent children; 'state' means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

"ARTICLE IV—Return of Runaways

"(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitle-

ment to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a juvenile who has run away from another State party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another State party to this compact pursuant to a requisition for his return from a court of that State. If, at the time when a State seeks the return of a juvenile who has run away, there is pending in the State wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such State, or if he is suspected of having committed within such State a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such State until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of any State party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all States party to this compact, without interference. Upon his return to the State from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that State.

"(b) That the State to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

"(c) That 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

"ARTICLE V—Return of Escapees and Absconders

"(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forth before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed her the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committeed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

"(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

"ARTICLE VI—Voluntary Return Procedure

"That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state part to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which

the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly, accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

"ARTICLE VII—Cooperative Supervision of Probationers and Parolees

"(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

"(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

"(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

"(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

"ARTICLE VIII—Responsibility for Costs

"(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

"(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

"ARTICLE IX—Detention Practices

"That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

"ARTICLE X—Supplementary Agreements

"That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

"ARTICLE XI—Acceptance of Federal and Other Aid

"That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

"ARTICLE XII—Compact Administrators

"That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

"ARTICLE XIII—Execution of Compact

"That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

"ARTICLE XIV—Renunciation

"That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

"ARTICLE XV—Severability

"That the provisions of this compact shall be severable and if any phase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, persons or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

(b) The Commissioner may enter into and execute on behalf of the District of Columbia the following additional articles to the Interstate Compact on Juveniles:

"ARTICLE XVI—Additional Provision Relating to Return of Minor Children

"This article shall provide additional remedies, and shall be binding only as among and between those party States which specifically execute the same.

"For the purposes of this article, 'child', as used herein, means any minor within the jurisdictional age limits of any court in the home State.

"When any child is brought before a court of a State of which such child is not a resident, and such State is willing to permit such child's return to the home State of such child, such home State, upon being so advised by the State in which such proceeding is pending, shall immediately institu proceedings to determine the residence and jurisdictional facts as to such child in such home State, and upon finding that such child is in fact a resident of said State and subject to the jurisdiction of the court thereof, shall within five days authorize the return of such child to the home State, and to the parent or custodial agency legally authorized to accept such custody in such home State, and at the expense of such home State, to be paid from such funds as such home State may procure, designate, or provide, prompt action being of the essence.

"ARTICLE XVII—Additional Provision Concerning Interstate Rendition of Juveniles Alleged to be Delinquent

"This article shall provide additional remedies, and shall be binding only as among and between those party States which specifically execute the same.

"All provisions and producers of Articles V and VI of the Interstate Compact on Juve-

niles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed."

COMPACT ADMINISTRATOR

SEC. 703. (a) The Commissioner shall appoint or designate an officer of the government of the District of Columbia (hereafter in this Act referred to as the "compact administrator") to administer the compact. The compact administrator shall serve at the pleasure of the Commissioner.

(b) The compact administrator, acting jointly with like officers of party States, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of the government of the District of Columbia in facilitating the proper administration of the compact or of any supplementary agreement entered into by the compact administrator under subsection (c) of this section.

(c) Subject to the approval of the Commissioner, the compact administrator may enter into supplementary agreements with appropriate State officials for the purpose of administering the compact.

(d) Subject to the approval of the Commissioner, the compact administrator may make or arrange for any payments necessary to discharge any financial obligations imposed upon the District of Columbia by the compact or by any supplementary agreement entered into under subsection (c) of this section.

ENFORCEMENT

SEC. 704. The courts, departments, agencies, and officers of the District of Columbia shall enforce the compact and shall take such action as may be necessary to carry out the purposes and intent of the compact which may be within their respective jurisdictions.

CONSTRUCTION OF COMPACT

SEC. 705. The compact shall not be construed to prohibit the adoption of any other plan or procedure for the District of Columbia for the return of any runaway juvenile.

CONGRESSIONAL AUTHORITY

SEC. 706. The right to alter, amend, or repeal this Act is hereby expressly reserved by the Congress.

Page 439, line 1, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII"; and, in line 3, strike out "701" and insert in lieu thereof "801".

Page 4, in the items in the table of contents relating to title VII, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII" and strike out "701" and insert in lieu thereof "801".

Page 4, in the table of contents, insert the following after the item relating to title VI:

TITLE VII—INTERSTATE COMPACT ON JUVENILES

Sec. 701. Findings and purpose.
Sec. 702. Authority to enter into compact.
Sec. 703. Compact Administrator.
Sec. 704. Enforcement.
Sec. 705. Construction of compact.
Sec. 706. Congressional authority.

Mr. GUDE (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GUDE. Mr. Chairman, this amendment is an amendment to add a new title VII to authorize the District of Columbia to enter into the interstate compact on juveniles. The juvenile compact is cosponsored by the gentleman from Maryland (Mr. HOGAN), the gentleman from Virginia (Mr. BROYHILL) and myself, and was passed by the House in July but has not yet cleared the other body.

Mr. Chairman, since this amendment will expedite this important measure and aid in the fight on jnvenile crime, I urge its adoption.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, since this amendment has already passed the House, the committee accepts the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was agreed to.

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DEVINE. Mr. Chairman, today we are debating one of the most important pieces of legislation before the 91st Congress. The District of Columbia crime bill has been worked over at great length in committee, and, through the efforts of fine men like ANCHER NELSEN of Minnesota and TOM ABERNETHY of Mississippi, the District of Columbia can derive great benefits.

No small amount of credit, Mr. Chairman, should go to our very able Attorney General John Mitchell and his assistant Mr. Santarelli for their hard work and dedication to high constitutional principles in guiding this legislation along a difficult and rocky road.

For the benefit of the nonlawyers in the Congress, I think it might be well to spell out some of the things in this criminal business that we lawyers take for granted. For instance, a misdemeanor is a crime, the punishment for which is 1 year or less, whereas a felony is a major crime punishable by a sentence of in excess of 1 year. Further, an indictment is a formal accusation of crime preferred by a grand jury, based on, first, probable cause that a crime has been committed, and second, that there is also probable cause to believe that the person charged did indeed commit the crime.

Mr. Chairman, the layman does not differentiate between burglary and robbery, although they are completely different. As a rule of thumb, I would suggest to my colleagues that robbery is the more serious, and it always involves taking from the person. Burglary is a taking from a place, rather than a person. Armed robbery, by gun, knife or other deadly weapon is a greater offense than unarmed robbery, such as the common hit and run purse snatch. What happened in the District of Columbia last year? There were 12,423 robberies—more than a thousand a month. Add to that nearly 23,000 burglaries. What a great example in what should be the showplace of the world, our Nation's Capital.

And that brings me, Mr. Chairman, to a rather unpleasant task of possibly berating some of our colleagues that seem to bleed from every pore in compassion for what they describe as the downtrodden, the oppressed, the underprivileged, the deprived, and so forth, just as if these terms in and of themselves should excuse the voluntary commission of crime. Nobody forces these people to transgress the laws of society. They do so voluntarily, even though they may think they have an excuse, or a grudge against society.

Mr. Chairman, ours is a regulated society, and we are bound by rules, regulations, ethics, codes of conduct, laws, statutes, customs, and policies, all in the interest of protecting the freedoms of others. For instance, in baseball if a grounder is hit sharply along the third baseline and kicks up the chalk dust, it is inbounds and a fair ball. Why? That is what the rule says. To the contrary, in football, if a flanker catches a sideline pass and romps on down field, and his foot touches the sideline or any part thereof, he is out of bounds and the ball is dead at that spot. Why? That is what the rule says.

Mr. Chairman, excuse rationalization, compassion, justification, and seeking causes will not solve the serious problems of crime on the streets of our Capital, or any place else. The Congress must take affirmative action now, and pass this bill, intact, with the preventive detention provisions, the wiretapping section, with the no-knock portion, and all the rest. This is essential because the American people are fed up with what appears to be the preoccupation of the courts, and possibly the Congress, with the posture of always protecting the rights of the wrongdoers, to the exclusion of the rights of the respectable, law-abiding, hard-working citizens of our Nation.

I, for one, Mr. Chairman, am sick and tired of listening to the moans and wails of some of my colleagues about certain freedoms being removed from those who continually thwart every law, rule, regulation, and twist the very Constitution under which they claim absolute immunity. I am much more concerned with the protection of society in general, and restoring some semblance of order out of the chaos created by the criminals, anarchists, and their apologists. The time has come for all of us to put our shoulder to the wheel and move forward to an orderly society within the framework of the Constitution, laws, rules, and regulations, and this bill will be a large and significant step in that direction.

As I stated earlier this month on this floor, on March 4 to be exact:

In order to maintain an orderly society, and protect the majority against the transgressions of those seeking to create chaos, insurrection, anarchy, and a jungle of our streets and cities, it is necessary to have

strong public backing for the duly constituted law-enforcement agencies across the land. This means all levels, from the lowest of constables in a rural setting, up through the sheriff's office, large metropolitan police departments, State police, and Federal law-enforcement agencies.

The image of law enforcement can be enhanced by the communications media, if they would dramatize the dangers and difficulties on that side of the law with the same vigor as they portray the lawless elements and their histrionics. Granted, the lawful side of the coin may not be as exciting, but does the media not have some responsibility to society in general to make a contribution on the side of law, and order, and justice, and the freedoms guaranteed by the Constitution, not to just the misfits, dissidents, minorities, and some of the costumed adolescents parading as students, but also to those majorities that created these very freedoms—the American public?

Mr. Chairman, this time is now at hand, and I am confident the overwhelming majority of my colleagues will support this bill, as I intend to do.

The CHAIRMAN. For what purpose does the gentleman from Michigan (Mr. GERALD R. FORD) rise?

Mr. GERALD R. FORD. Mr. Chairman, I take this time for the purpose of announcing to the Committee that the motion to recommit will be a straight motion to be offered by the gentleman from Wisconsin (Mr. O'KONSKI).

Mr. Chairman, I would like to conclude with this final observation: In my judgment the Committee on the District of Columbia, and the committee as a whole, have done a first-class job. I wish to commend particularly the gentleman from Mississippi (Mr. ABERNETHY) and the gentleman from Minnesota (Mr. NELSEN) for a superb job and, of course, I include the gentleman from South Carolina (Mr. MCMILLAN). Others such as the gentleman from Maryland (Mr. HOGAN) and the gentleman from Ohio (Mr. HARSHA) deserve great credit. This is fine legislation and I hope there will be an overwhelming affirmative vote.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, the rising crime rates in the District of Columbia are a source of great concern to all of us. There is no doubt that the residents of Washington's ghettos are in special need of protection. Legislative action is certainly needed, and the omnibus bill before us contains many constructive provisions, especially with regard to court reform and reorganization and with regard to the establishment of a public defender service.

Unfortunately, the bill as reported by the committee also contains many provisions which are dangerous and undesirable. I had hoped that the several amendments offered, for the most part by members of the committee, would be accepted, so as to make the bill itself on balance a helpful piece of legislation, but this has not happened. One after another, the amendments designed to improve the bill have been voted down. Accordingly, I feel constrained to vote against the bill as a whole, and I hope my colleagues will do likewise.

Four distinguished members of the committee, for whom I have the highest regard, the gentleman from Washington (Mr. ADAMS), the gentleman from Minnesota (Mr. FRASER), the gentleman from Indiana (Mr. JACOBS), and the gentleman from Michigan (Mr. DIGGS), commented in their minority views that far too many of the bill's provisions are dangerous and repressive in their thrust. They point, for example, to the dangers of the pretrial detention and incarceration provisions, not only with regard to the likely violations of constitutional rights, but also in that these provisions will greatly add to an already clogged court calendar.

I am not opposed to pretrial detention under all circumstances, particularly where narcotics addicts are concerned, but the laws of the District already provide for the protection of the public in such cases and the proposed provisions are much too broad.

Similarly, I believe that there are certain instances where, under careful safeguards, "no-knock" searches and seizures may be justified where narcotics are involved, but here also the proposed provisions go much too far. As stated in the minority views, the provision "clearly goes well beyond the limits of permissible entry under the fourth amendment."

In the area of wiretapping and electronic surveillance, the bill before us opens the door to all kinds of abuses and goes far beyond what the Congress authorized in the Omnibus Crime Control Act of 1968, an act which in itself many constitutional experts and civil libertarians considered involved a dangerous violation of the fundamental right of privacy.

The bill also contains retrogressive provisions with regard to the treatment of juveniles, and calls for the transfer of an essentially local correctional institution to the U.S. Bureau of Prisons, over the objections of the District authorities. The bill also contains mandatory life sentence for those convicted for the third time for so-called crimes of violence. Not only is the definition of crimes of violence so broad as to include relatively minor offenses but this provision is also subject to the classic objection to mandatory sentence provisions that they result in unjustified acquittals where the juries are sympathetic to the plight of the defendant.

It is significant that, for all the protestations we have heard today about the need for speedy justice as an important element in crime control, an amendment providing for additional judges to cope with the backlog of criminal cases was voted down.

In its actions on this bill the majority of the District of Columbia Committee and of this House have shown a deplorable lack of awareness that "eternal vigilance is the price of liberty."

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16196) to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes, pursuant to House Resolution 881, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. ALBERT). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. O'KONSKI

Mr. O'KONSKI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. O'KONSKI. Since it has been amended, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. O'KONSKI moves to recommit the bill H.R. 16196 to the Committee on the District of Columbia.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 294, nays 47, answered "present" 1, not voting 88, as follows:

[Roll No. 56]

YEAS—294

Abbitt	Buchanan	Donohue
Abernethy	Burke, Fla.	Dorn
Adair	Burke, Mass.	Dowdy
Albert	Burleson, Tex.	Downing
Alexander	Burlison, Mo.	Dulski
Anderson, Ill.	Burton, Utah	Duncan
Anderson, Tenn.	Button	Edmondson
Andrews, Ala.	Byrnes, Wis.	Edwards, Ala.
Annunzio	Cabell	Eshleman
Arends	Caffery	Evans, Colo.
Ashbrook	Carter	Evins, Tenn.
Aspinall	Casey	Fascell
Ayres	Chamberlain	Feighan
Beall, Md.	Chappell	Fish
Belcher	Clancy	Flood
Bell, Calif.	Clark	Flowers
Bennett	Clausen, Don H.	Flynt
Berry	Clawson, Del	Ford, Gerald R.
Betts	Cleveland	Foreman
Bevill	Collier	Fountain
Biaggi	Collins	Frelinghuysen
Biester	Conable	Frey
Blackburn	Conte	Friedel
Blanton	Corbett	Fulton, Pa.
Boggs	Coughlin	Fulton, Tenn.
Boland	Crane	Fuqua
Bow	Cunningham	Galifianakis
Brademas	Daddario	Garmatz
Bray	Daniel, Va.	Gettys
Brinkley	Daniels, N.J.	Giaimo
Brock	Davis, Wis.	Gibbons
Brooks	Delaney	Goldwater
Brotzman	Denney	Goodling
Brown, Ohio	Dennis	Gray
Broyhill, N.C.	Devine	Green, Oreg.
Broyhill, Va.	Dickinson	Griffin
		Gross

Gubser	Marsh	Saylor
Gude	Martin	Schadeberg
Haley	Mathias	Scherle
Hall	May	Schwengel
Hamilton	Mayne	Scott
Hammer-schmidt	Melcher	Sebelius
	Miller, Calif.	Shipley
Hanley	Miller, Ohio	Shriver
Hanna	Minish	Sikes
Hansen, Idaho	Mize	Skubitz
Harsha	Mizell	Slack
Harvey	Morse	Smith, Calif.
Hébert	Morton	Smith, Iowa
Hechler, W. Va.	Mosher	Smith, N.Y.
Heckler, Mass.	Murphy, Ill.	Snyder
Henderson	Myers	Springer
Hogan	Natcher	Stafford
Horton	Nelsen	Staggers
Hosmer	Obey	Steed
Howard	Olsen	Steiger, Wis.
Hull	O'Neal, Ga.	Stratton
Hungate	O'Neill, Mass.	Stuckey
Hunt	Passman	Sullivan
Hutchinson	Patman	Symington
Jacobs	Patten	Taft
Jarman	Pelly	Talcott
Johnson, Calif.	Pepper	Taylor
Johnson, Pa.	Perkins	Teague, Calif.
Jonas	Pettis	Thompson, Ga.
Jones, Ala.	Philbin	Thomson, Wis.
Jones, N.C.	Pickle	Tiernan
Karth	Pike	Ullman
Kazen	Pirnie	Van Deerlin
Kee	Poff	Vanik
Keith	Pollock	Vigorito
King	Preyer, N.C.	Waggonner
Kleppe	Price, Ill.	Wampler
Kuykendall	Price, Tex.	Watkins
Kyl	Pryor, Ark.	Watts
Kyros	Pucinski	Weicker
Landgrebe	Purcell	Whalen
Landrum	Quie	Whalley
Langen	Quillen	White
Latta	Railsback	Whitehurst
Lennon	Rarick	Whitten
Lloyd	Rhodes	Widnall
Long, La.	Riegle	Wiggins
Long, Md.	Roberts	Williams
McClory	Robison	Winn
McCloskey	Rodino	Wold
McClure	Roe	Wolff
McCulloch	Rogers, Colo.	Wright
McDade	Rogers, Fla.	Wyatt
McEwen	Rooney, Pa.	Wydler
McFall	Rostenkowski	Wylie
McKneally	Roth	Wyman
McMillan	Roudebush	Yatron
Macdonald, Mass.	Ruppe	Young
	Ruth	Zablocki
MacGregor	St Germain	Zion
Madden	St. Onge	Zwach
Mahon	Sandman	
Mailliard	Satterfield	

NAYS—47

Adams	Ford, William D.	Moorhead
Ashley		Moss
Barrett	Gallagher	Nedzi
Bingham	Gilbert	Nix
Burton, Calif.	Gonzalez	O'Hara
Byrne, Pa.	Green, Pa.	O'Konski
Clay	Harrington	Powell
Cohelan	Hathaway	Rees
Conyers	Holifield	Rooney, N.Y.
Corman	Kastenmeier	Rosenthal
Culver	Leggett	Roybal
Diggs	Lowenstein	Ryan
Dingell	Matsunaga	Scheuer
Edwards, Calif.	Meeds	Thompson, N.J.
Eilberg	Mikva	Waldie
Farbstein	Mink	Yates

ANSWERED "PRESENT"—1

Foley

NOT VOTING—88

Addabbo	Cowger	Grover
Anderson, Calif.	Cramer	Hagan
	Davis, Ga.	Halpern
Andrews, N. Dak.	Dawson	Hansen, Wash.
	de la Garza	Hastings
Baring	Dellenback	Hawkins
Blatnik	Dent	Hays
Bolling	Derwinski	Helstoski
Brasco	Dwyer	Hicks
Broomfield	Eckhardt	Ichord
Brown, Calif.	Edwards, La.	Jones, Tenn.
Brown, Mich.	Erlenborn	Kirwan
Bush	Esch	Kluczynski
Camp	Fallon	Koch
Carey	Findley	Lujan
Cederberg	Fisher	Lukens
Celler	Fraser	McCarthy
Chisholm	Gaydos	McDonald, Mich.
Colmer	Griffiths	
Mann	Poage	Stephens
Meskill	Podell	Stokes
Michel	Randall	Stubblefield
Mills	Reid, Ill.	Teague, Tex.
Minshall	Reid, N.Y.	Tunney
Mollohan	Reifel	Udall
Monagan	Reuss	Vander Jagt
Montgomery	Rivers	Watson
Morgan	Schneebeli	Wilson, Bob
Murphy, N.Y.	Sisk	Wilson, Charles H.
Nichols	Stanton	
Ottinger	Steiger, Ariz.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Monagan for, with Mr. Addabbo against.

Mr. Teague of Texas for, with Mr. Celler against.

Mr. Fallon for, with Mr. Hawkins against.

Mr. Fisher for, with Mr. Brasco against.

Mr. Anderson of California for, with Mrs. Hansen of Washington against.

Mr. Kluczynski for, with Mrs. Chisholm against.

Mr. Murphy of New York for, with Mr. Stokes against.

Mr. Hicks for, with Mr. Foley against.

Mr. Colmer for, with Mr. Koch against.

Mr. Edwards of Louisiana for, with Mr. Carey against.

Mr. Randall for, with Mr. Brown of California against.

Mr. Hagan for, with Mr. Dawson against.

Mr. Montgomery for, with Mr. Podell against.

Mr. Jones of Tennessee for, with Mr. Kirwan against.

Until further notice:

Mr. Morgan with Mr. Cederberg.

Mr. Charles H. Wilson with Mr. Bob Wilson.

Mr. Baring with Mr. Derwinski.

Mr. Blatnik with Mr. Brown of Michigan.

Mr. McCarthy with Mr. Esch.

Mr. Mills with Mr. Cramer.

Mr. Tunney with Mr. Erlenborn.

Mr. Udall with Mr. Steiger of Arizona.

Mr. Ichord with Mr. Findley.

Mr. Davis of Georgia, with Mr. Cowger.

Mr. Dent with Mr. Broomfield.

Mr. Reuss with Mr. Andrews of North Dakota.

Mr. Rivers with Mr. Watson.

Mrs. Griffiths with Mrs. Dwyer.

Mr. Hays with Mr. Stanton.

Mr. Fraser with Mr. Reid of New York.

Mr. Gaydos with Mr. Vander Jagt.

Mr. Helstoski with Mr. Lukens.

Mr. Mann with Mr. Camp.

Mr. Mollohan with Mr. Schneebeli.

Mr. Nichols with Mr. Lujan.

Mr. Ottinger with Mr. Halpern.

Mr. Stubblefield with Mr. Reifel.

Mr. Sisk with Mr. Dellenback.

Mr. Stephens with Mr. Minshall.

Mr. Eckhardt with Mr. Bush.

Mr. de la Garza with Mr. McDonald of Michigan.

Mr. Grover with Mrs. Reid of Illinois.

Mr. Michel with Mr. Hastings.

Mr. FOLEY. Mr. Speaker, I have a live pair with the gentleman from Washington (Mr. HICKS). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(Pursuant to order of the House, the proceedings by which the provisions of H.R. 16196 were substituted for the provisions of S. 2601 and the bill passed will be printed in the RECORD for Monday, March 23, 1970.)

TITLE AMENDMENT TO S. 2601

Mr. McMILLAN. Mr. Speaker. I offer an amendment to the title of the Senate bill S. 2601.

The Clerk read as follows:

Title amendment offered by Mr. McMILLAN: Amend the title of S. 2601 to read as follows: "To reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2601, DISTRICT OF COLUMBIA COURT REORGANIZATION ACT OF 1969

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from South Carolina? The Chair hears none, and, without objection, appoints the following conferees: Messrs. McMILLAN, ABERNETHY, DOWDY, CABELL, NELSEN, HARSHA, BROYHILL of Virginia, and HOGAN.

There was no objection.

PRINTING OF HOUSE PROCEEDINGS AMENDING S. 2601 MONDAY NEXT

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that the House amendment to the Senate bill (S. 2601) be printed in the CONGRESSIONAL RECORD for Monday next instead of the RECORD for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of Senate numbered 13 to a bill of the House of the following title:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes.

POINT REYES NATIONAL SEASHORE, CALIFORNIA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3786) to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 3, insert:

"SEC. 2. (a) Section 3(a) of the Act of September 13, 1962 (76 Stat. 538), is amended by striking out the words 'Except as provided in section 4, the,' in the first sentence and inserting the word 'The' in lieu thereof.

"(b) Section 4 is hereby repealed.

"(c) The remaining sections of the Act of September 13, 1962 (76 Stat. 538), are renumbered accordingly."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. SAYLOR. Mr. Speaker, reserving the right to object and I shall not object, will the gentleman from Colorado explain the Senate amendment?

Mr. ASPINALL. Mr. Speaker, will the gentleman from Pennsylvania yield to me?

Mr. SAYLOR. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, the amendment has been concurred in by the minority. The amendment is germane.

Mr. Speaker, H.R. 3786 was approved by the House on February 10. It would increase the authorization for land acquisition at the Point Reyes National Seashore from $19,135,000 to $57,500,000. Repetition of the merits of, and need for, this legislation is unnecessary; however, I do want to take a moment to explain the Senate amendment to the bill.

Briefly, the Senate amendment would repeal section 4 of the original Point Reyes Act—and references to it. That section suspended the authority of the Secretary of the Interior to condemn lands in the so-called pastoral zone.

As most of the Members of the House will recall, the pastoral zone was a legislative innovation attempting to stabilize the area without disrupting the local landowners. It was felt that ranching and dairying could be continued without unduly interfering with the recreational values of the seashore. We still believe that these uses are compatible. Because of the danger that these lands might be converted to some incompatible use, however, it is essential to acquire an adequate interest in the lands to protect the Federal investment and purpose. All of the 26,000 acres, of course, are within the boundaries of the Point Reyes National Seashore and the funds in the bill are adequate to acquire them—if acquisition is not delayed.

The only effect of the repeal of section 4 will be to allow the Secretary to condemn the needed lands if he cannot acquire an adequate interest in them through negotiations.

It is extremely important that the land acquisition program at this area be completed as soon as possible. We want this to be the last time that the Congress will have to consider the funds for this purpose, and we know that the costs will escalate if the program is delayed. If section 4 is not repealed, it could effectively frustrate the land acquisition program within the pastoral zone and thus result in a costly delay which no one, here, would appreciate.

Mr. Speaker, this amendment is not new. It was recommended by the Department in its report to the committee. While we recognized the merits of the amendment, we felt that it required a public reaction. As is too often the case, the departmental recommendation was announced only 1 day before our hearings were conducted; consequently, it was impossible for any of the witnesses appearing before us to indicate what that public reaction might be. In light of this fact, it was inappropriate for the committee to recommend the amendment to the House when it reported the bill.

Since that time the interested public has had an opportunity to consider this amendment. I am advised that the public witnesses who testified before our counterpart in the other body indicated that they had no objections to it, and I am aware of no opposition to it.

With that brief explanation, Mr. Speaker, I urge the House to concur in the Senate amendment and approve H.R. 3786, as amended.

Mr. SAYLOR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program, if any, for the rest of this week and for next week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the distinguished minority leader, we have finished the business for the week and I shall ask unanimous consent to go over until Monday next upon the announcement of the program for next week.

Monday is District day. There are no District bills.

However, on Monday there is scheduled H.R. 15728, to authorize the extension of certain naval vessel loans, under an open rule with 1 hour of debate.

For Tuesday there is H.R. 15628, the Foreign Military Sales Act Amendments, under an open rule with 1 hour of debate.

Also on Tuesday there will be called up by unanimous consent the following miscellaneous stockpile disposal bills from the Committee on Armed Services:

H.R. 15998, to authorize the disposal of Surinam-type metallurgical grade bauxite from the national stockpile and the supplemental stockpile;

H.R. 16289, to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile;

H.R. 16290, a bill to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile;

H.R. 16291, to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile;

H.R. 16292, to authorize the disposal of corundum from the national stockpile;

H.R. 16295, to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile; and

H.R. 16297, to authorize the disposal of molybdenum from the national stockpile.

For Wednesday and the balance of the week there is scheduled H.R. 13956, to authorize additional appropriations to the Smithsonian Institution, under an open rule with 1 hour of general debate.

Also, there are the following miscellaneous resolutions from the Committee on House Administration which I insert at this point in the RECORD:

H. Res. 583. To provide additional funds for the Committee on Agriculture.

H. Res. 649. To provide funds for the further expenses for the studies, investigations, and inquiries authorized by H. Res. 192.

H. Res. 750. To provide for the further expenses of the investigation and study authorized by H. Res. 105.

H. Res. 752. Providing for the expenses of conducting studies and investigations authorized by rule XI (8) incurred by the Committee on Government Operations.

H. Res. 780. To provide funds for the Committee on the Judiciary.

H. Res. 781. Providing funds for the operation of the Select Committee on Small Business.

H. Res. 783. To provide additional funds for the expenses of studies, investigations, and inquiries authorized by H. Res. 152.

H. Res. 784. To provide additional funds for the expenses of the studies, investigations, and inquiries authorized by H. Res. 152.

H. Res. 785. To provide funds for the expenses of the studies and investigations authorized by H. Res. 131.

H. Res. 786. To provide further funds for the expenses of the investigations authorized by H. Res. 21.

H. Res. 789. Providing for the expenses incurred pursuant to H. Res. 200.

H. Res. 801. To provide funds for the further expenses of the studies, investigations, and inquiries authorized by H. Res. 189.

H. Res. 808. To provide funds for the study and investigation authorized by H. Res. 17;

H. Res. 815. Providing expenses for the Committee on Interstate and Foreign Commerce.

H. Res. 836. To provide additional funds for the expenses of the investigation and study authorized by H. Res. 47.

H. Res. 837. Authorizes transfer of $20,000

from the contingent fund of the House for payment of mileage for Members.

H. Res. 839. Providing additional compensation for services performed by certain employees in the House Publications Distribution Services.

H. Res. 844. Authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security.

H. Res. 869. Authorizing expenses for conducting studies and investigations pursuant to H. Res. 268.

H. Res. 883. Providing for expenses of conducting studies and investigations authorized by H. Res. 143.

S. Con. Res. 47. Authorizing the printing of the report of the proceedings of the forty-fourth biennial meeting of the Convention of American Instructors of the Deaf as a Senate document.

S. Con. Res. 50. Authorizing the printing of additional copies of the 1969 report of the Senate Special Subcommittee on Indian Education (Senate Report 91–501).

S. Con. Res. 52. Authorizing the printing of a compilation of the hearings, reports, and committee prints of the Senate Subcommittee on National Security and International Operations entitled "Planning-Programming-Budgeting."

S. Con. Res. 53. Authorizing the printing of the National Estuarine Pollution Study as a Senate document.

Mr. Speaker, I remind my colleagues again that the Easter recess will begin at the close of business on March 26 and will last until noon Monday, April 6.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time and that any further program may be announced later.

Mr. GERALD R. FORD. I thank the gentleman.

ADJOURNMENT TO MONDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE ADDITIONAL REPORT UNTIL MIDNIGHT, MARCH 20

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight Friday, March 20, to file an additional report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HALL. Mr. Speaker, I desire to know if on completion of all action on H.R. 16196 and S. 2601, as amended, motions to reconsider both bills were laid on the table?

The SPEAKER pro tempore. The Chair will state that they were.

Mr. HALL. I thank the Speaker.

HIGHER EDUCATION OPPORTUNITY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–282)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Education and Labor and ordered to be printed:

To the Congress of the United States:

No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal; I propose that we achieve it now.

Something is basically unequal about opportunity for higher education when a young person whose family earns more than $15,000 a year is nine times more likely to attend college than a young person whose family earns less than $3,000.

Something is basically wrong with Federal policy toward higher education when it has failed to correct this inequity, and when government programs spending $5.3 billion yearly have largely been disjointed, ill-directed and without a coherent long-range plan.

Something is wrong with our higher education policy when—on the threshold of a decade in which enrollments will increase almost 50%—not nearly enough attention is focused on the two-year community colleges so important to the careers of so many young people.

Something is wrong with higher education itself when curricula are often irrelevant, structure is often outmoded, when there is an imbalance between teaching and research and too often an indifference to innovation.

To help right these wrongs, and to spur reform and innovation throughout higher education in America today, I am sending to the Congress my proposed Higher Education Opportunity Act of 1970.

In this legislation, *I propose that we expand and revamp student aid so that it places more emphasis on helping low-income students than it does today.*

I propose to create the National Student Loan Association to enable all students to obtain government-guaranteed loans, increasing the pool of resources available for this purpose by over one billion dollars in its first year of operation, with increasing aid in future years.

I propose to create a Career Education Program funded at $100 million in fiscal 1972 to assist States and institutions in meeting the additional costs of starting new programs to teach critically-needed skills in community colleges and technical institutes.

I propose to establish a National Foundation for Higher Education to make grants to support excellence, innovation and reform in private and public institutions. In its first year, this would be funded at $200 million.

There is much to be proud of in our system of higher education. Twenty-five years ago, two Americans in ten of college age went to college; today, nearly five out of ten go on to college; by 1976, we expect seven out of ten to further their education beyond secondary school.

This system teaching seven million students now employs more than half a million instructors and professors and spends approximately $23 billion a year. In its most visible form, the end result of this system contributes strongly to the highest standard of living on earth, indeed the highest in history. One of the discoveries of economists in recent years is the extraordinary, in truth the dominant, role which *investment in human beings* plays in economic growth. But the more profound influence of education has been in the shaping of the American democracy and the quality of life of the American people.

The impressive record compiled by a dedicated educational community stands in contrast to some grave shortcomings in our post-secondary educational system in general and to the Federal share of it in particular.

—Federal student loan programs have helped millions to finance higher education; yet the available resources have never been focused on the neediest students.

—The rapidly rising cost of higher education has created serious financial problems for colleges, and especially threatens the stability of private institutions.

—Too many people have fallen prey to the myth that a four-year liberal arts diploma is essential to a full and rewarding life, whereas in fact other forms of post-secondary education—such as a two-year community college or technical training course—are far better suited to the interests of many young people.

—The turmoil on the Nation's campuses is a symbol of the urgent need for reform in curriculum, teaching, student participation, discipline and governance in our post-secondary institutions.

—The workings of the credit markets, particularly in periods of tight money, have hampered the ability of students to borrow for their education, even when those loans are guaranteed by the Federal Government.

—The Federal involvement in higher education has grown in a random and haphazard manner, failing to produce an agency that can support innovation and reform.

We are entering an era when concern for the quality of American life requires that we organize our programs and our policies in ways that enhance that quality and open opportunities for all.

No element of our national life is more worthy of our attention, our support and our concern than higher education. For

no element has greater impact on the careers, the personal growth and the happiness of so many of our citizens. And no element is of greater importance in providing the knowledge and leadership on which the vitality of our democracy and the strength of our economy depends.

This Administration's program for higher education springs from several deep convictions:

—*Equal educational opportunity,* which has long been a goal, must now become a reality for every young person in the United States, whatever his economic circumstances.

—*Institutional autonomy and academic freedom* should be strengthened by Federal support, never threatened with Federal domination.

—*Individual student aid* should be given in ways that fulfill each person's capacity to choose the kind of quality education most suited to him, thereby making institutions more responsive to student needs.

—*Support should complement rather than supplant* additional and continuing help from *all* other sources.

—*Diversity must be encouraged,* both between institutions and within each institution.

—*Basic reforms* in institutional organization, business management, governance, instruction, and academic programs are long overdue.

STUDENT FINANCIAL AID: GRANTS AND SUBSIDIZED LOANS

Aside from veterans' programs and social security benefits, the Federal government provides aid to students through four large programs: the Educational Opportunity Grants, College Work-Study Grants, National Defense Student Loans and Guaranteed Student Loans. In fiscal 1970 these programs provided an estimated $577 million in Federal funds to a total of 1.6 million individual students. For fiscal 1971, I have recommended a 10% increase in these programs, to $633 million, for today's students must not be penalized while the process of reform goes on. But reform is needed.

Although designed to equalize educational opportunity, the programs of the past fail to aid large numbers of low-income students.

With the passage of this legislation, every low-income student entering an accredited college would be eligible for a combination of Federal grants and subsidized loans sufficient to give him the same ability to pay as a student from a family earning $10,000.

With the passage of this legislation, every qualified student would be able to augment his own resources with Federally-guaranteed loans, but Federal subsidies would be directed to students who need them most.

Under this plan, every student from a family below the $10,000 income level—nearly 40% of all students presently enrolled—would be eligible for Federal aid. When augmented by earnings, help from parents, market-rate loans or other public or private scholarship aid, this aid would be enough to assure him the education that he seeks.

The Secretary of Health, Education and Welfare would annually determine the formula that would most fairly allocate available Federal resources to qualified low-income students. Because subsidized loans multiply the available resources, and because the lowest-income students would receive more than those from families with incomes near $10,000, the effect would be a near-doubling of actual assistance available to most students with family incomes below $7500.

If all eligible students from families with an annual income of $4,500 had received grants and subsidized loans under the existing student aid programs, they *would have received* an average of *$215* each. Under our proposal, all eligible students from families of $4,500 annual income would be *guaranteed* a total of *$1300* each in grants and subsidized loans. This would constitute the financing floor; it will be supplemented by earnings, other scholarships and access to unsubsidized loans.

STUDENT FINANCIAL AID: LOANS

The Higher Education Opportunity Act of 1970 would strongly improve the ability of both educational and financial institutions to make student loans. Although most students today are eligible for Guaranteed Student Loans, many cannot obtain them. Because virtually all Guaranteed Loans are made by banks, a student is forced to assemble his financial aid package at two or more institutions—his bank and his college—and colleges are denied the ability to oversee the entire financial aid arrangements of their own students.

In order to provide the necessary liquidity in the student loan credit market, I am asking the Congress to charter a National Student Loan Association. This institution would play substantially the same role in student loans that the Federal National Mortgage Association plays in home loans.

The corporation would raise its initial capital through the sale of stock to foundations, colleges and financial institutions. It would issue its own securities—education bonds—which would be backed by a Federal guarantee. These securities would attract additional funds from sources that are not now participating in the student loan program.

The corporation would be able to buy and sell student loans made by qualified lenders—including colleges as well as financial institutions. This would serve to make more money available for the student loan program, and it would do so at no additional cost to the Government.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of the Treasury, would set an annual ceiling on these transactions. In fiscal 1972, I estimate that the N.S.L.A. would buy up to $2 billion in student loan paper.

Expanding credit in this manner would make it possible to terminate the payments now made to banks to induce them to make student loans in this tight money market. We would let the interest rates on these loans go to a market rate but the presence of the Federal guarantee would assure that this rate would result in a one to two percent interest reduction for each student. By removing the minimum repayment period we would not only enable students to pay back loans as quickly as they wish but we would make it possible for students to refinance their loans as soon as interest rates are lower.

We would continue to relieve all students of interest payments while they are in college but would defer rather than totally forgive those payments. This would be more than compensated for by extending the maximum repayment period from 10 to 20 years, easing the burden of repaying a student loan until the borrower is well out of school and earning a good income.

The added funds made available from these changes, which should exceed one-half billion dollars by 1975, would be redirected to aid for lower income students.

By increasing the maximum annual individual loan from $1500 to $2500, we would enhance the student's ability to avail himself of an education at any institution that will admit him.

Thus, the ability of all students to obtain loans would be increased, and the ability to borrow would be strongly increased for students from low-income families. The financial base of post-secondary education would be correspondingly strengthened. It is significant that this would be done at no cost to the Federal taxpayer.

CAREER EDUCATION

A traditional four-year college program is not suited to everyone. We should come to realize that a traditional diploma is not the exclusive symbol of an educated human being, and that "education" can be defined only in terms of the fulfillment, the enrichment and the wisdom that it brings to an individual. Our young people are not sheep to be regimented by the need for a certain type of status-bearing sheepskin.

Throughout this message, I use the term "college" to define all post-secondary education—including vocational schools, 4-year colleges, junior and community colleges, universities and graduate schools.

Any serious commitment to equal educational opportunity means a commitment to providing the right kind of education for an individual.

—A young person graduating from high school in one of the states that lacks an extensive public junior college system—more commonly and appropriately known as community colleges—today has little opportunity to avail himself of this immensely valuable but economical type of post-secondary education.

—A youth completing 12th grade in a city without an accessible technical institute is now deprived of a chance for many important kinds of training.

—A forty-year old woman with grown children who wants to return to school on a part-time basis, possibly to prepare for a new and rewarding career of her own, today may find no institution that meets her needs or may lack the means to pay for it.

We must act now to deal with these kinds of needs. Two-year community colleges and technical institutes hold

great promise for giving the kind of education which leads to good jobs and also for filling national shortages in critical skill occupations.

Costs for these schools are relatively low, especially since there are few residential construction needs. A dollar spent on community colleges is probably spent as effectively as anywhere in the educational world.

These colleges, moreover, have helped many communities forge a new identity. They serve as a meeting ground for young and old, black and white, rich and poor, farmer and technician. They avoid the isolation, alienation and lack of reality that many young people find in multiversities or campuses far away from their own community.

At the same time, critical manpower shortages exist in the United States in many skilled occupational fields such as police and fire science, environmental technology and medical para-professionals. Community colleges and similar institutions have the potential to provide programs to train persons in these manpower-deficient fields. Special training like this typically costs more than general education and requires outside support.

Accordingly, I have proposed that Congress establish a Career Education Program, to be funded at $100 million in fiscal 1972.

The purpose of this program is to assist States and colleges in meeting the additional costs of starting career education programs in critical skill areas in community and junior colleges and technical institutes. The Department of Health, Education and Welfare would provide formula grants to the States, to help them meet a large part of the costs of equipping and running such programs, in critical skill areas as defined by the Secretary of Labor.

THE NATIONAL FOUNDATION FOR HIGHER EDUCATION

One of the unique achievements of American higher education in the past century has been the standard of excellence that its leading institutions have set. The most serious threat posed by the present fiscal plight of higher education is the possible loss of that excellence.

But the crisis in higher education at this time is more than simply one of finances. It has to do with the uses to which the resources of higher education are put, as well as to the amount of those resources, and it is past time the Federal government acknowledged its own responsibility for bringing about, through the forms of support it has given and the conditions of that support, a serious distortion of the activities of our centers of academic excellence.

For three decades now the Federal government has been hiring universities to do work it wanted done. In far the greatest measure, this work has been in the national interest, and the nation is in the debt of those universities that have so brilliantly performed it. But the time has come for the Federal government to help academic communities to pursue excellence and reform in fields of their own choosing as well, and by means of their own choice.

Educational excellence includes the State college experimenting with dramatically different courses of study, the community college mounting an outstanding program of technical education, the predominantly black college educating future leaders, the university turning toward new programs in ecology or oceanography, education or public administration.

Educational excellence is intimately bound up with innovation and reform. It is a difficult concept, for two institutions with similar ideas may mysteriously result in one superb educational program and one educational dead end. It is an especially difficult concept for a Federal agency, which is expected to be even-handed in the distribution of its resources to all comers.

And yet, over the past two decades, the National Science Foundation has promoted excellence in American science, and the National Institutes of Health has promoted excellence in American medical research.

Outside of science, however, there is no substantial Federal source for assistance for an institution wishing to experiment or reform. There is a heightened need in American higher education for some source for such support.

To meet this need, I have proposed the creation by Congress of a National Foundation for Higher Education. It would have three principal purposes:

—To provide a source of funds for the support of excellence, new ideas and reform in higher education, which could be given out on the basis of the quality of the institutions and programs concerned.

—To strengthen colleges and universities or courses of instruction that play a uniquely valuable role in American higher education or that are faced with special difficulties.

—To provide an organization concerned, on the highest level, with the development of national policy in higher education.

There is a need to stimulate more efficient and less expensive administration, by better management of financial resources that can reduce capital investment needs, and the use of school facilities year-round. There is also need for better, more useful curricula, while developing a new dimension of adult education.

There is a need to give students far greater opportunities to explore career direction through linking education with the world of work.

There is a need to develop avenues for genuine and responsible student participation in the university. Colleges of today and tomorrow must increase communications and participation between the administration and students, between faculty and students, where they are presently faulty, weak or nonexistent.

The National Foundation for Higher Education would be organized with a semi-autonomous board and director appointed by the President. It would make grants to individual institutions, to States and communities, and to public and private agencies. Its grants would emphasize innovative programs and would be limited to five years each.

A number of small, categorical programs presently located in the Department of Health, Education and Welfare—would be transferred to the Foundation. In addition to the more than $50 million now being spent in those programs, $150 million would be requested for the Foundation in fiscal 1972. Beginning with this $200 million budget, this Foundation would have the capacity to make a major impact on American higher education.

From the earliest times higher education has been a special concern of the National Government.

A year ago I asserted two principles which would guide the relations of the Federal government to the students and faculties and institutions of higher education in the nation:

"First, that universities and colleges are places of excellence in which men are judged by achievement and merit in defined areas. . . . Second, . . . that violence or the threat of violence may never be permitted to influence the actions or judgments of the university community."

I stated then, and I repeat now, that while outside influences, such as the Federal government, can act in such a way as to threaten those principles, there is relatively little they can do to guarantee them. This is a matter not always understood. No one can be forced to be free. If a university community acts in such a way as to intimidate the free expression of opinion on the part of its own members, or free access to university functions, or free movement within the community, no outside force can do much about this. For to intervene to impose freedom, is by definition to suppress it.

For that reason I have repeatedly resisted efforts to attach detailed requirements on such matters as student discipline to programs of higher education. In the first place they won't work, and if they did work they would in that very process destroy what they nominally seek to preserve.

As we enter a new decade, we have a rare opportunity to review and reform the Federal role in post-secondary education. Most of the basic legislation that now defines the Federal role will expire in the next fifteen months. The easy approach would be simply to ask the Congress to extend these old programs. But the need for reform in higher education is so urgent, that I am asking the Congress for a thoroughgoing overhaul of Federal programs in higher education.

The Higher Education Opportunity Act of 1970 would accomplish this purpose. In addition, it would consolidate and modernize a number of other Federal programs that affect higher education. Through it, I propose to systematize and rationalize the Federal government's role in higher education for the first time.

In setting such an ambitious goal, we must also arouse the nation to a new awareness of its cost, and make clear that it must be borne by State, local and private sources as well as by Federal funds. In fiscal year 1972, I anticipate that the new programs authorized by the Higher Education Opportunity Act alone will cost $400 million more than the Fed-

eral government is presently spending for post-secondary education. If our goal is to be attained, there must be comparable growth in the investment of other public and private agencies.

The time has come for a renewed national commitment to post-secondary education and especially to its reform and revitalization. We must join with our creative and demanding young people to build a system of higher education worthy of the ideals of the people in it.

RICHARD NIXON.

THE WHITE HOUSE, *March 19, 1970.*

A NEW APPROACH FOR DRUG COVERAGE UNDER MEDICARE

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OBEY. Mr. Speaker, I am introducing legislation today to provide outpatient drug insurance for the elderly.

My bill will establish a comprehensive drug insurance program for the 19 million Americans covered by medicare, giving them further protection against the disastrous consequences of illness at a time when they must live on very limited economic resources.

Perhaps the most convincing evidence in support of a drug insurance program lies in the way prescription drug costs are distributed among the aged population and those under age 65.

If drug use were equally distributed among all age groups—that is, four to five prescriptions annually, at a cost of $3 to $4 per prescription—there might not be a significant problem. Unfortunately, this is not the case.

ELDERLY HIT HARD

The elderly comprise slightly less than 10 percent of our total population, yet they acquire 22 percent of all outpatient prescriptions, which in turn account for 25 percent of all outpatient prescription drug costs. Per capita drug expenditures for the aged are more than three times the per capita outlays for drugs purchased by those under 65.

And the aged with severe disabilities can expect per capita expenditures three times greater than those over 65 who are not severely disabled. In other words, annual drug bills totaling in the hundreds of dollars are not at all uncommon among many older Americans.

How are the drug expenditures of the elderly financed then? Is it really necessary to consider expansion of the medicare program in this direction?

The answer to the first question, Mr. Speaker, provides a clearcut answer to the second. According to the Task Force on Prescription Drugs, only about 2 percent of the prescription drug costs of the elderly were covered by private insurance. About 9 percent of the costs were accounted for by free drugs, either from a physician or through a welfare program. Another 8 percent of the costs were reduced through tax savings.

The remainder, about 80 percent of their total drug bill, represented out-of-pocket expenses for the elderly—of whom many millions live in abject poverty or perilously close to the poverty line. It seems to me that this tremendous burden, combined with the absence of any adequate protection against such expenses from other sources, is more than enough reason to warrant expansion of Medicare in this vital area.

STUDY AND MORE STUDY

Congress has not been unaware of this problem. Who has not heard pleas from older constituents for some means of easing the financial burden of their outpatient drug needs? In 1965, as the debate on Medicare came to a close, several Members of Congress pointed out the omission of any drug benefit. However, the administration at that time argued persuasively that the matter of drug coverage needed additional study. Congress was assured that such study would be completed rapidly and recommendations brought to the attention of the concerned Members.

Now, 5 years later, studies continue, desipte the fact that elaborate explorations of the subject of drug insurance have been completed.

In 1967, as part of the social security amendments, Congress directed the Secretary of Health, Education, and Welfare to study in depth the ways and means of expanding medicare to include outpatient drugs. He set up a Task Force on Prescription Drugs, which in the fall of 1968 and early part of 1969 issued background paper after background paper substantiating the need and feasibility of a drug insurance program.

The Secretary, in his report to Congress, again urged adoption of a drug insurance program. No sooner had this recommendation been made, however, than the new Secretary indicated that still another group would study the study. Hence, was created the Secretary's Committee to Review the Findings and Recommendations of the Department's Task Force on Prescription Drugs. Once again, older Americans would have to wait.

Last July the review committee, in its report to the Secretary, overwhelmingly urged the Department to "recommend an administration decision for an out-of-hospital drug insurance program under medicare." It is now many months later, and I believe Congress cannot afford to wait longer for "an administration decision."

Therefore, I am introducing a bill to establish a comprehensive drug insurance program for the 19 million Americans covered by medicare. The proposal contains many task force and review committee recommendations regarding the most effective and efficient manner of implementing a drug program. My bill also borrows some features of other drug insurance proposals that I feel are in the interest of sound and responsible Federal legislation in this area.

WHAT THE BILL DOES

Mr. Speaker, this legislation calls for financing the drug insurance program under the part A portion of medicare—the same part which now provides hospital and other health benefits for the aged. Benefit payments would be financed in the same way in which other part A benefits and social security cash benefits are now financed: from employee-employer payroll contributions.

I believe there are several important reasons for financing benefits in this way.

PART A FINANCING

First, putting a drug insurance program under part A will assure that nearly everybody over the age of 65 benefits from it.

Second, this method of financing means that an individual will pay for his drug insurance during working years, rather than later when his income is sharply reduced due to retirement.

Part A financing also makes it possible to spread benefit costs over a longer period of time and to reap some advantage from anticipated increases in the general level of earnings of those covered by social security.

To finance benefits under the supplementary part B portion of medicare, which I seriously considered, would have necessitated an immediate increase in the premium payments made jointly by participants in that program—from out of pocket—and by the Federal Government, from general revenues.

This legislation envisions a program to meet the major portion of the costs of medically needed drugs, including drugs requiring a prescription and those nonprescription drugs deemed to be of special lifesaving or lifesustaining value.

I have rejected the concept of a limited drug program that would cover only those drugs associated with chronic or certain other conditions. It struck me that efforts to restrict program scope in this fashion ignore the basic reason for an insurance program—the costs which burden the insured.

WHAT DRUGS ARE COVERED

Drugs covered by the program would be determined by a formulary committee, composed largely of physicians and supported by an advisory group with the technical staff to carry out its functions. Besides determining which drugs would be covered, the committee would aid the Secretary of Health, Education, and Welfare in arriving at the reasonable costs which the program would pay toward covered drugs.

Payments would be made directly to the vendors of pharmaceutical services, rather than to the beneficiaries, whose only obligation would involve a $1 copayment on each prescription filled at participating pharmacies. The vendor mechanism, in addition to simplifying administration of benefits, also spares the elderly the confusion and expense of initiating the many small claims which prescriptions would represent.

COST CONTROL

In arriving at the reasonable costs which the new program would pay, the formulary committee would take into account the acquisition costs of each drug to the ultimate dispenser. Differentials in costs resulting from differences in the class of dispenser or from regional variations would also be taken into account. In addition, the committee would weigh the acquisition costs of other drugs of the same established name, including the least costly, in determining the reasonable cost for a particular drug.

Having arrived at an acquisition cost, the committee would establish for these prescription drugs a reasonable fee component that covers the costs of professional services and overhead and an amount representing a fair profit. In the case of nonprescription items, payments would be determined on the basis of acquisition costs plus billing allowance—to cover overhead—and an amount representing a fair profit.

I should like to point out that the legislation emphasizes provision of pharmaceutical services through established community and other normal pharmaceutical outlets. Payments would not be made to physicians dispensing drugs, except in emergencies or where community pharmaceutical services are not otherwise available.

Any drug insurance design looks very complex, and I regret that I cannot touch upon every aspect of my proposal here. I believe, however, that this bill contains the proper ingredients for an economically and medically feasible program—and a recipe for high performance administration of it.

I sincerely hope that an opportunity to evaluate this and other proposals will develop quickly, for I am convinced that Congress cannot postpone responsible action in this area for another 5 years. Either we must honor our commitment to older Americans, or explain why what is said to be needed and feasible is beyond the power of Congress to inaugurate.

Mr. Speaker, senior citizens do not want a handout. They helped build this country. All they ask is for an opportunity, after 50 years of property taxes, raising their children, and working hard, to be able to retire with the dignity they have a right to expect.

This proposal, or something like it, could help do just that.

The text of my bill follows:

H.R. 16562

A bill to amend title XVII of the Social Security Act to provide payment under part A thereof (the hospital insurance benefits program) for the cost of qualified drugs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 226(b)(1) of the Social Security Act is amended by striking out "and post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and qualified drugs".

SEC. 2. Section 1811 of the Social Security Act is amended by inserting "and qualified drugs" after "related post-hospital services".

SEC. 3. Section 1812(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) qualified drugs.".

SEC. 4. (a) Section 1813(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The amount payable for qualified drugs furnished an individual pursuant to any one prescription or certification and purchased by such individual at any one time shall be reduced by an amount equal to the applicable drug co-payment."

(b) Section 1813 of such Act is further amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), the drug co-payment which shall be applicable for the purposes of subsection (a)(4) shall be $1.

"(2) The Secretary shall, between July 1 and October 1 of 1973, and of each year thereafter, determine and promulgate the drug co-payment which shall be applicable for the purposes of subsection (a)(4) during the succeeding calendar year.

Such co-payment shall be equal to $1 multiplied by the ratio of (A) the average per capita costs for qualified drugs during the calendar year preceding the year in which the determination is made to (B) the average per capita costs for qualified drugs during the calendar year 1971. Any amount so determined which is not a multiple of $0.10 shall be rounded to the nearest multiple of $0.10 (or, if it is midway between two such multiples, to the next higher multiple of $0.10). The average per capita costs for qualified drugs during any calendar year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part for qualified drugs furnished during such year, by providers which have agreements in effect under section 1866, to individuals who are entitled to hospital insurance benefits under section 226, plus the amount which would have been so paid but for subsection (a)(4) of this section."

SEC. 5. Section 1814(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) with respect to drugs or biologicals furnished pursuant to a physician's prescription, such drugs or biologicals are qualified drugs as defined in section 1861(t) and the provider has such prescription in his possession, or, with respect to drugs or biologicals not requiring a physician's prescription but determined by the Formulary Committee to be of a lifesaving nature, such drug or biological is a qualified drug as so defined and the provider has in his possession a physician's certification that it is medically required by such individual."

SEC. 6. Section 1814 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"LIMITATION ON PAYMENT FOR QUALIFIED DRUGS

"(g) Payment may be made under this part for qualified drugs only when such drugs are dispensed by a pharmacy which is a provider of services for purposes of this part; except that payment under this part may be made for drugs dispensed by a physician where the Secretary determines that such drugs were required in an emergency or that there were no pharmaceutical services available from providers of services in the community, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a provider of services for purposes of this part with respect to the dispensing of such drugs."

SEC. 7. The second sentence of section 1816(a) of the Social Security Act is amended by striking out clause (1) and inserting in lieu thereof the following: "(1) to provide consultative services to institutions, agencies, or establishments to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as providers of services for such purposes, and".

SEC. 8. Part A of title XVIII of the Social Security Act is further amended by adding at the end thereof the following new section:

"FORMULARY COMMITTEE

"SEC. 1818. (a) There is hereby established a Formulary Committee to consist of three officials, within the Department of Health, Education, and Welfare, who are of appropriate professional background and who are designated by the Secretary. At least two of such officials shall be physicians. The chairman of such committee shall be designated by the Secretary and shall serve for such period of time as the Scretary deems appropriate.

"(b)(1) It shall be the duty of the Formulary Committee, with the advice of the Formulary advisory group (established pursuant to subsection (c)), to—

"(A) determine which drugs and biologicals shall constitute qualified drugs for purposes of the benefits provided under section 1812(a)(4);

"(B) determine, with the approval of the Secretary, the allowable benefit of the various quantities, strengths, or dosage forms of any drug or biological determined by the Committee to constitute a qualified drug; and

"(C) publish and disseminate at least once each calendar year among physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, (i) an alphabetical list naming each drug or biological by its established name and such other information as the Secretary deems necessary, and (ii) an indexed representative listing of such trade or other names by which each such drug or biological is commonly known, together with the allowable benefit for various quantities, strengths, or dosage forms thereof, together with the names of the supplier of such drugs upon which the allowable benefit is based.

"(2)(A) Drugs and biologicals shall be determined to be qualified drugs only if they can legally be obtained by the user only pursuant to a prescription of a physician; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(B) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1812(a)(4), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed in unusual quantities.

"(C)(1) For the purpose of providing professional, technical, and scientific advice to the Formulary Committee with respect to its duties and functions, the Secretary shall appoint an advisory group to the Formulary Committee (hereafter in this section referred to as the 'advisory group'). The advisory group shall consist of seven members to be appointed by the Secretary. From time to time, the Secretary shall designate one of the members of the advisory group to serve as chairman thereof. The members shall be so selected that each represents one or more of the following national professional health organizations: An organization of physicians, an organization of pharmacists, an organization of persons concerned with public health, an organization of colleges of medicine, and an organization of colleges of pharmacy. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of six of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, and two at the end of the second year, and two at the end of the third year, after the date of ap-

pointment. A member shall not be eligible to serve continuously for more than two terms.

"(2) Members of the advisory group, while attending meetings or conferences thereof or otherwise serving on business of the advisory group, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding $75 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The advisory group is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the advisory group such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the advisory group may require to carry out its functions."

SEC. 9. Section 1861(t) of the Social Security Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'qualified drug' means a drug or biological which (1) can be self-administered, (2) is furnished to an individual when not an inpatient in a hospital or extended care facility pursuant to a physician's prescription or a physician's certification that it is a lifesaving drug which is medically required by such individual, (3) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, and (4) is dispensed (except as provided by section 1814(g)) by a pharmacist from a licensed pharmacy."

SEC. 10. Section 1861(u) of the Social Security Act is amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, or licensed pharmacy".

SEC. 11. Section 1861(v) of the Social Security Act is amended—

(1) by striking out "The reasonable cost" in the first sentence of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (5), the reasonable cost"; and

(2) by adding at the end thereof the following new paragraph:

"(5)(A) With respect to any qualified drug, the reasonable cost shall be an amount determined for such drug by the Formulary Committee.

"(B) In determining the reasonable cost of a qualified drug, the Formulary Committee shall seek to approximate the anticipated charges to beneficiaries for the drug; and in establishing the reasonable cost the Formulary Committee shall consider the acquisition cost of the drug to the ultimate dispenser, plus (i) in the case of a licensed pharmacy, for a prescription-legend drug, a reasonable fee component to cover the costs of professional services and overhead incident to the dispensing of the drug and an amount representing a fair profit, and for any other qualified drug, a billing allowance and an amount representing fair profit, or (ii) in any other case, an allowance equal to the cost to the dispenser of providing the drug.

"(C) In any case where a qualified drug is available from more than one source, the Formulary Committee shall take into account in determining its reasonable cost under this subsection the acquisition cost of the least costly product (however named) which meets all applicable quality and other standards and requirements under the Federal Food, Drug, and Cosmetic Act. Whenever the costs of the least costly product sold to ultimate dispensers vary significantly among the various regions of the United States or among the ultimate dispensers thereof, the Formulary Committee may determine separate reasonable costs with respect to such drug for various regions or for various classes of its ultimate dispensers."

SEC. 12. Section 1861 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"LICENSED PHARMACY

"(z) The term 'licensed pharmacy' (with respect to any qualified drug) means a pharmacy, or other establishment providing community pharmaceutical services, which is licensed as such under the laws of the State in which such drug is provided or otherwise dispensed in accordance with this title."

SEC. 13. (a) The first sentence of section 1866(a)(2)(A) of the Social Security Act is amended by striking out "and (ii)" and inserting in lieu thereof the fololwing: "(ii) the amount of any co-payment required pursuant to section 1813(a)(4), and (iii)".

(b) The second sentence of section 1866(a)(2)(A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

SEC. 14. The amendments made by this Act shall apply with respect to items and services furnished on and after the first day of January, 1971.

PRESIDENTIAL SUPPORT FOR STUDENT LOAN ASSISTANCE

(Mr. FUQUA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, President Nixon has announced that he will propose several measures that can have dramatic effects on Federal aid to college students. The most important of these measures is the establishment of a National Student Loan Association which will provide a marketplace for secondary notes from lending agencies. This marketplace will relieve the lender's liquidity problems and increase his effective rate of return at no additional cost to the student or the Federal Government.

There is rapidly developing a great need to solve the liquidity problem for lenders participating in the guaranteed student loan program. Without some relief lenders will soon reach the saturation point. It is doubtful if there is a true and legitimate secondary market for paper in this program. The essential ingredient to create a secondary market or "make money flow" is profit. The stimulus for a secondary market in the mortgage-lending industry is the fact that paper bought and sold represents large amounts of principal investment, and that amortization or repayment generally occurs immediately on a monthly basis. Under these circumstances, there is a sufficient profit margin to permit trading at reasonable discounts and servicing arrangements.

The Student Loan Association should provide the avenue through which these secondary notes can be assimilated. I fully support the proposals by the President, and I am hopeful that congressional action can be taken at an early date. The Special Committee on Education is presently considering H.R. 16098, the omnibus postsecondary education bill. This bill incorporates H.R. 15027, a measure that I introduced which outlines a program for instituting this "warehousing" concept for student loan paper. This bill has the enthusiastic support of university and college administrators and lending institutions. It would solve a critical financial need for literally hundreds of thousands of students across the Nation without being a financial burden on the Federal Treasury. It would be in the highest of public interest and service.

SPACE PROGRAM

(Mr. BEALL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. BEALL of Maryland. Mr. Speaker, President Nixon's far-sighted approach to the Nation's long-term problems and challenges enables him to look beyond this term of office—and even a possible second term—and to plan for America's future in 10 or 20 years.

His definition of goals for the U.S. space program exemplifies this far-sightedness. While the President has wisely decided that our immediate needs, particularly domestic, should take precedence right now, he has outlined a bold, imaginative program for future space conquests.

An editorial from the Atlanta Journal discusses the "golden opportunity" for space flights we will face in this decade, and the way the President's plans will "make the most of it." I insert this editorial in the RECORD at this point:

[From the Atlanta Journal, Mar. 10, 1970]

SPACE PROGRAM

President Nixon's delineation of this nation's space goals for this decade is both imaginative and realistic in terms of objectives and in terms of money.

Just as President Kennedy laid the foundation for our landings on the moon—landings which would have been accomplished after his normal two terms in office—so President Nixon is laying the foundation for spectacular achievements which are scheduled after his possible second term.

Such undertakings require long-range planning. That is why it is essential that the schedules be outlined now.

Having made our leap into space at this particular time, we are faced with a golden opportunity. Once every 175 years the planets Jupiter, Saturn, Uranus and Neptune are lined up in such a way that a single unmanned space vehicle from earth can visit each planet in turn while traveling a single arc. That unique time frame occurs during this decade.

President Nixon is seizing the opportunity and will make the most of it.

His plan calls for more moon landings, visits to the other planets of this solar system and, eventually, the manned exploration of Mars itself.

Most important of all objectives is the one aimed at developing nuclear power plants for space vehicles. This is the key to cutting the time of space journeys into a fraction of what they would be with ordinary rocket power. This is what is essential in getting a man on Mars or any other planet in the solar system.

It would not be surprising if, as we progress in our space endeavors, shortcuts heave into view which could alter or reduce the time required for reaching some objectives.

The President's definition of goals should revitalize our space effort. The uncertainty which has surrounded it for so many months

could only have a deleterious effect upon it and upon those involved in it.

Now the uncertainty is gone. Mr. Nixon has spelled out what we shall do during the 1970s and has projected at least one effort for the 1980s.

All that remains now is for us to get on with it.

CONGRESSIONAL QUARTERLY RESPONSE TOTALLY INADEQUATE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. WILLIAMS. Mr. Speaker, on Thursday, March 5, I called attention of this body to my concern that the private, for-profit, Washington publication, Congressional Quarterly, was less objective than it professed to be in assessing the manner in which Members of Congress support, or fail to support, President Nixon's administrative desires and efforts.

I offered considerable documentation for my concern as I recited my difficulties in obtaining certain necessary material or information from Congressional Quarterly, even for a fee.

A few days later, I received from Mr. Richard M. Billings, executive editor of Congressional Quarterly, a testy-toned letter of resentful responses together with a copy of a 5-page "statement" which Mr. Billings had issued to the wire services in response to my public, accurate criticism of Congressional Quarterly.

In reply, dated March 13, I advised Mr. Billings that his letter and statement were "totally inadequate"; that they added "nothing to the basic problem" which his publication "has created for the White House, the Congress, and, in turn, for itself." I advised him that his letter and statement reflected "an attitude and posture of something less than the exalted, infallible, professional character and stature" which he claimed for his publication.

In citing just one reason for my position, I advised him as follows:

I would like to call your attention to paragraph 2, page 3, of your statement which reads:

The President's position is determined by CQ at the time of each vote and is published in the next *Weekly Report* along with the breakdown of the vote. On occasion, it is brought to CQ's attention, mainly by its own editors and writers, that the President had taken a position on a vote on which CQ originally had given him no position. In such cases, the President's position is noted in time to be included in the voting study and in the voting captions appearing in the annual CQ Almanac.

Obviously, your organization does not know what it is doing as when I talked to your Associate Editor, Mr. Marlyn Aycock, in an effort to determine what CQ thought was the President's position on the 47 so-called Nixon-issue Roll Calls, he informed me that I could get this information by reviewing the back copies of your *Weekly Report*. However, when, for a fee, I receive CQ's information on the President's position on the 47 so-called Nixon-issue Roll Calls, I found 7 instances in which the text of the original material published in your *Weekly Report* had 'the President did not take a position on this vote' crossed out, and handwritten in its place was 'a "yea" (or nay) was a vote supporting the President's position.' Obviously, I could not have gotten this information by reviewing your *Weekly Report* as suggested by your Mr. Aycock.

"Also, the research staff of the Republican Congressional Committee had developed the information that on 12 of the 47 Roll Calls selected by CQ the President had not taken a position. Further, correspondence that I have had with members of the White House staff states that it would have been impossible for the President to have taken any position on H.R. 6778, the One Bank Holding Company bill as the President was not even aware of the amendments made to the bill on the floor of the House until after the final vote was taken on this bill, and that there was no Presidential statement issued on such things as H.R. 554, School Milk, on which only two negative votes were cast, or on Roll Call #64 on the Amendment to H.R. 11612. The same is true on a number of the other so-called 47 Nixon-issue votes selected by CQ on which to rate Members of Presidential Support."

Mr. Speaker, since bringing this problem of Congressional Quarterly to the attention of my colleagues, I have found that I have said some things which, in their opinion, have long needed saying. Based on that information which, incidentally, came from both sides of the aisle, I was able to advise Mr. Billings as follows:

I know that complaints regarding your publication are not new, although, perhaps they may be more numerous since your recent internal problems. I have also learned that few, if any, people in or about the Congress take your indices seriously nor does anyone of the White House whom I have been able to contact.

Also, I have learned neither the White House nor the Congress maintains a public index of Congressional support of the President. For to do so would, at best, require arbitrary, tenuous, subjective judgments of all legislative votes, and not just a few votes arbitrarily selected by CQ.

Having made my point which, at once, has been the point of many of my colleagues, I believe it sufficient, at least for the moment, to suggest: So much for Congressional Quarterly.

THE PRESIDENT'S PROGRAMS

(Mr. HANSEN of Idaho asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, it is a significant tribute to President Nixon that although the Democrats are trying to discredit his programs—sometimes by criticizing them, and at other times trying to take the credit for them—the American people will not be fooled, and the credit remains where it belongs. Thus public opinion rallies strongly behind the President's efforts, both in foreign and domestic areas.

A recent column by Roscoe and Geoffrey Drummond explains how the Democrats have tried to turn the President's far-reaching plans for welfare reform against him, but how this "toothless trap" has utterly failed. I insert this editorial in the RECORD:

DEMOCRATS SET TOOTHLESS TRAP

(By Roscoe and Geoffrey Drummond)

WASHINGTON.—The question is why—why are the congressional Democrats so substantially doing Richard Nixon's bidding?

On the crucial issue no modern President has gained such command of a Congress controlled by the opposite party as Mr. Nixon is achieving.

The most vivid example of Nixon effectiveness with the Democratic Congress—and with the country—is what is happening to his sweeping innovative reform of welfare, long overdue but never near to being undertaken by the Democrats.

Mr. Nixon set up his proposals last October and every evidence suggested the Democrats would let them lie inert indefinitely.

But the administration began prodding gently, tactfully, then more bluntly and things began to change. Ways and Means Committee chairman, the powerful Wilbur Mills (D-Ark.), moved from hostility to open-mindedness to active support and now nearly the whole Democratic party is saying that Richard Nixon's big step toward a guaranteed annual income is what they wanted all along.

Some leading Democrats are now mesmerizing themselves into believing that their decision to support the administration's welfare reform is a shrewd political coup for them. They suggest that they are "trapping" Richard Nixon by giving him his own welfare package—this on the theory that it will prove perilously unpopular with his conservative supporters and will hurt him.

Not true and it began to be proved not true when the Ways and Means Committee voted, 21 to 3, to report the bill to the House. How many Republicans, including conservative Republicans, voted against it? None. Only conservative Democrats—three in all—voted against it. It isn't Nixon who is "trapped."

The Democrats are not a little surprised at what they're doing. They are surprised because:

(1) They had vastly misjudged that man Nixon whom they thought to be so mired in the past that he couldn't possibly outsmart them. It was their unchanged image of him which was mired in the past.

(2) They couldn't imagine Nixon offering such a break-with-the-past, humane welfare program, particularly since they had so persistently neglected to do anything about it themselves.

(3) Finally, the Democrats and also many of Mr. Nixon's admirers simply didn't believe that the President had or could acquire the talent for persuasive advocacy to rally public opinion behind him on two such controversial matters as Vietnam and welfare.

Mr. Nixon has now done it twice.

In one speech, he turned the country around on Vietnam at a time when opinion was rushing pell-mell against him.

Over the opposition of organized labor, he created decisive support in the nation and in Congress for radical welfare reform.

This is quite an achievement legislatively, politically and personally.

PROSPERITY: EDUCATION, POLLUTION, AND UNEMPLOYMENT DEPRESSION

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, the average American of the year 1970 is not enjoying the economic happiness and contentment that a rich nation can afford to provide for its citizens.

The newspaper, television, and radio almost daily are sending into the homes startling declarations that living costs are rising monthly, taxes are increasing, house construction in 1969 was reduced 750,000 units, interest rates are rising, educational budgets have been

curtailed, pension and retirement funds jeopardized, hospital and medical costs soaring, veterans' problems unsolved, consumers defrauded, unemployment increasing, and so forth.

I firmly believe that the news media should start reminding the American public and especially the younger generation that it is not too late in this year 1970 to relate facts concerning similar economic reverses that have taken place at intervals in our past history.

Older folks will remember that the devastating depression of the early 1930's was brought on in the 1920 period through our Federal Government ignoring the necessity to curb high interest rates, promote industry, housing, homeownership, and lower taxes, and make it easier for millions of American citizens to have more take-home pay and promote public buying power.

The recovery of the United States after devastating depression in the early 1930's was an economic miracle. The Federal Government under President Franklin Delano Roosevelt inaugurated programs of legislation which included social security, Wagner Labor Act, home loan, Federal work projects, medicare, housing, industrial expansion, restoring farm prosperity, and the reestablishment of public buying power.

THREE DEPRESSIONS IN EISENHOWER'S 8-YEAR TERM

In 1953, the first year of the Eisenhower-Nixon administration. under the economic leadership of Secretary of Treasury George M. Humphrey, the banking interests immediately proceeded to raise interest three times in the first 22 months of that administration. Other executive legislative policies were inaugurated that tended to curb the great period of recovery and expansion which we enjoyed for almost 20 years.

During the Eisenhower-Nixon administrations in the 1950's we had two major and one minor depression in 8 years.

When the Nixon administration took office 1 year ago last January, interest rates again began to expand, and necessary Federal projects were curbed, including a 75-percent restriction on all Federal construction. The present administration's policies have not curbed inflation but the high cost of living has expanded. Last February the Bureau of Labor Statistics reported that housing starts for January declined 6.5 percent in 2 months. New building permits in January declined 23 percent from the previous month. This drop in housing construction was the largest on record. Since President Nixon took office in January 1969, house building starts have dropped some 40 percent. After only 1 year in power the Republican Party has succeeded in rolling back the level of housing construction to that of 1946 when our population was only 140 million compared to 200 million in 1970. The Nixon administration's housing record has been a national disaster.

Last December the Congress, both Senate and House, by a substantial majority, passed an economic bill which, among other things, gave the President power to lower interest rates by 2½%. Mr. Speaker, this legislation was enacted into law and signed by the President. It is now lying dormant without any action from the executive department for almost 4 months.

1 PERCENT REDUCTION OF INTEREST

A family buying a $25,000 home with a 30-year mortgage at 8½ percent would pay over the life of the mortgage $69,562.80. If the interest rate is reduced by 1 percent to 7½ percent on the same $25,000 home with the same 30-year mortgage, the family would pay over the life of the mortgage $62,931.60, saving $6,631.20. A 2-percent interest reduction on a similar transaction would amount to over a $13,000 saving on the price of a $25,000 home with a 30-year mortgage.

The Nixon administration, in trying to fight inflation with high interest rates, is just as illogical as fighting a fire with gasoline instead of water. Higher interest increases the price of groceries, clothing, and other family necessities.

President Nixon must change his course as following the economic practices of large banking interests is an unfortunate repetition of what happened to this Nation's economy during the 1950 period and also brought on the devastating depression in the early 1930's.

TAX REFORM

The 91st Congress has been the first Congress in over 30 years to pass a tax reform bill. For a number of years when the Ways and Means Committee appeared before the Rules Committee I was the lone voice who continually protested their legislation because they did not submit provisions to close the fabulous tax loopholes extended to big oil companies, foundations, industries, big business, and so forth.

TAX FREE OIL MILLIONS

Americans with family incomes below the $3,000 poverty level had to pay Uncle Sam $1.5 billion in income taxes in 1967. Former Secretary of Treasury Joseph Barr, a fellow Hoosier, testified ir January of 1968 that 21 persons with incomes of over $1 million paid no taxes at all, while 155 with annual income of over $200,000 escaped Federal taxes entirely. Big oil corporations enjoying the 27½-percent oil depletion bonanza, plus other exemptions in credits on both foreign and domestic oil practically paid no taxes considering their huge profits.

The Atlantic Oil Co. from the years 1962 to 1966, with annual income ranging from $61 million to approximately $127 million in 1966, paid no taxes whatsoever during that period

In 1964, Standard Oil of New Jersey, with a net income of approximately $1,630 million paid 1.7 percent tax to the Federal Government.

Some companies are not protected by huge high-priced lobbies like big oil. As an example, three coal companies, the Consolidated Coal Co., Pittston Coal Co., and Island Creek Coal Co. have paid annual taxes on their gross profits in figures ranging between 18 and 28 percent annually.

Other less publicized tax loopholes are:

The 7-percent tax credit for new machinery involving $2.3 billion;

The accelerated depletion on new buildings worth $500 million annually to its beneficiaries;

The corporate surtax exemption of $1.8 billion;

Tax-free county and municipal bonds which cost the United States $1.8 billion in revenue; and

The estate tax which will cost the Government approximately $2.5 billion annually.

I could name other tax loopholes less spectacular which are revenue losers for Uncle Sam.

The tax reform bill which was enacted in this session of Congress was merely a "slap on the wrist" to some of the fantastic loopholes similar to the ones mentioned herein.

In the House of Representatives we succeeded in cutting the 27½-percent oil depletion to 20 percent but the Senate, in its generosity to the oil lobby increased this figure to 22 percent.

The tax reform bill passed last year did legislate favorably in behalf of Federal tax reduction for the small taxpayer. To mention a few benefits—the tax reform bill raised the personal exemption for 1970 from $600 to $650; 1971, $700; 1972, $750; and for 1973 and thereafter—also granted $1,100 low-income allowance to be added to exemptions to benefit poor families—tax reductions for single persons—and 15 percent increase in social security; increase in standard deduction to 13 percent with a $1,500 ceiling for 1971; 14 percent with a $2,000 ceiling for 1974; and 15 percent with a $2,000 ceiling for 1973 and thereafter, and other tax concessions.

ANTIPOLLUTION LEGISLATION

Mr. Speaker, every couple of years at election time some officials and candidates suddenly awaken to the fact that our Nation is confronted with a serious water-and-air pollution menace. Some Members of Congress, including myself, for the last 15 years have been sponsoring and supporting legislation to bring about the elimination of the pollution menace to the health and well-being of our people.

In 1956, 14 years ago, I was one of the Members who supported and sponsored legislation to clean up our waters and also to eliminate smog and air pollution in the metropolitan areas. In three different sessions the Congress has enacted legislation which has expanded and made more effective steps to solve the complex pollution problem. We have made remarkable progress. Great advances have been made in the research department of the Federal Government and other institutions in discovering more modern scientific methods to eliminate pollution at a much lower cost to the Government and industry than existed when the first Federal pollution legislation was enacted. With cooperation and unity between Government, industry and municipalities there is no question in my mind that in the not far distant future this great water-and-air pollution problem will be completely solved to the satisfaction of the American people.

The Clean Water Restoration Act of 1966 provided for the expenditure of:

$150 million for the fiscal year ending June 30, 1967; $450 million for the fiscal year ending June 30, 1968; $700 million for the fiscal year ending June 30, 1969; $1 billion for the fiscal year ending June 30, 1970; and $1.25 billion for the fiscal year ending June 30, 1971.

EFFORT TO REDUCE WATER POLLUTION BUDGET BY $780 MILLION

Last August President Nixon, in his budget, recommended only $214 million of the $1 billion which the 1966 Federal law provided for the year 1970. After an extended debate on the floor of the House, this sum was increased for the year 1970 to $800 million.

A Federal Water Pollution Control Act was passed by Congress in 1960 only to be vetoed by President Eisenhower. It was again passed by the Congress and enacted under President Kennedy in 1961 and expanded under President Johnson in 1966.

FARM SUBSIDY BONANZA

Mr. Speaker, in a few weeks we will have before the Rules Committee and on the floor of the House the annual farm bill.

Two years ago when the House Agriculture Committee appeared before the Rules Committee to secure a rule on the 1968 farm subsidy bill, I was practically the lone voice who protested and opposed the fabulous $3.5 billion Federal aid farm subsidy bonanza. Like many programs where billions are involved to distribute as a subsidy, it generally develops into an operation where the wealthy and powerful recipients gradually accumulate the major share of the money.

In 1968, I opposed this fabulous farm subsidy and repeated the opposition in 1969 when the House Agriculture Committee appeared before the Rules Committee and on the floor of the House with their annual farm bill.

The theory of this $3.5 billion Federal rural subsidy was to pay individual farmers and also corporate farms for allowing acres to remain idle to prevent surpluses and thus indirectly institute price control.

In the Rules Committee hearings of 1968 and 1969, I presented for the Members' inspection a 1,250-page volume from the Senate hearings which listed only the farmers who were receiving from this subsidy sums over $5,000. Had the farmers who received under $5,000 been listed it probably would have required several volumes.

Mr. Speaker, I wish to hereby insert, verbatim, paragraphs from the speech I made on the floor of the House July 30, 1968, opposing these fabulous sums to large farm operations to be repaid for idle land under the multibillion dollar Government subsidy.

I quote from my speech in the CONGRESSIONAL RECORD of July 30, 1968:

Mr. Speaker, of the various counties listed over the Nation several southern and western counties received payments between $16 and $20 million annually. Remember, I am referring to counties, not States. A half dozen individual farm corporations received over $1 million, each, but I believe the champion recipient of all was J. G. Boswell Co., Litchfield Park, Ariz., Kings County, Calif., who received $4,091,818 from the American taxpayers in the year 1967 for its idle land. Close behind was Rancho San Antonio, Gila Bend, Ariz., Fresno County, Calif., who received $2,863,668 in the year 1967. The runner-up was Giffen Farms, Inc., of Huron, Calif., who received $2,397,073 from the American taxpayers in the year 1966 for its idle land.

In the CONGRESSIONAL RECORD, volume 114, part 17, page 22191, I listed the names and addresses of 25 large-farm recipients whose individual annual payments run above $442,327, I also submitted on that page of the CONGRESSIONAL RECORD where 10 farming operations received a total of $14,785,760 which is more than the total of $13,409,756 received by all farmers in 10 States—twenty-five farming operations received a total of $22,766,943 which is more than the total of $17,610,650 received by all farmers in 11 States.

I do hope that every Member of the House will get a copy of the Senate hearings, first session, 90th Congress, listing the names, addresses, and amounts of all annual recipients over $5,000 by reason of this farm subsidy. In 1966 the total cost of the taxpayers was $3,281,621,070. The year 1967 was approximately a duplication of the previous years' subsidy. The House of Representatives is today called upon to extend this relief bonanza for the year 1970, which, if passed by this House, will cost the American taxpayers approximately another $3½ billion during 1970.

I hope that the Members will refer to the CONGRESSIONAL RECORD, volume 114, part 17, page 22702, where I got permission to include an editorial from the Chicago Tribune, entitled "A Mississippi Farmer Squawks." This editorial outlined a protest by one Roy Flowers, a wealthy Mississippi cotton and soybean grower, who was ordered to pay $50,000 in back wages to more than 200 Negro tenants, under the Fair Labor Standards Act. The editorial states that Flowers makes more than $1 million per year from his various plantation enterprises. He failed to pay minimum wages to his field workers. Some were under 16 years of age. According to one suit, the tenants were charged $70 per month for houses without inside plumbing and water, but with holes in ceilings and walls, when a "reasonable cost" would have been $5 per month.

The Department of Agriculture lists Flowers as having received $210,332 in Government subsidies for not planting crops, presumably cotton, last year. In 1966 he received $162,657 in Federal cash.

I have received many letters during the last few weeks from all over the United States protesting the extension of this subsidy to the wealthy and corporate farmers of the Nation.

In an article in Harpers magazine recently, Mr. John Fischer pointed out the following:

When you offer a bribe for every acre taken out of cultivation, the men with the most acres naturally get the most money—in many cases hundreds of thousands of dollars every year. Typically they use their loot in two ways: (1) to buy more land from their smaller neighbors; and (2) to invest in tractors, cotton-pickers, fertilizer, weed-killer, six-row cultivators, and all the other devices of modern technology.

This bonanza program which the House Agriculture Committee will endeavor to resell our Members this year has forced over three-quarters of a million farmers off the land and they in turn have moved in the urban areas to seek employment.

EDUCATION

During my early years in Congress, especially in the 1940's, it was difficult to convince the majority of the older Members that it was highly necessary for the Federal Government to help finance education in the congested metropolitan cities of the country. Members in those days did not realize that within 20 years, about 71 percent of our Nation's population would be living in urban areas. The local urban communities were unable to take care of the extra tax burden of educating millions of additional children who poured into the city schools. Relatively few Members of Congress from more rural areas would support legislation to educate millions of neglected urban children.

As a member of the House Education and Labor Committee in the 80th Congress, over 20 years ago, I was one of the leaders in the battle for urban Federal school aid and we have won magnificent victories in the intervening years.

Mr. Speaker, I incorporate with my remarks a speech I made on the floor of the House on March 24, 1965, when legislation was being presented for Federal aid for American schoolchildren.

Mr. Speaker, I wish to commend the Committee the Committee on Education and Labor for bringing this comprehensive education bill to the floor of the House. If similar legislation were enacted 15 or 20 years ago millions of American youth who are now unemployed, some living in poverty or following a life of idleness or crime would now be on their way to and enjoy American abundance and prosperity. We are today listening to the same unfair statements of what is going to occur if the Federal Government participates, financially in the education of the youth of America.

Similar school legislation was sent up by President Kennedy in 1963. President Johnson is 100 percent behind the bill H.R. 2362 now under debate.

It is a very simple bill. There is nothing complicated about it. This bill will aid in the fundamental education of millions of American youth in this Nation who are being denied the opportunity of an education.

Do not be misled. There are many special privileged lobbies working against this legislation. And let me address the newer Members on both sides of the aisle. I represent a district that had a population of 340,000 when I came to Congress in 1943 and today we have a population of approximately 600,000. There are thousands and thousands of working men and women who have come from all sections of the country, especially during World War II, to work in the defense plants and the steel mills of my district. I remember, I think it was about 10 years ago, we had on this floor a school construction bill that was defeated by I think 4 votes. Everybody seemed to be in favor of that school construction bill to help communities that were having great difficulty in building schools for children who were wedged in crowded schoolhouses; this condition existed not only in my district but in many other urban areas in the Nation. Millions over the Nation were very happy that something was going to be done to relieve the critical school situation. After a couple of days of debate, four very distinguished leaders of this House gathered back behind the rail, and in about 5 minutes a motion came down to strike the enacting clause of that bill; and by 4 votes the school construction bill was defeated.

That motion succeeded in throwing out the window—defeating—an education bill which would have benefited millions of schoolchildren over the last 10 or 12 years. It took millions of dollars out of the pockets of the working men and women in my district, the same as it did in Chicago, in Pittsburgh, in Philadelphia, and other places.

Why, Mr. Speaker, there were many insurance companies, loan companies, and bank lobbies, pressuring Congress to defeat that bill, and to get in on the financial bonanza.

The financial wizards organized a program to loan cities and towns millions at high interest to build schools. Today, there are school buildings in my district thrown together at prices, perhaps, three times what they cost to build. Local taxpayers are paying on a 30- to 35-year bond issue at a high rate of interest—taxpayers in my district—and over the Nation will be taxed for high interest, 35-year school bonds, during the major part of their adult life. The insurance companies and the banks will collect revenue throughout America at high rates of interest for the next 35 years thanks to almost the same identical pressure groups and propagandists who are opposing this school legislation.

Further, Mr. Speaker, most people in America know what is going on. They are watching this bill. Indiana, my friends, has elected two new Senators since the day when that education school construction bill was tossed out the window. They are for this bill that we have pending on this floor of the House today. They are going to support it. Why? Because under the leadership of Presidents Kennedy and Johnson, millions know the true facts on our school crisis.

Mr. Speaker, there has been a change over America. The people are beginning to find out that this is more or less a defense measure.

Mr. Speaker, several years ago I called up General Hershey of the Federal selective service and requested a tabulated breakdown by States of boys who were rejected in the draft on account of educational deficiencies. The startling figures are these. Some States have a good record. About half of the States have a poor record and about 14 or 15 of the States have from 25 percent to 35 percent, and some as high as 45 percent of the boys that were taken in the draft under the selective service were turned back on account of educational deficiencies.

Mr. Speaker, I am incorporating the above remarks from my speech supporting Federal aid to education legislation of 5 years ago so the public can be reminded of the great progress we have made toward convincing the American people of the necessity for Federal education help in the congested metropolitan areas.

Mr. Speaker, the purpose of my taking the floor of the House today is to remind some of the younger Members of Congress and the American public that our fight during the last quarter of a century to enact long-delayed legislation for the "forgotten people" has been a difficult one.

Time does not permit a review of the highlights of our congressional legislative progress over the last quarter of a century. It has been a long and tedious fight to enact legislation for more employment, higher wages, working conditions, tax reform, health and welfare and educational programs, farm prosperity, antipollution, and many other problems.

In the remaining days of this year of the 91st Congress, I do hope we can solve some of the newer problems, both domestic and international, confronting our country. It is the earnest hope of everyone that the 92d Congress, which will convene next January, will not have to face so many of the difficult economic and international crises with which we have been confronted during the last dozen years.

INJURIOUS TEXTILE IMPORTS MUST BE CUT

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I would like to inform the Members of the House of Representatives that at 11:45 a.m. today the Amalgamated Clothing Workers of America began a 2-hour demonstration at the Chicago Civic Center Plaza in order to protest the flood of imports of apparel and textiles from foreign countries, especially Japan.

It is estimated that over 7,000 people are at the demonstration in Chicago to protest the Japanese goods that are coming into the United States. This problem has become so serious that the Amalgamated Clothing Workers are staging this work stoppage today in order to focus attention on the large-scale unemployment and destruction of the apparel industry that are being threatened by the rising tide of imports.

In addition to the 1-day work stoppage in Chicago, demonstrations are also taking place today in Baltimore, Boston, Providence, Rochester, Philadelphia, Cleveland, Atlanta, Knoxville, Los Angeles, and New York.

Right now, in these major centers of our textile and clothing industry some 400,000 members of the Amalgamated Clothing Workers of America are meeting to discuss the flood of imports, particularly from Japan, and also to protest not only the shortening of the workweek to 4 days, but also the retrenchment and loss of jobs and the actual closing of factories because of foreign cheap-labor imports.

This nationwide demonstration is dramatizing the Amalgamated Clothing Workers' demand that Japan sign a comprehensive international agreement regulating the flow of imports. This demand is being made in order to protect the jobs and security of hundreds of thousands of American workers. Unfortunately, despite many efforts over the past year, the United States has not succeeded in winning such an agreement.

The time has come, therefore, for the Congress to take a very forthright stand on the question of textile imports. Textile and apparel imports have increased to such an alarming degree that Congress can put off action no longer. The textile and apparel industry employ more than 2½ million people and their continuing employment is essential for maintaining the economic health of the United States. Regulation of imports of textiles and apparel appears to be the only solution.

Mr. Speaker, consider the imports of cotton textiles and manmade fiber textiles. In 1968, we imported 1,648,000,000 square yards of cotton textiles—much of it from Japan. In 1969, the total rose to 1,654,000,000 square yards—despite a disastrous dock strike. Compare it in another way. In January 1969, we imported 69,000,000 square yards of cotton textiles; but in January 1970, this total rose to 150,000,000 square yards.

In manmade fibers the position is even worse. In 1968, we imported 1,453,000,000 square yards of textile goods made of artificial fibers. The total rose to 1,783,000,000 square yards in 1969. Now look at the situation as of this year. In January 1969, the import total was 89,000,000 square yards. But in January 1970, the figure had risen to 188,000,000 square yards. This means that this is the largest monthly increase in the last 6 years—in fact, it constitutes a record all-time high import figure.

Is there any wonder that our clothing workers are on a shortened workweek? How can one justify and evaluate an increase of all textile imports from 163,000,000 square yards in January 1969 to 350,000,000 square yards in January 1970? No wonder our textile and clothing workers feel that the United States is the dumping ground for all excess textile production of all low-wage countries.

Mr. Speaker, consider the employment situation in our textile and clothing industries.

In the textile mill product industry total employment was 1,000,000 in January 1969. By the end of December 1969, that figure had dropped to 982,000 jobs. In other words, 18,000 positions were eliminated in 1969 due to lack of working opportunity or due to the elimination of work opportunity, due most of all to low-wage imports. What is the position now? By the end of February 1970—total employment was down to 967,000—or a loss of 15,000 more jobs in just 2 months. Undoubtedly this loss is due to the excessive import flood of cotton textiles as mentioned above. In scarcely a year 33,000 jobs were eliminated in the cotton textile field. And this is despite the fact that there is a voluntary long-term cotton agreement in existence under which cotton textile imports would be restricted. What is going to happen when this voluntary agreement expires in September 1970?

What has happened in the apparel industry? In January 1969, total employment, according to census figures, stood at 1,424,000. But by December 1969, that total had dropped to 1,417,000 with a net loss of 7,000 jobs in 1 year. Now look at the position 2 months later. By the end of February 1970, jobs in this vital industry had dropped to 1,407,000. In scarcely a year 17,000 jobs were eliminated. The reason is not far to find. It is due to the flood of imports earlier this year as I have already reported.

Mr. Speaker, I mention these detailed figures because I am vitally concerned about this import situation. The Amalgamated Clothing Workers are protesting today by a 1-day work stoppage. Is this to be symptomatic of prolonged or permanent stoppage due to occur because of increasing textile imports? The American Textile Manufacturers Institute has warned us that during 1970 we will have to face an import level of more than 2,500,000,000 square yards of textiles. This will constitute around 10 percent of our domestic consumption. This will also displace 190,000 American textile workers with an annual income of around $1 billion. I have shown the trend

in the loss of jobs—will this trend be accelerated? Or even allowed?

President Nixon announced and promised to do something about the escalating textile problem. To date nothing has been done.

Although Secretary Stans of the Department of Commerce visited all the major textile and apparel exporting countries to ask for voluntary restrictions on their part, he has achieved no results. Just this week the Japanese, the major offender and profit maker at the expense of the American textile worker, announced their rejection of a comprehensive approach to the whole textile import program. Their excuse was that overall the American textile industry has not proved injury from Japanese imports; hence they cannot reduce exports, cannot consider discussions on a voluntary basis and will institute retaliatory programs should we impose quotas on textile imports.

The time has come for Congress to step in on behalf of the American working men. I shall support the import quota plan when it comes up for discussion in Congress in the near future, and urge that my colleagues do likewise in order to save the American apparel and textile industry.

LOWER GRAIN PRICES—A DISASTER

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, I have read with interest the statement in the CONGRESSIONAL RECORD of Congressman PAUL FINDLEY, of Illinois, reacting to my recent remarks about the public statements being made by members of Secretary of Agriculture Clifford Hardin's official family.

I welcome the remarks of the distinguished Representative as an apologist for Secretary Hardin and his appointees. It is timely to have a dialog in the House of Representatives because of the vital stake of both farmers and consumers in the agricultural policies being pursued by the administration.

The articulate Congressman from Illinois is a former member of the House Agriculture Committee and is an appropriate and authoritative spokesman and exponent of the views and policies being pursued by the present administrators at the Department of Agriculture. I welcome the opportunity to comment on those policies, for they can bring disaster to the farmers of America.

The Congressman has cited segments of agriculture with improved income, and that is well. Income has been up notably for eggs, milk, and livestock producers recently, not because they slashed their prices and increased their volume of sales, but because their prices went up as a result of stabilized production with growing domestic demand.

The point of my discussion of Assistant Secretary Palmby's statement that farmers were realizing 13.2 percent more from 1969 crop soybeans because of a 10-cent per bushel decline in prices was the fallacy of the claim, as shown by the Department of Agriculture's own Statistical Reports. The fats and oils situation for January advised us that the value of the 1969 crop to farmers would be down 4 percent—not up 13.2 percent which was the impression Mr. Palmby had left.

Since my statement was made, the Palmby claims have been discretely amended in replays by Secretary Hardin and by Congressman FINDLEY. The claim that farmers have received more is now made on the basis of beans marketed or utilized to date. The original claim has been amended, and there has been no claim made that when the farmers have disposed of all their 1969 crop soybeans, and get ready to make out their income tax returns for income for that crop, that it will be up instead of down. The producers may have gotten more total receipts earlier in the marketing year, but they will be short at the end of the year.

More rapid clearance of a crop in the early months of one year compared to the preceding year does not mean improved income.

This might be an acceptable theory as long as the price per bushel represents an amount equal to costs of production plus a reasonable return for labor and capital investment, and sales increased further than price cuts. What is happening down on the farm is that, regardless of the figures cited by Representative FINDLEY, the price of beans and grains received by farmers runs at the low figure of 50 to 70 percent of parity and does not, I repeat, does not add up to cover costs, high interest rates and a meager minimum wage for the labor of growing the crop.

If times were better on the farm, I might rejoice along with my able friend from Illinois and the accomplished Assistant Secretary of Agriculture, but during these times when family farmers are being financially liquidated in all of our States—including his State of Illinois, the Assistant Secretary, State of Minnesota, and my Montana—I seek to revive the price of grains and beans before more of our friends on the land are driven out of business.

What has really been demonstrated by the public statements of the Department and Representative FINDLEY is that, by reducing the farmers price, an increased demand for a farm commodity can be met with increased margins for the handlers and lower loan outlays by the Commodity Credit Corporation.

What is involved for the grain farmers? Lower net incomes. If the theory espoused by Assistant Secretary Palmby and Secretary Hardin, of forcing grain prices lower to quickly clear the crop, is made effective, the result to farmers dependent on grain income can be disastrous.

The proposals of the Secretary and the Department would lower grain loan support rates next year as follows:

Corn from $1.05 national average to 95 cents;

Wheat from $1.25 national average to $1.10;

Barley, sorghum, oats and other feed grains—reductions in loan rates matching that for corn.

All of these lower grain price proposals come in the midst of rampant inflation, and after this administration has stood aside for a 6-percent nationwide increase in freight rates last November and appears to have equal lack of concern about another 6-percent increase the eastern and western railroads have proposed, to take effect as quickly as possible—scheduled for March 11, now delayed until June.

It is a master plan—a blueprint for total destruction of an equitable parity base plan for grain producers.

Its eventual effect will be to damage the livestock industry, too, and destroy current favorable levels for those commodities as the low feed prices encourage over expansion of production, with excessive weights and fat on livestock marketed.

While all this goes on down on the farm, we can espouse pet theories to our heart's content, but I can assure you that the grain farmers will not be reading our comments in the CONGRESSIONAL RECORD. They will be reading letters from their lending institutions calling in their notes.

It is a go-broke policy that needs to be reversed.

STRATTON DEMANDS JUSTICE DEPARTMENT FRAUD INVESTIGATION INTO THE CLOSING OF THE JULIET GIBSON CAREER COLLEGE

The SPEAKER pro tempore (Mr. ALBERT). Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 20 minutes.

Mr. STRATTON. Mr. Speaker, I take this time this evening to bring to the attention of my colleagues in the House a very serious situation that concerns some 300 young women, and also their parents, who have come here to Washington from all over the eastern part of the United States.

The Juliet Gibson Career College located at 1025 15th Street NW., Washington, D.C., closed down its doors on February 18 in a condition of financial collapse and left more than 300 present and prospective young women students holding the bag, very literally, for a total of $397,199 in prepaid tuition and dormitory fees.

These fees, incidentally, will range as high as $2,890 including not only tuition but dormitory charges, many of them being paid a full year in advance.

Now this is of concern to many Members of this body. It so happens that 80 of these young women come from my own State of New York, 16 from my present congressional district, and two from the new 29th Congressional District.

Last Tuesday bankruptcy hearings opened in the U.S. District Court for the District of Columbia. At those hearings the owner of the school, who incidentally is owner of another corporation called the Washington Dorms, Inc., which supplies dormitory services for this career college, announced that he had debts of some $529,209 and had assets of only $40,203, and also pointed out that of the total liabilities, $158,817 represented advance tuition for 177 girls who were

not scheduled to enter this college until September of this year.

Mr. Speaker, these young ladies were recruited around the country in some seven Eastern States for a college that purported to provide for glamorous careers in fashion modeling, business, and public relations. Attractive and articulate young ladies, according to my information, had been conducting recruiting tours through the seven Eastern States and were collecting very substantial advance payments for schooling which was not scheduled to begin for months from the date that they picked it up, and they appealed, of course, to rather gullible young ladies who wanted to come to Washington to begin careers in these circumstances.

As a matter of fact, my information is that advance payments for tuition were being collected by these school representatives right down to the very minute that the school closed its doors in a state of financial collapse.

I have learned that, for example—and some of this information came out at the bankruptcy hearing on Tuesday—one mother was called repeatedly by the president of this school, Mr. Richard W. Parrott, demanding that she make an advance payment within a single week of $340. One mother paid $2,000 to the school and was told that she had to come up with that money within 15 days, although her daughter was not slated to begin her education, so-called, in this school until September of this year. And one couple from Courtland, N.Y., in my congressional district, even mortgaged their home for $2,140, which was demanded by the president of this school within 15 days, if they wanted their daughter admitted this fall, in September.

What is even more disturbing is it turns out that there is no law or regulation currently preventing this kind of thing in the District of Columbia. Apparently any school can open and can send representatives out around the country soliciting funds for services allegedly provided by the school without any checking being done by any agency or school board of the District of Columbia and without any accreditation.

Clearly, this is a loophole that needs to be plugged, and I propose, and I am in the process of drafting legislation and have conferred with the distinguished chairman of the Committee on the District of Columbia, and I am drafting legislation to close permanently the legislative loophole which makes it possible for an operation like the Gibson Career College to flourish in Washington under such flimsy and questionable circumstances and to solicit funds from trusting students and their parents across the country without any license or regulation by any city or school agency.

What is more, Mr. Speaker, after looking over the situation and conferring with some of the young ladies affected, and I have learned about the situation and have been working on it for the past 3 weeks, it seems to me there is a very clear suspicion that there may well be fraud involved in the operations of the Julia Gibson Career College which has bilked so many young ladies from upstate New York and their trusting parents.

I think it is incredible that a school with such predatory financial demands can be allowed to open and operate in the District of Columbia without any supervision or accreditation whatsoever. The methods of recruitment and solicitation certainly raise very grave questions in my mind and I am sure they do in the minds of other Members of this House. I understand some of the people associated with the school have been involved in similar financial collapses in other areas and under other circumstances.

Not only must we prevent this kind of thing from happening again and plug the legislative loophole immediately—and I have been assured by the gentleman from South Carolina, Chairman McMillan, that he will cooperate in this endeavor—but also every effort must be made by the U.S. district attorney's office for the District of Columbia to eliminate the operations of such fraud, which has had a devastating economic consequence for so many unsuspecting families. Nothing could be more cruel than to prey on the unsuspecting parents and young ladies than to fleece them out of their life's earnings, even at the very moment when the owners and the operators of this college knew they were confronted with the possibility of closing down their doors because they were in a condition of bankruptcy.

I have wired the Attorney General of the United States today and urged that he undertake an immediate investigation into the possibilities of fraud in connection with this operation.

I might say, Mr. Speaker, in closing, that the students and parents who have been fleeced in this operation and who have deposited their life savings and are left not only without tuition but without dormitory accommodations here in Washington, come from Amsterdam, Schenectady, Sprakers, Scotia, Cohoes, Cortland, Norwich, Canandaigua, South New Berlin, Auburn, Marathon, New Berlin, Romulus, and Bainbridge. I am sure there are those who have come from other States as well.

As a matter of fact, the financial operations, according to a report in the Washington Post this morning, of this particular undertaking are so strange that the original Gibson Corp., of which this school is an outgrowth, actually went bankrupt in 1967, but somehow Mr. Parrott has been able to hang on a little bit longer in Washington.

I am sure other Members of the House who may be affected will feel as I do. I urge them to join with me in pressing our demand for this investigation on the Attorney General and in pressing for the speedy adoption of corrective legislation.

RESTORING LAW AND ORDER

The SPEAKER pro tempore (Mr. Albert). Under a previous order of the House, the gentleman from Texas (Mr. Price) is recognized for 5 minutes.

Mr. PRICE of Texas. Mr. Speaker, for the past 2 days, the House of Representatives has been debating and voting upon two bills of key significance in the fight against crime—the quadrennial increases in Federal courts and judges, and the District of Columbia Court Reform and Criminal Procedure Act of 1970. I would like to discuss each of these two bills in turn.

Yesterday, by an overwhelming vote, the House passed the bill providing for the appointment of additional Federal district judges and restructuring certain Federal judicial districts. I wholeheartedly supported this proposal, with one significant reservation, which I related at some length to my colleagues.

To reiterate, it is my contention that the northern district of Texas desperately needs two rather than the one additional judgeship that was provided in the House bill. The judicial problems of the northern district have been intensively studied by the Justice Department, the American Bar Association, and the Judicial Conference of the United States. Despite the different approaches employed by these organizations, the same conclusion was reached; that is, the northern district of Texas needs two new Federal district judges.

The Senate, in its wisdom, adopted the recommendations of these three distinguished authorities on the administration of justice. Regretfully, the House was less amenable on the matter, and reduced the Senate number to one.

I note Texas was not the only State to have its judicial need neglected by the House. I hope this hesitancy to fully meet the established necessities of our judicial system is not indicative of a lack of interest in maintaining our court system at peak strength. I hope my colleagues have not turned away from the precept of Thomas Jefferson, who said:

> The most sacred of the duties of a government is to do equal and impartial justice to all its citizens.

Mr. Speaker, the five Federal district judges in the northern district of Texas, want to abide by Jefferson's dictum; however, they have repeatedly stated that their ability to do so is critically hampered by the present limited number of judgeships in the district, a district containing several widely separated population centers. In addition it is a district three times larger than the State of Indiana.

The Senate, the Justice Department, the ABA, and the U.S. Judicial Conference all agree with the five Texas judges. They have all recommended that the northern district be provided two new Federal judicial positions. Moreover, the Bureau of the Budget has declared that such an increase would not be inflationary, and is within the scope of the President's budget. For these reasons I have urged and I will continue to urge that the House conferees adopt the Senate proposal, and raise the Federal judiciary to full strength in the northern district of Texas.

Mr. Speaker, it is obvious to laymen and experts alike that the judical cannot mete out fair and impartial justice when the courts in many areas of the country are hopelessly backlogged with cases. In these districts, many indi-

viduals—some innocent and some guilty—are being denied due process and other constitutionally guaranteed legal protections.

A prime example of this regrettable situation exists in the District of Columbia courts, which at the present time have a backlog of 1,500 felony cases alone. This judicial traffic jam has caused a serious breakdown in the administration of justice in the District. Felons are running loose on the streets and brazenly committing violent and serious crimes because they know that they can add to their ill-gotten gains before they are finally and tardily hauled before the courts of justice.

The crime situation in the District of Columbia would be quite tragic even if it were confined merely to offenses committed by individuals under indictment. Unhappily, however, these types of crimes seem to be but a small portion of a bleak situation, a situation which is deteriorating by the day.

Recent statistics on the extent of and increase in crime in the Nation's Capital are nothing short of horrifying. The city has become a gigantic cesspool of murder, rape, theft, mugging, and senseless violence. Particularly disturbing is the increased traffic in and use of illicit narcotics, especially among children. This increase is fueled by organized crime, the evil tentacles of which have even extended into area public schools. As a result of the crime and violence which invariably follows the drug peddler and drug user, uniformed policemen and special officers are forced to spend countless hours patrolling school corridors and playgrounds in an effort to protect hapless students of all ages.

It is to President Nixon's credit that he has focused the vast resources of the Justice Department on the problem of the District of Columbia crime. He and Attorney General Mitchell have decided that the Justice Department needs new legal and procedural tools if area crime problems are to be coped with in a meaningful way. Accordingly, the President has proposed omnibus legislation designed to restructure the attack on crime in Washington, D.C.

The House District Committee has carefully studied and examined the President's proposals. It has accepted the major ones, added additional provisions of its own, and reported out a comprehensive crime fighting package containing real vitality, the District of Columbia Court Reform and Criminal Procedure Act of 1970.

Since Congress, not the President, is charged with governing the District of Columbia and establishing an effective judicial and penal structure, Congress has the primary responsibility for restoring law and order to the Nation's Capital.

Congress can and must enact the legislative vehicles by which the resources of Government can be forcefully brought to bear on this monumental restorative task. The metropolitan police force must be upgraded and provided effective law enforcement tools which can assist in identifying and apprehending criminals, and preventing crime of all types. The Department of Justice and the U.S. prosecuting attorneys must be provided the means by which those accused of crime can be swiftly brought the bar of justice. The courts must be provided new laws so convicted wrongdoers can be quickly and sternly punished, particularly in those cases involving crimes of violence. A new environment conducive to respect for law and order must be engendered among the residents of the District. Greater concern for the rights of others and a high regard for effective law enforcement must be fostered as well.

Mr. Speaker, these are but the highlights of the massive undertaking that lies ahead of us. We face a long road back from local crime and violence to local law and order. The full resources of the Government must be dedicated to this task.

In my judgment, passage of the District of Columbia Court Reform and Criminal Procedure Act of 1970, represents a vital first step down this long arduous road. It is a step that must be taken, it is a journey that must be made.

TEXTILE IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 30 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, this morning I joined in a parade in Fall River, Mass., the center of the garment industry in New England, which was a public demonstration of the reaction of the average clothing worker to the flood of textile imports into my district.

I marched beside the employees of this industry and the leaders of the unions involved, particularly the Amalgamated Clothing Workers who spearheaded the parade.

I was moved by this experience. These people want to continue to be productive, do not want to become dependent on society or government, and do not want to be on welfare. But their future productivity is being threatened as foregin imports gobble up the American market. In a quiet, constructive, and peaceful way, they marched through Fall River—as they also marched in other cities today—to dramatize their plight.

As their Representative in Congress, I wanted to join in this demonstration. We cannot return to an agricultural society. We must have a healthy domestic industry if the economy is to grow and people are to lead the good life. That was the message of today's events, and I think that Congress should heed what they were trying to say.

The growth of foreign imports has created serious problems for the textile industry in New England and the Nation. I believe that we must give urgent attention to this situation.

Although the President last November called for freer world trade and cited the growing interdependence of the world economy, his message to Congress and the provisions of the administration's proposed Trade Act of 1969 both emphasize the President's words that the textile import problem "is a special circumstance that requires special measures."

These special opportunities for relief may be realized in one of two ways. First, and most desirable of all, this could be achieved by the successful culmination of administration efforts to negotiate agreements with other nations on voluntary quotas on textile exports to the United States. Failing this, relief can be provided through legislation; as, for example, through enactment of substantial improvements in the existing escape clause and adjustment assistance provisions, such as those recommended in the President's Trade Act, to assist damaged industries.

Shortly after taking office, President Nixon, on February 6, 1969, asserted the special and serious nature of the textile situation. Last summer he sent Secretary of Commerce Stans abroad to seek voluntary agreements on textile export quotas with other nations.

While several nations, and particularly the Japanese, have balked at voluntary agreements, I warmly applaud the President's determination to uphold his promises to seek relief for the textile industry.

But, if these efforts to achieve voluntary agreements fail, I believe Congress must redress the grievances of the textile industry. We need to take a hard look at whatever legislation may be necessary.

Upon completion of its current deliberations on the matters of welfare and social security reform legislation, I understand that the House Ways and Means Committee will begin hearings on the urgent questions of trade legislation.

Since becoming a Member of this House in 1967, I have supported the efforts of the Informal House Textile Committee—in which more than 100 Members of the House have participated, many from New England—in seeking relief for the textile industry. I have great respect for the leadership provided by its distinguished chairman, my colleague from Georgia (Mr. LANDRUM), and his associates, the gentlemen from North Carolina (Mr. JONAS) and South Carolina (Mr. DORN). I have endeavored at every opportunity to give my complete support to their concerted attempt to resolve this difficult problem.

I have spoken on the need to restrict textile imports, and since then have worked with the Informal House Textile Committee. They have kept this issue alive, and offered hope for its solution.

It should be noted that imports of manmade fibers have nearly doubled every 2 years. These imports in 1969 had increased 855.7 percent over imports in 1961–62. Much of the increase have involved imports from the Far East.

The effect of these manmade fiber imports flooding the American market has been devastating to the textile industry, causing sharp losses in earnings and profits and forcing many small- and medium-sized textile plants out of business. Garment manufacturing is a major industry in my district, the 10th Congressional District of Massachusetts. The decline of the textile industry in Fall River and other manufacturing cities, with its exodus to the South, is a well-known fact of history. Now the garment industry, which is the lifeblood of the

whole Fall River community, is also being threatened.

Textile imports have increased so rapidly since 1957, when the United States enjoyed a favorable balance of trade between textile imports and exports, that we found ourselves with a $766 million textile trade deficit just 10 years later and a $1.1 billion deficit in 1968.

Thousands of textile jobs have been lost in recent years. Last June, Secretary Stans cited Department of Labor statistics to the alarming effect that 100,000 textile jobs would be lost annually over the next 6 years if the import trends continued.

Textile and garment manufacturers in my district and elsewhere are waging a losing competitive battle against foreign nations, such as Japan and some European countries, whose exports are partly subsidized by their governments and whose labor costs are much lower.

While hourly wages in the U.S. textile industry average about $2.25, the hourly wage in Great Britain is $1.35; in Japan, 35 cents; in Hong Kong, 25 cents; and, in South Korea, 8 cents an hour.

Certainly the Congress must look further than temporary relief in considering trade legislation. We cannot abandon free trade. As U.S. industry has sought to compete in growing world markets, it has expanded and increased its productive capacity. It has created new jobs in the process of meeting this challenge. The increase in U.S. exports from $20 billion in 1960 to over $34 billion at the decade's end has enhanced the wealth of the Nation and the dynamic growth of its economy.

I do not believe we can go back to restrictive tariffs, since other nations have protective devices of their own which they can retaliate against U.S. industries seeking to sell their products abroad. Ultimately I believe that our interests abroad will be best served by mutually agreed-upon policies of fair trade, and such agreements must be achieved.

However, the textile-apparel industry is a victim of a present unfavorable balance of trade. It may be true that other industries can be phased out if they are not productive, but this is not true of an industry which contributes 2.5 percent of the gross national product.

I believe in free trade, and fair trade. But whenever freedom of trade threatens to cripple employment in vital domestic industries, then I believe that our trade polices can no longer be considered productive.

The textile-apparel industry has suffered by delays in rectifying the situation, and I am impatient with these delays. I believe we must act now through legislative means for the industry's relief.

IMPERATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 20 minutes.

Mr. STAGGERS. Mr. Speaker, words create images, sometimes vivid, sometimes blurred. Take two words: permissiveness; tolerance. As delineated by the dictionary, they are not far apart. Yet in practical usage today, one has become vivid, glaring, definitely foreboding; the other is dropping out of focus, almost out of sight.

We are becoming a permissive society. Dissidence, resistance to authority in any form, is being claimed as the right of free citizens. Standards of conduct, whether expressed in terms of civil law or in terms of time-tested moral verities, are subject to the judgment of the individual, to be accepted only if approved.

The result is what might be expected. Our penal codes are being stripped of punishments; our moral code of inhibitions. In our functioning as a vast productive machine, permissiveness leads to chaos. It gives us implements and services characterized by defects. In our functioning as a mature political society, permissiveness is the entrance way to anarchy.

Many of us have been pointing a warning finger at the danger. We could see what was impending, and we feared it. Our mission has been to arouse our fellows to preventive action. A few could also foresee the consequences. But they did not fear them; they planned them.

So the word, "permissive," has acquired its baleful connotations. It is a sort of vocal symbol of all our woes and frustrations. There is no limit to the spread of permissiveness; it grows upon its successes. Active resistance becomes ever more appropriate, more necessary. No free and stable society can exist without law and order. No moral philosophy known to man ever envisioned a cosmos devoid of rewards and punishments.

Today the citizens of this confused but basically rational Nation demand a return to practicalities. The call is to each of us, to assert his grave concern over a drifting Nation, to act his part as a responsible citizen. There is common agreement that laws should be just and impartial, that enforcement of those laws should be swift and firm, that the judgments of the courts should be compassionate, but appropriate to the offense, that the guardians of morality should be clear and precise. Present conditions demand this retreat from anarchy and chaos.

Until disorder and insurrection are replaced by order and system, this Nation faces a danger from the opposite front. The reiterated insistence of history is that excessive laxity of conduct is always followed by repression, harsh and unsparing. The four horsemen still ride. Permissiveness gives way to anarchy, anarchy to chaos, chaos to tyranny. Our most recent example is Hitler.

The immediate problem is the restoration of imperatives to our thinking and acting.

Anyone who reads fairly widely must be aware that the process of restoration is underway. Speakers for various organized groups—cultural and professional—tend more and more to accept a share of responsibility for the deterioration of society. Law journals contain articles by judges accusing judges of laxity; by lawyers who say the legal fraternity is to blame. Church papers assert that a church must be more than a social organization, that its pronouncements on great moral issues must be clear and explicit.

More important than these is the attitude of the two great institutions which catch life at its beginning and place their indelible stamp on ideals and personality, the home and the public schools.

The goal which the schools set before themselves 50 years ago has been reached. Practically every child in the Nation is brought under the influence of the schools, and kept there for 10 years or more. Today they ask if what they have done for the child is enough. Society is vaguely critical. The phrase used to express the need is: "Quality Education."

It is as yet by no means clear what quality education is, or how it can be implemented. What can be said with assurance is that it will not be permissive education. The child cannot profitably roam at will through the impressionable years of childhood and youth. A complex social organization demands that he be equipped with relevant information, skills, and attitudes. Further, that his equipment include provisions for continuous and rapid modifications as both social and material technology advance.

For untold centuries the home has been the basic social institution. There is no substitute for it. Yet it cannot be counted as an unquestioned success. Child rearing is not an exact science. In truth, we know little more about it than did our caveman ancestors.

The affluent society, which dates back only a single generation, had one overriding ambition: It was to give their children everything that they lacked in their own youth. This is permissiveness gone wild.

Today they, like the schools, fear that it is not enough. The search is for "Quality Child-rearing."

The fact that all this soul searching is on the public tongue offers strong hope that it will lead somewhere. Intelligence is not lacking to move mountains—social and moral mountains as well as material ones.

Dennis Gabor, writing in a recent issue of the magazine Think, has something pertinent to say, especially to young people:

> The permissive society is coming to a dead end. Despite the lunatic fringe, rebellious youth also contains a potential elite. . . . Everybody must be made aware that a civilization achieved by a hundred thousand years of hard work and human sacrifice is worth preserving.

He then asks the big question:

> Must it decay first . . . before it is revived?

Suggesting some of the things that must be done to prevent such an outcome, he lays down the challenge:

> I don't expect you to like it. It is Hardship.

Then comes the appeal:

> Let's invent a future . . . a good one.

In that good future, the other word posed earlier in these remarks will emerge from obscurity. Toleration will take its rightful place in the guidelines of a really good society. Toleration is

equally distant from the excesses of the right and the left. Toleration is a distinguishing mark of the ideal citizen. The tolerant citizen conforms in all matters where his unalienable rights are not concerned. He looks upon the follies and foibles of his fellows with understanding and sympathy, knowing there may be a beam in his own eye. In his capacity as the agent as well as the beneficiary of a free society, he acts with firmness but not animosity, with decisiveness but not arrogance, with swiftness but not haste, with justice but not prejudice.

"I have learned toleration from the intolerant," said Kahil Gibran.

May we all so learn, and speedily.

PROTEST ACTION OF NCAA IN BLACKING WASHINGTON AREA FROM TELECAST OF NCAA SEMI-FINALS

The SPEAKER pro tempore. Under a previous order of the House, the Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY) for 10 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, I would like to take this opportunity to register my protest against the action of the NCAA in blacking out the Washington metropolitan area from the telecast of tonight's NCAA semifinals.

This is just another example of a blatantly arbitrary decision by an organization which seems dedicated to the enforcement of its own whims at the expense of the public interest. This decision brings to mind the longstanding, destructive NCAA-AAU feud and the recently prominent case of Jack Langer, the Yale basketball player suspended by the NCAA because he participated in the Maccabean games in Israel.

Washingtonians have proven themselves to be basketball enthusiasts, and those who were neither fortunate enough to obtain tickets nor affluent enough to afford them should not be ignored.

The games are being telecast nationally by NBC and were scheduled to be seen in Washington until the NCAA interposed its 180-mile rule.

I am not one to cast aside rules nonchalantly, but I do feel that the circumstances warrant it in this case. The games have been sold out for months. They are not of regional, but of national interest. In my opinion logic and reason demand that these circumstances be taken into consideration and this ill-founded decision reversed.

INDEPENDENT BANKER'S PRESIDENT STRIKES OUT AGAINST BANK CONCENTRATION

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the Independent Bankers Association was formed 40 years ago to fight a growing trend of concentration in the banking industry. Today, the IBA is still engaged in that fight and although there have been setbacks, the group has achieved enough significant victories to prevent concentration of banking powers from doing away with independent banks. The current president of the Independent Bankers Association, B. Meyer Harris of Laurel, Mont., in his report to the 40th annual convention of the association on March 17 in Honolulu, made a renewed plea for the fight against bank concentration.

While I do not agree with everything in Mr. Harris' speech, I do feel that it is an outstanding chronicle of the problems faced in bank concentration and a format for what must be done to overcome the problem. Mr. Harris points out that shortly after the State of New Jersey passed a new branch banking law, there were 283 applications for branch banks. He added that a vast majority of banks in New Jersey are now in negotiation or considering selling out or merging. Mr. Harris included a report from one of the IBA members on the banking conditions in New Jersey:

> The upheaval and confusion in his state are beyond belief. Officers and employees are fearful of their status. Directors are at swords points to learn who will be retained on joint boards. Stockholders are deluged by offers, and customers are thoroughly confused.

Mr. Harris adds that New Jersey is apparently heading in the same direction as Virginia, which has seen the number of unit banks in its State decline from 305 to 238 today. During the same period, the number of branches increased from 320 to 700.

The Virginia situation can be brought home to Members of this body quite easily. One need only to drive across the Potomac River to northern Virginia where a vast majority of commercial banks in that locality are members of either holding companies or some other multibank corporate structure. Some towns in Virginia which formerly had two or three independent banks now do not have a single locally owned or operated commercial bank.

In describing what happens when concentration invades a State, Mr. Harris explains:

> Branching does, however, reduce the number of credit sources, particularly for the small borrower and small business.

Mr. Harris made an appeal to his association which should serve as sound advice to anyone who would further increase banking concentration. Mr. Harris said:

> I urge you to remain steadfast in your resolve to resist banking concentration. Your association stands ready at all times to aid you in these efforts.
>
> Whenever the branching question arises, I ask this question: What would be your role—and mine—if the entire banking industry were controlled by just a few huge corporations? The position which we cherish—that of making independent decisions for our banks and for the good of our communities—would vanish. Obviously, there are many forces in this land today seeking to propel us in that direction. My fervently held conviction is that we as independent bankers must resist this trend.

Mr. Speaker, I am including a copy of Mr. Harris' address in my remarks since it most dramatically recites the case against banking concentration:

40TH ANNIVERSARY CONVENTION—INDEPENDENT BANKERS ASSOCIATION—YEAR MARKED BY RADICAL CHANGES FOR INDEPENDENT BANKERS DUE TO INTEREST RATES, LIQUIDITY, AND RECENT TAX BILL

(By B. Meyer Harris)

A few days ago I boarded an airplane in the big sky country of Montana and landed a few hours later in the island paradise of Hawaii. I was thrilled to arrive here, as everyone is, but I must admit that I blinked a couple of times as I contemplated how rapidly I had moved into an entirely different type of climate, culture and terrain.

It occurred to me that it's been that kind of year for independent banking, with changes happening so rapidly and so radically that the image often seems blurred in retrospect. One-bank holding companies, the tax bill, interest rates, liquidity—these and many other issues kept us all running since I became your association president just one year ago at our 1969 convention in Las Vegas.

Believe me, this has been a fascinating year, and it has flown as swiftly as the jet which brought my family and me to this convention city. Although the year has been a strenuous one for your IBAA officers, we have been vastly rewarded by the opportunity to work on behalf of the IBAA with independent bankers from all over the country.

Our committees have done an outstanding job, and will be hearing reports of their work during this convention. I especially wish to commend our executive council members, many of whom are embroiled in branching and holding company fights that popped up in a number of states this year. Since our association was founded 40 years ago, these state directors have performed an invaluable service in keeping on top of events that affect independent banking in their states.

I am also pleased that my term as president is reaching its climax during a milestone year for the association. It was 40 years ago, on May 9, 1930, that a handful of bankers from small communities gathered in Glenwood, Minnesota, and founded the Independent Bankers Association of America.

They did not know at the time that they were the nucleus of a national organization which today has more than 6,600 member banks in 40 states. And I doubt if it ever occurred to them that their tiny organization, created as a last-ditch struggle to survive in the chaos of the Thirties, would one day convene in the splendor of Hawaii.

But if it were not for their dedication, and their decision to fight when surrender would have been the more comfortable alternative, we probably would not be here today.

One of the two surviving founders of the association is registered for this convention. He is Norman Tallakson, a director of the Bank of Willmar, Minnesota. The other surviving charter member is Ben DuBois, board chairman of the First State Bank of Sauk Centre, Minnesota, who was our top administrative officer for 30 years until his retirement at the end of 1962. Mr. DuBois is not here with us today, but he is still very active and is at his post at the bank every day.

NEXT YEAR: MINNEAPOLIS

I have heard the remark many times that IBAA conventions are particularly enjoyable because of their friendliness. For many of us, the annual IBAA convention is like a reunion, in which we renew acquaintances annually with our good friends from widely scattered parts of the country. Next year our association will convene in Minneapolis, and I would like to take this opportunity now to invite all of you to attend.

Located in America's heartland, Minneapolis has always been a very successful convention city for us, and I know you will

want to resolve now to see your friends in that city in 1971. The dates are March 29, 30, 31, and the convention headquarters will be the beautiful Radisson Hotel in downtown Minneapolis.

My assignment here today is to highlight the events of my year in office, and offer some thoughts about the future. There are many ways that this can be done. For example, in my home state of Montana, the Indian tribes used to practice a custom known as the winter count.

These Indians painted colorful pictorial symbols on a buffalo robe, with each picture representing the event by which that particular year, or winter, as the Indians called it, was to be recalled. If these Indians were to make a winter count for independent banking in 1970, I wonder how they would portray the one-bank holding company issue.

I think they would have to color it a rather fuzzy shade of gray, because the issue has been so rife with rumor and conflict that it is easy to lose sight of what really is at stake.

Our association has stated its position on the controversial House Bill, H.R. 6778, on a number of occasions. However, one persistent rumor has refused to die, no matter how many times we have attempted to spike it.

IBAA AND ONE-BANK HOLDING COMPANY LEGISLATION

For reasons unknown to us, there seems to be a widespread impression that the IBAA backed the House-passed version of H.R. 6778.

Let me say again, emphatically, that this association did not back this or any other bill. Actually, there was no chance for any organization either to support or oppose H.R. 6778, since the bill was rewritten entirely on the floor of the House during a long debate.

When the House took this action, it marked one of the few times in history that the entire body had rejected recommendations of one of its standing committees. The bill enacted by the House bore little resemblance to the one reported to it by the Banking and Currency Committee.

The IBAA supported the general proposition that one-bank holding companies should be subject to federal regulation and control, in much the same manner as holding companies owning two or more banks. The Nixon Administration, through the Treasury Department, has made one-bank holding company control a matter of priority concern.

Nat S. Rogers, president of the American Bankers Association, in a statement last month declared that the ABA "recognizes that reasonable regulation of one-bank holding companies and multi-bank holding companies is necessary and desirable." We agree with this position, and the only point on which the ABA and we are not yet in agreement is precisely when to seek the legislation.

As executive vice president of the ABA, Charles E. Walker initiated a series of meetings of banking industry representatives in an effort to achieve a consensus on the substance of such legislation, an endeavor he continued when he became Under Secretary of the Treasury.

Similarly, the IBAA favored legislation, but as I said, backed no specific bill in testimony before the House Banking Committee.

The IBAA argues that while ownership of a bank by a one-bank holding company is a corporate device that has been used for many years, the picture has changed drastically in recent times.

Over the years, this device was primarily used by small banks. Its chief advantage is that 85% of the dividends passed from the bank to the parent holding company are not subject to federal income tax. Before the one-bank holding company device was adopted by the giant banks, the OBHC had helped in preserving independent ownership of small banks. In numerous instances, the device had made it possible to transfer ownership of a bank from one independent owner to another.

We must keep in mind, however, the fact that in recent years the giants in the banking industry discovered the device and began to exploit it vigorously. What used to have limited use as a convenience and advantage for small banks suddenly became a vehicle for increased concentration of money and credit.

Most of this growth of unregulated bank holding companies has taken place since 1965. In the period from 1965 to 1968, the number of these unregulated bank holding companies rose by over 200, while the amount of bank deposits in these companies rose by over 600%, from $15.1 billion in 1965 to $108.2 billion at the end of 1968. These totals have been sharply expanded since that time.

For the very reason that unregulated one-bank holding companies posed a survival threat to independent banking, the IBAA at its Las Vegas convention one year ago adopted a resolution favoring control. We testified to this effect before the House Banking Committee and on the eve of the House action, we advised House members that we favored January 1, 1965, as the grandfather date of the bill.

IBAA COMMITTEE ADOPTS STATEMENT

In view of such widespread support, one would expect that OBHC legislation would become law during this, the second half of the 91st session of Congress. It is one thing, however, to agree on an objective, and quite another to agree on precisely how to achieve it. After careful analysis of the House-passed version of the OBHC bill, the IBAA Federal Legislation Committee adopted a statement on the bill at a meeting in New Orleans on January 19.

In this statement, our committee was critical of the fact that H.R. 6778 fails to distinguish between the operations of large and small bank holding companies. The IBAA Federal Legislation Committee position paper continued as follows, and I quote:

"As shown in the House hearing, and as pointed out therein by the Nixon Administration and the Federal Reserve Board of Governors, big companies engaging in more than 100 types of non-banking business, many on a large scale, present a danger to the economy which should be outlawed.

"On the other hand, small companies, usually closely-held family-owned corporations, present no danger to the economy. However, these companies would be adversely affected by H.R. 6778, as passed by the House, chiefly because of the impact of federal income tax statutes. The effect is to foreclose the use of a holding company by a small bank. We believe the distinction between large and small one-bank holding companies should be made by amendment in the Senate.

"We propose that H.R. 6778 exempt one-bank holding companies having bank assets of less than $30 million, and non-bank assets of less than $10 million, as suggested by Federal Reserve Board witnesses who testified on H.R. 6778 in the House.

"We favor any other amendment to H.R. 6778 to protect the small one-bank holding company, which is essential to transferring control of a small bank from one independent owner to another, when a bank stock loan is involved.

"We recognize that there are bills in the Congress, such as the Proxmire and Reuss bills, and there are reports the White House may have another, that propose comprehensive studies of banking problems, but we do not agree that any of these is an alternative to or substitute for one-bank holding company legislation in this, the 91st Congress."

In other recommendations, the IBAA Committee urged that the bill be amended to clarify the difference between a person and a company, noting that in the present language literally the two are synonymous.

Also, it was recommended that insurance agency be stricken from the list of prohibited activities.

PRESIDENT URGES CONTROL

The threat to America's economy posed by large conglomerates of which banks are a part was expressed as follows by President Nixon in a statement last March 24, and I quote:

"Left unchecked, the trend toward the combining of banking and business could lead to the formation of a relatively small number of power centers dominating the American economy. This must not be permitted to happen, it would be bad for banking, bad for business, and bad for borrowers and consumers.

"The strength of our economic system is rooted in diversity and free competition; the strength of our banking system depends largely on its independence. Banking must not dominate commerce or be dominated by it."

The IBAA was instrumental in passage of the Bank Holding Company Act of 1956, which made holding companies controlling two or more banks subject to federal regulation. One-bank holding company legislation would be in the form of an amendment to the 1956 Act.

However, let me emphasize that when considering any legislation, we are committed to the interests of our bank members.

GREAT VICTORY FOR INDEPENDENTS

While the question of one-bank holding company control is still a very large question mark, independent banking won a great victory in December when the U.S. Supreme Court halted Florida's rolling banks.

This was a benchmark decision, since the Court ruled, in effect, that the Comptroller of the Currency could not wipe out with a single pen stroke the effect of laws established by the traditional legislative process at both the state and national levels.

Your association had a great and continuing interest in this case.

On December 9 the High Court firmly supported the longstanding IBAA position on mobile banking facilities operated by national banks under rulings of the Comptroller of the Currency. The Supreme Court held that the operation of armored cars for receiving deposits and delivering cash and off-premise receptacles for deposits amounts to unlawful branching.

The decision is of nationwide significance. It ended a controversy which began in the federal trial court in Florida. The banking commissioner of that state had sent a cease and desist letter in September, 1966, to the First National Bank at Plant City soon after the bank started its off-premise activities for obtaining deposits.

A similar operation was begun by a national bank in Panama City, Florida. This national bank was aggressively seeking deposits over a wide area. One independent banker reported that his deposits dropped from $7 to $6 million in a short time because of these activities.

Similar operations were started by national banks elsewhere in Florida and spread to Georgia, where one national bank had an armored car picking up deposits in North Carolina.

The lawsuit was essentially between the banking commissioner of Florida, a non-branching state, and the Comptroller of the Currency. The parties included the First National Bank of Plant City on the side of the Comptroller and the competing state banks on the side of the state commissioner.

Pointing up the importance of this case is the fact that by the time it had reached the U.S. Supreme Court, 22 banks from throughout the nation had allied themselves with First National of Plant City in friend of the court roles.

Among the 22 were such giants as Bank of America, Chase Manhattan and First National City of New York and First National of Chicago.

The Supreme Court strongly emphasized that national banks must conform to state branching laws and cannot, even under rulings of the Comptroller of the Currency, carry on off-premise activities which are denied to state banks under state law.

The IBAA gave unprecedented and unstinting support to the lawsuit in Florida because of its nationwide implications. At the time the Florida lawsuit started in 1966, similar mobile branching was taking place in Georgia, North Carolina and several Northeastern states. The IBAA felt that mobile branching could easily spread throughout the country.

The IBAA entered the case because if mobile branching were permitted and became entrenched, state legislators would be forced to change their laws to allow state banks to compete, thus causing a breakdown of the control of branching by state legislatures.

The IBAA joined with the Independent Bankers of Florida at the outset of the lawsuit. Our association had a large total commitment financially and legally.

Armed with this Supreme Court decision, we recently asked Comptroller of the Currency William B. Camp to rescind the rulings that permit national banks to operate off-premise deposit receptacles, mobile branches and loan production offices.

We told Mr. Camp that the rulings are inconsistent with the Supreme Court decision in the Florida case. We have also asked the Federal Reserve Board and the FDIC to rescind similar rulings.

Likewise since the Supreme Court handed down its decision in the Florida case, the rolling banks have rolled to a halt in Georgia, where a bank sought to circumvent the decision by reorganizing as a holding company. The armored car service was then performed for the bank by a separate subsidiary corporation of the holding company.

Incidentally, a rolling branch rolled on for a time in Georgia even after the Supreme Court decision was announced. Four days before the decision, the First National Bank of Cornelia, Georgia, formed a one-bank holding company and for a time the same vehicle formerly owned and operated by the bank, but subsequently owned by the holding company, continued to operate.

The bank and its officers were cited for contempt by a federal district judge in Georgia, but in an appeal to the fifth U.S. Circuit Court of Appeals, the bank claimed the Supreme Court decision did not prohibit a one-bank holding company from operating a rolling branch.

This provides what I consider a classic attempt to exploit the one-bank holding company device. It highlights what one-bank holding company legislation is all about, namely, one form of corporate ownership of a bank should and must not create a double standard that gives an advantage over another form of ownership. To put it another way, a bank should not be permitted to do indirectly what it cannot do directly.

NEW JERSEY BRANCHING STAMPEDE

If any of you should ever doubt the necessity of our efforts to restrict on branching, I invite your attention to one of the real horror stories of the past year. In New Jersey, barriers to branch and holding company banking that had been in effect for 20 years came tumbling down when the governor signed a new law on January 17, 1969.

Under the new branching and merging laws, New Jersey is now divided into three banking districts.

Banks may branch and merge within a banking district. Under prior law, banks were permitted to branch or merge only within their own counties. The new laws also permit registered bank holding companies to operate on a statewide basis.

The New Jersey law took effect on July 17. During a six-month waiting period 283 applications for branch banks had been filed with federal and state supervisory authorities. By August 12—less than a month after the law went into effect—federal and state supervisors had approved 132 applications for new branch offices. Also by August 12, 25 merger proposals had been announced, and two New Jersey banks had revealed plans to form registered bank holding companies.

Our good friend and New Jersey director, Frank Flowers, tells us that a vast majority of the banks in New Jersey are in negotiation or are considering sellout or merger today.

Mr. Flowers says the upheaval and confusion in his state are beyond belief. Officers and employes are fearful of their status. Directors are at swords points to learn who will be retained on joint boards. Stockholders are deluged by offers, and customers are thoroughly confused.

New Jersey is apparently headed in the same direction as Virginia, where branching restrictions were eased in March, 1962, to permit branching by merger anywhere in the state. In the brief period this pernicious system has been in effect, the number of unit banks in Virginia has declined from 305 to 238. During the same period, the number of branches increased from 320 to 700. A recent article in The Washington Post vividly portrays what can happen when branching attains this kind of foothold. Staff writer Richard Corrigan stated, and I quote:

"Control of Virginia's banks is quietly passing from courthouse square to corporate headquarters.

"Old-time community banks throughout the state are being overtaken—or taken over—by a handful of big banks and bank holding companies. The transformation of Virginia's once-scattered banking system has come about in six years, since the General Assembly voted to allow statewide bank mergers."

These stories are nightmares, and they strongly support the IBAA's claim that there is no such thing as a little bit of branching. Once the giants of our industry gain a foothold through branching in a limited form, a kind of gold fever overtakes them and they are not satisfied until they have made the entire state their private gold field. The result is banking concentration, which is bad for the public and bad for our country because it destroys competition.

VICTORY IN MONTANA

We are rather proud of the fact that in Montana recently the independent bankers of our state defeated the efforts of giant out-of-state holding companies to introduce branching.

Our legislature not only killed a bill to permit statewide branch banking, but also repealed a 1931 statute which allows banks in the same county or contiguous counties to merge and keep both offices open.

Action on the two bills is expected to block the out-of-state holding companies already established in Montana from expanding in the state by merging banks with their subsidiaries and operating them as branches.

Our experience in Montana demonstrated once again that the push for branch banking does not come from the people, but from the handful of huge banking institutions in the state and those with aspirations to build institutions in the state and those with aspirations to build a financial empire. There big banks will argue that branching is necessary for economic growth, but let's look at the record.

Texas and Illinois are the two leading guardians of free enterprise in banking.

Both states are stellar examples of dynamic modern industrial and commercial development. Both states are relatively free of extensive control by multibank systems, either giant banks or extensive bank holding companies. Certainly the records of these states do not support the argument that branching is essential to economic growth.

Branching does, however, reduce the number of credit sources, particularly for the small borrower and small business.

I urge you to remain steadfast in your resolve to resist banking concentration. Your association stands ready at all times to aid you in these efforts.

Whenever the branching question arises, I ask this question: What would be your role—and mine—if the entire banking industry were controlled by just a few huge corporations? The position which we cherish—that of making independent decisions for our banks and for the good of our communities—would vanish. Obviously, there are many forces in this land today seeking to propel us in that direction. My fervently held conviction is that we as independent bankers must resist this trend.

OWNERSHIP AND MANAGEMENT SUCCESSION VITAL

The fight against permissive legislation is only one side of the coin, of course. As independent bankers we must also continue to build our own institutions and strive to run better banks. Basic to our continuation as independent bankers is the problem of officer, management and ownership succession. I feel that there is no more important problem for independent bankers than the question of who will own our banks in the future.

Your association recognized long ago the importance of successor management and the fact that it is often a major problem for the smaller bank.

To help meet the problem, we sponsor two major projects each year—the seminar for senior bank officers on the Harvard University campus, and the seminar for junior bank officers on the Ball State University campus in Muncie, Indiana. The director of our junior seminar, Bob Myers, is one of our convention speakers. Both seminars attract capacity enrollments annually, and I recommend them highly.

Our association is so concerned about ownership succession that the problem is now a major topic of study by our bank study committee. Bill Givens, the committee chairman, will report to you during the convention and I don't want to trespass on his area of interest.

If independent banking is to survive, we must also assure the survival of our rural communities. For years Agriculture-Rural America committee has worked for a fair net income for farmers, and just recently embarked on a project to promote rural community development. Our Agriculture-Rural America committee chairman, Don Kirchner, will tell you about his committee's work in these areas.

IBAA URGED DELAY OF FINANCIAL PROVISIONS IN TAX BILL

Also during the past year, your association was highly concerned about the Tax Reform Bill. We filed a statement with the Senate Finance Committee urging that provisions dealing with financial institutions be held aside for at least a year to permit adequate study.

We raised several major questions regarding proposals in the bill on bad debt reserves and bond changes, and advised the Senate Committee that no urgent need existed for tax reform in the area of financial institutions. We felt that while many provisions of the bill were justified, self-proving and overdue, those dealing with financial institutions were passed in the House with no real study of adverse effects on bank safety, public interest or national goals.

In common with many of you in this room, I have spent all of my working life in

banking. I suspect that something all of us have in common is a great and continuing concern about what is happening to the industry in which we have expended our talents, time and efforts.

Our survival as independent bankers depends to a large extent upon the work that is done by the community bankers in each state. I am optimistic about the future of independent banking because I have observed first hand the work that is being done at the grass roots level. I particularly commend those of you who have organized independent bankers associations in your state. I believe that this type of organization is essential to our success.

I sincerely hope that you enjoy yourselves at this convention. I urge you to kick off your shoes, don your beach clothes, grab your surfboard and unwind to a state of total tranquility. But when you leave these lovely Islands and return to your banks, I hope you will carry with you a vigorous new dedication to the cause of independent banking.

Thank you for your attention, and thank you for giving me the privilege of serving as your president.

ISSUE COINS FOR CIRCULATION THAT WILL NOT CIRCULATE

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the use of silver stockpiles to mint commemorative coins would be highly destructive to the national interest and would serve no useful public purpose.

When Senate Joint Resolution 158 which passed the Senate today calling for 40 percent silver in a proposed Eisenhower commemorative dollar comes back to the House of Representatives I expect to request a conference with the Senate and the appointing of conferees. The House approved a cupro-clad Eisenhower dollar in the first session of the 91st Congress.

The House-passed bill, calling for no silver in the Eisenhower dollar, was consistent with the recommendations of the Joint Commission on the Coinage. The Commission was composed of 12 Members of Congress, four members of the executive branch and eight public members.

The Secretary of the Treasury, David Kennedy, had served as chairman of the Joint Commission on the Coinage and had concurred in its findings.

Coins with silver in them do not circulate. They are hoarded immediately. A few favorites will make millions.

Apparently the Secretary of the Treasury has again caved into political and economic pressure and is turning his back on the findings of a commission which he chairs.

I am fully in accord with honoring the memory of President Eisenhower through a commemorative coin so long as it did not contain silver, a resource in short supply.

If the scheme to place silver in the Eisenhower dollar succeeds, the same groups will be back demanding silver in other commemorative coins. Eventually this will completely deplete our stockpiles reserved for national security and will also place commercial users of silver in great jeopardy. Before long, this Nation would be forced to enter the world markets and purchase silver at high prices to meet necessary commercial and defense needs.

The Congress has for several years been moving away from the use of silver in coins by substituting the cupro-clad material.

This has made the minting of coins much cheaper and has preserved an important natural resource for useful purposes. It would be wrong to reverse this by falling for a scheme to place 40 percent silver in the Eisenhower dollar.

A copy of a letter to Secretary Kennedy on the subject is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., March 18, 1970.

Hon. DAVID M. KENNEDY,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: Yesterday, your Special Assistant, Mr. Jim Smith, was kind enough to forward to me an exchange of correspondence between Senator Dominick and yourself concerning proposed coinage legislation which, as you recall, has passed the House and now resides in the Senate awaiting either their acceptance of the House-passed bill or their refusal to concur and calling for, if they desire, a conference to resolve the disagreements.

Senator Dominick's letter of March 13 to you indicates that agreement had been reached concerning the minting of a limited number of 40 percent silver dollars bearing the likeness of General Eisenhower and that such agreement had been reached with House and Senate Members and discussed with the Joint Leadership. Mr. Secretary, to my knowledge, this is the first I have heard of these meetings in any formal written way. As Chairman of the House Committee on Banking and Currency, I did not participate in these meetings, nor was I invited to, and as far as the Democratic Leadership of the House is concerned, I have received no communication from them whatsoever concerning this matter. Senator Dominick uses the phrase "joint leadership" and I, therefore, assume he was talking about leadership from both sides of the aisle.

I find it incomprehensible, given the fact that as a member of the Coinage Commission who participated in all of the meetings, remembering full well the recommendations of the Commission, your complete concurrence therein, and the legislation which you, representing the Administration, sent to the Congress and which was enacted by the House, could now state as you do in your letter to Senator Dominick that, ". . . the proposed legislative compromise is fully consistent with the Administration's policies on coinage and silver. . . ."

To refresh your memory, Mr. Secretary, H.R. 14127, introduced by myself and Mr. Widnall, passed the House Banking and Currency Committee by an almost unanimous vote of 29 to 1. This bill went to the Floor of the House and a recommittal motion to require inclusion of 40 percent silver from cupro-nickel failed on a voice vote, indicating that those supporting the recommittal did not even have enough votes to call for a roll call. Final passage of H.R. 14127 was by the overwhelming vote of 267 to 65.

Personally, Mr. Secretary, I remain firmly committed—as I know the members of my Committee do—on this legislation as it passed the House and this shall continue to be my position.

Sincerely,

WRIGHT PATMAN,
Chairman.

THE USES OF EDUCATIONAL TECHNOLOGY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in March 1968, the Secretary of Health, Education, and Welfare appointed a nine-member Commission on Instructional Technology to conduct a comprehensive study of school uses of TV, radio, and allied instructional media.

The study, called the McMurrin report, was recently released by the White House, and because of the great interest that it has generated, the Select Educational Subcommittee of the House Committee on Education and Labor conducted a day of hearings on it so that our committee and the public in general could be advised of the major findings and recommendations of the distinguished members of the Commission.

Our principal witness was Dr. Sterling McMurrin of the University of Utah, who was Chairman of the Commission. He was accompanied by Sidney G. Tickton, executive vice president of the Academy for Educational Development, who directed the study.

Our subcommittee will hold additional hearings on the Educational Technology Act and related bills later in the spring.

Because of the widespread interest in the contents of the report, I am inserting Dr. McMurrin's testimony of March 12, 1970, at this point in the RECORD:

STATEMENT BY STERLING M. MCMURRIN, CHAIRMAN, COMMISSION OF INSTRUCTIONAL TECHNOLOGY, TO THE SELECT EDUCATION SUBCOMMITTEE OF THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, MARCH 12, 1970

I am pleased to respond to the request of the Chairman to discuss the report of the Commission on Instructional Technology.

As you know, the 90th Congress enacted the Public Broadcasting Act of 1967 to develop the potential of noncommercial television and radio. The first two titles provided for the extension to June 30, 1970, of federal grants for the construction of educational broadcasting facilities, and for the establishment of the Corporation for Public Broadcasting. Title III of the act authorized "a comprehensive study of school uses of TV, radio, and allied instructional media." On the basis of Title III, plus an Office of Education proposal, a nine-member Commission on Instruction Technology was appointed by the Secretary of Health, Education, and Welfare in March 1968 to conduct this study.

Most of the commissioners were laymen in the matter of instructional technology; only a minority had expert knowledge in the field. All, however, were vitally interested in education and most of them were actively engaged in educational professions. By profession they represented the public schools, universities, foundations, and community colleges. In addition, the membership included a federal judge. The Commission was composed of the following persons:

Dr. David E. Bell, Executive Vice President, The Ford Foundation

Dr. Roald F. Campbell, Dean, Graduate School of Education, University of Chicago

Dr. C. Ray Carpenter, then Professor of Psychology, Pennsylvania State University, now Professor of Psychology, University of Georgia

Dr. Nell P. Eurich, then Dean of the Faculty, Vassar College

Dr. Harold B. Gores, President, Educational Facilities Laboratories, Inc.

The Honorable A. Leon Higginbotham, Jr., Judge, Eastern District of Pennsylvania

Dr. Kermit C. Morrissey, President, Community College of Allegheny County

Dr. Kenneth E. Oberholtzer, Denver, Colorado, former Superintendent of Schools

Dr. Sterling M. McMurrin (Chairman), Dean of the Graduate School University of Utah

The Act which directed the establishment of the Commission described its purposes primarily in terms of the instructional uses of television and radio. When the Commission was constituted, however, the United States Commissioner of Education directed it to study the entire field of instructional technology without giving special emphasis to any particular medium. Accordingly, the work of the Commission was concerned with the whole gamut of instructional techniques—old, new, and future; printed, mechanical, and electronic; automated and cybernated; from books to computers, from classrooms to learning centers, from overhead projectors to satellite transmission, from pre-school to graduate school.

In describing the charge given to the Commission, Mr. Harold Howe II, the Commissioner of Education, said: 'We have reached the point where we have to find an approach to the development and use of educational technology that is at least superior to the process of sink-or-swim selection or of random, accidental experiment. We have got to come up with a more orderly, informed way of taking advantage of all that the new technology has to offer . . ."

The Commissioner went on to say: "The report of this Commission will be relevant no matter who occupies the White House or the office of the U.S. Commissioner of Education. It will represent the common and considered judgment of a distinguished group of men with very broad backgrounds in education and related fields. It will give full weight to the views and experience of all interested parties—in education, in industry, in government."

The first meeting of the Commission was held on April 22, 1968. At this time the Academy for Educational Development was selected to act as staff for the Commission, with the Academy's executive vice president, Sidney G. Tickton, as study director. Under the Commission's direction, the staff promptly began to assemble ideas and information. Letters were sent to over 2,000 persons representing a broad sampling of the educational community as well as other interested institutions, individuals, government agencies, associations, and private enterprises involved with instructional technology. In addition, in order to ensure the widest range of response, announcements were placed in trade, professional, and other publications inviting communications to the Commission.

Simultaneously, an extensive set of questions probing broad policy matters as well as technical details and specific uses of instructional technology was developed. The staff sought expert information and opinion on every phase of the Commission's mandate—from establishment representatives and mavericks alike. As a result, about 150 research and information papers were commissioned, numerous interviews were arranged, and the Commission retained expert consultants to work with its staff.

Most meetings of the Commission were combined with field investigations to give the Commissioners a close look at technology at work in all levels and areas of education (public schools, universities, the armed services, industry, the Job Corps, etc.), in order to observe at first hand the various ways "instructional technology" is currently employed. Commissioners were also exposed to theorists and researchers at the frontiers of the field.

Besides regular meetings of the Commission, seminars were held which brought together groups of knowledgeable, experienced specialists in specific media fields. Staff members made field trips and prepared memoranda on organizations and projects recommended to the Commission's attention because of their quality, special promise, or cautionary import.

Finally, it should be mentioned that cooperation was established with the several administrative departments and other agencies of the federal government which had an interest in instructional technology and could contribute importantly to the study.

The Commission members were gratified by the interest mainfested in their work, and by the caliber of the dozens of distinguished persons—scholars, technicians, practicing schoolmen and others—who agreed to prepare papers or grant interviews. Hundreds of thoughtful replies came in response to the Commission's original invitation and announcement. They came from all quarters—from industry, from superintendents of big school systems like Detroit, Chicago, and New York, and dozens of smaller places; from nearly every state commissioner of education and state office of education.

We also received valuable input from such professional groups as the American Library Association, Association of Classroom Teachers, American Association of School Administrators, National Association of Educational Broadcasters, American Association of University Professors, and from the Boy Scouts, YWCA, Institute of Electrical and Electronic Engineers, and the American Bankers Association.

There were answers from approximately two hundred colleges and universities—from the Chairman of the Corporation at M.I.T. and the President of Princeton; from the deans of education of numerous leading universities throughout the nation; from deans and department heads in the fields of computer science, behavioral research, medicine, engineering, instructional resources, communications, instructional television.

In television alone, respondents included heads of educational networks and independent stations, university stations, school TV systems, and state systems.

The official Commission meetings were held at least once a month at various locations so that Commission business could be combined with dicussions with local persons involved in instructional technology and observations of instructional programs and centers across the country. Some of the meeting locations were as follows:

Denver: with tours of the U.S. Air Force Academy and Lowry Air Force Base. The Commission was briefed on overall Air Force involvement in instructional technology and its applications in the Lowry training program and in the regular academic work of the Air Force Academy.

San Francisco: including visits to Ampex Laboratories, the Job Corps Center at Pleasanton, California, San Jose State College, the IBM Education Center at Los Gatos, and the Palo Alto Unified School District.

Detroit: with observations of the use of instructional media in advanced industrial establishments in that area.

Portland: including an informal discussion with a number of representatives from the audiovisual and knowledge industries who had assembled for an annual meeting of audiovisual experts.

Boston: including visits to or discussion with representatives from Educational Development Center, Lowell Institute Cooperative Broadcasting Council, WGBH Boston, and Eastern Educational Network.

New York: Several meetings were held to include all the groups that wanted to express their views to the Commission, including the Educational Media Council, the Corporation for Public Broadcasting, EDUCOM, various production centers, persons from industry, and several New York universities and foundations.

Washington, D.C.: Many of the Commission's meetings were centered in Washington. Included were seminars and informal discussions with top officials of educational associations such as the American Council on Education, the American Association of Junior Colleges, the National Education Association, the Association of American Universities, the Council for Basic Education, the National School Boards Association, the Association of American Colleges, the National Association of State Universities and Land Grant Colleges, the National Association of Independent Schools, the Council of Chief State School Officers.

In addition to the regular Commission meetings, seminars were held to permit experts in individual subject areas to comment and exchange views with the Commission, including:

A seminar to explore communications satellites and their implications for instructional technology. Participating were representatives of the National Aeronautics and Space Administration, National Association of Education Broadcasters, Federal Communications Commission, National Educational Television, United States Office of Education, the President's Task Force on Communication Policy, and the Joint Council on Educational Telecommunications.

A seminar with a representative group of ITV practitioners to brief the Commission on unique problems of ITV and to acquaint the profession with the Commission's purposes. Later to provide a forum for the discussion of instructional television, the Commission held a seminar in Washington which was attended by a group of 19 national leaders in the field. Participants included network, station, administrative and school people as well as delegates from such associations as the National Association of Educational Broadcasters, the Joint Council on Educational Telecommunications, and the National Education Association.

Two seminars—one for teachers and one for students—to present their wide range of views on instructional technology. The teachers and students had varying degrees of exposure to technology in schools.

In addition, various persons were asked to make presentations on behalf of groups (such as publishers, audio-visual manufacturers, the computer industry, etc.) or on specific facets (such as R&D centers, regional education laboratories, systems analysis, etc.). Where possible, a roster of experts in individual subject fields was assembled in order to obtain views relating to their expertise.

Throughout the study, staff members inspected many projects, attended many conferences, including a Leadership Seminar on Teaching the Film sponsored by the American Film Institute; the Second Annual Los Angeles Film Study Conference, sponsored by Fordham University and the American Film Institute; the Conference on Computer Assisted Instruction sponsored by IBM, the National Council of Teachers of Mathematics at Pennsylvania State University; Curriculum and Training Strategies, and Managing the Creation and Adaptation of CAI Instructional Program, sponsored by the Institute for Computer-Assisted Instruction. Some of the institutions visited included: Miami-Dade Junior College (Learning Resources Center); Michigan State University (closed-circuit television); Oklahoma Christian College (dial access); New York Institute of Technology (computerized management of the educational process); NDEA Summer Institute for Teachers of the Disadvantaged at the University of Southern California.

The questions which the Commission on Instructional Technology examined were not limited to educational problems that are cur-

rently urgent or to the uses of equipment which is presently available. In assigning papers and interviewing experts, the Commission attempted to avoid undue emphasis on equipment per se or on the particular medium, but attempted instead to probe the value of technology employed in systems of instruction.

As the study proceeded, the Commission refined its conception of its task. The Commission decided that while it would study the various educational media individually, with careful regard to their interconnections and their respective roles in the total instructional program, it would nevertheless treat them as a whole in the report, rather than as individual techniques. It appeared that this approach would yield the most satisfactory results, considering the Commission's desire to recommend whatever in its opinion should be done in a large way to improve and advance education through technology.

The Commission took as the starting point of its study not technology, but learning. The heart of education is the student learning, and the value of any technology used in education must therefore be measured by its capacity to improve learning.

Today, we observed, learning in our schools and colleges is increasingly impeded by such troubles as the growing gap between education's income and needs, and the shortage of good teachers in the right places. Formal education is not responsive enough: the organization of schools and colleges takes too little account of even what is now known about the process of human learning, particularly of the range of individual differences among students. This condition makes schools particularly unresponsive to the needs of disadvantaged and minority-group children. Moreover, formal education is in an important sense outmoded—students learn outside schools in ways which differ radically from the ways they learn inside school. Educational institutions make scant use of the potent means of communication that modern society finds indispensable and that occupy so much of young people's out-of-school time.

Today technology touches only a small fraction of instruction. Colleges, universities, and schools have been using television, films, computers, or programed texts in instruction, but to a limited extent. The results are mixed, with some institutions making a creative and sustained use of the new media while others, after an initial burst of enthusiasm, quickly lost interest.

Examining the impact of technology on American education in 1969 is like examining the impact of the automobile on American life when the Model T Ford first came out for education. The Commission weighed the more benefits technology seems to hold out for education. The Commission weighed future promise against present achievements, and examined the discrepancies between the science-fiction myths of instructional technology and the down-to-earth facts.

Obviously, the problems that confront education have no one solution. But learning might be significantly improved if the so-called second industiral revolution—the revolution of information processing and communication—could be harnessed to the tasks of instruction.

On the basis of present experience and informed projections, the Commission believes that technology could bring about far more productive use of the teacher's and the student's time. Of particular importance is its capacity to provide instruction that is truly tailored to each individual student; the traditional resources of teacher and textbook are not sufficiently flexible by themselves. Moreover, technology could help educators base instruction more systematically on what is known about learning and communication, not only guiding the basic research, but also providing the strategies for applying research findings.

The Commission found other reasons, also, for harnessing technology fully to the work of schools and colleges. New forms of communication give man new capacities. Instructional technology could extend the scope and power of instruction. It could help to bridge the gap between the outside world and the school, thus making learning more immediate and more relevant. Perhaps technology's greatest boon could be to make education more democratic. Access to the best teaching and the richest opportunities for learning is inevitably inequitable because of the constraints of economics, geography, or other factors having nothing to do with a student's ability to learn. Through television, film, and other forms of telecommunications, however, the remote rural college and the hard-pressed ghetto school could share the intellectual and esthetic advantages of the best institutions and the richest community resources.

In the conviction that technology can make education more productive, individual, and powerful, make learning more immediate, give instruction a more scientific base, and make access to education more equal, the Commission concluded that the nation should increase its investment in instructional technology, thereby upgrading the quality of education, and, ultimately, the quality of individuals' lives and of society generally.

Our study has shown that one-shot injections of a single technological medium are ineffective. At best they offer only optional "enrichment." Technology, we believe, can carry out its full potential for education only insofar as educators embrace instructional technology as a system and integrate a range of human and nonhuman resources into the total educational process.

To achieve such improvements, the knowledge of how people learn must be deepened, and the capacity to put that knowledge to effective use must be augmented. In the process the organization and governance of the entire educational enterprise may well have to be changed. So may the preparation and deployment of professionals and other highly trained specialists. To make instruction productive and responsive to individual students, the barriers that stand between the formal institutions of education and the larger community may have to be breached.

The changes required will probably be as thoroughgoing as those which industry underwent when it shifted from hand labor to mechanization. But a society hurtling into the age of the computer and the satellite can no longer be held back by an educational system which is limping along at the blackboard-and-textbook stage of communication.

The six recommendations proposed in our report comprise the initial steps which the Commission on Instructional Technology considers essential, beginning with a new agency to provide leadership and focus for concerted action. Recommendation No. 1 would establish the National Institutes of Education (N.I.E.) within the Department of Health, Education, and Welfare, with broad authorization to support and fund greatly strengthened programs in educational research, development, and application. The N.I.E. would consist of several constituent institutes, and through them make grants to universities and other independent research institutions, as well as conduct research itself. It would also sponsor several strong autonomous centers for research, development, and application, and a few comprehensive demonstration projects.

A National Institute of Instructional Technology (N.I.I.T.) should be established within the National Institutes of Education to work closely with existing agencies concerned with instructional technology and to establish such other regional centers and programs as it deems necessary (Recommendation #2). It would concentrate on research, development, and application of technology. One of its chief functions would be to encourage the production of a wide variety of good instructional materials.

The proposed National Institute of Instructional Technology should also take the lead in searching out, organizing, and preparing for distribution high-quality material, in all media, needed to improve education (Recommendation #3). To this end, the N.I.I.T. should consider establishing a center or "library" of educational resources. The center would take on additional responsibilities, such as helping school and college libraries transform themselves into comprehensive learning centers.

Projects to demonstrate the value of technology for instruction (Recommendation #4) would be initiated by the National Institute for Instructional Technology. These project would concentrate funds and other resources on a few carefully selected communities or school districts, with the emphasis on pockets of poverty or minority-group deprivation. The school system of the District of Columbia might be invited to mount the first of such model demonstrations.

Improving the capacity of educators to make good use of technology would be a major function of the proposed National Institute of Instructional Technology. Recommendation #5 proposes the support of programs, based on stepped-up research and development, to train and retrain teachers, administrators, and a variety of specialists.

Recommendation #6 proposes a mechanism whereby the National Institute of Instructional Technology could bring education and industry together in a close working relationship to advance the effectiveness of instruction through technology.

The Commission has concluded that only the federal government can undertake the major responsibility for the expenditures for basic and applied research, development, and application required in the years immediately ahead. Furthermore, we believe that the minimum initial financing required to carry out the recommendations of this report is approximately $565 million. Of this about $150 million would be required to launch the National Institutes of Education and the National Institute of Instructional Technology. The remaining $415 million would be required for the first full year of operation, including approximately $250 million for the research, development, and application activities of the institutes, $25 million for the center or "library" of educational resources, $100 million for demonstration projects, and $40 million for the training of personnel. The aggregate amount suggested would equal no more than 1 percent of the projected total expenditures for American education in fiscal 1972.

In his Message on Education Reform on March 3, 1970, President Nixon proposed the creation of a National Institute of Education as a first step toward educational reform. President Nixon said: "We need a coherent approach to research and experimentation. Local schools need an objective national body to evaluate new departures in teaching that are being conducted here and abroad and a means of disseminating information about projects that show promise." He then went on to say: "There comes a time in any learning process that calls for reassessment and reinforcement. It calls for new directions in our methods of teaching, new understanding of our ways of learning, for a fresh emphasis on our basic research, so as to bring behavioral science and advanced technology to bear on problems that only appear to be insuperable."

The Commission believes that its proposals will help achieve the President's objectives.

ENVIRONMENTAL EDUCATION BILL

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on Tuesday, March 24, the Select Subcommittee on Education, of which I am chairman, will open hearings on H.R. 14753, the Environmental Quality Education Act, which, on November 12, 1969, I introduced along with the gentlemen from New York (Mr. SCHEUER and Mr. REID) and the gentleman from Idaho (Mr. HANSEN).

Mr. Speaker, Members of Congress must all be struck with the really phenomenal growth in awareness in our own country and in others of the dangers to the quality of our environment.

I cite only a few examples:

First. Recent issues of major national magazines such as Fortune, Time, Life, and Newsweek have been devoted primarily to ecological questions.

Second. Recently, legal actions have been filed by the attorney general of Illinois against major corporations which have been dumping pollutants into the waters around Chicago.

Only yesterday the Justice Department obtained a grand jury indictment against United States Steel for dumping solid wastes into Lake Michigan.

Third. There has been an extraordinary growth of ecology action groups among students on college campuses. Thousands of students at colleges and high schools all over the country are scheduled to participate in the nationwide environmental teach-in on April 22, which is designed to alert citizens to the dangers to our environment.

Fourth. And, of course, President Nixon in his message of February 11, 1970, on the environment called for $4 billion in Federal funds over the next 5 years, for, among other items, uniform Federal standards for water purity, the building of sewage treatment plants, and research to develop a pollution-free automobile.

Mr. Speaker, the signs of environmental decay are everywhere:

Oil from faulty drillings fouls our beaches and endangers marine life and waterfowl.

Pollution of the air takes minutes from each of our lives.

Human and industrial waste soils our streams and rivers.

Poisonous pesticides and fertilizers contaminate our food.

Messy industrial areas, unsightly junkyards, ugly billboards, and thickets of powerlines diminish the joy of what we would otherwise see.

Mr. Speaker, to clean up our environment and to restore it to a congenial state will require billions of dollars in Federal funds and moneys from other sources, as well as public and private.

But to achieve this goal we will also need a major educational effort to acquaint our younger students and adult citizens with the ecological facts of life so that future generations will not be faced with the problems that we are only beginning to confront now.

Let me here note, Mr. Speaker, the following statement from the report which the Citizens Advisory Committee on Environmental Quality made to the President in August 1969:

> Man's interaction with his environment, both natural and man-produced, is the basis of all learning—the very origin and substance of education. Yet, our formal education system has done little to produce an informed citizenry, sensitive to environmental problems and prepared and motivated to work toward their solution.

Mr. Speaker, the bill that we shall begin to consider on March 24, H.R. 14753, is directed to the task of making Americans more aware of the dangers to their environment and to the steps we must take to meet them.

Briefly, the Environmental Quality Education Act provides funds for:

First. Aid to colleges and universities to develop materials for teaching environmental studies, natural resources, pollution control, and conservation.

Second. Support for training teachers of environmental studies.

Third. Grants for elementary and secondary schools to teach about ecology studies courses.

Fourth. Funds for community conferences on the environment for civic and industrial leaders and State and local government officials.

Fifth. Grants for preparing materials on the environment for use by mass media.

During the course of the hearings, the subcommittee plans to visit several areas of the country and to hear testimony from a broad spectrum of interested witnesses, including ecologists, students, environmental educators, industrial leaders, labor leaders, conservation groups, and citizens organizations.

Mr. Speaker, on Tuesday, March 24, our witnesses will include a prominent ecologist, Dr. LaMont Cole, professor of ecology at Cornell University; Robert Motherwell and Helen Frankenthaler, the distinguished American painters; and Dr. Joseph Sitler, outstanding Lutheran theologian from the University of Chicago.

On Wednesday, March 25, we will receive testimony from a group of students who are planning the April 22 environmental teach-in; Garrett de Bell, editor of the Environmental Handbook; and William Knowland, a student at Antioch College.

On Thursday, March 26, we will hear from Dr. Matthew Brennan, the director of the Pinchot Institute; Dr. Edward Weidner, chancellor of the University of Wisconsin at Green Bay; and Dr. Clarence Schoenfeld, chairman of the Center for Environmental Education at the University of Wisconsin at Madison.

Among witnesses scheduled for later hearings are Margaret Mead, noted anthropologist; David Gates and John Cantlon, ecologists; and Dr. James E. Allen, Assistant Secretary of Health, Education, and Welfare for Education, and U.S. Commissioner of Education, and Mr. John Macy, president of the Corporation for Public Broadcasting.

Mr. Speaker, at this time I insert the text of the Environmental Quality Education Act in the RECORD:

H.R. 14753

A bill to authorize the United States Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Environmental Quality Education Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress of the United States finds that the deterioration of the quality of the Nation's environment and of its ecological balance is in part due to poor understanding by citizens of the Nation's environment and of the need for ecological balance; that presently there do not exist adequate resources for educating citizens in these areas, and that concerted efforts in educating citizens about environmental quality and ecological balance are therefore necessary.

(b) It is the purpose of this Act to encourage and support the development of new and improved curriculums to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance; to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and industrial business leaders and employees, and government employees at State, Federal, and local levels; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance.

USES OF FUNDS

SEC. 3. (a) From the sums appropriated, the United States Commissioner of Education, hereinafter referred to in this Act as the "Commissioner", shall assist in educating the public on the problems of environmental quality and ecological balance by:

(1) Making grants to or entering into contracts with institutions of higher education and other public or private agencies, institutions, or organizations for:

(a) Projects for the development of curriculums to encourage preserving and enhancing environmental quality and maintaining ecological balance.

(b) Pilot projects designed to demonstrate and test the effectiveness of the curriculums described in clause (a) whether developed with assistance under this Act or otherwise.

(c) In the case of applicants who have conducted pilot projects under clause (b), projects for the dissemination of curricular materials and other information regarding the environment and ecology.

(2) Undertaking directly or through contract or other arrangements with institutions of higher education or other public or private agencies, institutions, or organizations evaluations of the effectiveness of curriculums tested in use in elementary, secondary, college, and adult education programs involved in pilot projects described in paragraph 1(b).

(3) Making grants to institutions of higher education, local educational agencies, and other public or private organizations to provide preservice and inservice training programs on environmental quality and ecology (including courses of study, symposiums, and workshops, institutes, seminars, conferences) for teachers, other educational personnel, public service personnel, and community, business and industrial leaders and

employees, and government employees at State, Federal, and local levels.

(4) Making grants to local educational, municipal, and State agencies and other public and private nonprofit organizations for community education on environmental quality and ecology, especially for adults.

(5) Making grants for preparation and distribution of materials suitable for use by mass media in dealing with the environment and ecology.

APPROVAL OF APPLICATIONS

SEC. 4. (a) Financial assistance for a project under this Act may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary, and only if such application—

(1) provides that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) sets forth a program for carrying out the purposes set forth in section 3 and provides for such methods of administration as are necessary for the proper and efficient operation of such programs;

(3) sets forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 3, and in no case supplant such funds.

(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(5) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) Applications from local educational agencies for financial assistance under this Act may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY EDUCATION

SEC. 5. (a) The Secretary of Health, Education, and Welfare shall appoint an Advisory Committee on Environmental Quality Education which shall—

(1) advise the Secretary concerning the administration of, preparation of, preparation of general regulations for, and operation of, programs supported with assistance under this Act;

(2) make recommendations regarding the allocation of the funds under this Act among the various purposes set forth in section 3 and the criteria for establishing priorities in deciding which applications to approve, including criteria designed to achieve an appropriate geographical distribution of approved projects throughout all regions of the Nation;

(3) review applications and make recommendations thereon;

(4) review the administration and operation of projects and programs under this Act, including the effectiveness of such projects and programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for improvements in this Act) to the Secretary for transmittal to the Congress; and

(5) evaluate programs and projects carried out under ths Act and disseminate the results of such evaluations.

(b) The Advisory Committee on Environmental Quality Education shall be appointed by the Secretary wthout regard to the civil service laws and shall consist of twenty-one members. The Secretary shall appoint one member as Chairman. The Committee shall consist of persons familiar with education, information media, and the relationship of man as producer, consumer, and citizen to his environment and the Nation's ecology. The Committee shall meet at the call of the Chairman or of the Secretary.

(c) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

TECHNICAL ASSISTANCE

SEC. 6. The Secretary, in cooperation with other Cabinet officers with relevant jurisdiction, shall, upon request, render technical assistance to local educational agencies, public and private nonprofit organizations, private profitmaking organizations, institutions of higher learning, agencies of local, State, and Federal Government and other agencies deemed by the Secretary to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education programs which deal with environmental quality and ecology and (2) deal with environmental and ecological problems pertinent to the recipient agency.

PAYMENTS

SEC. 7. Payments under this Act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on acount of overpayments or underpayments.

ADMINISTRATION

SEC. 8. In administerng the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

AUTHORIZATION

SEC. 9. There is authorized to be appropriated for the fiscal year ending June 30, 1970, for carrying out the purposes of this Act such sums as Congress may deem necessary.

CALL FOR CONGRESSIONAL INVESTIGATION INTO OPERATIONS OF U.S. COPPER PRODUCERS

(Mr. BLANTON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BLANTON. Mr. Speaker, I am introducing today a resolution which calls for a congressional investigation into the operations of the U.S. copper producers and their marketing procedures.

This resolution asks for an investigation into the domestic copper producers and the manner in which the price of copper is determined for markets in the United States, the relationship between the free-world price of copper and the price charged by the American producers of copper to American manufacturers and others, the possibility of violations of U.S. antitrust laws in the copper industry—the possibility of illegal pricing agreements, restraint of trade—the manner in which copper producers allocate their copper to various copper manufacturers, the extent to which American copper producers allocate their copper to their own manufacturing facilities, and other matters.

Mr. Speaker, some very grave questions have been raised in my own mind concerning the practices of our major copper manufacturers and producers. I am also asking the Department of Justice to start an immediate investigation by their Antitrust Division of what I believe could be violations of the laws. I am also asking the Federal Trade Commission to make an investigation into particular complaints which have reached me. I intend to resolve in my own mind some procedures which the copper producers have engaged in, which will touch in virtually every area of the industry.

On January 9 of this year, President Nixon named an interagency study committee of key ecnomic advisers on the copper industry. I think the New York Times headlines reporting this announcement gives us an indication of what this panel will come up with: "Industry Is Reassured; No Evidence of 'Deliberate Malpractices By Mining Companies Is Known.'" There is a definite need for an independent congressional investigation into this copper situation, separate and apart from the study being conducted by the executive branch.

Mr. Speaker, the major copper producers are so highly concentrated that the situation has resulted in a virtual monopoly of the domestic copper market by six major companies and their subsidiaries. The Lilliputians in this business are being locked out by the Gullivers, and the study I have made of the business to date shows little evidence that this situation is a chance occurrence.

I have a small company in my district which has been trying to buy copper from the major producers, or their subsidiaries, and they have been refused the metal under the pretext that there is a shortage of supply, or because of an archaic allocation system which has been an industry practice since 1963. In short, there is very little chance, if any, for anyone to break into this business today.

The allocation system, agreed upon by the giants in this industry in 1963, simply means that there is a system of preferred customers designated by the mining and refining segments of the industry—special "established" customers which include their own manufacturing subsidiaries who will receive and continue to receive their supply. But none can be given to new companies—certainly not ones which pose a threat of competition in the marketplace with the subsidiaries.

Of major impact in this entire industry is a very unique two-tier pricing system. Domestic copper is sold by the major producers at 56 cents per pound, to the subsidiaries and preferred customers. The world market, a speculative and therefore fluctuating market, has a current price of 79 cents per pound. Many small companies are forced to buy from the world market or the domestic scrap and speculative market simply because the domestic producers refuse to sell to them. The situation has come down to the cold facts that the six or seven major copper producers in this country can dictate who and who cannot be in the copper business. The small companies locked out of the agreement of 1963 have to buy their refined copper at almost the same price as the finished material sells for by the subsidiaries of the major producers and their preferred customer producers.

A new independent copper fabricator's only source for copper would be high price scrap, high price speculator copper or merchant's copper, which is approximately 15 to 20 cents a pound higher than the current producers price in this country.

Mr. Speaker, I plan to continue to inform this body of some rather dubious practices and highly suspicious procedures in the copper producers industry upon my return from Vietnam. I urge every Member to give serious consideration to this resolution, that we can start an investigation immediately.

ECONOMIC INDECISION

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on Tuesday upon emerging from the White House, the distinguished minority leader, the gentleman from Michigan (Mr. FORD) stated that "the problem of inflation has been defeated" and that the chances of a recession are "nil." We may safely assume I feel, that the minority leader did not propound his analysis of the Nation's economic situation without the approval and, yes, even the encouragement of the White House. My sympathies are with the gentleman from Michigan. I feel very strongly that he has obviously been mislead by his own administration's so-called economic experts.

Yesterday, Dr. Arthur Burns, President Nixon's appointee as Chairman of the Federal Reserve Board, literally pulled the rug out from under the minority leader. When appearing before the Senate Banking and Currency Committee, Dr. Burns flatly contradicted the House Republican leader's post-White House pronouncements. Dr. Burns stated:

> No, I don't think the problem of inflation is at an end nor can I say there is no danger of a recession.

Now, in addition to being an economist of high repute, the Chairman of the Federal Reserve Board possesses impeccable Republican credentials. He served as Chairman of the President's Council of Economic Advisers under President Eisenhower. He acted as President Nixon's chief economic adviser during the 1968 campaign, and subsequent to the election was installed at the White House with considerable fanfare as the President's Economic Adviser. So impressed was President Nixon with his ability as an economist that this year he elevated him to the chairmanship of the Federal Reserve Board. Because of his high professional standing as well as his long and intimate relationship with the President, we in the Congress, as well as the country at large, must weigh carefully any pronouncement on his part as to the status of our national economy.

Mr. Speaker, it is clear from all available economic indicators that Dr. Burns is far closer to the mark as to the Nation's current economic posture than is our able friend from Michigan. Unemployment figures, industrial production, housing starts, and a decline in the gross national product all are indicative of a deepening recession. At the same time the cost of living stands some 7 percent higher than a year ago.

Mr. Speaker, I share the regret, which I feel certain the minority leader must feel, over the embarrassing position in which his administration has chosen to place him.

PRESIDENT'S MESSAGE ON HIGHER EDUCATION

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, the President's message on higher education, delivered to the Congress today, like most administration announcements, is short in substance and overabundant in rhetoric. No one can really disagree with the lofty pronouncements of the President that "no element of our national life is more worthy of our attention, our support, and our concern than higher education." However, there is considerable doubt as to whether we should agree with many of the suggestions and proposals advanced by President Nixon to solve what he calls basic wrongs in connection with Federal policy toward higher education.

Detailed analysis of the President's proposals must, of course, be dependent upon careful study of the exact language of the proposed Higher Education Opportunity Act of 1970. That study and analysis will, I am confident, be forthcoming soon from higher education experts in and out of Congress.

A quick reading of the message does reveal, unfortunately, an unexplainable disregard on the part of the administration for some of the really basic problems of higher education. It is clear from the President's message that he would make the student bear most of the cost of higher education. Education is suffering greatly increased costs from rampant inflation. To make a student, and particularly the student from lower and middle-income circumstances, bear this increased cost is wrong.

The Higher Education Act of 1965, enacted by the Democratic 89th Congress, contained important provisions which allow students from middle-income families to borrow money at low interest rates in order to obtain an education at reasonable cost. It would appear that the President would have us do away with that program and leave the student who is not poor but who has only moderate financial resources to the high interest rates of the marketplace.

I believe that any comprehensive program for higher education should include a system of direct grants to institutions of higher learning. The institutions of higher education themselves should be the beneficiaries of Federal assistance in order for students from all walks of life to have an opportunity for higher education at a reasonable cost.

From the President's message it appears he would dismantle all, or most, of the higher educational programs which he admits have resulted in a phenomenal increase in the number of Americans who today attend college over the number who attended college 25 years ago. For these programs which have been successful, he would substitute programs which on quick inspection would appear to lower the amount of money which would be available for educational assistance for most of our most deserving students. These programs, while lowering the amount of assistance available would increase the cost of that assistance to many students by forcing them to go into the marketplace to borrow money. If a student borrows $4,000 over 4 years to finance his college education at current rates and utilizes the 20-year payback period suggested by the administration in the President's message, the total cost of his loan would be in excess of $11,000.

I am disappointed that the President's message is not more realistic and that it did not deal with some of the crucial problems faced by educational institutions themselves.

APOLLO 11 ASTRONAUTS SELECTED AS THE 1969 RECIPIENT OF THE ROBERT J. COLLIER TROPHY

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLER of California. Mr. Speaker, Neil A. Armstrong, Col. Edwin E. Aldrin, Jr., USAF, and Col. Michael Collins, USAF, have been designated as the recipients of the Robert J. Collier Trophy for significant achievement in aeronautics and astronautics for 1969, it was announced today by Mr. Frederick B. Lee, president of the National Aeronautic Association.

A committee appointed by Mr. Lee consisting of 24 distinguished leaders and authorities in aeronautics and astronautics unanimously selected the crew of Apollo 11 from a list of outstanding nominees.

The committee, while fully recognizing the team effort and superb technical competence of the tens of thousands who support the Apollo program, awarded the trophy to Armstrong, Aldrin, and Collins for their high courage and stunning success in accomplishing man's highest adventure in recorded history—the first moon landing.

The trophy traditionally has been presented by the President of the United States. The presentation to the Apollo crew has been scheduled for May 6 at a luncheon in Washington which will be hosted jointly by the National Aeronautic Association and the National Aviation Club.

The trophy was established in 1912 by Robert J. Collier, publisher and pioneer aviation enthusiast, as the Aero Club of America Trophy. In 1922 the Aero Club of America was incorporated as the National Aeronautic Association and now has aero clubs throughout the United States as chapters. NAA is the official U.S. representative of the Federation Aeronautique Internationale, the organization responsible for the authentication of all official aviation and space records on a worldwide basis, and is composed of more than 60 member nations. The Apollo 11 mission established one world absolute and six world class records.

In 1944 the association renamed the award the Robert J. Collier Trophy. It is awarded annually "for the greatest achievement in aeronautics or astronautics in America, with respect to improving the performance, efficiency, or safety of air or space vehicles, the value of which has been thoroughly demonstrated by actual use during the preceding year."

The first two awards went to Glenn H. Curtiss, for development of the hydroaeroplane in 1911 and for development of the flying boat in 1912. The following year the recipient was Orville Wright, for development of the automatic stabilizer. More recent recipients have included Vice Adm. William F. Raborn, James E. Webb, Hugh L. Dryden, James S. McDonnell, Lawrence Hyland, and the crew of Apollo 8.

THE WORK STOPPAGE

(Mr. OLSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OLSEN. Mr. Speaker, because I deeply feel that the American people and my colleagues should have a complete understanding of the work stoppage by at least 70,000 employees, I am submitting several communications and telegrams which I believe should be in the RECORD at this point.

In reality, this postal strike must ultimately be settled here in Congress.

I sincerely believe that the House Post Office Committee and the House itself did the right thing when it almost unanimously adopted the Salary Adjustment Act, H.R. 13000, on October 18 of last year.

H.R. 13000 is a good bill, thoroughly reasoned out and passed at a time when cooler heads prevailed.

It was subsequently considered and a version of it passed by the Senate on December 12. Again, when cooler heads prevailed.

I feel we should cut the foot dragging and immediately go to conference to resolve the differences in the House and Senate pay plans and hopefully bring out a badly needed pay raise, especially for postal workers, most of whom received only a 4.1-percent increase last year while other Federal workers, for the most part, received 9.2 percent.

Mr. Speaker, I submit that the Congress has agreed to a pay raise, the administration has agreed, but now the administration wants to postpone such a pay raise and the President himself threatens a veto if the pay raise is as stipulated in H.R. 13000. But the Congress should act and then let the President make the decision on how he will follow through.

Mr. Speaker, again for the edification of my colleagues, I am appending hereto a release showing the position of the seven postal unions holding exclusive national recognition with the Post Office Department, and a copy of a telegram to the Secretary of Labor, the Honorable George P. Shultz, calling for immediate meetings aimed at halting the work stoppage in the Post Office.

Finally, Mr. Speaker, I am also enclosing an explanatory statement of the history behind work stoppage as promulgated by a number of postal unions. I hope each Member will read and study these statements in order that he can understand why this drastic situation has developed:

STATEMENT OF NATIONAL PRESIDENT FRANCIS S. FILBEY, UNITED FEDERATION OF POSTAL CLERKS

WASHINGTON, D.C., March 18.—President Francis S. Filbey of the United Federation of Postal Clerks (AFL–CIO) announced tonight that the Presidents of the seven postal unions holding exclusive national recognition with the Post Office Department met this afternoon and issued the following statement:

"Because of the provisions of Executive Order 11491 the Labor Agreement existing between our organizations and the Post Office Department, and existing statutes, we cannot support or condone the service interruption which has occurred and we collectively instruct all affected postal employees to return to work immediately.

"We further request an immediate, full and objective congressional investigation of all of the conditions and circumstances which brought this situation about."

The statement was signed by President Filbey for the Postal Clerks and by President James H. Rademacher of the National Association of Letter Carriers (AFL–CIO); President Monroe Crable of the National Association of Post Office & General Service Maintenance Employees (AFL–CIO); President Michael J. Cullen of the National Association of Special Delivery Messengers (AFL–CIO); President Chester W. Parrish of the National Federation of Post Office Motor Vehicle Employees (AFL–CIO); President Lonnie L. Johnson of the National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders (AFL–CIO) and President Herbert L. Alfrey of the National Rural Letter Carriers Association.

MARCH 19, 1970.

Hon. GEORGE P. SHULTZ,
Secretary of Labor, U.S. Department of Labor, Washington, D.C.:

On behalf of all seven of the National Exclusive Representatives of postal employees we call upon you to intervene immediately and use your good offices and expertise in bringing about a conclusion to the growing interruption in mail service presently in progress.

In addition, we recommend that you commence meetings between the Post Office Department and the exclusive unions in an effort to seek means whereby the interruption may be halted so that the issues which underlay this interruption may be resolved promptly and peaceably.

Francis S. Filbey, President, United Federation of Postal Clerks; James H. Rademacher, President, National Association of Letter Carriers; Monroe Crable, President, National Association of Post Office and General Service Maintenance Employees; Michael J. Cullen, President, National Association of Special Delivery Messengers; Chester W. Parrish, President, National Federation of Post Office Motor Vehicle Employees; Lonnie L. Johnson, President, National Association of Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders; Herbert L. Alfrey, President, National Rural Letter Carriers Association.

EXPLANATORY STATEMENT

We cannot, we do not condone this work interruption. We are doing all within our power to get all postal employees back to work at once.

But the public ought to know that this work stoppage is the bitter fruit of low wages and intolerable working conditions to which the present and previous Administrations have been culpably insensitive.

Employees' statutory rights have been wilfully violated for years—so much so that the unions were forced to sue for a Federal court order directing the Post Office Department to conform to the will of Congress as expressed in Public Law 89–301 governing overtime.

Yet the Post Office still drags its feet in paying off millions in back overtime pay to postal employees.

The unions have been ready for weeks to negotiate a new National Agreement and served proper notice of that fact early in January. After a 57-day delay in responding, the Post Office Department extended the old agreement beyond its March 8 expiration date.

This Administration has available under current law a mechanism for raising wages in labor shortage areas but has refused to avail itself of this and other ameliorative administrative actions despite all the ominous signs of employee unrest.

This Administration, before and after taking office, promised to achieve postal pay comparability with private industry in belated fulfillment of a law passed nearly a decade ago. Yet in recent weeks it has reneged on campaign promises and proposes a six-month delay of the July, 1970, pay raise which it agrees our members deserve.

The Postmaster General himself by comparing the abilities of postal employees unfavorably with Japanese postal workers committed verbal indiscretions which have come home to haunt him.

Historically, postal employees have looked to Congress for relief. But too many Members, knuckling under to unprecedented Administration pressures for dubious and untried forms of postal reform, are showing more concern for a postal corporation than for decent wages and the health and welfare of civil servants whose dignity has been too long affronted and whose real grievances in an expanding economy have been too long swept under the rug.

Postal workers are the victims of inflation not the cause of it.

In every democratic society workers whose rights, safety, economic well being and dignity have been denied have been forced to resort to self action and self help when the regular channels of social change and justice have been unresponsive. When stable, dedicated civil servants with many years of service feel they have no choice but to publicly and through direct action air their grievances in the face of highly restrictive laws it is quite obvious how deeply felt the injustices are.

Yet with all these grievances we remain confident that those employees who are withholding their labor will respond to our pleas and to the public need.

AMALGAMATED CLOTHING WORKERS OF AMERICA PROTEST RISING FLOOD OF TEXTILE IMPORTS

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, today thousands of members of the Amalgamated Clothing Workers of America have left their jobs for 2 hours as a means of protest against the rising flood of imported apparel and textiles, which directly threaten their jobs and their livelihood.

Mr. Speaker, for years many of us have realized that if these imports continue unchecked and unabated there can be only one result, large-scale unemployment and the destruction of one of America's great industries. For several years I have joined in sponsoring legislation in the House to put reasonable and fair limits on these imports. I have joined in appeals to Japan and other importing countries to put voluntary quotas on their own textile imports in an effort to preserve American textile jobs. But so far those appeals have been rejected, and this legislation already seems to be the only remaining answer.

The general president of the Amalgamated, Jacob S. Potofsky, has already stated that his union has no desire to cut off trade between this country and others. But the union does request, urgently, that the jobs and security of American workers be protected by regulation—by an agreement between this country and Japan that would limit the flood of low-wage imports.

The textile and apparel industry employs 2½ million people, many of them members of minority groups, many of them women, as in Penn Yan, N.Y., and many of them people who would be hard put to find other work.

It is also important to note that most of these imports come from low-wage countries, countries where garment workers make as little as 7 cents an hour—a wage no American worker can afford to meet.

So it seems to me, Mr. Speaker, that the members of the Amalgamated Clothing Workers have a just cause when they ask the Congress to pass legislation to regulate imports that cost them their livelihoods.

I salute them in their protest today, and pledge them my full support in enacting the necessary corrective legislation.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The United States is the largest producer of oats in the world. In 1967 the United States produced 781,867,000 bushels of oats or over 26 percent of the world total. The Soviet Union was the second leading nation producing 468,500,000 bushels.

LEAVES OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MOLLOHAN (at the request of Mr. ALBERT), for today, on account of official business.

Mr. CAMP (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. CUNNINGHAM (at the request of Mr. GERALD R. FORD), for week of March 23d on account of official business.

Mr. MILLS (at the request of Mr. BOGGS), for today, and remainder of the week on account of official business.

Mr. FALLON (at the request of Mr. ALBERT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STRATTON, for 20 minutes, today.

(The following Members (at the request of Mr. HANSEN of Idaho) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. PRICE of Texas, for 5 minutes, today.

Mrs. HECKLER of Massachusetts, for 30 minutes, today.

(The following Members (at the request of Mr. MELCHER) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. RARICK, for 30 minutes, today.

Mr. STAGGERS, for 20 minutes, today.

Mr. ROONEY of New York, for 10 minutes, today.

Mr. CONYERS, for 60 minutes, on March 24.

Mr. LOWENSTEIN, for 30 minutes, on March 24.

Mr. JACOBS, for 30 minutes, on March 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KYL, and to include two tables in his remarks on the crime bill.

Mr. MIZELL, immediately following the remarks of Mr. SMITH of New York during general debate in the Committee of the Whole today.

Mr. MCMILLAN, and to include extraneous matter.

(The following Members (at the request of Mr. HANSEN of Idaho) and to include extraneous matter:)

Mr. STEIGER of Wisconsin in two instances.

Mr. LANGEN.

Mr. RHODES.

Mr. WATSON in two instances.

Mr. ROUDEBUSH.

Mr. SCHERLE in two instances.

Mr. CONTE.

Mr. HOSMER in two instances.

Mr. MORSE.

Mr. MCCLOSKEY.

Mr. MESKILL in two instances.

Mr. CRANE.

Mr. DUNCAN in two instances.

Mr. KLEPPE.

Mr. ASHBROOK.

Mr. MARTIN.

Mr. CARTER.

Mr. STEIGER of Arizona.

Mr. BEALL of Maryland in two instances.

Mr. SCOTT.

Mr. WYMAN in two instances.

Mr. MCCLORY.

Mr. FULTON of Pennsylvania in five instances.

Mr. TAFT in two instances.

Mr. NELSEN.

Mr. ERLENBORN.

Mr. CRAMER.

Mr. FISH.

Mr. MACGREGOR.

(The following Members (at the request of Mr. MELCHER) and to include extraneous matter:)

Mr. ADDABBO in two instances.

Mr. FARBSTEIN in four instances.

Mr. GONZALEZ in two instances.

Mr. VANIK in two instances.

Mr. EILBERG in three instances.

Mr. FRASER in two instances.

Mr. FOUNTAIN in two instances.

Mr. KLUCZYNSKI in three instances.

Mr. BURTON of California.

Mr. ANNUNZIO in two instances.

Mr. MIKVA in eight instances.

Mr. STOKES.

Mr. HAMILTON.

Mr. HATHAWAY in two instances.

Mr. FULTON of Tennessee in six instances.

Mr. BINGHAM in two instances.

Mrs. SULLIVAN in three instances.

Mr. DINGELL in two instances.

Mr. ANDERSON of California.

Mr. ST. ONGE in two instances.

Mr. KOCH in five instances.

Mr. WHITE in two instances.

Mr. HARRINGTON in three instances.

Mrs. GRIFFITHS in two instances.

Mr. CONYERS in two instances.

Mr. KYROS in three instances.

Mr. PATTEN in five instances.

Mr. POWELL.

Mr. OLSEN in two instances.

Mr. WRIGHT in eight instances.

Mr. PICKLE in three instances.

Mr. RYAN in four instances.

Mr. DULSKI in five instances.

Mr. MELCHER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2882. An act to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for Yuma Mesa Irrigation District, Ariz., to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found

truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

ADJOURNMENT

Mr. MELCHER. Mr. Speaker, I move that House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Monday, March 23, 1970, at 12 o'clock noon.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1969, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following reports for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE
SECRETARY OF TRANSPORTATION,
March 16, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: In accordance with the provisions of Section 4 of Public Law 85–804 (50 U.S.C. 1434) the Department of Transportation reports one action taken during calendar year 1969 under the authority of that act:

Name of Contractor: The VP Company, 330 South Fair Oaks Avenue, Pasadena, California 91101.

Cost Involved: Contract Price $13,150.50.

Amount of Claim: $1690.05.

Description of Property: Contract for supply of 101 radio headset panels and ancillary items to the Federal Aviation Administration.

Action Taken: Application denied by the Department of Transportation Contract Appeals Board for the reason that relief was available under the disputes procedures of the contract.

Sincerely,

ALAN L. DEAN.

DEPARTMENT OF TRANSPORTATION,
CONTRACT ADJUSTMENT BOARD,
Washington, D.C.

(Application of the VP Company—Docket No. 85–804–4)

DECISION

This case involves a request for relief under Public Law 85–804 (72 Stat. 972, 50 USC §§ 1431 to 1435), by the CP Company of Pasadena, California, in the amount of $1,690.05 under FAA Contract No. FA68WA–1887 on the basis of mistake (FPR 1–17.204–3, 41 C.F.R. § 1–17.204–3).

Jurisdiction to grant extraordinary relief under Public Law 85–804 in Federal Aviation Agency contracts was transferred to the Secretary of Transportation by Section 6(c)(1) of the Department of Transportation Act (Public Law 89–670, 49 USC § 1655(c)(1), and delegated by the Secretary to this Board. In considering Public Law 85–804 applications, this Board follows the guidelines of the applicable General Services Administration Regulations, Part 1–17 of the Federal Procurement Regulations (41 C.F.R. § 1–17.00 *et seq*).

The contract provided for 101 Radio Headset Panels and ancillary items at a price of $13,150.50. The invitation for bids was issued on September 21, 1967, and nineteen bids were received. The contract award was made on March 8, 1968, and the contract was completed on October 9, 1968. The VP Company is withholding submission of its invoice for payment until a decision is rendered on this application for extraordinary relief. No progress or advance payments were made under the contract.

The basis of the application is that the contractor and its vendor were misled by the description for relays specified in Paragraph 3.5.1 of Specification FAA–E–2075A which provides:

"Relays K1 and K2 shall be C. P. Clare Type J with code 24 bifurcated contacts, or equal, with individual covers, 200-ohm +5% coils properly phased as reactors, to operate on 48 v dc. Relays K3 to K6 shall be C. P. Clare Type J with code 24 bifurcated contacts, or equal with individual covers, 1600-ohm +5% coils for 48 v dc operation."

The contractor claims that relays K1 and K2 were identical and that relays K3 through K6 were identical, so that only two types of relays were required. The vendor, C. P. Clare, furnished a price of $3.33 and $3.79, respectively, for these types of relays.

On April 4, 1968, after the award of the contract, the vendor on review of the wiring drawing (which apparently was not submitted to the vendor when a quotation was requested prior to the award of the contract) determined that the relays of the original bid would not perform their function and that four different relays were required.

The original bid with respect to these items was:

	Quantity	Price	Per unit
C. P. Clare type J:			
200-ohm coil	2 each	$3.33	$6.66
1,600-ohm coil	4 each	3.79	15.16
Total			21.82
10 percent G. & A			2.18
10 percent profit			2.40
Total			26.40
Times 101 pieces			2,666.62

The adjusted price by C. P. Clare was:

	Quantity	Price	Per unit
Part No.—			
JA–017317	2 each	$7.76	$15.52
JB–017317	do	7.02	14.04
JC–017317	1 each	9.68	9.68
JD–017317	do	7.52	7.52
Total			46.76
10 percent G. & A			4.68
10 percent profit			5.14
Total			56.58
Times 101 pieces			5,714.58

The contractor then established another source of supply for these items from the Magnecraft Company and obtained the relays at the lower price of $4,356.67. The deduction of the original bid price of $2,666.62 from this figure leaves the claimed loss of $1,690.05 or $16.73 per unit for 101 units.

The contractor contends that the Relay paragraph (3.5.1) was misleading and ambiguous, made no reference to the wiring drawing DR–C–40091–1–C, and was relied on in soliciting a quotation for relays from its vendor. This resulted in a loss of $1,690.05 for which the contractor requested a contract modification.

The Contracting Officer in denying the contractor's request for the contract modification, held (1) that the specification clearly indicated relays K1 through K6, C. P. Clare Type J, or equal, and specified the required coil resistance; and (2) Drawing DR–C–40091–1–C was part of the contract and indicated the required relay configuration and wiring necessary to perform the work.[1]

The contractor seeks relief under FPR § 1–17.204.3 contending that a mistake was made in the costs of the relays and its final bid price because the Relay specifications was misleading, ambiguous, and made no reference to the wiring drawing. The filing of an application for extraordinary relief as a mistake claim is improvident since this is more appropriately a claim for an alleged defective specification or a conflict between the specification and the drawing. As such, the matter herein is cognizable, ordinarily, under the contract and in the event of a dispute concerning it, there is an adequate remedy provided by the Disputes clause of the contract. The regular contractual procedure must first be exhausted before an application for relief under Public Law 85–804 can be considered, since FPR § 1–17.205–1(b)(2) provides that no contractual relief shall be entered into under authority of Public Law 85–804 if "other legal authority" is adequate and available within the agency. (*Blaw-Knox Company*, ACAB 1019 (1960)).

In view of the foregoing, the Board declines to consider the application for relief under Public Law 85–804. However, as the authorized representative of the Secretary, we return the matter to the Contracting Officer for appropriate disposition under the disputes procedure of the contract.

Dated: June 26, 1969.

E. P. SNYDER,
GERSON B. KRAMER,
EDGAR H. TWINE,
Members.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1801. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Deposit Insurance Corporation for the year ended June 30, 1969, pursuant to section 17(c) of the Federal Deposit Insurance Act (H. Doc. No. 91–283); to the Committee on Government Operations and ordered to be printed.

1802. A letter from the Comptroller General of the United States, transmitting a report on weaknesses in award and pricing of ship overhaul contracts, Department of the Navy; to the Committee on Government Operations.

1803. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to increase the supply of decent housing and to consolidate, extend and improve laws relating to housing and urban renewal and development; to the Committee on Banking and Currency.

1804. A letter from the Secretary of the Treasury, transmitting the fourth semiannual reports for the period July 1–December 31, 1969, on (1) purchases and sales of gold and the state of the United States gold stock, and (2) the evolution of the international monetary system; to the Committee on Banking and Currency.

1805. A letter from the Secretary of the Interior, transmitting preliminary data on the lead and zinc mining stabilization program for calendar year 1969, pursuant to the provisions of Public Law 87–347; to the Committee on Interior and Insular Affairs.

[1] In his letter of May 2, 1968, the Contracting Officer failed to indicate that his letter was a final decision under the Disputes clause, and were that his intention the letter was further defective since it failed to advise the contractor of its appeal rights as required by the regulations of this Department. *Keystone Coat & Apron Company* v. *U.S.*, 150 Ct. Cl. 277 (1960); *Bostwick-Batterson Co.* v. *U.S.*, 151 Ct. Cl. 560 (1960).

1806. A letter from the Secretary of Transportation, transmitting a report on contractual actions to facilitate the national defense during calendar year 1969, pursuant to the provisions of section 4 of Public Law 85–804; to the Committee on the Judiciary.

1807. A letter from the Director of the Federal Judicial Center, transmitting the second midyear report of the Center, pursuant to the provisions of 28 U.S.C. 623(b); to the Committee on the Judiciary.

1808. A letter from the Secretary of Commerce, transmitting the sixth annual report on mobile trade fair activities for the fiscal year ended June 30, 1969, pursuant to the provisions of Public Law 87–839; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Science and Astronautics. H.R. 16516. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 91–929). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. House Resolution 841. Resolution to disapprove Reorganization Plan No. 1 (Rept. No. 91–930). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. KLUCZYNSKI, Mr. ROSTENKOWSKI, and Mr. PUCINSKI):

H.R. 16556. A bill to provide emergency financial assistance to urban public transportation systems; to the Committee on Banking and Currency.

By Mr. ASHBROOK:

H.R. 16557. A bill to guarantee that every employee of the Federal Government shall have the right to refrain from union activity; to the Committee on Post Office and Civil Service.

By Mr. COWGER (for himself, Mr. HOSMER, Mr. BINGHAM, Mr. SCHEUER, Mr. YATRON, Mr. FRIEDEL, Mr. POWELL, Mr. FRASER, Mr. STOKES, Mr. PODELL, Mr. TIERNAN, and Mr. MIKVA):

H.R. 16558. A bill to improve law enforcement in urban areas by making available funds to improve the effectiveness of police services; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 16559. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; to the Committee on Merchant Marine and Fisheries.

By Mr. PELLY:

H.R. 16560. A bill to clarify the right of States and local subdivisions to provide for domestic preference in acquiring materials for public use; to the Committee on Public Works.

By Mr. GERALD R. FORD (for himself, Mr. RODINO, and Mr. WILLIAM D. FORD):

H.R. 16561. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, as amended; to the Committee on Education and Labor.

By Mr. OBEY:

H.R. 16562. A bill to amend title XVIII of the Social Security Act to provide payment under part A thereof (the hospital insurance benefits program) for the cost of qualified drugs; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 16563. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business; to the Committee on Ways and Means.

By Mr. ST. ONGE:

H.R. 16564. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. TAFT:

H.R. 16565. A bill to provide comprehensive rules dealing with interrogation which will fully protect the rights and interest of society and the criminally accused; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 16566. A bill to authorize and direct the Corps of Engineers to engage in public works for waste water purification and reuse; to the Committee on Public Works.

H.R. 16567. A bill to require imported foodstuffs to meet standards required by the Federal Government for domestic foodstuffs; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 16568. A bill to encourage States to establish abandoned automobile removal programs and to provide for tax incentives for automobile scrap processing; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. BOLAND, Mr. BYRNE of Pennsylvania, Mr. DELANEY, Mr. DERWINSKI, Mr. DULSKI, Mr. FRIEDEL, Mr. GONZALEZ, Mr. HALPERN, Mr. HASTINGS, Mr. HOSMER, Mr. MIKVA, Mr. NEDZI, Mr. PODELL, Mr. PRICE of Illinois, Mr. REES, Mr. RODINO, Mr. SCHEUER, Mr. TUNNEY, and Mr. WOLFF):

H.R. 16569. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully possess them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 16570. A bill to authorize the appropriation of funds to be utilized by the Federal home loan banks for the purpose of adjusting the effective rate of interest to short-term and long-term borrowers on residential mortgages; to the Committee on Banking and Currency.

By Mr. YATRON:

H.R. 16571. A bill to amend title 38, United States Code, to provide for the payment of pensions to veterans of World War I; to the Committee on Veterans' Affairs.

By Mr. DELLENBACK (for himself, Mr. MICHEL, and Mr. GUDE):

H.R. 16572. A bill to provide a consolidated, comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. EDWARDS of California (for himself and Mr. COHELAN):

H.R. 16573. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. FARBSTEIN:

H.R. 16574. A bill to preserve and protect the confidentiality of first-class mail; to the Committee on Post Office and Civil Service.

By Mr. MESKILL:

H.R. 16575. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 16576. A bill to amend the Federal Insecticide, Fungicide, Rodenticide Act, as amended (7 U.S.C. 135–135k), to prohibit the importation of certain agricultural commodities to which economic poisons have been applied, and for other purposes; to the Committee on Agriculture.

By Mr. RYAN:

H.R. 16577. A bill to provide for regular determinations of the extent of air and water pollution throughout the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE:

H.R. 16578. A bill to amend title II of the Social Security Act to provide a special rule for determining insured status, for purposes of entitlement to disability insurance benefits, of individuals whose disability is attributable directly or indirectly to meningioma or other brain tumor; to the Committee on Ways and Means.

By Mr. MACGREGOR:

H.R. 16579. A bill to establish a National Institute of Education, and for other purposes; to the Committee on Education and Labor.

H.R. 16580. A bill to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting; to the Committee on Interstate and Foreign Commerce.

H.R. 16581. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, to authorize appropriations for law enforcement assistance programs for the fiscal years 1971, 1972, and 1973 and to extend indefinitely the duration of such assistance programs; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.R. 16582. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

H.R. 16583. A bill to amend title V of the Housing Act of 1949 to provide assistance in the purchase of mobile homes in rural areas; to the Committee on Banking and Currency.

By Mr. LENNON:

H.R. 16584. A bill to amend section 5342 of title 5, United States Code, to provide for the adjustment, consistent with the public interest, of the pay of certain vessel employees engaged in fire protection; to the Committee on Post Office and Civil Service.

By Mr. MARTIN:

H.J. Res. 1142. A joint resolution proposing an amendment to the Constitution of the United States to provide that no individual may be seated as a Representative after attaining the age of 70 or as a Senator after attaining the age of 69; to the Committee on the Judiciary.

By Mr. ALBERT (for himself, Mr. FLOOD, Mr. PIKE, Mr. REES, and Mrs. HECKLER of Massachusetts):

H.J. Res. 1143. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. BURTON of Utah:

H. Con. Res. 552. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

By Mr. WHALLEY:

H. Con. Res. 553. Concurrent resolution expressing the sense of Congress with respect to the establishment of all-volunteer armed forces; to the Committee on Armed Services.

By Mr. BLANTON:

H. Res. 885. Resolution creating a select committee to conduct an investigation and study of all the circumstances surrounding the commercial operations of U.S. copper producers and copper markets; to the Committee on Rules.

By Mr. NEDZI:

H. Res. 886. Resolution proposing an amendment to the Constitution of the United States to provide that the right to vote shall not be denied on account of age to persons who are 18 years of age or older; to the Committee on the Judiciary.

By Mr. TAFT:

H. Res. 887. Resolution to provide for public financial disclosure by Members, officers, principal assistants to Members and officers, and professional staff members of committees of the House of Representatives; to the Committee on Standards of Official Conduct.

By Mr. HECHLER of West Virginia (for himself and Mr. JACOBS):

H. Res. 888. Resolution providing for enclosing the galleries of the House Chamber with a transparent material to improve the acoustics on the floor and in the galleries; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. OLSEN:

H.R. 16585. A bill for the relief of Emile Georges Cochand; to the Committee on the Judiciary.

H.R. 16586. A bill for the relief of Yvon Jean Foisy; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 16587. A bill for the relief of Miss Linda Ortega; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.R. 16588. A bill for the relief of the estate of Julius L. Goeppinger; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

335. By the SPEAKER. A memorial of the Legislature of the State of New Mexico, relative to providing funds for the maintenance of the Interstate Highway System; to the Committee on Appropriations.

336. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to a comprehensive reform of the Selective Service System; to the Committee on Armed Services.

337. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to the mistreatment of American prisoners of war in North Vietnam; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

U.S. INTERESTS AND THE EAST-WEST BALANCE

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ROUDEBUSH. Mr. Speaker, during the recent Veterans of Foreign Wars national legislative conferences held in Washington, that organization was privileged to hear remarks by the Honorable Robert Ellsworth, the U.S. Permanent Representative on the North Atlantic Council.

Mr. Ellsworth delivered his remarks March 8. Because of the fine quality of these remarks, plus the fact that they contain so many interesting items, I insert them in the RECORD:

U.S. INTERESTS AND THE EAST-WEST BALANCE

I. INTRODUCTION

Besides the honor and pleasure which I attach to the invitation to speak to you this morning, this is, for me, an opportunity—an important opportunity—to discuss a matter which concerns us as citizens, as taxpayers, and as veterans of the foreign wars of the United States. Because these issues are complex and because they are surrounded by high emotion, it is not often that one can attempt a realistic public analysis of them. But with men such as yourselves: mature, having already been exposed personally to the ultimate risks, and devoted to our nation's strength and well-being, I expect that mentioning dangers will not cause alarm, and that mentioning hopes will not cause euphoria.

So I intend to discuss the pattern of events which affect the balance between East and West—with particular reference to US interests in Europe.

I labor under one handicap in doing this. That is the fact that I'm stationed in NATO headquarters in Brussels, while some of the most important actions affecting our interests in Europe and NATO are taking place here in the United States. *You* could probably tell *me* about the mood of the nation which is causing the present Congressional reconsideration of some of the vital concerns of American foreign policy.

Despite my geographic exile, however, I fully recognize that we, the American people, do have some profoundly important and difficult domestic problems here at home. As if domestic issues were not enough, the United States is also faced with severe problems overseas. In both cases, the difficulties are sufficiently serious that the imaginary line between the two disappears entirely. Anxiety about foreign problems is an ingredient of our internal politics today. And, in turn, domestic political, economic and social pressures could affect and inhibit what our nation can do in the international arena.

Many cans of worms are open, and it would be easy, in this situation, to become discouraged about managing any of the difficult areas of our national life. That we must not and need not be discouraged is indicated by what is being done by the Nixon Administration about the dilemma which developed, during the past few years, into the gravest mixture of domestic and foreign trouble. I believe that President Nixon deserves both our applause and our continuing support for his handling of the Vietnam situation both in Vietnam and here on the home front.

However, long-standing disappointment at our lack of political and military success as promised in Vietnam is behind much of the pressure in Congress for immediate and substantial unilateral cuts in our NATO forces. This is understandable, perhaps, but it is not realistic.

You will recall that in the early 1960's our government abandoned the strategy of massive retaliation and shifted to a broad strategy of flexible response. The organization and training of our general purpose forces, particularly the Army, were changed accordingly and a great deal of money and effort were invested in providing our military establishment with the ability to handle brushfire wars limited conflicts—counter-insurgency—on a flexible basis.

The first major all-out test of this new strategy and this new capability was in Vietnam.

Unfortunately, and not from any fault or lack of courage or leadership on the part of our military, the success which was promised did not attend that test. In the minds of many Americans, the use—and even the existence—of general purpose forces has become associated with the casualties and brutalizing effects of the Vietnam war, with its fantastic costs, and with its lack of the promised success.

From the reality of the Vietnam experience, set in a primitive and intrinsically remote strip of tropical coast in Southeast Asia, an unconscious analogy has been drawn with our position in Europe. Some in Congress say: if with 500,000 general purpose forces in Vietnam we have suffered great national agonies and yet have been unable to achieve success for the United States—what reason is there to suppose that 300,000 general purpose forces in Europe could do any better for the national interest?

If this dreadful fallacy should prevail, what a tragic regression that would be for the United States, for stability, for peace, and for freedom in the world.

II. PROBING THE ENIGMA

In Europe, where our national interests are more substantial and significant than they are in any other area outside our own fifty states, we are members of mankind's strongest and most successful alliance. NATO is the one alliance which unites us with allies with whom we share a common history, a common culture, common economic and environmental challenges, and most certainly a common love and responsibility for freedom. Of all of our alliances, this alliance is the best bargain because it adds the most to our national strength and security. And this is the alliance which protects that territory upon which the world balance of power—and of freedom—depends.

The most important reason for NATO's original existence was collective security: to provide for the common defense against possible aggression, and to deter the potential aggressor from initiating aggression.

NATO has delivered what it promised: peace in the West.

The most important potential aggressor the NATO allies were thinking about when they signed the North Atlantic Treaty was the Soviet Union. At that time—1949—the Soviet Union was thought of as a riddle wrapped in an enigma. The main thing we knew about this enigma was that it was terribly difficult to live with on the same planet. Even when "peaceful coexistence" became a watchword, the relationship remained difficult.

We now know a little more about the enigma of the Kremlin than we did in 1949. We know much about Soviet military capability, which I will discuss in a moment. And we know from the invasion of Czechoslovakia in 1968 that the Soviets use their military capability when they believe their political interests require it.

But we also have valid reason to believe that Soviet leaders see areas of common interest with us. Therefore we, together with our NATO allies, are engaged in a number of explorations to see whether, twenty-five years after the end of World War II, it would be possible to achieve a greater measure of stability and security in Europe. We are probing the enigma. We don't know what the results will be, but we can confidently expect one positive achievement: through our exploration of the enigma, NATO will know more about it, and we will have some important updated intelligence on its intransigence, and on its rationality. You gentlemen know the value of such intelligence, and you also know that it is *time* to try to achieve greater stability in this civilization for which we fought repeatedly in the first half of the Twentieth Century.