SENATE—*Saturday, December 11, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who rulest in the kingdom of men, and who by the voice of the people has created this body for the service of the Nation, grant to us here a sense of Thy presence in every word and action.

Draw together, we pray Thee, in true fellowship the men of diverse races, cultures, and customs into firm alliance, that bearing one another's burdens, and working together in brotherly concord they may fulfill the purpose of Thy providence and set forward Thy everlasting kingdom. Pardon our sins and shortcomings; keep far from us selfishness and pride, and give us grace to employ Thy good gifts of order and freedom to Thy glory and the welfare of mankind.

We pray in the name of Him whose birth we soon commemorate. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 10, 1971, be dispensed with.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 549 and ending with No. 554.

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

GRATUITY TO FRANCES J. BANGERT

The resolution (S. Res. 213) to pay a gratuity to Frances J. Bangert, was considered and agreed to, as follows:

S. RES. 213

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances J. Bangert, widow of Richard H. Bangert, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

PRINTING AS A SENATE DOCUMENT A REPORT ENTITLED "FINANCIAL MANAGEMENT IN THE FEDERAL GOVERNMENT—VOLUME II"

The resolution (S. Res. 195) to print as a Senate document, with illustrations, a report entitled "Financial Management in the Federal Government—Volume II," was considered and agreed to, as follows:

S. RES. 195

Resolved, That there be printed, with illustrations, as a Senate document a report compiled by the General Accounting Office at the request of the Committee on Government Operations entitled "Financial Management in the Federal Government—Volume II"; and that there be printed one thousand five hundred additional copies of such document for the use of that committee.

PRINTING A COMPILATION ENTITLED "MAJORITY AND MINORITY LEADERS OF THE SENATE" AS A SENATE DOCUMENT

The resolution (S. Res. 200) to print a compilation entitled "Majority and Minority Leaders of the Senate" as a Senate document, was considered and agreed to, as follows:

S. RES. 200

Resolved, That a compilation entitled "Majority and Minority Leaders of the Senate", prepared under the direction of the Secretary of the Senate, Francis R. Valeo, by the Senate Parliamentarian, Floyd M. Riddick, shall be reprinted with revisions and certain tables as a Senate document, and that an additional two thousand copies be printed for distribution by the Secretary of the Senate.

STUDY RELATING TO CONSTITUTIONAL RIGHTS

The resolution (S. Res. 201) supplementing the limitating with respect to experts and consultant expenses that may be incurred by the Committee on the Judiciary for a study relating to constitutional rights, was considered and agreed to, as follows:

S. RES. 201

Resolved, That section 6 of Senate Resolution 32, Ninety-second Congress, agreed to March 1, 1971, is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

PRINTING AS A SENATE DOCUMENT THE REPORT OF THE PROCEEDINGS OF THE 45TH BIENNIAL MEETING OF THE CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF

The concurrent resolution (S. Con. Res. 41) authorizing the printing of the report of the proceedings of the 45th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document, was considered and agreed to, as follows:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring), That the report of the proceedings of the forty-fifth biennial meeting of the Convention of American Instructors of the Deaf, held in Little Rock, Arkansas, from June 25, 1971, through July 2, 1971, be printed with illustrations as a Senate document. Five thousand five hundred additional copies of such document shall be printed and bound for the use of the Joint Committee on Printing.

PRINTING AS A SENATE DOCUMENT THE REPORT OF THE 1971 WHITE HOUSE CONFERENCE ON AGING

The Senate proceeded to consider the resolution (S. Res. 210) authorizing the printing of the report of the 1971 White House Conference on Aging as a Senate document, which had been reported from the Committee on Rules and Administration with an amendment, in line 7, after the word "such", strike out "document for the use of the Special Committee on Aging" and insert "document, of which two thousand sixty copies shall be for the use of the Senate and one thousand seven hundred forty copies shall be for the use of the Special Committee on Aging"; so as to make the resolution read:

Resolved, That the report of the 1971 White House Conference on Aging (A Report to the Delegates from the Conference Sections and Special Concerns Session), held in Washington, District of Columbia, November 28 to December 2, 1971, be printed as a Senate document, and that there be printed three thousand eight hundred additional copies of such document, of which two thousand sixty copies shall be for the use of the Senate and one thousand seven hundred forty copies shall be for the use of the Special Committee on Aging.

The amendment was agreed to.

The resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

U.S. DISTRICT COURTS

The second assistant legislative clerk read the nominations in the U.S. district courts as follows:

Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut.

Arnold Bauman, of New York, to be a U.S.

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district judge for the southern district of New York.

Lee P. Gagliardi, of New York, to be a U.S. district judge for the southern district of New York.

William Terrell Hodges, of Florida, to be a U.S. district judge for the middle district of Florida.

Bruce M. Van Sickle, of North Dakota, to be a U.S. district judge for the district of North Dakota.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc;

Mr. YOUNG. Mr. President, I am most pleased that Mr. Bruce Van Sickle, a long-time friend of of mine, has been confirmed today as U.S. district judge for North Dakota.

Mr. Van Sickle is a native of Minot, N. Dak., and has been a member of the North Dakota Bar since 1941. He is a World War II Marine veteran and a former member of our State legislature.

Mr. Van Sickle has long been rated as one of North Dakota's best attorneys and one with considerable experience in trial work. He is a member of one of our most outstanding law firms—McGee, Van Sickle, Hankla, Backes & Wheeler of Minot, N. Dak.

He has the talent, temperament, reasonable attitude and everything else necessary to make a good Federal judge. His appointment by President Nixon and his confirmation by the Senate, I am sure, will meet with widespread approval, both among lawyers and the public generally. I feel sure, Mr. President, that Mr. Van Sickle will establish a distinguished record as U.S. district judge.

The PRESIDENT pro tempore. Without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THOUGHTS OF HOLIDAYS AND FOOTBALL

Mr. SCOTT. Mr. President, on Monday next, Congress will be in session. All our lights will be on in celebration of Chanukah. At 9 p.m., the Los Angeles Rams engage in a not altogether friendly confrontation with the Washington Redskins. Television will be available for Members to watch this controversy, which will not take as long as it takes us to confirm a member of the Supreme Court by any means, but the outcome will be just as decisive, I am sure, one way or the other.

I know, though, that we want Senators to enjoy themselves, so that I take this occasion to wish them all a happy Chanukah and a pleasant time as they observe the football game.

Then on Tuesday, I hope there will be no schedule whatsoever. Springing as we do from the people, perhaps on Tuesday we can spring back at them, with unpredictable results.

Mr. MANSFIELD. Who is playing?

Mr. SCOTT. The Los Angeles Rams versus the Washington Redskins, so the Senator from Montana can afford to be neutral, if he wishes to be. I wish that Penn State were still around.

ORDER FOR ADJOURNMENT TO NOON ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, which I am certain will be fairly early, the Senate adjourn until 12 o'clock noon on Monday next.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Arkansas (Mr. McCLELLAN) is now recognized for not to exceed 15 minutes.

(The remarks of Mr. McCLELLAN when he introduced S. 2994 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Virginia (Mr. BYRD) is recognized for not to exceed 15 minutes.

HEW'S NEW WELFARE PROGRAM

Mr. BYRD of Virginia. Mr. President, as the Senate and House of Representatives prepare to adjourn, I would like to again invite the attention of the Senate to the new welfare program being advocated by the Department of Health, Education, and Welfare.

It is very important, Mr. President, that the Senate and the Nation understand the facts regarding this new program. Secretary Richardson in his official statement to the Senate Finance Committee put the new program in capsule form when he termed it "revolutionary and expensive."

Before discussing the new program, let me say that I think the present outdated welfare system should be changed; and most certainly the administration of the program must be tightened.

But in changing the present system it is important that we be sure we are getting something better and not just an expanded and more expensive program.

After considering the matter for 18 months, I have concluded that I cannot support the administration's revolutionary and expensive new welfare program.

For 2 consecutive years—1970 and again in 1971—the Committee on Finance refused to approve this program. Of course, it will come up again in 1972.

I cannot support the revolutionary and expensive program for the following reasons:

One. It lacks adequate work incentives.

Two. I doubt the wisdom of writing into law the principle of a guaranteed annual income.

Three. The annual cost of the new program would be at least $5 billion greater than the present program.

Four. The number of welfare recipients would be increased from 12 million persons in 1970 to 26 million persons.

Five. Richard P. Nathan, Deputy Under Secretary for Welfare, says the Government would need to hire an unprecedented 80,000 new Federal employees to administer the program.

With 101,000 employees, the Department of HEW already is so huge that it is almost impossible to effectively administer. One can well imagine the added confusion and chaos if 80,000 more workers are added to that Department.

I feel that the Government has an obligation to our fellow citizens who are physically or mentally unable to earn a living. But the "revolutionary and expensive" proposal of Secretary Richardson goes far beyond that. It does not have adequate work incentives, nor does it have adequate provisions to keep off the welfare rolls able-bodied citizens who should be seeking jobs instead of handouts.

The new "revolutionary and expensive" welfare plan is not in keeping with—and, indeed, runs directly counter to—the President's anti-inflation efforts.

It is not welfare reform. It is welfare expansion.

I submit we are not going to be able to lick inflation until the Government puts its own financial house in order.

The Government had a Federal funds deficit last year of $30 billion; it will have a Federal funds deficit this year of $35 billion.

The "revolutionary and expensive" program of Mr. Richardson will add an additional $5 billion to the deficit—and to the national debt, which is now $412 billion.

But an even more important objection, in my view, is that Secretary Richardson's "revolutionary and expensive" welfare plan would double the number of welfare recipients. Yes, Mr. President, it would double the number of welfare recipients.

With the huge deficits the Government has been running, it is neither logical nor sound to attempt to double the number of people drawing public assistance.

If the Government cannot now effectively administer the present welfare program, how can it effectively administer a program with twice as many persons drawing Government checks?

One evidence of the difficulty of administration is this: In New York City at the present time 1,000 welfare families are being housed in New York City hotels.

I wrote the Department of HEW to ascertain the average monthly rental being paid by the taxpayers for those families.

I was informed in a letter from HEW

that the average monthly rental per family is $763.

I have devoted hours and hours of time in an effort to obtain accurate cost figures—and accurate figures as to the number of full-time permanent employees of HEW.

Mr. President, I have prepared a table showing the cost of public welfare in billions of dollars for the fiscal years 1962 through 1972. I ask unanimous consent that the table may be printed in the RECORD.

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

Federal costs for public welfare
[In billions of dollars]

1962	$2.7
1963	3.0
1964	3.2
1965	3.5
1966	3.8
1967	4.5
1968	5.6
1969	6.8
1970	8.6
1971	11.6
1972	14.2

(Source: U.S. Department of Health, Education, and Welfare.)

(NOTE.—According to testimony of Secretary Richardson of HEW, the total welfare cost for FY 1973, under H.R. 1, would be $19.7 billion.)

Mr. BYRD of Virginia. Mr. President, if the proposal advocated by Secretary Richardson, namely, H.R. 1, is approved by the Senate, the total cost for fiscal year 1973 of welfare, of public assistance, would be $19.7 billion, or a 40-percent increase over the cost for fiscal year 1972.

Mr. President, the above figures I have submitted, the tabulation and the figures in regard to H.R. 1, all include the cost of medical aid to the indigent. I want to submit a full and complete picture of the total cost to the Federal Government of the Federal welfare program, or public assistance as some prefer to call it.

As to the number of full-time permament employees of HEW, when the Department was established in 1953 the employees numbered 35,000 persons. By the end of 1970 the figure had increased to 101,000, according to figures submitted to me by Secretary Richardson.

Mr. President, I think that the figures and arguments I have cited today show that the proposal advanced by the administration would in fact move this Nation closer to the condition of a welfare state.

When President Nixon was a candidate for President in 1968, he stated again and again that he wanted to reverse the trend to the welfare state.

I applauded those statements by then-candidate Nixon at that time. But the administration's proposal for revising the welfare laws would double the number of welfare recipients thus going directly counter to the statements of candidate Nixon.

The question I have been asking for the last 18 months—and I ask it again in the Senate today—is this: How does one reverse the trend to the welfare state by doubling the number of people on welfare?

There are 99 Members of the Senate besides the Senator from Virginia, so it would seem that if that question can be successfully answered, one Member of the Senate would be able to say how to reverse the trend of the welfare state by doubling the number of people on welfare.

I have asked this question in the Senate many times but none has answered it.

I say that this new program, termed "revolutionary and expensive" by Secretary Richardson, is a gigantic program. It doubles the number of public welfare recipients.

It is one that the Senate and the Nation need to consider very, very carefully before going into this huge program, termed by its sponsor as revolutionary and expensive. I think it should be fully debated, with adequate time taken by the Senate, if and when the proposal reaches the floor of the Senate.

So far as the Senator from Virginia is concerned, as a member of the Committee on Finance I would just as soon that it does not reach the floor of the Senate; but if and when it does, I hope the leadership on both sides of the aisle will give adequate time for discussion. The people of this country should understand the ramifications of this gigantic program submitted by Secretary Richardson, which he himself terms "revolutionary and expensive."

I ask unanimous consent that excerpts from the hearing of August 3, 1971, before the Committee on Finance on H.R. 1 be printed in the RECORD.

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

EXCERPTS OF HEARINGS BEFORE THE COMMITTEE ON FINANCE ON WELFARE, AUGUST 3, 1971

Senator BYRD. Assuming your program is enacted into law by the present Congress, what will be the total costs of the welfare program; this is, the Federal share of the welfare program for fiscal year 1973.

Secretary RICHARDSON. The total cost, including some expenditure for services, would be $14.9 billion.

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Senator BYRD. I want to be sure we are clear about this, that is your judgment as to what the total costs will be for fiscal 1973.

Secretary RICHARDSON. Yes, this does not include medicaid.

Senator BYRD. It does not include medicaid. Let's get the medicaid figure, if you will.

Secretary RICHARDSON. That is $4.5 billion....

Senator BYRD. Let's see if we understand this now, the costs of the welfare program (H.R. 1) will be $14.9 billion, and in addition to that, there will be $4.5 billion for medicaid, namely medical aid for welfare recipients.

Secretary RICHARDSON. Yes.

Senator BYRD. I am correct in that statement.

Secretary RICHARDSON. Yes, let me be sure we have it. Yes; that is correct, Senator.

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INCREASE IN ESTIMATE COSTS OF WELFARE PROPOSAL

Senator BYRD. Now, you responded last year that the estimated cost for fiscal 1972, assuming this program had been in effect would be $11.8 billion. So the arithmetic would indicate that then in a 1-year period, between fiscal 1972 and fiscal 1973 the costs of this program will have increased 25 percent in that 1-year period.

Secretary RICHARDSON. I am sure that $11.1 billion figure did not include medicaid.

Senator BYRD. No, it did not include that.

Secretary RICHARDSON. So the comparable figures would be $11.1 and $14.9 billion.

Senator BYRD. Excuse me 11.8.

Secretary RICHARDSON. 11.8 and 14.9.

Senator BYRD. You will find that figure comes to roughly 25 percent.

Secretary RICHARDSON. Well, there are differences which explain this that are not differences simply resulting from the markup of our estimates. In the first place there is the Federal assumption of basic benefits, of administration, and of the adult categories; there are increases projected in H.R. 1 for public service jobs, in child care, training, supportive services.

Senator BYRD. So you are expanding the program beyond last year's proposal.

Secretary RICHARDSON. The work related provisions have been expanded.

Senator BYRD. You are expanding—the program as a whole is being expanded beyond last year's program.

Secretary RICHARDSON. Yes, in the sense that we are more determined than ever to convince this committee that the provisions of the program are capable of getting people off the welfare rolls and into jobs.

Senator BYRD. I don't think this committee has demanded that the program be expanded.

Secretary RICHARDSON. Some members of the committee have felt we did not provide enough public service jobs in last year's program, and some other members of the committee have thought that we didn't provide adequately for the development of day care services, and these are among the increases.

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Senator BYRD. Did you, in fact, reduce the number of employees or just not fill the vacancy?

Mr. CARDWELL. The latter.

Senator BYRD. In other words, you don't go to the full authorized strength.

Mr. CARDWELL. That is right, sir.

Senator BYRD. But actually you did not reduce the number of employees.

Mr. CARDWELL. Essentially that is correct, sir. There may be a few isolated instances where this policy forced reduction but as a general proposition, you are right.

INCREASE IN NUMBER OF DEPARTMENT EMPLOYEES NEEDED TO ADMINISTER H.R. 1

Senator TALMADGE. Will the Senator from Virginia yield at that point. Do I understand the answer to be that if H.R. 1 is passed you will reduce your Federal employees handling this act.

Mr. CARDWELL. No, sir; definitely not.

Senator TALMADGE. There would be a substantial increase.

Mr. CARDWELL. Yes, sir.

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Senator BYRD. Well, now, with a $77 billion budget that would mean that your department would have the largest budget of any department of Government, including Defense, would it not?

Secretary RICHARDSON. Yes.

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Senator BYRD. Let me ask you this, what is the national debt now?

Secretary RICHARDSON. I have lost track. It is over $300 billion. (Laughter.) (Debt is $409 billion.)

Senator BYRD. As the Administrator of the largest department dollar wise in the Government. I am just interested in your philosophy, interested in your deep concern about

the cost of Government. Let me ask you this question what was the fiscal year just ended, what was the Federal funds deficit?

Secretary RICHARDSON. $23.3 billion.

Mr. VENEMAN. It is between $21 and $23 billion, there are diverse opinions.

Senator BYRD. Is that your guess?

Secretary RICHARDSON. I would say it is plus or minus $23 million but we will get the exact figure.

Senator BYRD. It was $30 billion, and I will insert the figures in the record. What you are speaking of is the unified budget which takes the surplus from the trust funds in order to make the deficit appear less large.

Let me ask you this. What is the projected Federal funds deficit for the current fiscal year?

Secretary RICHARDSON. I don't know, Senator.

Senator BYRD. I will give you that figure. It is $30 billion. So under the administration's own figures, and I think you can say the projection is conservative, there will be a back-to-back Federal funds deficit of $60 billion. That has never occurred since the end of World War II.

Two records have been established. In fiscal 1971 the largest Federal funds deficit occurred. In fiscal 1972 a similar deficit will occur, which will establish two records.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Washington (Mr. MAGNUSON) is recognized for a period not to exceed 15 minutes.

FOOD FOR HUNGRY—SENATE RESOLUTION 212

Mr. MAGNUSON. Mr. President, first I ask unanimous consent to withdraw from the desk the resolution I presented to the Senate on yesterday, which would be automatically the pending business this morning.

The PRESIDENT pro tempore. Does the Senator request that it be indefinitely postponed?

Mr. MAGNUSON. Yes; that it be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, the resolution is indefinitely postponed.

Mr. MAGNUSON. Mr. President, I take this opportunity to express my appreciation to the administration and to the Department of Agriculture for taking the action they did yesterday relating to the feeding of the hungry not only in my area of Puget Sound surrounding Seattle, but also in other areas of the United States. They adopted a policy which will allow an alternative to the food stamp program where the emergency is sufficient to allow this.

Out in my area, probably more people will take advantage of the new ruling for commodity products, surplus products, than they will of a liberalized food stamp program, for the simple reason that many of the unemployed in the Seattle area, and some other areas of the United States, too, are people who are not necessarily sitting on the curb, poor.

They are people who are out of work who may have small homes. They do not want to give up the payments on their mortgage, because they may lose their homes. There are people who may be on small social security allotments who must pay their rent to keep their little homes, and by the time they are through paying for their utilities and all of the things that are necessary to sustain them—medical bills, or whatever it may be—they have not the money, the $80, or the $69, or whatever is needed, to go down and buy food under the food stamp program. So now they have an alternative. This is what should have been done previously. The only time an area will be so designated is when an emergency exists, and where the facts and the proof exist. Surely that is so in my State, with 109,000 unemployed in three counties alone. The neighbors in need, the fine church people, the Salvation Army, and the Goodwill—all of these organizations—got together for the distribution of food voluntarily. I hope that this may suggest to the Japanese that we take care of our own, rather than have them send us some help, although they meant well, and they meant what they said.

I take this opportunity, while I am here, to express my deep sense of gratitude to all of the Senators who supported me on this bill, in particular those in the political field. Sometimes there is a key man who breaks logjams. The distinguished Senator from Michigan is here. I pay my compliments to him.

Mr. GRIFFIN. I thank the distinguished Senator from Washington, but I do not deserve and I do not want to take that credit. I think the distinguished Senator from Washington deserves the credit. He has really focused attention on the problem. I am glad that it has worked out well.

Mr. MAGNUSON. I thank the Senator from Michigan.

Mr. BYRD of West Virginia. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BYRD of West Virginia. Sometimes circumstances arise when it takes two men to break a logjam, so I would suggest that the distinguished Senator from Washington and the distinguished Senator from Michigan are both deserving of credit.

Mr. MAGNUSON. I will close by saying that that is a happy combination, nonpartisan in nature. I think a lot of people in my area, and some in Detroit and many other places, will have a better Christmas.

Did the Chair respond to the unanimous-consent request that the resolution be postponed indefinitely?

The PRESIDENT pro tempore. Yes.

Mr. MAGNUSON. I thank the Chair.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. BYRD) is recognized for not to exceed 15 minutes.

Mr. BYRD of West Virginia. Mr. President, I yield such time as he may require to the distinguished Senator from Nevada (Mr. BIBLE).

Mr. BIBLE. I thank the distinguished Senator from West Virginia. I have two items that I wish to comment on very briefly.

COMMENDATION OF MAJORITY LEADERSHIP AND SENATOR ELLENDER

Mr. BIBLE. Mr. President, first, I take this opportunity, and it may be the best and last opportunity I have this session, to compliment the majority leader (Mr. MANSFIELD) and the assistant majority leader, the Senator from West Virginia (Mr. BYRD).

I have always had the highest respect and affection for MIKE MANSFIELD, who undoubtedly holds the toughest job in the Senate day in and day out. His diplomacy—and his tenacity where needed—combine with a wealth of human understanding, tolerance, and patience to provide the qualities of dedicated leadership that are essential to the successful handling of legislation in the Senate. Thanks to his efforts, we can point with pride to a fine record of achievement—a record written against the troubled backdrop of an unpopular conflict in Southeast Asia and a myriad of economic problems at home. We are fortunate to have a man of his caliber at the helm.

And no one will dispute me, I think, when I call ROBERT BYRD the hardest working whip to come along in many years. He threw himself into the task wholeheartedly, and our duties were made easier as a result. The "BYRD letters" were an invaluable aid to Senators. These whip notices helped to organize and expedite the Senate's work, and we are all in his debt.

It is always a highlight of the day to receive from the whip letters signed "Your old optimistic plebian friend." The only word I would disagree with is "old." He is young in his action and activities, as is the ever-youthful Presiding Officer, the President pro tempore.

I would be remiss if I did not add to this statement a special commendation for our President pro tempore and Appropriations Committee chairman, ALLEN ELLENDER. Never in my own memory have I seen appropriation bills move with such efficiency and dispatch through the Senate. He worked day and night, pushing along the many hearings, attending almost every subcommittee markup and presiding at every full committee session. As a result, the usual jamup of appropriation measures never really happened this session. Without his inspired leadership I am certain we would not be able to adjourn even at this late date. It has been a personal privilege to work with him as with the majority leadership.

CAPITOL HILL AND THE DISTRICT OF COLUMBIA ANTICRIME STREET-LIGHTING PROGRAM

Mr. BIBLE. Mr. President, now that the winter season has again lengthened the hours of darkness to include the final hours of the normal work day, I wish to call to the attention of my colleagues in the Congress and to the citizenry and business community of the Nation's Capital the excellent high-intensity street-lighting program being carried out here in Washington and to suggest a comparable one for the Capitol Hill complex of buildings and parklands.

Two years ago at hearings before the

Senate Small Business Committee on the impact of crime against small business across this country, effective street lighting was credited with being "one of the best deterrents to robbery and burglary" in a report by the Small Business Administration.

Since that time, we have been working with Mayor Walter Washington and other District of Columbia government officials to bring about the development of a program to upgrade street lighting here by the installation of high-intensity fixtures as a means of combating the high crime rate. Since my last report to Members of Congress on this effort 1 year ago, Metropolitan Police Chief Jerry Wilson has advised me that in areas of the District where the new lighting has been in use, there has been a remarkable reduction of 32 percent in most types of nighttime crime. I can assure you that Chief Wilson has become an ardent advocate of better street lighting as an effective crime deterrent.

I am advised by Mr. John Hartley, Assistant Director of the District of Columbia Department of Highways and Traffic, that 5,000 of the new sodium vapor units are at present in use throughout the city. An additional 12,000 are scheduled for installation during the next fiscal year, bringing the city's total to 17,000 out of the 60,000 street lights operated by the District government. It is rewarding to me to see progress in crime prevention brought about by such a low-cost program as improved street lighting.

Mr. President, with the outstanding anticrime results obtained by this improved street lighting in parts of the city of Washington, I would hope that the Congress and the Architect of the Capitol would consider a comparable program for Capitol Hill and its complex of buildings and parklands.

Assault-type crimes, robberies, burglaries, and rapes are not new to Capitol Hill, but they are becoming more frequent. Constituents visiting their elected and other officials on Capitol Hill and sightseers visiting its shrines deserve more protection, as do our office staffs and other personnel. It was a shock for me to get a report from Capitol Police Chief James Powell, advising that so far this year within the Capitol Hill complex there have been 43 robbery holdups, 35 robberies by force, 37 autos stolen, 127 larcenies from autos, 19 pocketbook snatchings, one homicide, nine assaults, three rapes, and 64 other types of criminal acts. That this number of criminal acts can occur within an 11-month period at the complex of buildings and streets surrounding the Capitol of the United States is completely intolerable.

In view of the fact that crime has decreased by 32 percent in those commercial and residential areas of the District of Columbia where street lighting has been improved, it would stand to reason that with a similar program of improving lighting in and around the Capitol Hill complex, we might experience a comparable decrease in the appalling rate of crime now being thrust upon us.

In fact, it was reported to me recently that after an evening assault on a Supreme Court secretary on the front entrance, columned portico of the Supreme Court Building, the Chief Justice last December requested that improved temporary lighting be carried out in the Court area by the Capitol Architect immediately. More permanent installation of high-intensity lighting is now in progress.

Therefore, I have written to the Honorable George White, Architect of the Capitol, urging his most earnest consideration of instituting an appropriate, yet improved, street lighting program for the Capitol Hill complex of buildings, to include the Capitol itself, the House and Senate Office Buildings, the Supreme Court, the Library of Congress, and adjacent public streets for about 2 blocks to the east, about 3 to the south, about 2 or 3 to the north, and out to the reflecting pool on the west.

Mr. President, I urge that other Senators join with me in seeking the development of a lighting program that will help to combat the increase in assaults, robberies, and criminal activity on the U.S. Capitol grounds and adjacent areas and yet preserve the beauty and decor which these national shrines require.

Mr. President, I ask unanimous consent that there be printed at the conclusion of my remarks a letter from District of Columbia Assistant Director of Highways and Traffic John Hartley, describing the city's street lighting program, and my letter to the Architect of the Capitol.

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

U.S. SENATE,
Washington, D.C., December 9, 1971.

Hon. GEORGE M. WHITE,
Architect of the Capitol,
Washington, D.C.

DEAR MR. WHITE: A matter has come to my attention in which I believe you can be of great assistance concerning what I propose as an improved street lighting program for the Capitol Hill complex of buildings and adjacent streets and parklands to serve as an anti-crime weapon against the increasing incidence of assault-type crimes, robberies, rapes and larcenies.

Two years ago when I conducted hearings of my Senate Small Business Committee on the impact of crime against small business across this country, effective street lighting was credited with being "one of the best deterrents to robbery and burglary." Since that time we have been working with Mayor Walter Washington and other District of Columbia government officials to bring about development of a program to upgrade street lighting by the installation of high intensity fixtures as a means of combating the high crime rate in this city. Metropolitan Police Chief Jerry Wilson advises that in areas here where the new lighting has been in use, there has been a remarkable reduction of 32 percent in most types of nighttime crime. He is an ardent advocate of better street lighting as an effective crime deterrent.

Because of these outstanding anti-crime results, I would hope that a comparable program could be considered for Capitol Hill and its complex of buildings and parklands considering the increase in assault-type crimes in the immediate Capitol area. Capitol Police Chief James Powell advises me that so far this year in the Capitol Hill area under your jurisdiction as Architect of the Capitol, there have been 43 robbery holdups, 35 robberies by force, 37 autos stolen, 127 larcenies from autos, 19 pocketbook snatchings, 1 homicide, 9 assaults, 3 rapes, and 64 other types of criminal acts. That this number of crimes can occur within an eleven-month period at the complex surrounding the Capitol of the United States is completely intolerable, in my judgment.

After consultation by my Committee staff with a number of street lighting authorities, including Assistant Directors John Hartley of the D.C. Department of Highways and Traffic, I have reached a conclusion that it is imperative that the Capitol Hill complex begin a program of relighting the adjacent streets, parking lots, parklands, and grounds of the Capitol Hill buildings in an effort to curb these criminal assaults. As you know, preliminary discussions have already been held among members of your staff, the D.C. Department of Highways and Traffic, and my Committee staff.

Therefore, I would hope that you would give your earnest consideration to this proposal. Obviously, it is important that the beauty and proper decor associated with these national shrines be preserved. Accordingly, the type of fixtures and aesthetics should be within your capable discretion. I am hopeful we can upgrade street lighting in the Capitol complex and adjacent grounds as soon as possible to provide proper nighttime protection for the Members of Congress, the Justices of the Supreme Court, staff personnel of all these offices and the Library of Congress and the thousands of visitors coming to Capitol Hill. Please let me know about conclusions.

For your background, I enclose copies of statements I made before the Senate on the D.C. street lighting program in October, 1970, and in January, 1971, together with a copy of a statement I intend to make before the Senate within several days plus attachments.

Please accept my best wishes for a Happy Holiday Season!

Cordially,

ALAN BIBLE,
Chairman.

GOVERNMENT OF THE
DISTRICT OF COLUMBIA,
Washington, D.C., December 6, 1971.

Hon. ALAN BIBLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIBLE: This is in response to a request by the Chief Investigator of the Select Committee on Small Business, Mr. Ernest Evans, that we provide you with an updating of the Street Lighting Program begun approximately 18 months ago in Washington, D.C.

As you will recall from earlier correspondence forwarded to you, most cities in the Nation light their streets based on nighttime vehicular and pedestrian traffic volumes rather than on the effect that improved street lighting can have as a crime deterrent. However, Mayor Walter E. Washington and members of the City Council were confident that improved lighting could indeed reduce crime. Based on this, and after consultation with you, we established four experimental areas with a high incidence of nighttime crime and installed approximately 2800 sodium vapor street lights. The areas comprise approximately 120 city blocks and have a population of about 29,000 persons.

The reduction in nighttime crime that has occurred in these experimental areas following the installation of high intensity lighting has been, we believe, significant. In fact, during the first 9 months of 1971 following the installation of sodium vapor units in the four areas, the total reduction in nighttime crime incidence in the categories of robbery, auto theft, burglary, vandalism and homicide has reduced 32 percent compared to the same 9 month period of 1970—the period before before the installation of high intensity lighting.

Approximately 5,000 sodium vapor units are now in operation throughout the city and the result is certainly discernible as one travels around the city at night. Larger number of pedestrains can be seen on our streets in the downtown area. In the residential neighborhoods groups of persons can be noted having conversations. The overall result appears to be one of returning the streets to the people and it might be said that urbanization has returned in those parts of the city where our citizens are receiving the benefits of the lighting program. I have frequently heard remarks from residents that they are happier and feel safer because of the new lighting.

The response of proprietors of businesses, both large and small, has also been outstanding. Merchants in the downtown area have indicated greater nighttime activity in their stores. Similarly the small, outlying businessman is equally pleased in that his patrons are safer in patronizing neighborhood establishments.

Based on correspondence we have received from other cities, it appears that Washington is indeed leading the way in crime deterrent street lighting. Representatives of communities such as Miami, Boston, Dallas, Birmingham, Nashville and 11 other cities have contacted us in regard to our program. These contacts can be attributed in a large measure to the various trade journals and other magazines which have given the program here in the District wide-spread publicity—some referring to it as a new, exciting departure from traditional street lighting practices.

Publicity directed toward our program will be stepped up even further early next year when a film describing it, produced by Newsweek Magazine, will be distributed to various television stations across the Nation. Newsweek estimates that its exposure index will be at least 10 million people. In it, community leaders, merchants, city officials as well as residents of lighted areas, combine to tell the story of how the program has succeeded here in Washington. We believe this film will contribute even further to highlighting what has been accomplished here in the city and what can be done in other cities across the Nation to create an improved community atmosphere at night.

An additional 12,000 sodium vapor lights are scheduled for installation during our next fiscal year program, bringing the city's total to 17,000 out of the 60,000 presently installed. In fact, at the present time the demand for these lights has been so great that we are approximately 3,000 units behind in fulfilling citizen response. However, we believe we can improve upon this situation in the very near future.

An example of the demand for high intensity lighting is contained in a recent communication from Chief of Police Jerry V. Wilson wherein he referred to a "particularly troublesome area" in the eastern part of the city. He called attention to car thieves who, in addition to stealing automobiles, also stripped them and further mentioned that police vehicles responding to the area are sometimes damaged when left unattended. His officers have requested the installation of sodium vapor lights in approximately 10 square blocks and have stressed the need for an immediate installation. Incidentally, Chief Wilson has been one of the strongest supporters of our high intensity street lighting program.

I trust this information will satisfactorily provide you with an updating on the status of our program. Needless to say, we are extremely pleased with the results we have achieved and are hopeful that we can continue to demonstrate improvements as the program expands.

We are deeply grateful for your continued support and strong leadership in the area of improved street lighting.

Sincerely yours,

JOHN E. HARTLEY,
Assistant Director.

Mr. BIBLE. Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, how much time have I remaining?

The PRESIDENT pro tempore. The Senator has 8 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the remainder of my time be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, with statements by each Senator limited to 3 minutes.

NORTHERN CHEYENNE TRIBAL COUNCIL LAUDS GREEN BERETS

Mr. MANSFIELD. Mr. President, 27 members of the U.S. Special Forces, otherwise known as the Green Berets, worked in Montana and other western States during this past summer. From June 22 to August 29, these Green Berets spent their time and put forth their efforts on the Northern Cheyenne Indian reservation in southeastern Montana.

The Northern Cheyennes happen to be the tribe which was forced out of Montana down into Oklahoma, and then, in the dead of winter, despite pursuit, massacre, and humiliation, out of defeat and exile they came back to Montana and won for themselves a homeland in the southeastern part of my State.

The Northern Cheyenne Tribe is made up of an extraordinarily fine group of people. It is the smallest in number in the State of Montana. It has the least in resources, but it has the most in the way of gumption. They refer to themselves as the Morning Star people, and their heroes, the ones who led them on the trek from Oklahoma back to Montana, were Little Wolf and Morning Star.

The Northern Cheyennes are also a very appreciative people, and I am in receipt of a letter from Allen Rowland, president of the Northern Cheyenne Tribal Council, in which he compliments, commends, and expresses the appreciation of the Northern Cheyennes for the excellent work done by the U.S. Special Forces on their reservation.

I wish to join with my brothers, the Northern Cheyennes, in expressing my appreciation also for what they did to help during their stay on the Northern Cheyenne Indian Reservation. All too seldom, Mr. President, do we receive letters of commendation of this nature; therefore, I ask unanimous consent that the letter be printed in the RECORD.

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

NORTHERN CHEYENNE TRIBE, INC.,
Lame Deer, Mont., December 6, 1971.

Senator MICHAEL MANSFIELD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: We, of the Northern Cheyenne Indian Tribe, would like to take this opportunity to express our appreciation for the excellent work done by the United States Special Forces on our reservation, Twenty-seven Special Forces members worked here from July 22, to August 29, 1971. They advised and helped on number of projects necessary to our economic and social development.

There were several projects developed by the Northern Cheyenne Tribal Council, and advised by the Green Berets. Sanitation fills were constructed at four communities on the reservation. This will improve the health and appearance of these areas. A timber trestle bridge was built across Rosebud Creek which affords excess to Northern Cheyenne range lands and can be used as a route to fires which occur in that area. Several fences were put up on tribal land. The most enthusiastic of which was fencing for a Buffalo pasture at Crazy Head Springs. A youth camp was established and run by the Green Berets. For the one hundred twenty-six children, this was the most beneficial program of all.

The Special Forces medics have been one of the most valuable aids. They have worked in our local dispensary and also among the people giving classes, instruction, and training on modern medical procedures. Our people have received them well and they are now expected to be available at all times.

We would like to have the Green Berets return to give us more assistance on other projects. The determination of the Northern Cheyenne Tribe to enter into tourism development is an attempt to create jobs and income for our people, as another tool to increase the economic base of the reservation. Projects relating to tourism development will be continued. These include development of a recreation area and Buffalo pasture at Crazy Head Springs. Improvement of access roads at various historical areas is another project. Tourist rest areas are needed along the main routes on the reservation. An airstrip, if constructed, would benefit not only outsiders but our own people who are fire fighters, many of whom travel long distances to fires.

The Green Berets came here with little or no outside support. With limited equipment, material and funding they accomplished a great deal. The Tribal Council desires, that if the Green Berets return, they be given more support. This would be in the form of heavy earth moving and funding for support of this equipment. The major handicap the Special Forces were working under would then be removed and much more could be accomplished. More time will also be beneficial, the five weeks the Green Berets were here was hardly more than enough to get an orientation of the area and begin work on projects. This was especially true of the medics.

Again, the aid given by the Green Berets is most appreciated by our people.

Sincerely yours,

ALLEN ROWLAND,
Northern Cheyenne Tribal Council.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, had I known that the House would not be in session today, it would not have been the intention of the joint leadership to have a session today, because, after we get through with the agreements and the

protocols on which we shall vote beginning at 10:30, there will be no further business today, unless a conference report is ready, which I do not know of, or there are Senators who wish to speak.

But, as the whips on both sides have indicated to their colleagues, the answer to a sine die adjournment depends on final action on the following—and I am quoting from the whip notice of the distinguished assistant majority leader:

1. Conference report on Defense Appropriations (*House acts first*).

2. Conference report on D.C. Appropriations (*House acts first*).

I believe I understood yesterday that the conferees were getting together this morning.

3. Foreign Aid (continuing resolution?) (*House acts first*).

4. Conference Report on Phase II economic proposal. (The conference has not yet been held, but *Senate Conferees are ready to meet* when House Conferees are ready.)

Those are certainties.

As to possibilities—again quoting from the distinguished assistant majority leader's notice:

Other conference reports which *may or may not be acted upon before adjournment* are as follows: Federal Credit Unions; Ocean Dumping; Election Reform; Social Security Amendments; Interest rates on insured mortgages; Lump sum death payment.

That seems to be about it, as far as can be foreseen at the present time. When we will reach sine die adjournment I cannot say.

The PRESIDENT pro tempore. Is there further morning business?

THE VETO OF S. 2007

Mr. HRUSKA. Mr. President, it had been my intention to comment on and participate in the discussion or debate on sustaining or overriding the veto of S. 2007 last evening. Because of the press of other official business, it was not possible to do so. The remarks I now make are not by way of afterthought, because I was one of the 17 Senators who voted in the negative on the adoption of the conference report on this bill. Likewise, I was one of the 35 or 36 Senators who voted to sustain the veto.

Mr. President, it was gratifying to note the vote of the Senate last evening sustaining the veto of S. 2007—a bill amending the Economic Opportunity Act, and creating a comprehensive child development program. In the opinion of this Senator, President Nixon was right when he vetoed this measure. The fiscal irresponsibility of its amendments for a Federal child care program and its administratively unworkable provisions render it a confusing and even dangerous piece of legislation.

It should be noted that it is most unfortunate that some proponents of that bill, in their eagerness to enact the legislation, are implying that failure of the President to approve it is tantamount to abandoning one of his major commitments to the Nation. Such a conclusion is unfair and unwarranted. There is no responsible person who questions the need for a constructive and proper program, and that includes the Senators who voted to sustain the veto. But all bills on this subject are not necessarily good, sound, acceptable, and wise bills. S. 2007 certainly is not such a bill.

President Nixon yields to no man in this Chamber in his desire to help all children who need help. This objective is universally supported.

But despite the glowing rhetoric of its sponsors, the interests of the Nation's children would not be properly served by S. 2007. This hasty and ill-conceived legislation will actually deter and impede much of the effective child care work now in progress. It will actually set us back in this program, rather than to move us forward.

President Nixon has called for a "national commitment to providing all American children an opportunity for a new healthful and stimulating first 5 years of life." He has called for constructive national debate upon the merits of such far-reaching national legislation, debate which will lead to a broad public consensus as to its principles.

There has been no such national debate. There has not even been thorough consideration by either body of the Congress. The Nation has not determined which way it wants to go with this problem. I submit that we in this body have had insufficient opportunity to evaluate the problem and the proposed solutions and to determine which way we want to go.

It should be noted at this point, Mr. President, that it is most unfortunate that some proponents of S. 2007, in their eagerness to enact the legislation, are implying that failure of the President to approve it is tantamount to abandoning one of his major commitments to the Nation.

Such a conclusion is most unfair and unwarranted, in my opinion. There is no responsible person who questions the need for a constructive and proper program. But this does not mean such a need is fulfilled by drawing together a hasty hodgepodge which may look good in the headlines but which would create chaos administratively, which would raise formidable questions about the rights and responsibilities of parents for the rearing of their children, and which would add $2.1 billion to an already seriously overburdened Federal budget. In short, all bills on this subject are not necessarily good, sound, and wise. S. 2007 certainly is not such a bill.

Some of the President's objections, with which this Senator concurs, are the following:

First. Neither the need nor the desirability of a national child development program has been adequately demonstrated at this point.

Second. Day care centers allowing welfare parents to go to work daily are already provided under H.R. 1, the President's workfare legislation which has yet to be considered by this body. Provisions in this bill are to a great extent a duplication of provisions in that measure.

Third. The American taxpayer would suffer to the extent of $2.1 billion more at a time when his suffering is already acute. Future prospects for the program are even more alarming as it is estimated that costs eventually could reach $20 billion annually.

Fourth. We have for the past 2 years been working for and talking about welfare reform which would bring the family closer together. Now we are confronted with a program which appears to be separating the family further yet. This is a most serious step, in my opinion. The family as an institution of American life must not be endangered or impaired. I do not believe the American people would approve of any measure which would tend to lead to a communal approach in child development. That is where this measure leads us.

Fifth. Our solutions to the child care problem should enhance rather than diminish parental authority and parental involvement, particularly in the early and critically formative years.

Sixth. Where will the qualified staff come from?

Seventh. The management problems would be tremendous. When one considers the problems we have had with the Headstart program, which has 1,200 grantees, one wonders what would be the result of a program which could have as many as 7,000 sponsors, each with its own unique system of operation.

Eighth. The role of the States would be reduced to an insignificant factor. The Federal Government rather than the States would become responsible for preschool education.

Furthermore, as a member of the Judiciary Committee I believe that the "child advocates" could easily frustrate the work of administrative agencies and the courts.

I submit, Mr. President, that the question of child development is much too important to be attached in hasty and ill-considered fashion to other legislation. We have had far too many efforts of this nature in recent years.

We should stop and look at our record of successes in such hasty action. In my opinion, that record clearly demonstrates the wisdom of a careful and constructive approach. We have not had the benefit of that approach in this bill which is before us.

Government is under siege in many areas of our national life today because it has failed miserably to deliver what some of our people have thought it promised to deliver. It is time for us to enact legislation which will accomplish the objectives it was intended for rather than adding to wheel-spinning and bureaucratic confusion.

This bill, S. 2007, does not make such a constructive contribution. This Senator for these and other reasons voted to uphold the President's veto.

COMMENDATION OF THE OFFICIAL REPORTERS OF DEBATES AND THE GOVERNMENT PRINTING OFFICE

Mr. BYRD of Virginia. Mr. President, as the Senate prepares to adjourn, I should like to pay tribute to two groups of individuals.

One group is the Official Reporters of Debates. I think they do a remarkable job under very difficult conditions. Sometimes the Senate is not in the best of order, shall we say, and sometimes some of us do not speak very clearly or distinctly. Some of us speak rather rapidly. Yet, the Official Reporters are able to report the proceedings of the Senate with great accuracy—not perfectly, of course, but with considerable accuracy. I commend them.

I also should like to pay tribute to the employees of the Government Printing Office. Having been in the newspaper business, I have been familiar with the printing process most of my life. I know the difficulties involved in handling hundreds of thousands of words.

In an average year—in this year—approximately 45,000 pages of the CONGRESSIONAL RECORD have been published—45,000 pages, comprising 99 million words. Ninety-nine million words will go into the CONGRESSIONAL RECORD for this calendar year, 1971.

I read the RECORD every day. I cannot say that there are no errors in it.

But as one who has been involved in the printing business all his life, it seems to me that the employees of the Government Printing Office—the linotype operators, the proofreaders, and the others who are involved in this operation—do an outstanding job.

As I say, when you are handling 99 million words, there will be typographical errors, but these are held to a minimum; and as this session draws to a close, I just want to say these few words of commendation for the employees of the Government Printing Office.

QUORUM CALL

The PRESIDENT pro tempore. Is there further morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

THE PLIGHT OF THE JEWS IN ARAB LANDS

Mr. PACKWOOD. Mr. President, recently a publication issued by the Anti-Defamation League was brought to my attention, illustrating the plight of the remaining Jews in the countries of Egypt, Iraq, and Syria. In each of those countries, the resident Jewish populations are harassed, in many cases unjustifiably imprisoned, forced to identify themselves, not unlike they were during the Nazi German era.

I ask unanimous consent to have printed in the RECORD a background paper published by the Anti-Defamation League showing the situation of the Jews in these three countries.

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

JEWS IN ARAB LANDS

Jewish presence in Arab lands, both in the Middle East and North Africa, goes back two thousand years. In some of these lands Jews developed large and prosperous communities which played an important role in the economic, social, and cultural life of the Arab society.

There were periods during which Jews were tolerated by the Arab authorities, but more often they were treated as second-class citizens and were subjected to discrimination, humiliation, and eruptions of hatred. The emergence of Hitlerism and the cooperation of some Arab leaders with the Nazis provided new inspiration for an intensified anti-Jewish attitude in the Arab world.

Immigration-Aliya to Israel, a phenomenon in the life of these Jewish communities for centuries, gained momentum in the late 19th and early 20th century with the Aliya of the better-known pioneers from eastern Europe. To the Jews of the Arab lands, Aliya was less motivated by political Zionism as by the fundamental feeling that a real Jewish life can only be lived in the Holy Land, specifically in eternal Jerusalem.

In 1948 there were 850,000 Jews in Arab lands, the larger representations being: 285,000 in Morocco, 130,000 in Algeria, 125,000 in Iraq, 110,000 in Tunisia, 70,000 in Egypt, 45,000 in Yemen, and 40,000 in Libya. Almost 800,000 Jews have since left the Arab countries, of which about 550,000 emigrated to Israel.

There were three waves of Jewish escape from Arab countries. The main exodus came before and immediately after the establishment of the State of Israel, and the later ones after the Sinai Campaign in 1956 and after the Six Day War in 1967. These refugees succeeded in emigration only after renouncing their citizenship and all claims to their properties.

In fact, the Middle East witnessed an exchange of populations, Jewish refugees from Arab lands equaling the number of Arab refugees who left Israel during the War of Liberation. The only difference has been in the treatment of the two refugees populations upon their arrival; the Jews have been welcomed by Israel and integrated into the society, while the Arabs have been kept in misery in special camps in Arab countries and used as political pawns by their brothers.

THE SCOPE OF THE PROBLEM AT PRESENT

Some 60,000 Jews still live in Arab Lands, most of them in Morocco (40,000), Tunisia (9,000) and Lebanon (2,000). In these countries there is, on the whole, no immediate danger to the life of these communities, no organized persecution by the authorities. And these Jews usually may depart freely if they so desire. But while they receive fair official treatment, these Jewish communities face hostile attitudes and actions by parts of the population, and they may face further dangers in the event of internal political developments. Such hostilities and dangers are seen in (to cite only two examples) the kidnapping by Arab terrorists of Albert Elias, Secretary of the Jewish Council in Lebanon, in September, 1971, and the murder of Rabbi Mazuz by a fanatic Moslem in Tunis in January, 1971.

The greatest present concern is for the few thousand Jews who are still trapped in Syria, Iraq and Egypt, the captives of Arab governments under which they are subject to persecution and humiliation. These Jews are the victims of official discrimination and close supervision, and sometimes of arbitrary arrest, interrogation, and torture. Most live in great poverty, due to the sequestration of their property and to official bans on the employment of Jews or on having commercial links with them. Religious and educational activities of Jews is greatly restricted. Above all, their right of free movement out of these countries is denied. In some places they are even restricted to their neighborhoods.

SYRIA

There are about 4,000 Jews in Syria—mainly in Damascus, Aleppo, and Kamishli. The country's Jews have long been subjected to brutal conditions, and after the War of June, 1967 the rigours which they had to suffer were viciously intensified.

Syria has a special committee for Jewish affairs, composed of representatives of Internal Security, General Intelligence, the Ministry of Justice, Ministry of Finance, and the council of Palestinian Refugees. This committee is responsible for the arbitrary legislation which circumscribes the commerce and culture of Jews and often endangers their lives. Of such blatantly anti-Jewish measures, the following may be singled out:

Jews have not been permitted to leave Syria—in fact have been forbidden to travel more than 4 km from their homes—and many have been imprisoned on charges of attempting to leave the country. All Jews' identity cards are marked "Musawi" (belonging to the Mosaic faith), while no religious identification is made on the cards of Moslems or Christians. Jews may not be employed in the government service or in banks, and most of those who previously worked for Arab merchants have been dismissed. Most of the country's Jewish schools have been closed and the buildings given to Palestinian refugees. (In those few schools remaining open, Moslem headmasters have been moved in.)

Syrian military personnel may not shop in stores owned by Jews. The Jews are not permitted to sell property, nor may they bequeath it to their heirs; when a Jew dies his property is transferred to the State. No driving licenses are issued to Jews, and no new telephones may be installed in Jewish homes or businesses.

The Jewish cemetery in Damascus has been destroyed and a road constructed through it leading to the airport.

Two Jews who have escaped from Syria, testifying before a Judicial Committee of the International Committee for the Deliverance of Jews of the Middle East, told of arbitrary jailing and torture, of innocent persons who disappear for months only to return crippled and ill, and of the daily suffering at the hands of incited Palestinians brought in by the authorities to dwell in the Jewish quarter.

IRAQ

There are about 2,000 Jews in Iraq, the remnant of a once-flourishing community. Even before the Six-Day War, synagogues and schools were sequestered, a 200 year-old cemetery was destroyed and its tombs desecrated, yellow identity cards were issued to the Jews, and the sale of their property was forbidden.

After the Six-Day War, harsher measures still were instituted: All Jews were dismissed from their jobs in public institutions; Jewish property was expropriated and Jewish bank accounts frozen; businesses of Jews were shut down and trading permits cancelled; telephones in Jewish homes were disconnected; Jews were placed under house arrest for long periods, or restricted in movement to their places of domicile; departure was totally prohibited and applications for passports were summarily rejected.

All this was openly and plainly expressed in official statutes and regulations.

This official persecution was at its worst late in 1968 and early in 1969. Scores of Jews were jailed on the strength of the alleged discovery of a local spy ring. Nineteen of them were sentenced to death in staged trials and then barbarously hanged in the public squares of Baghdad; others died in prison under torture.

The shock that was felt and recorded by

the world—criticisms leveled by governments, international organizations, and eminent individuals—forced the Iraqis into declarations that the situation had improved. In March 1970, the authorities officially announced the return of Jews to public employment, approval of the reopening of certain Jewish-owned businesses, the replacement of telephones, etc. These promises have not been fulfilled.

Again in April 1971, the Iraqi authorities jailed 40 Jews and made plans to bring them to trial. International outcry brought the release of most of them.

EGYPT

The Jews presently in Egypt number about 600 and live chiefly in Cairo and Alexandria. On the eve of the War of 1948, some 35,000 Jews fled, abandoning all their property. Persecution and incitement after the Sinai Campaign in 1956 produced a second mass exit. On the eve of the Six Day War only about 2,000 Jews remained.

On the very morning of the start of that war, the Egyptian police, in a pre-planned operation, arrested all Jewish males over 17 years of age. Foreign Jews were later expelled on short notice and were unable to take out property or liquidate businesses. Many who were Egyptian nationals were held in prisons for years, the last of them liberated only in 1970 as a result of continuous international pressures. The few hundred Jews still in Egypt live in an atmosphere of uncertainty and fear for the future.

THE SEARCH FOR A SOLUTION

Today, the only hope for the future of the Jews of Syria, Iraq, and Egypt is that they be permitted to emigrate to countries where they can be recognized as free and equal citizens. This hope has been echoed by the United Nations Secretary-General U Thant (Annual Report of the Secretary-General, September, 1969) when he wrote:

"Although I have no direct means of knowing exactly the conditions of life of the small Jewish minorities in certain Arab states, it is clear that, in some at least, these minorities would be better off elsewhere and that the countries in which they now live would also be better off, given the prevailing circumstances, if the departure of those who would wish to leave could be sanctioned and arranged, since their continued presence is a source of both internal and international tension. I hope very much, therefore, that it may soon be possible to find sensible ways of solving this largely humanitarian problem."

The only practical solution to the problem is the mobilization of public opinion and the stimulation of pressures from humanitarian organizations, individuals, and governments the world over for the deliverance of these virtual captives.

A NEGOTIATED SETTLEMENT IN THE MIDDLE EAST

Mr. PACKWOOD. Mr. President, in his column of December 5, in the Washington Star, Mr. Crosby S. Noyes set forth what has been my contention in relation to our position with regard to Israel—that is, that we are not likely to strengthen the cause of a negotiated settlement in the Middle East by withholding arms from Israel. We are going to have a negotiated settlement in the Middle East only when the parties themselves in the Middle East, in head-to-head negotiations, decide what kind of treaty they want to live with.

All the United States should be trying to do in that situation is to make sure that Israel is able to bargain from a position of military parity, so that in reaching some kind of settlement in the Middle East, Israel will be able to reach a peaceful settlement based upon equality of bargaining, and not have to reach a settlement based upon weakness because the United States refused to supply arms.

I ask unanimous consent to have Mr. Noyes' column printed in the RECORD.

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

[From the Washington Star, Dec. 5, 1971]

MRS. MEIR'S STRONG CASE FOR MORE U.S. SUPPORT

(By Crosby S. Noyes)

Israel's Prime Minister Golda Meir has not come to town with any expectation of getting her big sack filled up with F-4 Phantom fighter-bombers or other items of military hardware. Though the subject of military supplies certainly has been discussed in her meetings with administration leaders here this week, the visit is not primarily a shopping expedition.

Nor is it an effort to counter the effect of Arab and Soviet attacks on Israel at the United Nations. So far as the Israelis are concerned, the result of the debate in the General Assembly always has been a foregone conclusion which they are grimly prepared to ignore.

The major question which Mrs. Meir has been exploring in her talks with President Nixon and Secretary of State Rogers over the last few days is simply: Where do we go from here? And in the present state of affairs in the Middle East, it is a question of considerable pertinence.

Where do we go, for instance, on the question of American-Israeli relations?

Over the last two years, these relations have been shaped—and greatly compromised—by the determination of the Nixon administration to play an active role in trying to bring about a settlement of the Arab-Israeli conflict.

Starting with the Rogers Plan, calling for the near-complete withdrawal of Israel from conquered Arab territory, the consistent effort of the administration has been to demonstrate to the Arabs—and most particularly to the Egyptians—its sincerity as an "honest broker" in trying to reach a settlement. The withholding of military supplies from Israel—including the much-needed Phantom jets—is only the most recent manifestation of the administration's concern for preserving its credibility in Cairo as an impartial mediator.

This American effort at mediation has gotten nowhere. Today, the prospect of an overall settlement remains as remote as ever. Even the attempt to reach a modest interim agreement, involving a separation of Israeli and Egyptian forces and the reopening of the Suez Canal, now appears to be hopelessly deadlocked.

At this point, Egypt's President Anwar Sadat is making it emphatically clear that he has no further interest in talking with American mediators. On the contrary, he is telling his front-line troops that "there is no longer any hope at all in peaceful solutions" in the Middle East and that "there is nothing left for us but the battle." At the U.N., Arab spokesmen are calling for a resolution demanding a pledge of total withdrawal by Israel. If such a resolution is passed by the heavily pro-Arab General Assembly and rejected by Israel, this could be taken by Egypt as justification for a renewal of the war.

The emphasis, then, has shifted from how to reach an interim settlement through American good offices to how to avoid another round of active fighting. And in this perspective, the present state of American-Israeli relations does, indeed, require urgent re-examination.

For it is at least questionable whether the United States, in trying to act as a mediator to the conflict, has not in fact made a solution more difficult.

Lacking the firm support of the United States, including badly needed military hardware, Israel has not been in position to make real concessions. Any withdrawal from Arab territory under these circumstances, the Israelis believe, would invite still another full-scale war under highly adverse circumstances. From the beginning, Israel has been unwilling to trade territory for anything less than what it considers real security.

The Arabs, for their part, have been encouraged to press their most extreme demands, including threats to renew the war, in the assurance that Israel is in a weak and isolated diplomatic position. The denial of American aid amounts to almost the same thing as a full-scale international arms embargo against Israel.

Certainly as long as the Arabs believe that the United States will continue to withhold support and arms from Israel as a means of applying pressure, there is very little reason for them to make concessions. And unless concessions are made on both sides, no settlement, interim or otherwise, will be possible.

On the contrary, withholding support from Israel could well encourage a renewal of the fighting. Today the Egyptians are using the threat of military action to increase the diplomatic pressure on Israel. But when, as it will, this pressure fails to bring about an Israeli retreat, the danger that Sadat will have to make good on his threats will greatly increase.

These, then, are some of the things that Golda Meir may have wished to discuss with administration leaders during her visit here. American policy until now has failed to produce any break in the Middle East deadlock. And the case for greater diplomatic and military support is a strong one.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. BYRD of Virginia). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore (Mr. METCALF). Without objection, it is so ordered.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AMERICAN NEUTRALITY: NO MORE ARMS TO PAKISTAN

Mr. CHURCH. Mr. President, the professed role of the United States in the current conflict between Pakistan and India is that of strict neutrality.

Even though this is our announced position, the Nixon administration keeps making statements prejudicial to India and favorable to Pakistan. The President's partiality to Pakistan is one of the best-known secrets in Washington.

Now come disturbing reports that our hands-off posture toward the two combatants may be in jeopardy. Usually reliable sources inform me that the Pakistan Government has asked the White House for substantial quantities of military equipment and supplies. The President is said to be giving this request "serious consideration."

I find it hard to believe that President Nixon would permit personal preference to undermine a policy of prudent neutrality. The American people should not be called upon—either through grants or subsidized sales—to replenish the arsenals of either Pakistan or India. Our proffering of arms in the past has helped to promote war on the Indian subcontinent, much to the discredit of the United States. It has earned us only enmity.

How many wars must be fought between India and Pakistan before we stop serving up the implements?

At long last, after finally having imposed an arms embargo against both countries, let us have the good sense to hold to that position.

I hope the Nixon administration will quickly repudiate any intention to rearm Pakistan at American expense.

QUORUM CALL

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

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

The second assistant legislative clerk called the roll.

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

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

PERMISSION FOR SUITS TO BE BROUGHT AGAINST THE UNITED STATES TO ADJUDICATE LAND TITLES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 555, S. 216.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The bill was read by title, as follows:

A bill (S. 216) to permit suits to be brought against the United States to adjudicate disputed land titles.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, after line 7, strike out:

SEC. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2408a to quiet title to lands claimed by the United States shall be brought in the district court of the district where the land is located or, if located in different districts in the same State, in any of such districts."

Sec. 3. (a) Chapter 161 of title 28, United States Code, is amended by inserting after section 2408 of such title the following new section:

"§ 2408a. Actions to quiet title

"The United States may be named a party in any civil action brought by any person to quiet title to lands claimed by the United States."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2408 the following new item:

"2408a. Actions to quiet title."

And, in lieu thereof, insert:

That (a) chapter 58 of title 28, United States Code, is amended by adding after section 1347 of such title the following new section:

"§ 1347a. Real property quiet title actions

"The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

(b) The chapter analysis at the beginning of chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1347 the following new item:

"1347a. Real property quiet title actions."

SEC. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409 to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts in the same State, in any of such districts."

SEC. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to quiet title to an estate or interest in real property, other than security interests and water rights, in which an interest adverse to plaintiff is claimed by the United States. This section does not apply to trust or restricted Indian lands, to any lands claimed by Indian or Native people based upon aboriginal right, title, use or occupancy, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section, which possession or control existed at least ninety days prior to the commencement thereof, pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, upon due application to the court and showing that the United States desires to condemn said real property or any interest therein, or portion thereof, the court shall enter an order continuing said possession or control pending filing of such condemnation action within ninety days thereafter.

"(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by decree of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1347a of this title. If such jurisdiction ceases, and there are other defendants in said action, the court shall remand the case to the appropriate State court of general jurisdiction where the real property is located as though remand were under section 1447 of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless the action is begun within six years after the claim for relief first accrues or within two years after the effective date of this Act, whichever is later. The claim for relief shall be deemed to have accrued upon actual knowledge of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item:

"2409. Real property quiet title actions."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The district courts shall have original jurisdiction of any civil action under section 2408a to quiet title to lands claimed by the United States."

That (a) chapter 58 of title 28, United States Code, is amended by adding after section 1347 of such title the following new section:

"§ 1347a. Real property quiet title actions

"The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

(b) The chapter analysis at the beginning of chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1347 the following new item:

"1347a. Real property quiet title actions."

SEC. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409 to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts in the same State, in any of such districts."

SEC. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to quiet title to an estate or interest in real property, other than security interests and water rights, in which an interest adverse to plaintiff is claimed by the United States. This section does not apply to trust or restricted Indian lands, to any lands claimed by Indian or Native people based upon aboriginal right, title, use or occupancy, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section, which possession or control existed at least ninety days prior to the commencement thereof, pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, upon due application to the court and showing that the United States desires to condemn said real property or any interest therein, or portion thereof, the court shall enter an order continuing said possession or control pending filing of such condemnation action within ninety days thereafter.

"(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by decree of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1347a of this title. If such jurisdiction ceases, and there are other defendants in said action, the court shall remand the case to the appropriate State court of general jurisdiction where the real property is located as though remand were under section 1447 of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless the action is begun within six years after the claim for relief first accrues or within two years after the effective date of this Act, whichever is later. The claim for relief shall be deemed to have accrued upon actual knowledge of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item:

"2409a. Real property quiet title actions."

Mr. ALLOTT. Mr. President, I wish to make perfectly clear that the Senator from Idaho (Mr. CHURCH), who reported the bill cleared the matter with me last evening. It is perfectly satisfactory with me to dispose of it at this time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to permit suits to adjudicate certain real property quiet title actions."

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any technical corrections in the engrossment of S. 216, which was passed by the Senate today.

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

NATIONAL AMERICAN INDIAN AND ALASKA NATIVES POLICY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 538, Senate Concurrent Resolution 26.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The concurrent resolution was read by title as follows:

A concurrent resolution (S. Con. Res. 26) on National American Indian and Alaska Natives Policy.

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

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 8, after the word "Indians", strike out "and Alaska Natives"; in line 14, after the word "Congress", strike out "(August 1, 1953" and insert "(August 1, 1953);"; in line 15, after the amendment just stated, strike out "which is hereby expressly repealed;"; on page 3, line 6, after "(4)", strike out "the executive branch of Government shall be charged with the responsibility of developing program efforts and procedures to assure that Indian and Alaska Native peoples, residing in areas considered to be beyond the scope of the direct Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service, receive services and attention that are commensurate with their diverse social and economic needs;" and insert "there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies."; in line 19, after "(5)", strike out "American"; in line 23, after the word "Indians", strike out "and Alaska Natives"; in line 24, after the word "citizens", strike out "and"; on page 4, line 1, after the word "Budget", strike out "shall" and insert "should"; in line 4, after the word "of", insert "the Federal"; in the same line, after the word "the", insert "social and economic"; in line 5, after the word "of", strike out "Indians and Alaska Natives." and insert "Indians; and"; after line 6, insert:

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

So as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) our national Indian policy shall give full recognition to and be predicated upon the unique relationship that exists between this group of citizens and the Federal Government and that a governmentwide commitment shall derive from this relationship that will be designed to give Indians the freedom and encouragement to develop their individual, family, and community potential and to determine their own future to the maximum extent possible:

(2) this statement of national Indian policy replaces the policy set forth in House Concurrent Resolution 108, Eighty-third Congress (August 1, 1953);

(3) improving the quality and quantity of social and economic development efforts for Indian people and maximizing opportunities for Indian control and self-determination shall be a major goal of our national Indian policy;

(4) there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies.

(5) Indian property will be protected; Indian culture and identity will be respected; and Congress will commit and dedicate itself to support a policy of developing the necessary programs and services to bring Indians to a social and economic level of full participating citizens;

(6) the Office of Management and Budget should submit an annual report to the Congress showing combined expenditures made by all departments and agencies of the Federal Government for the social and economic betterment of Indians; and

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

Mr. ALLOTT. Mr. President, I voted for reporting this resolution and I support its passage.

As Senators know, concurrent resolutions: "are not used for the purpose of enacting legislation and are not binding or of legal effect" as stated in Mr. Riddick's "Senate Procedure"—page 167.

For this reason, the committee was careful in phrasing the language of the reported resolution to exclude any language which might appear to be a legislative direction to the executive branch, or anyone else.

In looking over the committee report, however, I have noted instances where, contrary to the resolution, mandatory language appears.

In order to assure that there is no ambiguity in connection with this important resolution, I want to make the committee's intent abundantly clear.

The report should not be read to, in anyway, conflict with the language of the resolution. Nor should it, of course, be construed to add or detract from the resolution in any respect.

Without limiting the scope of what I

have said, some of the specific instances in the report which made it necessary for me to make this statement are:

First, the use of the words "shall" on page 2, line 18 and on page 4, line 18.

Second, the apparent instructions to the executive branch in both the first and second full paragraphs on page 4.

Third, the reference to the special relationship of Indians being based upon a "still growing body of treaties, court decisions and laws" on page 2 under the heading "Background"—in the second paragraph thereof.

Fourth, an inexact description of section (5) of the resolution on page 2 of the report.

Mr. JACKSON. Mr. President, as the original sponsor of Senate Concurrent Resolution 26 on National American Indian policy, I urge the Senate to give its full approval to this measure.

The primary purpose of my resolution is to replace the national Indian policy set forth in House Concurrent Resolution 108, 83d Congress—August 1, 1953. The 1953 resolution proposed an official termination of the Federal relations of American Indian tribes. It was resisted from its inception by Indian people because it carried with it an implied threat of removal of the special Federal protection of Indian lands and natural resources as well as an end to the provision of basic community services such as health, education and manpower development available to Indian people on the basis of their identity as Indians.

In my introductory remarks before the Senate on May 14, 1971, at the time I introduced Senate Concurrent Resolution 26, I stated:

At the time Congress approved House Concurrent Resolution 108 in 1953 as our Government's national Indian policy, we believed it to be in the best interests of the Indian people, but time and experience have demonstrated otherwise.

Mr. President, I propose to replace this policy, which has proven to be totally and absolutely unacceptable to the Indian people, with a resolution that is compatible with their unique relationship with the Federal Government and is within the framework of the democratic principles upon which our Nation was founded.

Senate Concurrent Resolution 26 declares it to be the sense of Congress that—

First. A governmentwide commitment shall be made to enable Indians to determine their own future to the maximum extent possible;

Second. This statement of policy replaces that set forth in House Concurrent Resolution 108 approved by the 83d Congress on August 1, 1953;

Third. Indian self-determination and development shall be a major goal of our national Indian policy;

Fourth. There should be a recognition of Federal responsibility to assure that Indians residing beyond the areas served by special Indian programs receive equal consideration with other citizens for services through other Federal, State, and local agencies;

Fifth. Indian property and identity will be protected and Indians shall be brought to a social and economic level of full participating citizens;

Sixth. The Office of Management and Budget should submit an annual report to Congress showing Government expenditures on behalf of Indians; and

Seventh. "American Indian" or "Indian" is defined to include "Alaska Natives."

The provisions of the resolution extend to Alaska Natives because of their inclusion as "American Indian" or "Indian" in the definitional section of the resolution.

Senate Concurrent Resolution 26 has been endorsed by the National Congress of American Indians, the National Tribal Chairmen's Association, urban Indians, and many individual tribal leaders. Representatives from these groups testified at a hearing before the full Senate Interior and Insular Affairs Committee on July 21, 1971, on Senate Concurrent Resolution 26 and recommended congressional approval of the resolution.

In addition, the National Congress of American Indians, at its recent convention in Reno, Nev., November 15–19, unanimously endorsed a resolution on legislative priorities. This resolution placed Senate Concurrent Resolution 26 as the No. 1 legislative priority that the organization would support for approval during the current Congress.

Mr. President, Senate approval of Senate Concurrent Resolution 26 will demonstrate to Indian people everywhere the willingness of the Federal Government to fulfill its legal and moral commitments to the first citizens of this Nation.

Mr. CRANSTON. Will the Senator yield?

Mr. JACKSON. I yield to the Senator from California.

Mr. CRANSTON. The committee report discusses the Federal services of the Bureau of Indian Affairs and the Indian Health Service as being available to those Indians who live on or near Federal reservations. Am I correct in interpreting Senate Constitutional Resolution 26 as saying that the Bureau of Indian Affairs and the Indian Health Service should serve all Indians who live on or near reservations?

Mr. JACKSON. Yes, your interpretation is correct.

Mr. CRANSTON. The committee report also discusses the number of California Indians who live on or near reservations, suggesting that the Federal status of some 21,000 rural California Indians is unclear at this time. I have here a copy of a sworn affidavit filed in a lawsuit by a BIA official stating that all California Indians live on or near reservations.

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

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

SUPPLEMENTARY AFFIDAVIT OF WESLEY L. BARKER SUPPORTING MOTION TO DISMISS

Defendants file herewith a supplement to that affidavit dated Decemger 31, 1969, and filed on January 5, 1970. Said Supplementary Affidavit is in response to Plaintiff's Third Memorandum of Points and Authorities dated January 8, 1970, as well as Plaintiffs' Supplementary Memorandum of Points and Authorities filed January 5, 1970. (State of California, County of Sacramento.

Before the undersigned authority personally appeared Wesley B. Barker, who acts in the official capacity as stated in his affidavit of December 31, 1969; and who under oath deposes and says to the best of his information, knowledge and belief:

1. There has been no instance where a California Indian, otherwise eligible, was denied available federal boarding school or scholarship assistance by the Sacramento Area Office for failure to meet the "on or near" criteria in the regulations. The Sacramento Area Office has jurisdiction throughout the State of California with the exception of the Colorado River Indian tribes.

APPENDIX D

2. It is the policy of the Sacramento Area Office to consider that every California Indian lives "near" a reservation (unless he actually lives on a reservation) for the purposes of administering the aforesaid programs.

Signed this 12th day of January 1970.

Mr. CRANSTON. Am I correct in assuming that Senate Concurrent Resolution 26 does not contradict this affidavit?

Mr. JACKSON. Since the Bureau of Indian Affairs is willing to announce, officially, that all California Indians meet the criteria of living on or near reservations—as they have stated in their affadavit—then you can correctly assume that none of the language of Senate Concurrent Resolution 26 contradicts the affadavit.

I want to thank the senior Senator from California for calling to our attention the unwarranted importance that has been attached to geography as a major criteria in determining Indians' entitlement to the special Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service. I believe the record should show that because of the events of history, California Indians are dispersed throughout rural areas of the State rather than being concentrated on several clearly defined reservations. Those historical circumstances also limited the number of acres of trust land available to the Indian people. Thus, only a small percentage actually live on trust land, and approximately 21,000 Indians whose socioeconomic problems are no less severe, do not relate to a trust land base. I can appreciate your concern in wanting to be certain that the latter group receives its rightful benefits. In addition, I am hopeful that the executive branch will undertake a more aggressive effort to assure that Indian citizens on and off reservations receive benefits to which they are entitled from other Federal, State, and local agencies of government.

I want to emphasize further that the primary purpose of Senate Concurrent Resolution 26 is to replace House Concurrent Resolution 108, which I believe most will agree has had a disastrous impact on the administration of Indian affairs. My question, which is supported by several national Indian organizations, outlines a more positive approach to national American Indian policy.

Mr. CRANSTON. I thank the Senator for clarifying this matter.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The amendments were considered and agreed to en bloc.

The concurrent resolution, as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution with its preamble reads as follows:

S. CON. RES. 26

Whereas it is recognized by the Congress that the American Indian stands in a unique legal, social, and economic relationship to the Federal Government which is based upon the Constitution, treaties, statutes, and Executive orders; and orders, agreements, judicial decisions, and history; and

Whereas it is further recognized that this unique relationship is the basis for the Federal responsibility to protect lands, resources, and rights of the American Indians as well as to provide basic community services to American Indians residing on reservations and in other areas considered to be within the scope of the trust relationship; and

Whereas it is understood that as citizens of the United States and the communities in which they reside, American Indians are entitled to share and participate on the same basis as all other citizens in the full range of social and economic development programs authorized by Federal, State, and local units of government; and

Whereas the Federal Government is responsible for assuring that the aforementioned rights of American Indians are fulfilled and that the eradication of adverse economic, education, health, and social conditions which prevent any American from achieving a life of decency and self-sufficiency is a priority national goal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) our national Indian policy shall give full recognition to and be predicated upon the unique relationship that exists between this group of citizens and the Federal Government and that a governmentwide commitment shall derive from this relationship that will be designed to give Indians the freedom and encouragement to develop their individual, family, and community potential and to determine their own future to the maximum extent possible;

(2) this statement of national Indian policy replaces the policy set forth in House Concurrent Resolution 108, Eighty-third Congress (August 1, 1953);

(3) improving the quality and quantity of social and economic development efforts for Indian people and maximizing opportunities for Indian control and self-determination shall be a major goal of our national Indian policy;

(4) there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies.

(5) Indian property will be protected; Indian culture and identity will be respected; and Congress will commit and dedicate itself to support a policy of developing the necessary programs and services to bring Indians to a social and economic level of full participating citizens;

(6) the Office of Management and Budget should submit an annual report to the Congress showing combined expenditures made by all departments and agencies of the Federal Government for the social and economic betterment of Indians; and

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

Amend the title so as to read: "Concurrent resolution on national American Indian policy."

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. McCLELLAN, from the Committee on the Judiciary, with amendments (together with individual views):

S. 907. A bill to consent to the Interstate Environment Compact (Rept. No. 92-577).

Mr. McCLELLAN. Mr. President, from the Committee on the Judiciary, I report favorably with amendments S. 907, to consent to the Interstate Environment Compact.

I submit a report thereon and I ask unanimous consent that the report be printed, together with the individual views of Messrs. HART, KENNEDY, BAYH, and TUNNEY.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered; and, under the previous order of the Senate, the bill will be referred to the Committee on Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (for himself, Mr. BOGGS, Mr. BURDICK, Mr. COOK, Mr. EASTLAND, Mr. HANSEN, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUMPHREY, Mr. MANSFIELD, Mr. METCALF, Mr. MOSS, Mr. ROTH, Mr. SCOTT, Mr. THURMOND, Mr. BIBLE, and Mr. GRIFFIN):

S. 2994. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HART, Mr. HUMPHREY, Mr. Moss, and Mr. METCALF):

S. 2995. A bill to provide for the compensation of innocent victims of violent crimes in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. SCOTT:

S. 2996. A bill to require that computer equipment and data processing facilities to be obtained for the use of the Library of Congress be procured only after advertised bidding. Referred to the Committee on Rules and Administration.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2997. A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mt. Aix and surrounding lands with the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN (for himself and Mr. HART):

S. 2998. A bill to provide for a national cemetery at Fort Custer, Mich. Referred to the Committee on Veterans' Affairs.

By Mr. HUGHES:

S. 2999. A bill to authorize a treatment and rehabilitation program for members of the Armed Forces who are or may become drug abusers or drug dependent persons. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (for himself, Mr. BOGGS, Mr. BURDICK, Mr. COOK, Mr. EASTLAND, Mr. HANSEN, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUMPHREY, Mr. MANSFIELD, Mr. METCALF, Mr. MOSS, Mr. ROTH, Mr. SCOTT, Mr. THURMOND, Mr. BIBLE, and Mr. GRIFFIN):

S. 2994. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN. Mr. President, more than 3,000 years ago, an Egyptian King surveyed his kingdom and recorded with great satisfaction the improvements and progress achieved under his regime. One passage in his survey disclosed basic fundamentals by which the soundness of any system of justice might be tested. He observed:

I made the land safe so that even a lone woman could go on her way freely and none would molest her.

I rescued the humble from their oppressors.

I made every man safe in his home.

I preserved the lives of those who sought my court of justice.

The people were well content under my rule.

(Quoted in *Illinois Crime Survey*, p. 5)

To conduct a similar survey, the President of the United States in 1965 called together his prestigious Commission on Law Enforcement and Administration of Justice. In sharp and unfavorable con-

trast, the Commission began its monumental report with these tragic words:

There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the Nation. Every American knows that. Every American is, in a sense, a victim of crime. Violence and theft have not only injured, often irreparably, hundreds of thousands of citizens, but have directly affected everyone. Some people have been impelled to uproot themselves and find new homes. Some have been afraid to use public streets and parks. Some have come to doubt the worth of a society in which so many people behave so badly. Some have become distrustful of the Government's ability, or even desire, to protect them. Some have lapsed into the attitude that criminal behavior is normal human behavior and consequently have become indifferent to it, or have adopted it as a good way to get ahead in life. Some have become suspicious of those they conceive to be responsible for crime: adolescents or Negroes or drug addicts or college students or demonstrators; policemen who fail to solve crimes, judges who pass lenient sentences or write decisions restricting the activities of the police; parole boards that release prisoners who resume their criminal activities.

(*The Challenge of Crime in a Free Society*, p. 1)

Mr. President, the results of this survey—still valid today—are a reproach to our Nation and to our civilization. As those charged with legislative responsibility, we must do all that is in our power to strengthen the peace forces within our society—the police, courts, and corrections. But in our efforts to meet the needs of the criminal justice system, we must not forget that institutions of government exist for people. In our efforts to strengthen the means by which we identify, apprehend and convict the criminal, we must not forget his innocent victim. For it is in his behalf ultimately that the criminal justice system must be operated.

Mr. President, it is for this reason that I am today introducing for myself and the distinguished Senator from Delaware (Mr. BOGGS), the distinguished Senator from North Dakota (Mr. BURDICK), the distinguished Senator from Kentucky (Mr. COOK), the distinguished Senator from Mississippi (Mr. EASTLAND), the distinguished Senator from Wyoming (Mr. HANSEN), the distinguished Senator from South Carolina (Mr. HOLLINGS), the distinguished Senator from Nebraska (Mr. HRUSKA), the distinguished Senator from Minnesota (Mr. HUMPHREY), the distinguished Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Montana (Mr. METCALF), the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Pennsylvania (Mr. SCOTT), and the distinguished Senator from South Carolina (Mr. THURMOND), the "Victims of Crime Act of 1972." This proposed legislation consolidates and integrates the essential features of a number of separate measures now pending before the Subcommittee on Criminal Laws and Procedures. These bills have been the subject of a series of hearings before the subcommittee.

TITLE I: COMPENSATION FOR VICTIMS OF VIOLENT CRIME

Title I of the proposed legislation, derived from S. 750, introduced by our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), would establish a Federal program to meet the financial needs of the innocent victims of violent crime.

Mr. President, the notion that society has an obligation to help meet the financial needs of crime victims has roots that run deep in our legal traditions.

In the Code of Hammurabi (circa 2038 B.C.), it was provided:

If a man practice brigandage and be captured, that man shall be put to death. If the brigand be not captured, the man who has been robbed, shall, in the presence of God, make an itemized statement of his loss, and the city and the governor, in whose province and jurisdiction the robbery was committed, shall compensate him for whatever was lost. If it be a life [that was lost], the city and the governor shall pay one mina of silver to his heirs. [Harper, *The Code of Hammurabi*, p. 19]

These provisions, we are told, were made to facilitate commerce.

Tacitus, the Roman historian, tells us that the Germanic murderer of the first century after Christ, when convicted, paid a fine—

In a stated number of oxen or cattle. Half of the fine was paid to the King, half to the person for whom justice was being obtained or to his relatives. [Tacitus, *Germania* 23 (Stout ed.)]

These provisions, we are told, were made to compose and avoid blood feuds.

Modern law, in contrast, has sharply distinguished criminal and civil proceedings. The criminal is thought to owe a debt to society, which must be paid in the context of a criminal prosecution, whose purpose is to secure the safety of the people by the punishment of offenders. In these public proceedings, the victim himself is supposed to be a disinterested witness, whose personal remedy is to be found in private action in tort.

Dissatisfaction with results of this modern dichotomy in recent years begins with the writings of the English penal reformer, Margery Fry. In 1955, she began to speak up for the innocent victims of violent crime, calling for the establishment of a more effective remedy for the victim than the traditional action in tort.

Her call for reform was first heard in New Zealand in 1963. In that year, the New Zealand Parliament, under conservative leadership, established the first crime compensation tribunal, with discretionary power to award public compensation to the victim or his dependents where he had been injured or killed through the commission of certain specified offenses. Compensation was authorized for out of pocket expenses, loss of earnings, and other financial losses. The tribunal was also empowered to order the offender to reimburse the indemnity fund from which the award was made.

In the following year, the Tory Government in England announced a similar, but nonstatutory program. It was proposed by the Home Secretary and put into operation with the consent of Parliament. Under the plan, a criminal injuries compensation board was established, with discretionary power to award compensation for personal injuries caused by violent crimes.

The first American jurisdiction to adopt the compensation principle was California. Its program was enacted in 1965 and put in operation 2 years later. Since that time, similar or related programs have been established in New York, 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1969; and, most recently, New Jersey, 1971.

Legislation has also been introduced and considered in Illinois, Ohio, Michigan, and other States as well as several of the Canadian provinces. In my own State of Arkansas, Dr. Calvin R. Ledbetter, Jr., the chairman of the political science department at the University of Arkansas at Little Rock, introduced H.B. 175 in the 1971 regular session of the general assembly. The bill would have established a system of compensation for persons who sustain personal injury or death as a result of crime.

Mr. President, the handwriting on the wall ought to be plain for all to see. Any principle that could command the adherence, among others, of an ancient Middle Eastern tyrant, a primative, but free, Germanic tribe, two modern conservative governments and the legislatures of seven American States and several Canadian parliaments merits more than just close attention. Compensation for the innocent victims of violent crimes is an idea whose time has come. Our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) put it well when he introduced S. 750:

[In] directing our full attention to how we can best combat the alarming crime rise we have ignored, unfortunately, certain aspects of the problem. The point has been reached . . . where we must give consideration to the victim of crime—to the one who suffers because of crime. For him, a society has failed miserably. * * * To those who suffer, society has an obligation. [117 Cong. Rec. 2633 (Feb. 11, 1971).]

Mr. President, to meet society's moral obligation in this area, title I of this proposed legislation would establish two separate programs. The first part, following the successful New Zealand and English experience, would create in the Department of Justice a Federal Compensation Board, authorized to make direct awards to or on behalf of the innocent victim of violent crime in financial need.

Jurisdiction of the Federal Board would, of course, be limited to the area of primary Federal police power, chiefly the special maritime and territorial jurisdiction of the United States, including the District of Columbia.

The Board would be a quasi-judicial administrative authority composed of three appointed members serving 8-year terms. The Board could compel the attendance of witnesses, but the strict rules of evidence would not be followed, and the hearings, where necessary at all, would not be adversary in character.

In determining the amount of an award, the Board would be authorized to examine all aspects of the case, including the victim's financial need, other private and public resources, and the victim's cooperation with law enforcement authorities. Overall recovery would be limited to not more than $50,000. Payment could be either lump sum or periodic, depending upon the facts of the case.

Payment of attorneys' fees would also be authorized on terms and conditions paralleling those authorized for the defense of the indigent accused.

A criminal conviction would not be a prerequisite for recovery, but where an award was made, the Board would become subrogated to the rights of the victim against the offender. In addition, where the offender was prosecuted, the court would be authorized to direct that part of any fine paid go to an indemnity fund to be administered by the Board.

The second part of title I would amend the Omnibus Crime Control Act of 1968 and provide for a new grant program to be administered by the present Law Enforcement Assistance Administration. States having programs meeting certain minimum standards, upon filing appropriate plans, could receive matching grants amounting to 75 percent of the costs of a similar State program for the compensation of victims of crime.

Adequate fiscal controls and periodic reports on the operation of the State program would be required.

Grants could also be withheld on a failure to comply with the act.

Mr. President, experience to date, both in England and among the States, as our hearings show, indicates that these programs—which meet society's moral obligation to the victim—may be operated both prudently and economically. So that all Members of this body and readers of the RECORD may see for themselves, I shall have printed in the RECORD at the conclusion of my remarks the most recent report of the English and the New York boards. In New York, for instance, the average lump-sum payment for injuries is $1,500, the average periodic death benefit of $2,500 a year up to the maximum of $15,000, and the average periodic disability payment of $4,000 up to the maximum of $15,000. Since March of 1967, in fact, New York has awarded approximately $3,500,000. In the context of the total cost of the criminal justice system, this is little enough to spend to give needed aid to the innocent victim of violent crime.

Mr. President, I believe that these two programs, respectful of the proper relation between the States and the Federal Government and sensitive to the needs of the innocent victims of crime, warrant the support of all Members of the Senate.

TITLE II: GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

Title II of the proposed legislation, derived from S. 33, introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY), and S. 1946, introduced by the distinguished Senator from Minnesota (Mr. HUMPHREY) would establish a Federal-State group life and disability insurance program for State and local public safety officers, including policemen, firefighters, and correctional guards.

Mr. President, title I of the proposed legislation is premised upon the recognition that society has a moral obligation to each of its citizens in need who are the innocent victims of violent crime. If this principle is sound, how much more so does society have a special obligation to meet the needs of public safety officers—policemen, firemen, correctional officers, and others who daily put their lives on the line for each of us. These brave men and women deserve not only up-to-date training and equipment, but also up-to-date benefits.

Unfortunately, a very crucial benefit—adequate life insurance—is now often denied public safety officers. Mr. Quin Tamm, executive director of the International Association of Chiefs of Police, in a prepared statement submitted to the subcommittee, for example, noted:

> Death and disability benefits are presently inadequate . . . In 37 major cities surveyed by the Kansas City, Missouri, police Department in 1970, 14 had no provision whatsoever for natural death except those covered by pension. In 9 cities, there was no coverage for line of duty death except pension benefits. Many of these relied on donations and contributions to cover funeral expenses.

Mr. President, society has a special moral obligation to meet the particular needs of those who take special risks in its behalf. We cannot shirk that responsibility.

Title II of the proposed legislation, modeled on the Federal crime insurance program of Public Law 91–609, would authorize the Law Enforcement Assistance Administration to establish a direct Federal life insurance program in those States where it determines that commercially available insurance or State or local plans do not provide insurance for public safety officers at costs competitive with other similar occupations, discounting the high risk factor of the officers' calling

The group life insurance program would be patterned after the present, successful servicemen's group life insurance program, available to members of the Armed Forces.

The program would be administered by the Federal Government but the insurance itself would be carried and the benefits paid by private life insurance companies.

Each officer would be entitled to coverage in the amount of his annual salary plus $2,000, with a minimum coverage of $10,000. Costs could be federally shared up to 25 percent.

Coverage would include on or off the job and double indemnity would be paid for accidental death. Loss of limb or eyesight would also be covered.

Title II would also explicitly authorize, independent of present statutory salary limitations, the use of present law enforcement grants under the Omnibus Crime Control and Safe Streets Act of 1968 to be used to establish statewide group life, accidental death, and dismemberment insurance programs for public safety officers.

Mr. President, we must be careful when we establish law enforcement assistance programs that we do not unnecessarily create direct financial relationship with police agencies on the State and local levels. We must never forget the folk wisdom so often quoted by the senior Senator from North Carolina (Mr. ERVIN): "Whose soup I sup, his song I sing." No one in this body would directly do anything to bring about a national police force. We must be careful, too, not to establish such direct ties with State and local agencies that those who come after us might, in a moment of weakness, find it all too easy to bring such an agency into being.

Mr. President, this two-level, Federal and State, insurance program, premised as it is on a clear and present showing of need, can be and is more than justified. We might legitimately expect, too, that in the long run most States would take advantage of the funds available under the Crime Control Act and establish for themselves adequate State programs, making it unnecessary for a direct Federal program to operate in more than a few places.

Mr. President, I believe that this program, like title I, respectful of the proper relation between the State and the Federal Government and sensitive to the special needs of public safety officers, warrants the support of all Members of the Senate.

TITLE III: DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

Title III of the proposed legislation, derived from S. 2087, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), and S. 2748, introduced by the distinguished Senator from Delaware (Mr. BOGGS), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from South Carolina (Mr. HOLLINGS), the distinguished Senator from Montana (Mr. METCALF), the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Maine (Mr. MUSKIE), and the distinguished Senator from Wyoming (Mr. HANSEN), would establish a Federal minimum death or disability benefit for public safety officers, their families or their dependents for death or disability in the line of duty as a result of a criminal offense.

Mr. President, much of what I observed above in reference to titles I and II need not be repeated here. Indeed, our society does owe a special obligation to those public safety officers who are killed in the line of duty by robbers, snipers, or convicts "protesting" their own all too just incarceration.

The statistics of violence are truly disturbing. During 1970, 100 law enforcement officers were killed by felonious criminal action. This is a 16 percent increase over 1969, when 86 law enforcement officers were slain. Indeed, since 1961, 633 officers have given their lives

seeking to protect persons and property in our society.

Most disturbingly, moreover, since 1966, 29 officers have been slain from ambush, 19 of whom lost their lives in 1970.

I recognize that 96 percent of these police slayings are now solved within 30 days by the efforts of local officials, assisted by the special Federal investigative aid recently authorized by the President. But this is of little moment to the officers family or dependents. It is important that the murderer be brought to brook. But it is also important that concern be paid to the consequences of his conduct, especially when it was often society, in a real sense, that was the target of his attack.

Mr. President, our hearings have shown that it is not only the policemen who must brave the risk of a felonious death. Civil disorders and social strife have, in recent years, produced new hazards for firefighters.

Two firefighters were killed in the Detroit riots, one in Watts, another in Newark.

From 1967 to 1969, over 600 firefighters were injured during civil disorders, and an additional 113 sustained injuries due to acts of individual violence.

Finally, I know I need not do anything but make reference to a small upstate town in New York—Attica—to bring to mind the terrible risk that corrections guards must now face in this age of so-called protest and riot.

It is in this sad and tragic context that title III would establish—independent of the compensation program in title I or the insurance program in title II—a direct, minimum level Federal death or disability benefit for public safety officers killed or injured in the line of duty by a criminal act.

The program would be administered by the Law Enforcement Assistance Administration.

No contribution would be required.

A death benefit of $50,000 would be paid to the spouse and the dependents of any public safety officer killed in the line of duty.

Payment would also be made for loss of limb or sight.

Payment would be made upon certification by the Governor of the State.

Interim payments could be immediately made in cases of apparent eligibility to meet the funeral costs, mortgage payments, and other necessities before formal certification.

Mr. President, this program is the least we can do to express our moral support for the public safety officers who daily risk their lives for each of us.

I believe that this program will quickly and effectively meet society's special moral obligation to its public safety officers, their families and their dependents. It merits the support of all Members of the Senate.

TITLE IV: CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

Title IV of the proposed legislation, derived from S. 16, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), would strengthen the procedural implementation of the civil remedies available to victims of racketeering activity under the Organized Crime Control Act of 1970.

Mr. President, on October 15, 1970, the President signed into law S. 30, the Organized Crime Control Act of 1970. Attorney General Mitchell has termed this act "one of the most imaginative and comprehensive proposals to combat organized crime ever introduced in the Congress." Title IX of that act adapted certain of the time-tested remedies of antitrust law to the typical techniques employed by racketeers to invade legitimate businesses. In discussing the rationale for the creation of the remedies, the report of the Senate Committee on the Judiciary noted:

> There is no doubt that the common law criminal trial, hedged in as it is by necessary restrictions on arbitrary governmental power to protect individual rights, is a relatively ineffectual tool to implement economic policy. It must be frankly recognized, moreover, that the infiltration of legitimate organizations by organized crime presents more than a problem in the administration of criminal justice. What is ultimately at stake is not only the security of individuals and their property, but also the viability of our free enterprise system itself. The committee feels, therefore, that much can be accomplished here by adapting the civil remedies developed in the antitrust field to the problem of organized crime. [S. Rept. No. 91-617, 91st Cong., 1st Sess. 80-81 (1969)]

As S. 30 passed the Senate, title IX was fashioned as a tool to be employed by the Government against the racketeers. Detailed consideration was not then given to carrying the antitrust parallel out by according the private victims of racketeering activity similar civil antitrust type remedies.

During the processing of S. 30 in the House of Representatives, however, an amendment was added authorizing private treble damage suits and the recovery of attorney fees. This action was taken at the suggestion of Mr. Edward L. Wright of Little Rock, Ark., then President of the American Bar Association, who testified in behalf of the association that—

> It strongly endorsed the principle of incorporating antitrust and other appropriate civil weaponry into anti-crime arsenal, particularly against organized crime. [Testimony of Edward L. Wright, House Hearings on S. 30, 91st Cong., 2d Sess. 544 (1970)]

Mr. President, title IV of the proposed legislation would round out the implementation of the suggestion of President Wright begun by the House of Representatives. In addition to authorizing private recovery of treble damages and attorney fees, it would permit the United States itself to sue for actual damages, when it is injured in its business activity, and to intervene in private suits under the act of general public importance, authorize private injunctive relief from racketeering activity, regulate the application of the doctrine of estoppel between criminal and civil proceedings, provide for a statute of limitations for civil actions and its appropriate suspension during pendency of criminal actions, and make applicable to suits under the amended act nationwide venue and service of process provisions.

Mr. President, the salutory provisions of titles I, II, and III—for compensation to victims, insurance and other benefits—are made necessary in part because the perpetrators of most criminal offenses are themselves financially irresponsible. On the whole, traditional tort and other civil remedies hold out only illusionary avenues of possible recovery to the injured victim. In many instances however, racketeering activity in businesses will be an exception to this general rule. These amendments to S. 30 will help the victim of crime himself to become whole once again, where there are persons or assets that may be reached through the civil courts. This title too, merits the support of all Members of the Senate.

TITLE V: GENERAL PROVISIONS

Title V of the proposed legislation includes provisions for effective dates and authorization for appropriations for the other titles of the bill.

Title I—compensation—is made effective 6 months after the effective date of the act.

Title II—insurance—is made effective immediately.

Title III—death benefits—is made retroactive for the past 5 years.

Title IV—civil remedies—is made retroactive to the date of the enactment of the Organized Crime Control Act of 1970.

Mr. President, compensation for victims of crime is an idea whose time has come. What reservation that exists remains only on the details of implementation or cost.

Contrary to the fears expressed before the establishment of similar programs elsewhere, as noted above, it appears that a program of this type may be established on a sound and prudent financial basis. The experience of England and the several States should lay to rest these honest but unnecessary fears.

In my judgment, an authorization of $165 million through the fiscal year ending June 30, 1973, should be more than ample to carry this legislation into effect.

The Omnibus Crime Control Act of 1970 carried with it an authorization for the Law Enforcement Assistance Administration of $1,150 million for the fiscal year ending June 30, 1972, and a similar authorization of $1,750 million for the fiscal year ending June 30, 1973.

One hundred and sixty-five thousand dollars for the victims of crime seems little enough.

Mr. President, the proposed Victims of Crime Act of 1972 represents the natural continuation of the work of the Subcommittee on Criminal Laws and Procedures which I have been privileged to chair since it was established in October of 1965. We have considered more than 180 bills in 35 days of hearings in four separate Congresses. Major legislation that has been processed by the subcommittee includes:

The Narcotic Addict Rehabilitation Act of 1966.

The Omnibus Crime Control and Safe Streets Act of 1968.

The Omnibus Crime Control Act of 1970.

The Organized Crime Control Act of 1970.

Each of these acts attempted to deal with a special problem—narcotics or organized crime—or attempted to strengthen the police, courts, and correctional systems of the Federal, State, and local governments. It is only appropriate now, therefore, that we turn to the innocent victims of crime.

Mr. President, this legislation is integrated, but it is not necessarily interdependent. It would be possible to process it without one or several of its titles. I am satisfied, however, that its broad outlines merit full support. Nevertheless, I know that this proposal is not perfect. I am sure that with further processing suggestions will be forthcoming that can strengthen it. I know that the subcommittee will welcome the suggestions of our colleagues here in the Senate. As chairman of the subcommittee, I also intend to give this bill circulation throughout the country over the coming recess with the hope that we can obtain the assistance of those knowledgeable persons outside Congress. We will welcome their suggestions, too.

Mr. President, during the course of our hearings before the subcommittee, the administration expressed approval of the basic ideas in title III—death benefits—and title IV—civil remedies for racketeering activity—even though it did express reservations with the extension of the coverage of title III to firefighters. It also indicated that it preferred the approach of title III—death benefits—to the approach of title II—insurance—and noted that the principle of title I—compensation—was still under study in the Department of Justice. I am hopeful, however, that the administration will find this integration of the essential features of the several items of individual legislation satisfactory and in a form that it can support. It is my hope to process this legislation through the full Committee on the Judiciary as soon as practical after we return from the recess, and, if possible, to the Senate floor early in the second session of this Congress.

Mr. President, this legislation is good legislation. It meets a pressing and humane moral obligation of society in a prudent and financially responsible manner. It should be a matter on which there is no disagreement. Legislation whose sole objective is directed to the victims of crime is long overdue. We ought to move to enact it now.

Mr. President, I ask unanimous consent that the following appear in the RECORD at this point:

First. The text of the bill.

Second. The English Criminal Injuries Compensation Board Report for 1970.

Third. The New York Crime Victims Compensation Board Report for 1970.

Fourth. A comparative analysis between the first part of title I of the proposed bill and State law.

Fifth. A letter and news article received from Mr. Donald E. Clark of Multnomah County, Oreg., in reference to a recent police homicide.

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

S. 2994

A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

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 "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of Part E of Title I, as amended by this Act, the following new parts:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this Part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes Compensation Commission established by this Part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress and nervous shock;

"(10) 'pecuniary loss' includes:

"(A) for personal injury—

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and

"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death—

"(1) funeral and burial expenses; and

"(2) loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew;

"(12) 'student' means a person who is a 'student' as defined in paragraph (17) of section 8101 of title 5 of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this part or killed or injured while assisting a law enforcement officer to apprehend a person who has committed a crime or to prevent the commission of a crime.

"COMPENSATION BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the 'Board'). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of this part.

"(c) No member of the Board shall engage in any other business, vocation, or employment.

"(d) Except as provided in paragraph (1)

of subsection a of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"SEC. 452. In order to carry out the purposes of this Part, the Board shall—

"(1) receive and process applications under the provisions of this Part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this Part;

"(2) hold such hearings, sit and act at such times and places, and take such testimony as the Board or any member thereof may deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this Part; and

"(4) take such other action as it deems necessary and appropriate to carry out the purpose of this Part.

"ADMINISTRATIVE PROVISIONS

"SEC. 453. (a) The Board is authorized in carrying out its functions under this Part to—

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with the provisions of Title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this Part;

"(4) appoint such advisory committees as the Board may determine to be desirable to carry out the provisions of this Part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liasion with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this Part;

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(7) without regard to section 529 of Title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this Part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this Part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practicable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"SEC. 454. (a) The term of office of each member of the Board taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) 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.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"SEC. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers within the District of Columbia.

"PROCEDURES OF BOARD

SEC. 456. (a) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this Part, whether or not such statement, document, information, or matter would be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the victim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this Part and order the payment of reasonable fees for such examination.

"(b) The Board shall permit every person appearing under section 460 of this Part to have the right to produce evidence and to cross-examine such witnesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this Part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of Title 18 of the United States Code for the purpose of granting immunity to witnesses.

"SEC. 457. (a) In any case in which a person is injured or killed by any criminal act, or omission of any other person, enumerated in section 458 of this Part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this Part, if such act or omission occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation—

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or without hearings, supported by substantial evidence, finds that—

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"SEC. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this Part for personal injury or death which resulted from crimes in the following categories—

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives:
"(16) unlawful use of firearms;
"(17) any other crime involving the use of force, including poisoning, to the person; or

"(18) attempts to commit any of the aforegoing."

"(b) For the purposes of this Part, the operation of a motor vehicle, boat or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat or aircraft.

"(c) For the purposes of this Part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"SEC. 459. A person is entitled to make application for an order of compensation under this Part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"SEC. 460. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this Part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"SEC. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this Part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under Section 3006A of Title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this Part any fee in any amount in excess of that allowed under this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"SEC. 462. The Board may order the payment of compensation under this Part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"SEC. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"SEC. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the personal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of $100 or has lost two continuous weeks earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive compensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in excess of $50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"SEC. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any payments received by applicant—

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured or beneficiary—

but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"SEC. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment is not made,

the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the payment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"SEC. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this Part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"SEC. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"SEC. 469. There is hereby created on the books of the Treasury of the United States a fund known as the 'Criminal Victim Indemnity Fund' (hereinafter referred to as the 'Fund'). The Fund shall consist of such amounts as may be deposited in, or appropriated to such Fund, as provided by law, or as may be contributed to such Fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"SEC. 470. (a) Each Federal law enforcement agency investigating a crime to which this Part applies shall inform victims of their eligibility to make an application for an order of compensation under this Part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this Part.

"(b) If a victim of a crime does not co-

operate with a law enforcement agency in the identification, apprehension and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"SEC. 471. The Board shall transmit to the Congress an annual report of its activities under this Part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board.

"(132) General Counsel, Violent Crimes Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund.

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3579. Fine Imposed for Criminal Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims of violent crime."

SEC. 106. Section 303 of such Act is amended by inserting "(a)" immediately after "303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this Title, that such State has enacted legislation of general applicability within such State—

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuniary loss therefrom and order the payment of such claims;

"(2) providing for the payment of compensation for pecuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this Title.

"(3) containing adequate provisions for the recovery of compensation substantially similar to those contained in Part F of this Title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this Title shall submit to the Administration a State plan. Each such plan shall—

"(1) provide that the program for which assistance under this Title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this section;

"(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this Title; and

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this Title in carrying out the objectives of the compensation program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.

"(6) contain other data and assurances as the Administration deems necessary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

SEC. 107. Part C of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new sections:

"SEC. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this Title. In addition to other matters such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered,

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"SEC. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this Title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section 301 of this Title shall be 75 per centum for any fiscal year.

TITLE II—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers, including policemen, firemen, and correctional guards, their families and dependents, through insurance where commercial plans and those available from State and local governments are not adequate and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 500. As used in this part—

"(1) 'child' means an unmarried person who is under 18 years of age and includes a stepchild or an adopted child, an illegitimate child, a student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the public safety officer;

"(2) 'dependent' means a relative or other person who were wholly or partially dependent upon the income of the public safety officer at the time of the personal injury or death of the public safety officer;

"(3) 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Administration;

"(4) 'month' means 30 consecutive days;

"(5) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention, control, or reduction, including highway patrol,

"(B) a correctional program, facility or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(6) 'relative' includes the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, niece or nephew; and

"(7) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States Code.

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a)(1) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended, to purchase in those States where it determines that commercial insurance or State plans or those offered by a unit of general local government do not provide insurance at competitive costs with comparable coverage for life, accidental death, and dismemberment insurance issued to large employers of occupations other than public safety officers from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (A) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (B) as of the most recent December 31 for which information is available to the Administration have in effect

at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(2) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(3) The Administration shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by it, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Administration) as may elect to participate in such reinsurance.

"(4) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this Part.

"PERSONS INSURED; AMOUNT

"SEC. 501. (a) Any policy of insurance purchased by the Administration under this Part shall automatically insure any public safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Administration for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Administration as the collection agency or office for such premiums. The insurance provided under this Part shall take effect from the first day agreed upon by the Administration and the responsible official of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this Part he may thereafter, if eligible, be insured under this Part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

If annual payment is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
$0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

"(c) Subject to the conditions and limitations approved by the Administration and which shall be included in the policy purchased by it, the group, accidental death, and dismemberment insurance shall provide for the following payments:

LOSS AND AMOUNT PAYABLE

For loss of life—Full amount shown in the schedule in subsection (b) of this section.

Loss of one hand or of one foot or loss of sight of one eye—One-half of the amount shown in the schedule in subsection (b) of this section.

Loss of two or more members or loss of sight in both eyes—Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one incident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 503. Each policy purchased under this Part shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"SEC. 504. Each policy purchased under this Part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this Part. During the period such insurance is in force the insured, upon request to the administrative office established under section 501 of this Part, shall be furnished a list of life insurance companies participating in the program established under this Part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this Part, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this Part his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Part while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Administration to be charged any public safety officer for each unit of insurance under this Part may be continued from year to year, except that the Administration may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 506. For each month any public safety officer is insured under this part the Administration shall bear not to exceed one-fourth of the cost of such insurance or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT EXPENSES

"SEC. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the Administration under section 506 of this part, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policise purchased under this part and the administrative cost of the insurance program established by this part of the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department, agency or office designated by it, and all current premium payments on any policy purchased under this part. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for the purpose of this part shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividend or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES: PAYMENT OF INSURANCE

"SEC. 508. (a) Any amount of insurance in force under this part on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order or precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary or no dependent, to the spouse of such officer or former officer;

"(3) if there is no such beneficiary or no such spouse, to the dependents, in equal shares;

"(4) if there are both a spouse and one or

more dependents, one half to the spouse and one-half to the dependents, in equal shares;

"(5) if none of the above, to the parents of such officer or former officer or to the survivor of them;

"(6) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer; or

"(7) if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

"(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administration nor the administrative office established by any insurance company pursuant to this title, has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administration be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this Part and no claim for payment by any person entitled under this Part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this Part.

"(d) The public safety officer may elect settlement of insurance under this Part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS: READJUSTMENT OF RATES

"SEC. 509. (a) Each policy or policies purchased under this Part shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administration during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement, with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration. Such accounting shall include: (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 510. The Administration shall arrange to have each public safety officer insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"AUTHORIZATION FOR USE OF APPROPRIATIONS

"SEC. 511. Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 512. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, or at the call of the Attorney General, and shall review the administration of this title and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"PREMIUM PAYMENT ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 513. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

AMENDMENT TO LAW ENFORCEMENT ASSISTANCE PROGRAM

SEC. 203. (a) Subsection (b) section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act is further amended by adding at the end thereof the following new paragraph:

"(11) The establishment of one or more separate or combined statewide group life, accidental death and dismemberment insurance programs for public safety officers as defined in paragraph (5) of section 500 of Part G of this title.

(b) Subsection (d) of such section is amended by striking out the first word and inserting in lieu thereof the following: "Except for grants made pursuant to paragraph (11) of subsection (b) of this section not".

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART H—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICER

"DEFINITIONS

"SEC. 525. As used in this Part—

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born

after the personal injury or death of the victim;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention, control or reduction, including highway patrol,

"(B) a correctional program, facility or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"SEC. 526. (a) Under regulations issued by the Administration under part I of this title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full or part time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (a) of this section 527 of this part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer.

"(2) If the public safety officer was killed and there is no spouse, to the dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the dependents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in lump sum, in such equal monthly installments, or in such other fashion as the Administration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death which is the basis for the certification.

"AWARDS

"SEC. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse or dependents pending a final certification of the Governor.

"(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer, spouse or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would envoke severe hardship.

"LOSS AND AMOUNT PAYABLE

"Death, fifty thousand dollars.

"Loss of one hand or of one foot or loss of sight of one eye, twenty-five thousand dollars.

"Loss of two or more members or loss of sight in both eyes, fifty thousand dollars."

AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gosss income) is amended to read as follows:

"(A) $5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed $5,000, except that not to exceed $50,000 shall be excludable under the provisions of Part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

"(d) Subject to conditions and limitations as he may establish, the Administration shall provide for the following payments:

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

SEC. 402. (a) Section 1964 of Title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil war or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

TITLE V—MISCELLANEOUS PROVISIONS

REPEALS

SEC. 501. (a) Section 4–531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is hereby repealed.

(c) The provisions of subsection (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968 as amended, and as redesignated by this Act is amended by inserting immediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $10,000,000 for the purposes of part F;

"(2) $20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G.

"(d) There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1972, and $20,000,000, for the fiscal year ending June 30, 1973, for the purposes of part H.".

SEVERABILITY

SEC. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 504. (a) Title I of this Act shall become effective one hundred and eighty days after the date of enactment of this Act.

(b) (1) Title II of this Act shall become effective on the date of enactment of this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect on the earliest practicable date approved by the Law Enforcement Assistance Administration of the Department of Justice.

(c) (1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such public safety officer shall be deducted from any benefit paid under title III of this Act.

SIXTH REPORT: CRIMINAL INJURIES COMPENSATION BOARD—ACCOUNTS FOR THE YEAR ENDED MARCH 31, 1970

(Presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland by Command of Her Majesty October 1970)

To: The Secretary of State for the Home Department; The Secretary of State for Scotland

SIRS: We have the honour to submit this our Sixth Report.

1. VOLUME OF WORK

The number of new applications for compensation received in each quarter of the year 1st April 1969 to 31st March 1970 compared with the two previous years was as follows:

	1969–70	1968–69	1967–68
Quarter:			
1st (Apr. 1–June 30)	1,683	1,610	1,010
2d (July 1–Sept. 30)	1,723	1,501	1,000
3d (Oct. 1–Dec. 31)	1,836	1,598	1,632
4th (Jan. 1–Mar. 31)	2,005	1,728	1,674
Total	7,247	6,437	5,316

In our Fifth Report we forecast the receipt of 7,000 applications this year. We considered that there was a levelling out in the rate of growth of our work but it will be seen that the figures are still growing and we forecast at least 8,000 applications in the year 1970–71.

The analysis of these figures in Appendix A shows that the increase in the number of applications from Scotland was only 11, whereas there was 730 more cases from England and 69 more from Wales.

2. NUMBER OF CASES RESOLVED

6,817 cases were resolved as shown below:—

	1969–70		1968–69		1967–68	
	Number	Percent	Number	Percent	Number	Percent
By single members	6,093	89	5,478	92	3,583	93
By 3 members at hearings	600	9	434	7	238	6
Withdrawn or abandoned by applicant	124	2	73	1	48	1
Total	6,817		5,985		3,869	

It will be seen that there is again a rise in the percentage of cases disposed of at hearings. See paragraph 12 below.

The following table shows the time taken to resolve applications:

	1969–70 (percent)	1968–69 (percent)	1967–68 (percent)
Not more than 3 months	39	31	27
More than 3 months but not more than 6	39	42	44
More than 6 months but not more than 9	15	17	19
More than 9 months but not more than 12	5	7	7
More than 12 months	2	3	3

The increased percentage of cases resolved in not more than three months demonstrates the ability of the Board's staff to deal speedily with straightforward cases. Although the final disposal of cases of more serious injury may take longer, an interim payment may be made as soon as it is established that the case comes within the scope of the Scheme. The number of interim awards made was 510, compared with 234 in 1968–69 and 185 in 1967–68.

3. THE COST OF THE SCHEME

In the year 1969–70 nearly two million pounds were paid out in compensation as follows:

England	£1,524,099
Scotland	386,750
Wales	85,735
	1,996,584

Since the Scheme began on 1st August 1964 we have paid out £6,313,624. The administrative expenses for the year 1969–70 were £207,686, representing 9.4 per cent of the total expenditure, compared with 9.6 per cent in 1968–69. The average cost of a case resolved at single member stage was £23 3s. 0d., a decrease of 17s. 0d. on the cost in 1968–69. In cases which went to a hearing before three members the additional average cost was £66 16s. 0d., compared with £74 0s. 0d. last year. The total average cost of each case resolved at a hearing was therefore £89 19s. 0d.

4. THE WORKING OF THE SCHEME

The great bulk of our work consists of assessing the compensation which should be paid to applicants who are plainly the innocent victims of criminal assaults. After six years' experience we repeat the observations made in paragraph 15 of our First Report:

"It is true that many of the applications submitted relate to comparatively minor injuries and the compensation paid is correspondingly small. But no one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the elderly and infirm have suffered injury and shock, can fail to feel deeply what a worthwhile part is played in the full administration of justice by the power to award compensation."

The object of the Scheme is to ensure that the innocent victims of crimes of violence are compensated and that in appropriate cases the application is either rejected altogether or a reduced award made. There are no clear and distinct lines which can be drawn to separate these three classes.

In the following paragraphs we discuss at some length borderline cases which present such difficult problems but it must be remembered that they represent only a fraction of our work.

5. THE MODIFIED SCHEME

The modified Scheme came into effect on 21st May 1969 and was intended to strengthen the Board's hand to reject undeserving cases. Before the Scheme was modified, we were required, under paragraph 12, to consider whether because of provocation or otherwise, the victim bore any share of responsibility, and in accordance with our assessment of the degree of responsibility, to reduce the award or reject the claim altogether. Paragraph 17 of the modified Scheme superseded paragraph 12, and gave us a wide discretion to reduce an award or reject a claim altogether if, having regard to the victim's conduct, including his conduct before and after the incident, and to his character and way of life, we consider that it is inappropriate that he should receive a full award or any award at all. This discretion has not been easy to exercise for we are not all of one mind and the diversity of the circumstances of the cases which come before us is very great. We are anxious to produce a consistent approach to the problem and have set out in this report a number of typical cases illustrative of the way in which the Board has applied paragraph 17.

Voluntary participation in a fight

(1) An applicant became involved in a fight with his assailant, whom he knew to be violent, and was injured. No weapons were used, and we were satisfied that the applicant willingly entered the fight. Following decisions in similar cases under the unmodified Scheme, we refused an award.

(2) We have made reduced awards to applicants injured in fights which began in similar circumstances, but which took a turn which could not be foreseen, as follows:

(*a*) The applicant was in a public house, when a man with whom he was on bad terms entered, and the applicant persistently offered to fight him outside. The man eventually agreed after he and the licensee had unsuccessfully tried to get the applicant to keep quiet. In the fight the man knocked the applicant down, and while he lay helpless on the ground the offender kicked and stamped on his head, fracturing his cheekbone, jaw and skull. We made an award, albeit a reduced one, on the grounds that the violence used was out of all proportion to the provocation offered.

(b) An applicant and his assailant started to fight in a club, and both fell downstairs. The applicant injured his ankle. They were then thrown out into the street. The applicant told the assailant he could no longer defend himself, but the assailant knocked him to the ground and fractured his jaw. The applicant first told the police that he had received his injury by falling downstairs, and he did not wish to make a statement. Later he made a full statement and the assailant was charged and acquitted. The applicant's original failure to co-operate with the police and his voluntary participation in a fight were reprehensible and we made a reduced award.

(3) We made a reduced award to an applicant who accepted a challenge to fight, and during the fight was struck on the head

from behind by his opponent's wife, using a broken chair leg.

Conduct, character and way of life

(4) A single member rejected the application of a professional housebreaker who in the early hours of the morning was disturbed by one of the occupants of the house he had broken into. He ran away and the householder discharged his shotgun in the general direction of the housebreaker's retreating figure, peppering him with shot. We did not consider that it was appropriate that those injured whilst engaged in criminal activities should receive an award.

(5) (a) Taking into account the applicant's character and way of life we refused an award to a man who was assaulted and severely injured outside a public house. He had numerous convictions over a period of 18 years, mostly for offences involving dishonesty. His assailants were known to him and there was some suggestion of an earlier incident to which the assault may or may not have been related. We considered that it was inappropriate that public money should be spent on compensating the applicant for injuries received in an assault for which no satisfactory explanation exculpating him was given.

(b) But we made an award to a young man who was slashed with a razor after leaving a public house where he and his wife had been listening to a pop group. He had a number of convictions for theft, but for two years had been in regular employment. We were satisfied that he was the victim of a brutal and motiveless assault, which was wholly unconnected with his former way of life. It was therefore appropriate that he should receive a full award.

6. REPORTING TO THE POLICE

The original Scheme provided that compensation would not be payable unless the circumstances of the injury had been reported to the police without delay, or had been the subject of criminal proceedings in the courts. The requirement could be waived, but the conduct of the applicant after the incident in which he received his injury could not be taken into account. The requirement is repeated in paragraph 6(b) of the modified Scheme, while paragraph 17 enables us to take into consideration the applicant's conduct both before and after the incident.

We have always considered that when an applicant reports an incident to the police he must report the full circumstances of his injury and that he does not fulfill the requirements by reporting such of the circumstances as he chooses.

We attach great importance to these two provisions, for if violent crime is to be contained it is essential that the police should be informed as soon as possible, and that the victim should give them every assistance in bringing the offender to justice. We do not therefore waive the requirement of paragraph 6(b) save in exceptional circumstances.

(1) (a) We waived the requirement in the case of a 6 year old boy, who lost his eye when hit by a piece of slate deliberately thrown at him by a playmate. The boy's father did not report the circumstances to the police for a month. The assailant was not charged because of his age.

(b) We also waived the requirement in a case where we were satisfied that the applicant had reasonable grounds for believing that the circumstances had been reported to the police.

(c) But we refused to waive the requirement in the case of an applicant of full age, who did not report an incident in the street in which he received a broken jaw, although we were satisfied that his case was in other respects within the Scheme.

(2) An applicant who refused to give a full description of the incident and told the police that he knew who his assailants were and would deal with them himself, was refused an award.

(3) The full circumstances of the injury must be reported.

(a) A youth was assaulted outside a fish and chip shop and his girl friend made a 999 call to the police. By the time they arrived the youth and his girl friend had gone to hospital and the proprietor of that shop was unable to give the police any information. The youth received out-patient treatment for three weeks and then reported to the police.

(b) The father of an applicant reported to the police that his son had been admitted to hospital but was not himself able to give any information as to the circumstances. When seen by the police the applicant refused to give any information.

Both these applicants were refused awards.

(4) We have held that fear of reprisals is no ground for waiving the requirement, and we disallowed the claim of two brothers who did not report the incident until their assailants were in custody awaiting trial on other more serious charges.

(5) (a) An applicant did not report to the police until six weeks after he was injured. His assailant was then prosecuted and pleaded guilty. Although the provisions of paragraph 6(b) were complied with in that the matter was the subject of criminal proceedings, we made a reduced award because of his conduct in failing to play his part in bringing the offender to justice.

(b) But we made a full award to an applicant who was advised by the police after investigations, that the appropriate charge against his assailant would be for common assault contrary to section 42, Offenses Against the Person Act 1861. After consulting his union he told the police that he did not wish them to take any further action. A summons for assault, which would have barred his civil claim, could not be issued without his consent and we did not consider his conduct such as to require a reduction under paragraph 17.

7. THE CRIME OF VIOLENCE

(1) Another change in the Scheme was to require the applicant to show that his injuries were directly attributable to a crime of violence (including arson and poisoning) whereas under the former Scheme he was only required to show that his injuries were directly attributable to a criminal offence. One of the reasons for this change is that a breach of the Factory Acts is a criminal offence and the Scheme was plainly never intended to permit an application to the Board instead of an action for breach of the statutory duty imposed by the Factory Acts.

(a) We made an award to a boy whose injuries were directly attributable to a breach of section 2 of the Explosive Substances Act of 1883. The boy and his friends were walking through a wood when they saw a burning rope hanging from a tree. They tried to put it out but there was an explosion and the boy received an injury to his face. The rope was identified by the police as a piece of fuse, and there were a number of detonators attached to it. These had recently been stolen from a nearby quarry, but the culprits were not traced.

(b) We also made an award to a pedestrian who was knocked down by a driverless taxi which had been set in motion by two drunken men after an argument with the driver, who had gone to fetch the police. The criminal act of the two men was likely to result in personal injury to those lawfully using the highway and was thus a crime of violence.

(2) We decided that in order to obtain an award for personal injuries directly attributable to an arrest of a suspected offender, an applicant must satisfy us that he himself was taking part in an arrest or attempted arrest. We therefore refused to make an award to a woman in a multiple store who was accidentally knocked over when a store detective was chasing a suspected shoplifter.

8. THE IMPROVIDENT APPLICANT

We have found the discretion under paragraph 18 to make special arrangements for the administration of any money awarded as compensation most useful.

In a case where a substantial sum of money is involved and we doubt whether the applicant, though of full age, will use it wisely we invite him or her to submit a plan showing how it is proposed to use the money. We may suggest that the applicant should consult a solicitor or a bank manager and take active advice before submitting the plan to us and asking for the release of the money. It is not possible, or perhaps desirable, for us to supervise the spending of the money, but this procedure ensures that consideration is given to the problem and that the danger of frittering away the compensation is brought home to the applicant.

9. MEMBERS OF THE FAMILY

(1) The amendment to paragraph 7 (which excludes the claim of a victim who was living with the offender at the time as a member of the same family) clarifies the position of persons living together as man and wife.

(a) An applicant associated with a merchant seaman for a number of years. He regarded her home as his, and stayed there when he was not at sea. He contributed regularly to housekeeping expenses, and she prepared his meals and di his washing. He usually occupied a single room, but they slep together from time to time. He was anxious to marry her, but she refused. After a quarrel over the question of marriage he assaulted her. Her claim was rejected.

(b) An applicant was assaulted by his wife's brother, whom he reluctantly agreed to allow to stay in his house on release from Borstal. The assailant was not provided with a room, but slept on a couch in the kitchen. He paid no rent, was not given a door key, and was given meals about twice a week. He had been told to go as soon as he could find other accommodation. The applicant's claim was disallowed.

The number of claims rejected and the number of reduced awards are as follows:

10. NIL AND REDUCED AWARDS

	1969–70		1968–69		1967–68	
	Number	Percent	Number	Percent	Number	Percent
Rejected	1,079	15	852	14	331	9
Reduced	340	5	232	4	148	4

We have continued to apply the principle that it is for the applicant to make out his case and in order to receive a full award he must satisfy us not only that his injuries were directly attributable to a crime of violence but also that his conduct, character and way of life does not disentitle him.

(a) An applicant, drinking with his friends in a public house, got involved in an argument, and he received cuts on his face from broken glass. No question of amnesia arose but by reason of the amount of drink he had taken the applicant could not remember how he received his injury. His friends heard a commotion and the sound of breaking glass at the other end of the bar; they did not see what happened. We made no award.

(b) On the other hand, we made an award to an applicant who was blinded by shotgun pellets, although the man who fired the gun was acquitted. He was walking in front of the applicant, carrying a shotgun which he knew to be loaded. He turned round, put the gun to his shoulder and aimed at the applicant and the gun went off. The gun was in good condition, and required a trigger pres-

sure of at least 4½ lbs. We were satisfied that on balance of probabilities the gun was not fired accidentally and that an offence under section 20, Offences Against the Person Act 1861, had been committed.

(c) A bus caught fire, and one of the passengers who was injured by jumping from the top deck applied for compensation. The fire started when a container of inflammable material, probably petrol, ignited. The container was brought on to the bus by an unidentified passenger, who, before the fire started, was seen to be smoking. He was never traced. We decided that the fire was caused by the negligent act of the unidentified passenger, which did not constitute a crime. He committed an offence under the Public Service Vehicle Regulations 1936 by bringing the container on to the bus, but the applicant's injuries were not directly attributable to that offence.

11. LAW ENFORCEMENT

15 awards were made to persons who were injured while assisting the police to prevent a crime being committed or to effect an arrest. The numbers in previous years were: 1968–69 19; 1967–68 19.

132 awards were made to persons who attempted to prevent a crime or arrest an offender, a small increase over the numbers in previous years which were: 1968–69 121; 1967–68 100.

Awards to policemen on duty number 851 compared with 704 in 1968–69.

12. HEARINGS

600 cases were decided at hearings representing 9 per cent of all cases resolved compared with 7 per cent in 1968–69, 6 per cent in 1967–68, and 5 per cent in 1965–67. Of these 600, 122 concerned the amount of the award, 384 concerned a refusal of compensation on the merits, and 41 a refusal under the low limit; 53 were referred by a single member. Full details are to be found in Appendix C.

Hearings were held on 114 days, of which 37 were in London, 44 in English provincial cities, 30 in Scotland and 3 in Wales.

The high percentage of cases in which the amount of the award was increased at a hearing might be thought to cast doubt on the validity of the single member procedure but we are confident that such doubt is unjustified.

Firstly, only 23 applicants out of 1,000 question the amount of the award made by the single member. Secondly, when requesting a hearing the applicant often puts forward some new head of claim or disability which he has not previously mentioned. Thirdly, a medical prognosis which is too optimistic may well lead to a hearing, whereas one that is less optimistic will not. Fourthly, whereas in the Courts an appeal is only allowed if the original award was wholly erroneous, we rehear the case and sometimes make a very small increase in the single member's award.

We are satisfied that the single member procedure works well and is both expeditious and inexpensive and that the right to demand a hearing provides a sufficient safeguard.

It will be seen that after rejection by the single member on the merits 148 applicants obtained awards at the hearing and 236 did not. Less than 40 per cent achieved any benefit from requesting a hearing. Furthermore, 62 per cent of those applicants whose claims were rejected by the single member accepted his rejection although they had nothing to lose by demanding a hearing.

13. REPARATION FROM OFFENDERS

There were only 19 cases where we felt that we could usefully sue the offender if we had the power to do so. The comparable figure in 1968–69 was 21. One case where reparation has been made is worthy of mention. Four years ago we made an interim award of £1,000 to a boy of 9 who was blinded because another boy threw lime into his eyes. The victim was taken into a convent to be educated and trained and although we were anxious that the award should be used for his benefit, the interest earned on the money was more than enough to meet his needs. Subsequently damages were recovered in an action brought on the boy's behalf in the Court and the £1,000 was repaid under paragraph 24 of the Scheme.

We would like to repeat the tribute we paid in paragraph 14 of our Fourth Report to the help given to the Board by welfare organisations and local authorities.

14. STAFF

We have always believed that subject to proper investigation, cases should be disposed of as quickly as possible, so that applicants may derive the maximum benefit from their awards. Over the past few years, the number of cases at any one time under investigation by the staff has been between 2,600 and 3,000, representing about 4½ months' instake of new cases.

Although the time taken to investigate a case depends to some extent on factors outside our control, we keep our procedures under constant review, in the hope of improving these figures.

Over the past three years there has been an average increase in productivity of 10 per cent a year—arrived at by dividing the cases finally disposed of during the year by the number of staff in post. Recently, however, we have had a large influx of new staff, partly due to an increase in our complement by 7 to 65, and partly to the termination of the secondment of experienced officers. This has resulted in a drop in the number of completed cases which we hope will be only temporary.

In estimating our staff requirements, it should be recognised that while the volume of work continues to increase, and while our staff is temporarily seconded from other departments, a proportion of the staff will always be under training and not fully effective.

If allowance is not made for these factors, we will be faced with an ever increasing load of pending cases, to the detriment of the staff's efficiency and morale.

In February, the secondment of Mr. J. Hamilton was terminated at very short notice, when he was posted on promotion to the Immigration and Nationality Department. He had been the Board's Chief Executive Officer since the Scheme started, and we wish to record our great appreciation of his services, particularly in the fields of finance, statistics and public relations. During that time he devoted himself without stint to the work of the Board, and we have very reason to be grateful to him for the part he played. We welcome Mr. F. Carter as his successor.

WALKER CARTER,
Chairman.

SEPTEMBER 1, 1970

CRIMINAL INJURIES COMPENSATION BOARD ACCOUNT OF RECEIPTS AND PAYMENTS IN THE YEAR ENDED MAR. 31, 1970

[In pounds]

	Receipts		
	1968–69	Estimate	Actual
Balance, Apr. 1, 1969	33	----------	19,479
Grant-in-aid from the vote for Home Office (class III, 1)	1,870,000	2,327,000	2,220,000
Repayment of compensation recovered by victims from offenders	164	300	2,436
Miscellaneous receipts	437	----------	24
Total	1,870,634	2,327,300	2,241,939
Administration expenses:			
Staff salaries, wages, national insurance and superannuation liability	95,712	106,400	112,136
Board members' fees	25,642	29,300	29,664
Traveling, etc., expenses of Board members and staff	4,587	4,700	4,931
Furniture and accommodation	26,378	25,550	27,151

	Payments		
	1968–69	Estimate	Actual
Administrative expenses—Continued			
Office supplies, stationery, etc	1,955	2,400	3,728
Post office services	3,833	3,400	8,173
Miscellaneous expenses:			
Medical, etc., fees	18,085	23,700	19,209
Advertising and publicity	23	100	154
Incidential expenses	185	100	92
Total		195,650	205,238
Compensation paid [1]	1,672,958	2,130,000	1,992,402
Travelling and subsistence expenses of applicants and witnesses	1,797	1,650	2,448
Balance, Mar. 31, 1970	19,479	----------	41,851
Total	1,870,634	2,327,300	2,241,939

[1] See report and appendixes for details.

NOTES

1. This account covers expenditure throughout Great Britain. A contribution of £465,400 to the Home Office Vote toward the Board's expenses in Scottish cases was made from the Scottish Home and Health Department Vote (class III, 2).

2. Compensation paid by the Board on behalf of child victims is held in trust until they reach the age of majority. At Mar. 31, 1970, the Board held £69,103 on deposit account pending the drawing up of deeds of trust etc.; £33,055 was held in 576 ordinary accounts and £158,491 in 532 investment accounts in the Board's name at the Department for National Savings.

4 September 1970.

WALKER CARTER,
Chairman, Criminal Injuries Compensation Board.

I have examined the above Account. I have obtained all the information and explanations that I have required, and I certify, as the result of my audit, that in my opinion the above Account is correct.

B. D. FRASER,
Comptroller and Auditor General.

APPENDIX A

APPLICATIONS RECEIVED AND RESOLVED, COMPENSATION PAID AND POSITION AT MAR. 31, 1970

	England	Scotland	Wales	Total
1. Applications received:				
(a) 1964–65 (8 months)	477	56	21	554
(b) 1965–66	1,961	391	100	2,452
(c) 1966–67	2,546	633	133	3,312
(d) 1967–68	3,730	1,381	205	5,316
(e) 1968–69	4,658	1,555	224	6,437
(f) 1969–70	5,388	1,566	293	7,247
Total of 1	18,760	5,582	976	25,318
2. Applications resolved:				
(a) Withdrawn/abandoned				
(i) 1964–65 (8 months)	7	1		8
(ii) 1965–66	18	2	1	21
(iii) 1966–67	44	8	1	53
(iv) 1967–68	37	8	3	48
(v) 1968–69	56	12	5	73
(vi) 1969–70	104	13	7	124
Total of 2(a)	266	44	17	327
(b) No award made:				
(i) 1964–65 (8 months)	7	1		8
(ii) 1965–66	156	25	9	190
(iii) 1966–67	189	64	7	260
(iv) 1967–68	219	100	12	331
(v) 1968–69	524	302	26	852
(vi) 1969–70	707	338	34	1,079
Total of 2(b)	1,802	830	88	2,720

	England	Scotland	Wales	Total
2. Application resolved—Continued				
(c) Awards made:				
(i) 1964–65 (8 months)	100	11	3	114
(ii) 1965–66	962	153	49	1,164
(iii) 1966–67	1,833	472	99	2,404
(iv) 1967–68	2,580	769	141	3,490
(v) 1968–69	3,634	1,220	206	5,060
(vi) 1969–70	4,247	1,155	212	5,614
Total of 2(c)	13,356	3,780	710	17,846
3. Compensation paid (pounds):				
(a) 1964–65 (8 months)	26,670	6,138	623	33,431
(b) 1965–66	304,799	87,778	10,141	402,718
(c) 1966–67	690,013	191,338	32,810	914,161
(d) 1967–68	987,920	250,035	55,817	1,293,772
(e) 1968–69	1,198,769	381,611	92,578	1,672,958
(f) 1969–70	1,524,099	386,750	85,735	[1] 1,996,584
Total of 3	4,732,270	1,303,650	277,704	6,313,624
4. Position at 31.3.70:				
(a) Cases resolved	15,424	4,654	815	20,893
(b) Interim cases not finally assessed	416	96	24	536
(c) Hearing and referred cases pending/adjourned	189	79	15	283
(d) Awaiting applicants' decisions	494	126	21	641
(e) Under investigation	2,237	627	101	2,965
Total (as total of 1)	18,760	5,582	976	25,318

[1] When the Board's books were closed for the financial year the value of uncleared payable orders was £4,182. This represents the difference between the figure shown above and the "Compensation paid" figure in the Board's accounts.

APPENDIX B

APPLICATIONS RESOLVED AND COMPENSATION PAID

	Apr. 1, 1968 to Mar. 31, 1969								Apr. 1, 1969 to Mar. 31, 1970								Totals for Aug. 1, 1964 to Mar. 31, 1970	
	England		Scotland		Wales		Total		England		Scotland		Wales		Total			
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Applications withdrawn/abandoned	56	1	12	.....	5	.....	73	1	104	2	13	.....	7	.....	124	2	327	2
2. Single member decisions accepted:																		
(a) Full awards	3,321	56	1,120	19	187	3	4,628	78	3,791	56	1,023	15	189	3	5,003	74	16,228	78
(b) Reduced awards	139	2	45	1	10	.....	194	3	200	3	74	1	10	.....	284	4	762	3
(c) No awards (low limit)	104	2	48	1	7	.....	159	3	135	2	27	.....	8	.....	170	2	565	3
(d) No awards (others)	326	5	157	2	14	.....	497	8	402	6	213	3	21	.....	636	9	1,515	7
Total of single member decisions accepted	3,890	65	1,370	23	218	4	5,478	92	4,528	67	1,337	19	228	3	6,093	89	19,070	91
3. Decisions taken at hearings:																		
(a) Full awards	146	2	46	1	8	.....	200	3	208	3	50	1	13	.....	271	4	722	3
(b) Reduced awards	28	1	9	.....	1	.....	38	1	48	1	8	.....		.....	56	1	134	1
(c) No awards (low limit)	8	.....	2	.....		.....	10	.....	13	.....	5	.....	1	.....	19	.....	42	.....
(d) No awards (others)	86	1	95	2	5	.....	186	3	157	2	93	2	4	.....	254	4	598	3
Total of hearings decisions	268	4	152	3	14	.....	434	7	426	6	156	3	18	.....	600	9	1,496	7
Compensation paid [2(a)(b) and 3(a)(b) above] (pounds)	1,177,383		378,728		88,344		1,644,455		1,429,104		355,532		80,835		1,865,471		6,135,988	
Add interim awards paid but final assessment not made at Mar. 31, 1970	21,386		2,883		4,234		28,053		94,995		31,218		4,900		131,113		171,636	
Total compensation paid (pounds)	1,198,769		381,611		92,578		1,672,958		1,524,099		386,750		85,735		1,996,584		6,313,624	

Note: (a) Where the percentage is much less than 1, no entry has been made. (b) Interim awards were made in 687 cases between 1.8.64 and 31.3.69. (c) Interim awards were made in 510 cases between 1.4.69 and 31.3.70. Total interim awards 1,197. At 31.3.70 there were 122 of these not finalized. At 31.3.70 there were 414 of these not finalized. Interim awards not yet finalized 536.

APPENDIX C

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS

	Apr. 1, 1968, to Mar. 31, 1969				Apr. 1, 1969, to Mar. 31, 1970				Totals for period, Aug. 1, 1964 to Mar. 31, 1970
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	
Award made by single member, and:									
(a) Accepted by applicant	3,460	1,165	197	4,822	3,991	1,097	199	5,287	16,990
(b) Confirmed at a hearing	18	1	1	20	21	3	.....	24	70
(c) Reduced at a hearing	2	.....	1	3	3	.....	.....	3	10
(d) Changed to no award at a hearing	.....	.....	.....	.....	1	1	.....	2	3
(e) Increased at a hearing	50	9	2	61	76	13	4	93	241
Total	3,530	1,175	201	4,906	4,092	1,114	203	5,409	17,314
Percentage of cases which went to a hearing	2.0	.8	2.0	1.7	2.5	1.5	2.0	2.3	1.9
Percentage of applicants successful at a hearing	71.4	90.0	50.0	72.6	75.2	76.5	100.0	76.2	74.4

APPENDIX C—Continued

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS—Continued

	Apr. 1, 1968, to Mar. 31, 1969				Apr. 1, 1969, to Mar. 31, 1970				Totals for period, Aug. 1, 1964, to Mar. 31, 1970
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	
Application rejected by single member on merits, and:									
(a) Accepted by applicant	326	157	14	497	402	213	21	636	1,515
(b) Confirmed at a hearing	76	89	5	170	145	87	4	236	552
(c) Changed to an award at a hearing	73	32	4	109	109	33	6	148	353
Total	475	278	23	776	656	333	31	1,020	2,420
Percentage of cases which went to a hearing	31.4	43.5	39.1	36.0	38.7	36.0	32.3	37.6	37.4
Percentage of applicants successful at a hearing	49.0	26.4	44.4	39.1	42.9	27.5	60.0	38.5	39.0
Application rejected by single member by reason of low limit, and:									
(a) Accepted by applicant	104	48	7	159	135	27	8	170	565
(b) Confirmed at a hearing	8	2	----	10	13	5	1	19	42
(c) Changed to an award at a hearing	11	6	----	17	19	1	2	22	73
Total	123	56	7	186	167	33	11	211	680
Percentage of cases which went to a hearing	15.4	14.3	Nil	14.5	19.2	18.2	27.3	19.4	16.9
Percentage of applicants successful at a hearing	57.9	75.0	----	63.0	59.4	16.7	66.7	53.7	63.5
Applications referred to a hearing by single members—resulted in:									
(a) Award being made	20	7	1	28	28	8	1	37	109
(b) No award being made	10	6	----	16	11	5	----	16	43
Total	30	13	1	44	39	13	1	53	152

APPENDIX D

ANALYSIS OF NO AWARD CASES

Reason for application being disallowed	Apr. 1, 1968, to Mar. 31, 1969					Apr. 1, 1969, to Mar. 31, 1970					Total, Aug. 1, 1964 to Mar. 31, 1970	
	England (number)	Scotland (number)	Wales (number)	Total Number	Total Percent	England (number)	Scotland (number)	Wales (number)	Total Number	Total Percent	Number	Percent
1. Eligibility not established on balance of probabilities	205	123	10	338	40	289	125	14	428	40	1,001	37
2. Injury sustained accidentally	26	8	1	35	4	9	4	2	15	1	112	4
3. Low limit	112	50	7	169	20	148	32	9	189	17	607	22
4. No prosecution and circumstances not reported without delay	61	71	2	134	16	87	89	4	180	17	385	14
5. Ap plicant a member of offender's family	12	7	----	19	2	16	8	1	25	2	61	2
6. In jury caused by a motoring offense	8	6	----	14	2	13	4	----	17	2	62	2
7. Applicant's conduct, character or way of life extinguished claim	86	32	6	124	14	124	74	4	202	19	421	16
8. All others	14	5	----	19	2	21	2	----	23	2	71	3
Total	524	302	26	852	100	707	338	34	1,079	100	2,720	100

APPENDIX E

ANALYSIS OF THE 20,893 CASES FULLY RESOLVED BETWEEN AUG. 1, 1964 AND MAR. 31, 1970

[Money in pounds]

	England		Scotland		Wales		Total			
	Number	Average award	Number	Average award	Number	Average award	Number	Compensation	Average award	Percentage of total
1. Applications withdrawn/abandoned	266	----	44	----	17	----	327	----	----	1.6
2. Single members decisions accepted:										
(a) Full awards	11,677	272	3,358	297	620	278	15,655	4,347,85	278	74.9
(b) Full awards after interim(s)	467	1,374	73	1,312	33	939	573	768,376	1,341	2.7
(c) Reduced awards	532	314	181	386	31	200	744	243,290	327	3.6
(d) Reduced awards after interim(s)	14	1,362	4	541	----	----	18	21,230	1,179	.1
(e) No awards (low limit)	434	----	108	----	23	----	565	----	----	2.7
(f) No awards (others)	993	----	471	----	51	----	1,515	----	----	7.3
Total of 2	14,117	316	4,195	323	758	306	19,070	5,380,759	317	91.3
3. Results of hearings before three members:										
(a) Full awards	445	675	109	507	20	441	574	356,526	621	2.7
(b) Full awards after interim(s)	47	1,460	6	983	3	6,545	56	94,142	1,681	.3
(c) Reduced awards	89	582	23	432	1	500	113	62,224	551	.5
(d) Reduced awards after interim(s)	4	2,371	----	----	----	----	4	9,485	2,371	----
(e) No awards (low limit)	30	----	11	----	1	----	42	----	----	.2
(f) No awards (others)	318	----	224	----	13	----	555	----	----	2.7
Total of 3	933	722	373	515	38	1,207	1,344	522,377	699	6.4
4. Results of cases referred to three members:										
(a) Full awards	[1] 68	2,136	[3] 22	1,141	2	15,065	92	200,451	2,179	.4
(b) Reduced awards	[2] 13	2,263	4	746	----	----	17	32,411	1,906	.1
(c) No awards (low limit)	----	----	----	----	----	----	----	----	----	----
(d) No awards (others)	27	----	16	----	----	----	43	----	----	.2
Total of 4	108	2,156	42	1,080	2	15,065	152	232,852	2,136	.7
All cases resolved 1.8.64 to 31.3.70	15,424	345	4,654	335	815	378	20,893	6,135,988	344	100.0

[1] Includes 6 full awards after interim.
[2] Includes 3 reduced awards after interim.
[3] Includes 1 full award after interim.

Note: The compensation paid in the 536 interim awards cases not finalised is £177,636. The total compensation paid Aug. 1, 1964, to Mar. 31, 1970 is therefore £6,313,624.

APPENDIX F

CRIMINAL INJURIES COMPENSATION SCHEME

The Scheme for compensating victims of crimes of violence was announced in both Houses of Parliament on 24th June 1964, and in its original form came into operation on 1st August 1964.

The Scheme has since been modified in a number of respects. The revised Scheme which came into operation on 21st May 1969, is set out below.

Requests for application forms and all inquiries should be addressed to: The Criminal Injuries Compensation Board, Russell Square House, 10–12 Russell Square, London WCIB 5EN, Tel. 01–636 2812.

THE SCHEME

Administration

1. The Compensation Scheme will be administered by the Criminal Injuries Compensation Board, appointments to which will be made by the Home Secretary and the Secretary of State for Scotland, after consultation with the Lord Chancellor. The Chairman will be a person of wide legal experience, and the other members, of whom there are at present eight, will also be legally qualified. The Board will be assisted by appropriate staff.

2. The Board will be provided with money through a Grant-in-Aid out of which payments will be made to applicants for compensation where the Board are satisfied, in accordance with the principles set out below, that compensation is justified. Their net expenditure will fall on the Votes of the Home Office and the Scottish Home and Health Department.

3. The Board will be based on London but may establish offices outside London if the need arises. They will hold hearings in London, Edinburgh, Cardiff and elsewhere as necessary.

4. The Board will be entirely responsible for deciding what compensation should be paid in individual cases and their decisions will not be subject to appeal or to Ministerial review. The general working of the Scheme will, however, be kept under review by the Government, and the Board will submit annually to the Home Secretary and the Secretary of State for Scotland a full report on the operation of the Scheme, together with their accounts. The report and accounts will be open to debate in Parliament. In addition the Board may at any time publish such information about the Scheme and their decisions in individual cases as may assist intending applicants for compensation.

Scope of the scheme

5. The Board will entertain applications for *ex gratia* payment of compensation in any case where the applicant or, in the case of an application by a spouse or dependant (see paragraph 12 below), the deceased, sustained in Great Britain, or on a British vessel, aircraft or hovercraft, on or after 1st August 1964 personal injury directly attributable to a crime of violence (including arson and poisoning) or to an arrest or attempted arrest of an offender or suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to any constable who is engaged in arresting or attempting to arrest an offender or suspected offender or preventing or attempting to prevent an offence. In consideration for the purpose of this paragraph whether any act is a criminal act, any immunity at law of an offender, attributable to his youth or insanity or other condition, will be left out of account.

6. Compensation will not be payable unless the Board is satisfied—

(*a*) that the injury was one for which compensation of not less than £50 would be awarded; and

(*b*) that the circumstances of the injury have been the subject of criminal proceedings, or were reported to the police without delay; and

(*c*) that the applicant has given the Board all reasonable assistance, particularly in relation to any medical reports that they may require.

Provided that the Board at their discretion may waive the requirement in (*b*) above.

7. Where the victim who suffered injuries and the offender who inflicted them were living together at the time as members of the same family no compensation will be payable. For the purposes of this paragraph where a man and woman were living together as man and wife they will be treated as if they were married to one another.

8. Traffic offences will be excluded from the Scheme, except where there has been a deliberate attempt to run the victim down.

9. The Board will scrutinise with particular care all applications in respect of sexual offences or other offences arising out of a sexual relationship, in order to determine whether there was any responsibility, either because of provocation or otherwise, on the part of the victim (see paragraph 17 below), and they will especially have regard to any delay that has occurred in submitting the application. The Board will consider applications for compensation arising out of rape and sexual assaults, both in respect of pain, suffering and shock and in respect of loss of earnings due to pregnancy resulting from rape and, where the victim is ineligible for a maternity grant under the National Health Scheme, in respect of the expenses of childbirth. Compensation will not be payable for the maintenance of any child born as a result of a sexual offence.

Basis of compensation

10. Subject to what is said in the following paragraphs, compensation will be assessed on the basis of common law damages and will take the form of a lump sum payment, rather than a periodical pension. More than one payment may, however, sometimes be made—for example, where only a provisional medical assessment can be given in the first instance.

11. Where the victim is alive the amount of compensation will be limited as follows—

(*a*) the rate of loss of earnings (and, where appropriate, of earning capacity) to be taken into account will not exceed twice the average of industrial earnings (average weekly earnings for men (21 years and over) as published in the Employment and Productivity Gazette) at the time that the injury was sustained;

(*b*) there will be no element comparable to exemplary or punitive damages.

12. Where the victim has died in consequence of the injury no compensation will be payable for the benefit of his estate, but the Board will be able to entertain claims from his spouse and dependents. For this purpose, compensation will be payable to any person entitled to claim under the Fatal Accidents Acts 1846 to 1959 or, in Scotland, under the appropriate Scottish law. Subject to what is said in the following paragraphs the amount of compensation will be governed by the same principles as under those provisions; the total income of the deceased, earned and unearned, to be taken into account being subject to the limit specified in paragraph 11(*a*) above. Where the victim's funeral expenses are paid by any person for whose benefit an action may be brought under the Fatal Accidents Acts or the appropriate Scottish law, whether or not there is any financial dependency, the Board may pay that person a reasonable sum in respect of funeral expenses less any death grant payable under the National Insurance Scheme. For this purpose paragraph 6(*a*) above shall not apply.

13. Where the victim has died otherwise than in consequence of the injury, the Board may make an award in respect of loss of wages, expenses and liabilities incurred before death as a result of the injury where, in their opinion, hardship to dependents would otherwise result, whether or not application for compensation in respect of the injury has been made before the death.

14. Compensation will be reduced by the value of any entitlement to social security benefits payable by the Department of Health and Social Security (and of payments made under Treasury authority by analogy with the National Insurance (Industrial Injuries Act) which accrues as a result of the injury of death to the benefit of the person to whom the award is made.

15. If in the opinion of the Board an applicant may be eligible for any social security benefits or payments mentioned in paragraph 14 the Board may refuse to make an award until the applicant has taken such steps as the Board consider reasonable to claim these benefits or payments.

16. Where the victim is alive the Board will determine on the basis of the common law whether, and to what extent, compensation should be reduced by any pension accruing as a result of the injury. Where the victim has died in consequence of the injury, and any pension is payable for the benefit of the person to whom the award is made as a result of the death of the victim which would not have been payable, or would not have been so large, if his injury had not been sustained while on duty or in the performance of a duty connected with his employment, the compensation will be reduced by four-fifths of the value of that pension, or as the case may be, by four-fifths of the increase of the value attributable to the injuries having been sustained in that way. For the purposes of this paragraph, "pension" means any pension payable in pursuance of pension rights connected with the victim's employment, and includes any gratuity of that kind.

17. The Board will reduce the amount of compensation or reject the application altogether if, having regard to the conduct of the victim, including his conduct before and after the events giving rise to the claim, and to his character and way of life it is inappropriate that he should be granted a full award or any award at all.

18. The Board will have discretion to make special arrangements for the administration of any money awarded as compensation.

Procedure for determining applications

19. Every application will be made to the Board in writing as soon as possible after the event on a form obtainable from the Board's office.

20. Applications will be sifted initially by the Board's staff, who will seek further information as to the relevant circumstances and, where necessary, medical advice.

21. The initial decision whether the application should be allowed (and, if so, what amount of compensation should be offered) or should be rejected will normally be taken by one member of the Board, whose decision will be communicated to the applicant; if the applicant is not satisfied with that decision, whether because no compensation is offered or because he considers the amount offered to be inadequate, he will be entitled to a hearing before three other members of the Board, excluding the one who made the initial decision. It will, however, also be open to the single member, where he considers that he cannot reach a just and proper decision, himself to refer the application to three other members of the Board for a hearing.

22. At the hearing, it will be for the applicant to make out his case; he and a member of the Board's staff will be able to call, examine and cross-examine witnesses. The Board will reach their decision solely in the light of the evidence brought out at the hearing, and all the information before them

will be available to the applicant. While it will be open to the applicant to bring a friend or legal adviser to assist him in putting his case, the Board will not pay the costs of legal representation. They will, however, have discretion to pay the expenses of witnesses.

23. Procedure at a hearing will be as informal as is consistent with a proper determination of the application, and the hearing will be in private.

24. It is not intended that a person who has pursued a claim for damages for personal injuries should obtain compensation from the Board in respect of those injuries in addition to obtaining satisfaction from that claim; and compensation will be reduced by any sum which the victim has received in pursuance of an order for compensation by a criminal court in respect of his injuries. Furthermore, a person who is compensated by the Board will be required to undertake to repay them from any damages, settlement or compensation he may subsequently obtain in respect of his injuries.

STATE OF NEW YORK—1970: FOURTH ANNUAL REPORT OF THE CRIME VICTIMS COMPENSATION BOARD

HON. NELSON A. ROCKFELLER,
Legislature of the State of New York.

I have the honor to submit the Fourth Annual Report of the Crime Victims Compensation Board for the year 1970 rendered pursuant to the provisions of Article 22, Section 623 of the Executive Law.

Respectfully,
STANLEY L. VAN RENSSELAER,
Chairman.

ALBANY, *April 1, 1971.*

SIRS: We have the honor to submit this our fourth annual report.

1. The claims have increased each year since the inception of the Board. This year there was a total of 1594 claims received and filed. The previous years from 1967 with 196, 1968 with 519 and 1969 with 929 claims graphically shows the enormous increase in this present year.

It it the intention of the report to not only set forth the number of claims, but also the disposition with the decisions, amended decisions and full Board reviews. In addition, there are many claimants who have been given the right to reopen their claim under certain conditions set forth in the decision.

We shall also show the comparison of the number of open claims under investigation at the end of this year, with the protracted and death claims as compared with the previous year. There will also be discussed the additional investigations necessary before amended decisions are made and periodic reinvestigations on both the protracted and death claims. In many instances additional investigation becomes necessary following a full Board review.

2. Workload: Since this Board was created on March 1, 1967, this report will cover the activities for the year March 1, 1970 through February 28, 1971.

Actually the number of claims received and filed at the Albany office does not fully reflect the workload. There are hundreds of inquiries by telephone, by letter and by personal appearance at either the New York or Albany office. The increase in the workload and the lack of staff does not permit a record of each inquiry requesting information. It has been the policy of the Board to ascertain whether the claimant is eligible, if unreimbursed medical expenses amount to $100 after taking into consideration insurance benefits, whether he has lost two weeks continuous loss of earnings, his relationship, if any, to the assailant and his financial resources. It is felt that although it requires considerable more time to screen these inquiries that there is much time saved rather than to simply send a claim form.

In addition, and perhaps equally important in following this procedure is the fact that a claim is not accepted for filing when it is clear that the claimant would not be eligible. This obviates disappointment if his claim would be disallowed for any one of the above reasons.

Many claimants feel all that is needed is to advise the Board that they are the victim of a crime and request a certain number of dollars covering their personal property, cash lost and even damage to their real estate.

There is set forth a listing by month for the past two years and the present year a schedule which reflects the increase in the number of claims:

	Mar. 1, 1970, to Feb. 28, 1971	Mar. 1, 1969, to Feb. 28, 1970	Mar. 1, 1968, to Feb. 28, 1969
March	110	75	27
April	119	67	24
May	117	54	45
June	115	49	36
July	95	52	33
August	116	92	53
September	153	78	39
October	161	82	47
November	157	67	37
December	149	73	52
January	169	139	61
February	133	101	65
Total	1,594	929	519

It is interesting to note that less than 20% of the claims filed were by attorneys acting for the claimant. The majority of the attorneys appearing are in death claims.

As can be expected the greater majority of the claims filed are from the New York City Metropolitan area. Approximately one-third are upstate claims and two-thirds are from New York City area.

The publicity having been given to this Board has been much greater in the city than upstate and this would appear to be one of the reasons for the disparity.

3. Open Claims: There were 771 claims under investigation as of February 28, 1971, as compared with only 278 on February 28, 1970. This large backlog is due partially to the fact that we do not have sufficient personnel in the New York City office. At the present time there are two Grade 17 senior investigators and five Grade 13 investigators. Due to the number of claims under investigation in the New York City office the Board felt that it was necessary to assign one of the senior investigators as an acting supervisor and the other senior investigator to aid him and investigate the more difficult and involved claims.

This leaves five Grade 13 investigators and each is presently assigned in excess of 100 claims. There are still open claims that have not been assigned as it is unrealistic to expect any investigator to handle that number. The experience of the Board has shown that 40 to 45 is the maximum number any one investigator should be assigned. With a normal work month having 22 days, it cannot be expected that an investigator, except under unusual circumstances, can complete the investigation of more than 12 to 15 claims.

It must also be recognized that since no award can be made unless there is a finding of serious financial hardship it is the responsibility of the Board to complete its investigation as promptly as possible. Certainly any claimant entitled to an award needs the money within a reasonable time and not a year later. The Board has received many telephone calls and letters, as well as letters to the Governor, inquiring why, after having filed a claim several months previously, they have not received an award.

The Albany office which covers all of the state except the metropolitan area presently has one senior investigator and two Grade 13 investigators. To date these investigators have been able to handle the claims even through a substantial number of their work days are consumed in travelling. It is hoped that the present staff will be able to continue to keep abreast.

4. Types of Crime: Approximately 60% of the personal injuries claims are assaults, excluding stabbing, and/or robberies; 12% are death claims; another 12% were knife wounds; another 12% bullet wounds and the rest miscellaneous, such as, rape and motor vehicle violations of law.

5. Investigations: The investigation required on claims is carefully determined beginning with the receipt of the claim in the Albany office. Each claim form before it is entered in the log book is examined to determine if, there is an eligible claimant, whether a crime has been committed, personal physical injuries sustained, whether it was reported to the police authorities and whether there is at least $100 unreimbured medical expenses and/or two weeks continuous loss of earnings.

Where a claim form does not show the minimum requirements it is returned with an explanation advising the claimant, however, that if he does have unreimbursed medical of at least $100 or two weeks loss of earnings that the same should be stated in the claim form and returned.

Each claim is carefully examined to determine not only the above, but if the person filing the claim is one eligible under the statute to receive an award.

If it appears that the claim meets the statutory requirements, it is then assigned to an investigator. It becomes his duty to analyze the claim for the purpose of determining not whether a full investigation is required, but rather what should be done in the first instance. Each claim must be so analyzed and each investigator has been instructed that until those essential elements of the statute are satisfied no further investigation should be conducted. As an example, it can be seen many times from an examination of the claim that the occupation as listed might very well not be a person who would suffer serious financial hardship. Accordingly, if the financial resources are immediately ascertained from the claimant and it can be determined that there will not be serious financial hardship there is no need to continue the investgiation.

As above stated, if a claimant is entitled to any award then every effort should be made to bring the investigation to completion so that a decision may be rendered. The reason being that after the decision is made, the claimant has 30 days in which to advise whether he accepts or rejects the decision requesting a hearing before the full Board. If he accepts then the decision must go to the Attorney General and Comptroller who have 30 days n which to approve or reject the decision. We have requested the legislature to reduce to 15 days this period. Following that a warrant must be prepared for the Comptroller and it is another two or three weeks before the checks are issued.

Of course, no investigation can proceed until after the district attorney advises that he approves of the investigation or fails to answer within 10 days. Accordingly, during this period only the acknowledgment letter to the claimant requesting whatever information is desired of him and a letter is sent to the doctor, hospital and employer.

Personal interview with the claimant in the initial stage has been found to be very productive. All investigators have been requested to contact and arrange for an interview with the claimant before undertaking a full investigation. It should also be noted that each claimant is advised that this Board is not his adversary. He is advised that this Board is interested in obtaining all of the facts whether it be in his favor or not. Every expense as well as the loss of earnings

is verified. The claimant is also advised that his cooperation in furnishing information requested as soon as possible will be to his advantage. However, there are many claimants who for unknown reasons refuse to comply with the requests and since no decision can be made without the information they are given a second chance to furnish the same. The second letter advises the claimant that unless he does furnish this information there can be no award granting him any benefits,

The most extensive investigations are those where there is a question of provocation. The police departments and the district attorneys' offices have been cooperative in all investigations but have been most helpful in this type. There are many times when the investigator in the field is unable to find any witnesses and the police and the district attorneys have allowed this Board to examine their files and even furnish copies of statements and/or depositions taken from witnesses that were interviewed immediately following the incident.

There are delays that are unavoidable in a number of instances. Whenever a claimant was injured while at his place of employment no final determination can be made until after the Workmen's Compensation Board makes a ruling. In death claims there can be no award made until after the Social Security benefits are determined. This is also true in the protracted disability claims.

Perhaps one of the greatest delays occurs where Blue Cross and/or Blue Shield or other insurance companies have not determined the amount payable by them. Some hospitals only submit their bills to Blue Cross on a quarterly basis.

The Board has found that letters with appropriate forms requesting information brings results within a reasonable time in most cases.

The Board Members have made decisions where loss of earnings were known but the medical expenses had not been determined. The decision allows the medical bills to be submitted later. Thus, claimants receive an award for loss of earnings without waiting several months.

The Board feels that this has been most helpful to the claimant or in the death claim to the survivors, since they are the ones who are presently in need of funds.

6. Disposition of claims: There were 1090 decisions by the Board Members in which 458 claimants received awards and 632 claimants received no awards.

The provisions of the statute accounted for the disallowance in many cases. There were 161 in which the claimant did not meet the minimum requirements. Another 177 failed to furnish the information requested. It has been and will continue to be the policy of this Board to place the responsibility upon the claimant to furnish information over which he has control or has in his possession. It has been found that many claimants refuse to divulge their financial resources claiming that it is an invasion of their rights.

The most difficult problem still continues to be determining the question of serious financial hardship. Many of the elderly people who are retired, who have worked many years, have been frugal and have saved money to take care of them in their declining years represents one group that the Board feels should be reimbursed for their medical expenses. However, the statute makes no distinction and, therefore, with substantial savings the statute does not permit an award to these elderly persons.

Another segment of our society is the middle income man who has supported his family, has been gainfully employed and is not only a respectable but responsible citizen. This claimant fees that having been a law-abiding citizen who has worked hard and paid his taxes he is entitled to receive his unreimbursed medical expenses and his loss of earnings within the limitatons allowed by the statute. Ths Board continues to feel that these two classes of individuals should be compensated.

The Board members have discussed this matter of serious financial hardship to try to determine, within the framework of the statute, justification to make awards. However, the Board recognizes the mandate in the statute and considers each claim on its own merits to attempt to see that those people, particularly these two classes, are given every consideration. There is set forth a schedule showing the reasons for the disallowance of claims:

Withdrawn	61
Member of family	6
Provocation	4
No principal support	15
No minimum requirements	161
No serious financial hardship	93
No crime	19
No police report	28
Workmen's compensation pending	19
Claimant ineligible	10
Failed furnish information	177
Over 1 year	14
Duplicate claim	2
Claimant deceased	7
Death not due to crime	2
Civil Action pending	4
No physical injury	2
Crime undetermined	1
Good Samaritan [1]	1
Unable to locate claimant	3
Police report delay unjustified	1
New claim filed	1
Medical proof to be submitted if related to crime	1
Total	632

[1] Claimant filed under New York City Good Samaritan Law.

The personal injury claims represent 80% and protracted 10% of the total claims and the balance, or 10%, were death claims.

The average personal injuries or lump sum claim has increased over the preceding year and this year is $1930.00. The average death award which is payable over a 12 month period was less than the previous year and this year was $2040.00. The protracted awards were down over the previous year and this year the average award payable over a 12 month period was $3450.00. This does not take into account the increase in medical expenses which is substantial. It was necessary prior to the end of this year to request $100,000 in the deficiency budget, all of which was used in the payment of awards. The hospital and medical expenses continue to rise. These additional medical expenses are incurred following the original decision and in most instances is provided for in the original decision. It is anticipated that during the coming year the average for each type of claim will increase. This is due to new labor contracts increasing wages, as well as the increased costs of medical care.

The Board in following the statute reduces the award by any sum received by the claimant from any source. There were claimants and attorneys who objected strenuously when Blue Shield or other insurance monies for which they had paid the premium were deducted. The Board determined that since there was only the balance left for the claimant to pay only that amount could be allowed. Accordingly, the Board asked the legislature to amend the statute so that any amount received under any contract of insurance where the claimant is the insured or beneficiary can be deducted. This is now specifically set forth in the statute.

In determining the loss of earnings and/or support the Board has continued to make awards only for the net earnings or take-home pay of the claimant or in the case of death to his survivors.

In the death case the loss of support is arrived at by deducting the deceased's personal expenses as well as Social Security benefits, Workmen's Compensation or pensions. This is in accordance with the statute which mandates that only the actual loss of earnings or actual loss of support may be granted.

7. Death and Protracted Claims: The Board has followed the statute in providing for monthly payments in both the death and protracted claims.

The protracted claims have continued to increase as well as the death claims as will be seen from the schedule set out below.

This requires additional periodic investigation to determine whether the claimant is still disabled as a direct result of the injuries he received in the incident. The claimant is contacted and a doctor's report is obtained. In many instances the Board's doctor examines the claimant to verify his disability. There is also a check as to whether he is gainfully employed or has returned to his former position. Unless the investigation reflects this inability to work due to his injuries the payments are stopped.

The death claims require reinvestigation to determine if the dependency is the same as when the decision was made.

With the increase over the previous year and the expected increase during the coming year the amount of time required by the staff is substantial. However, the Board feels that any and all efforts to make a correct determination is money well spent. It has been found that although a person has returned to work he has failed to notify the Board although advised previously that it was his duty and responsibility to do so. It must be said, however, that the great majority of the claimants are honest and advise the Board promptly. The following schedule shows the increase this year over the two previous years:

	Feb. 28, 1969	Feb. 28, 1970	Feb. 28, 1971
Death	22	56	100
Protracted	28	63	112
Total	50	119	212

We shall continue to provide for monthly payments in these two types of claims since this procedure not only follows the statute but is also in the best interest of both the state and the claimants and/or survivors.

8. Amended Decisions: Reasons have been afforded in which original decisions were amended to make provision for both additional medical expenses and loss of earnings. Although the Board Members, wherever there is probable reason to believe there will be further medical expenses, have provided for the same in the original decision there are many times when this cannot be done. Accordingly, it has been necessary in 59 claims to prepare and make amended decisions following the reinvestigation to verify the medical expenses and/or loss of earnings.

There were 5 claims where amended decisions were made following investigations in which no award or further allowance was made. In each of the other 54 claims there were additional monies awarded.

9. Right to Reopen: There are several reasons in which claimants are given the right to reopen their claim at some future date.

Generally this occurs where in the death claims at the time of the original decision there could not be a finding of serious financial hardship. It has been the Board's policy to allow a claimant to apply to reopen where it can be reasonably anticipated that the assets at the time the original decision was made would not be sufficient for the support for the normal life expectancy.

This policy was developed during the previous year.

It should be noted, however, that when the

right to reopen is given to the claimant, the Board requires that the assets available at the time the decision was made have been used for the care, maintenance and/or support and education of any children and have not been wasted or dissipated. Proof is also required as to what, if any, assets the claimant has received from the date of the decision up to and including the time when the request for reopening is granted.

During this year this right has been granted to 61 claimants.

10. Full Board Reviews: There were 17 days in which full Board reviews were held and a total of 88 claims was heard.

There were 47 decisions that were affirmed, 15 in which there was a reversal of the original decision and an award made and 18 were reopened for investigation.

There are many requests for full Board reviews made but were not granted immediately for the reason that certain information had not been furnished prior to the decision. Claimants were, therefore, advised that if they care to submit this information which had not been furnished that an investigation would be directed to verify the same. Wherever this has been possible an amended decision has been written incorporating the additional information and investigation. In many of these instances the amended decision even though no award was made has satisfied the claimant.

12. Rules: There has been no amendment to the rules since the last annual report.

The policy set forth in the last annual report has been followed.

The Board has continued to study and discuss the problems that are presented with the statutory provision of serious financial hardship. As has been set forth hereinbefore the elderly and the middle income groups are the ones that appear to be adversely affected under this provision of the statute.

13. Forms and procedures: The Board in concert with the staff has continued to review our investigative procedures in an attempt to streamline them.

As has been set forth before in this report, we have attempted to screen out those claimants who do not meet the minimum eligibility of the statute. This we will continue to do for the reasons stated in the discussion under Investigations.

We shall continue the policy of holding the claimant responsible for furnishing that information which he has. We shall also continue to make payment for unreimbursed medical expenses directly to the creditors.

14. Crime Victims Compensation Board: The awards which are made by the Board to innocent victims of crime provide the victim with his loss of earnings in order that he may maintain himself and his family as well as to assume payment for the unreimbursed medical expenses.

In addition to the declaration of policy and legislative intent, there are other compelling reasons for this program.

Social welfare justification to compensate innocent victims of crime is the straightforward approach. The state has recognized its responsibility to the disabled veteran, the sick, the unemployed and the aged. Thus, it follows logically that the state should recognize a responsibility to those victims of crime who have suffered personal physical injuries through no fault of their own.

Attention is again called to the declaration of policy and legislative intent which states that aid, care and support be provided by the state as a matter of grace. This declaration takes into consideration not a class but rather individuals. The state recognizes that it is the individual who is important. This has been demonstrated by many claimants who have written the Board as well as the Governor.

One letter from a claimant in commending the Board for its prompt, equitable and understanding treatment adds that "programs such as this helps to restore one's faith in his fellow man".

Another one wrote stating, "It is indeed gratifying to find that someone does care".

A crime compensation plan aids in bettering the statistics of crimes reported. Our statute provides that no award may be made unless the crime is reported to the proper authorities within 48 hours. This may be waived upon a showing of good cause. It is accepted that there are many crimes that are not reported to the police. Since this statute directs the reporting of a crime it should lead to better law enforcement.

Crime compensation programs also aid in the prosecution of criminals. When a victim is fairly treated by society he certainly is more willing to cooperate with the law enforcement officials.

Each year the Board becomes more aware of the general public not only accepting the program of aiding innocent victims of crime, but appear to wish the same to be broadened. A Gallup poll taken on this matter several years ago shows that 62% favored such a program. Perhaps the increasing attention to the rights and privileges of the accused has brought to the public the stark contrast between the criminal and the plight of the victim.

The legislative intent to keep people off the welfare roll has been demonstrated and brought to the Board's attention on more than one occasion. Letters from claimants stating that were it not for the benefits available they would have had no other recourse than to have applied for welfare. Certainly recognizing the dignity of the individual is reason enough to continue and to increase the benefits of this program.

Although there is a small percentage of claims filed by attorneys, we have found that they are not only cooperative but appreciative. Attorneys on many occasions express their appreciation for prompt and fair consideration given the claimant.

The variety of telephone calls and letters received by this Board cover every variety of request. Many are interested in whether they can recover for the loss of their property and others who were hit and run victims. One telephone call, however, stands out above them all. The New York City office received a telephone call from a woman asking for help as she had no one to turn to having been recently robbed and was without food, money or friends. She then stated that she had no other alternative than to take her life. The investigator who was taking the call, after talking with her at great length, discussing her religious beliefs, was able to calm her to a degree that she felt much better and said she would not take her life. Shortly thereafter she called again stating that she had now definitely decided to take her life. While he kept her talking he obtained her name and address and had another investigator in the office alert the police who responded immediately, whereupon she asked to be excused as someone was knocking at her door. The next voice he heard was that of the patrolman. Thus, it can be seen that the Board and the staff are called upon in many and certainly sometimes unique situations.

There are several other states which are proposing a crime victims program and it is expected that there will be several adopted.

There are several provinces of Canada that have a statute, most of them similar to the English scheme. The Dominion of Canada is also making a study looking toward a uniform statute for the Dominion.

There is also a committee of the American Bar Association studying all of the states programs in an attempt to develop a uniform statute.

Although there have been a number of bills submitted to the Congress none has become a reality as yet.

More and more articles are written by law professors, law school students and philosophers which has generated further interest by other states.

The Chairman and Executive Secretary attended a conference in Maryland in the spring of 1970 at which there was represented most of the states who have statutes as well as the provinces and the Dominion of Canada. There was an exchange not only of information, but of the problems that are common to all of the states and a great deal was obtained of value. It was the consensus of the Second International Conference, hosted by the Maryland Criminal Injuries Compensation Board, that an association be formed. Attending the conference were individuals who have written treatises which have been published in various law school reviews.

The purposes of the association included the exchange of information and a discussion of problems that are common and to furnish to those states which are studying such a program statistics and costs.

15. Board and Staff: The district attorneys and all law enforcement agencies have continued their full cooperation with this Board.

The staff as well as the Members of the Board and the Executive Secretary have had added duties assigned due to the steady increase in the number of claims. Without the cooperation of each one, this Board could not have processed as many claims.

The Board, with the cooperation of the staff, will continue to investigate and render decisions in as many claims as can be possibly done with our present personnel.

The Board recognizes its duties and responsibilities to innocent victims of crime.

STANLEY L. VAN RENSSELAER,
Chairman.

CLAIRE E. CANNING,
Secretary to Board.

MAX L. NISSMAN,
Board Member.

P. VINCENT LANDI,
Board Member.

ALBANY, N.Y., *April 1, 1970.*

EXHIBIT

State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
California: Cal. Gov't Code, §§ 13960–13966 (1967); §§ 13970–13974 (1969).	State Board of Control (hearing)	1. Victim. 2. Dependants—in case of pecuniary loss from his injury or death.	Need basis.....	Not in excess of $5,000.	State subrogated to rights of claimant against offender to the extent of payment of the claim. May intervene in claimant's action against offender or bring own.	Not in excess of 10%..	To private citizen preventing crime or apprehending criminal, or rescuing a person.	May refuse to compensate for lack of cooperation with police in apprehension of offender.

State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
Hawaii: Hawaii Rev. Law §§ 351-1, -351-70 (1967).	Criminal Injuries Compensation Commission (hearing)	1. Victim. 2. Dependants—in case of his death. 3. Other—person responsible for victim's maintenance, where pecuniary loss results from victim's injury.	General	Not in excess of $10,000.	State may bring derivative action against the convicted offender in the name of the victim or dependants awarded compensation. Excess recovery given to claimant.	Commission as part of order may award reasonable attorney fees, not in excess of 15% of an award over $1,000—out of the award.	To private citizen in preventing crime or apprehending a criminal.	Reduce compensation to extent victim was responsible for the crime that caused his injury.
Maryland: Md. Ann. Stat. art 26A, §§ 1-17 (1968).	Criminal Injuries Compensation Board (single member with right to appeal to whole).	1. Victim. 2. Dependants—in case of his death. 3. Other—dependant on victim for their principal support. 4. Anyone injured or killed in attempting to prevent a crime, and his dependants.	Out-of-pocket loss of $100 or two weeks' earnings plus "serious financial hardship."	Art. 101, § 36 schedule used.	----------	Subrogated to the extent of the award to recover payments resulting from the crime.	----------	Reduce compensation to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent crime or apprehend a person after he committed a crime.
Massachusetts: Mass. Gen. Laws ch. 258A, §§ 1-7 (1968).	District Court	1. Victim. 2. Dependants—in case of his death.	Out-of-pocket loss of $100 or two weeks' earnings.	Equal to loss up to $10,000.	----------	"To the extent of compensation," any amount received by claimant from any source exceeding the actual loss to the victim may be recovered.	Court as part of order may award reasonable attorney fees, not in excess of 15% of an award over $1,000—out of the award.	Same.
New York: N.Y. Exec. Law §§ 620-635 (1966). (1966).	Crime Victims Compensation Board (single member with right to appeal to whole).	1. Victim. 2. Dependant—in case of his death. 3. Other—dependent on victim for their principal support. 4. Anyone injured or killed in attempting to prevent a crime, and his dependants.	Out-of-pocket loss of $100 or two weeks' earnings plus "serious financial hardship."	Not in excess of $100 per week earnings or support, nor an aggregate award of more than $15,000.	----------	To the extent of the award to recover payments resulting from the crime.	----------	Same.
Nevada: Nev. Rev. Stat. §§ 217.180-217. 260 (1969).	State Board of Examiners (hearing).	1. Victim. 2. Dependant—in case of his death. 3. Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	General	Not in excess of $5,000.	Subrogated to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by the applicant. Excess recovery paid to claimant.	Board as a part of order may allow reasonable attorney fees, not to exceed 10%—out of the award.	----------	In determining whether to make an order for compensation, the board shall consider provocation, consent, or any other behavior of the victim.
New Jersey: N.J. Session Law Oct. 1971.	Violent Crimes Compensation Board (hearing).	1. Victim. 2. Dependent—in case of death. 3. Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	Out of pocket loss of $100 or two weeks earnings.	Not in excess of $10,000.	Subrogated to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by applicant. Excess recovery paid to claimant.	Board as part of order may allow reasonable attorney fees, not to exceed 15% of the award—not out of award.	----------	Reduce compensation to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent a crime or apprehend a person after he committed a crime.
Victims of crime act of 1972 [Title I].	Violent Crimes Compensation Board (hearing).	1. Victim. 2. Dependent—in case of his death. 3. Other—person where pecuniary loss results from victim's injury. 4. Anyone suffering pecuniary loss.	$100 minimum plus undue financial hardship.	Not in excess of $50,000.	Attorney General may maintain action against offender for recovery of the whole or specified amounts of the compensation.	Attorney fees allowable as under 18 U.S.C. 3006A.	----------	In determining whether to make an order, the behavior of the victim is considered.

Note: Adapted from 47 Notre Dame Law 88 (1971).

MULTNOMAH COUNTY, OREG.,
December 1, 1971.

Senate Judiciary Committee,
Washington, D.C.

GENTLEMEN: I am forwarding to you the copy of a newspaper story relating to the tragic death of a police officer who was engaged in his official duty attempting to avert a bank holdup.

Apparently, the city he was working for did not have the fringe benefit of life insurance provided for their police officers; and because of the outrageously low salary, the officer was unable to pay for his own policy.

It is my understanding that there is currently pending legislation that would provide death benefits in such cases as this. As a former sheriff and as one who retains a keen interest in the criminal justice system, I strongly urge that such leigslation receive prompt and favorable consideration.

Thank you for allowing me to call this to your attention.

Very truly yours,

DONALD E. CLARK,
Commissioner.

[From the Oregon Journal, Nov. 10, 1971]

CRESWELL MOURNS SLAIN POLICEMAN WITH SOLEMN RITES—MURDERER MAY HAVE MISTAKEN VICTIM

(By James Long)

CRESWELL.—City Policeman Curtis VanDerson may have been murdered by bank robbers Friday night because of a grotesque case of double mistaken identity.

This possibility became clear Tuesday as a team of Journal newsmen visited Creswell, a quiet, friendly lumbering town, and talked to witnesses.

The story is complex and requires an understanding of the setting.

As you drive south on Interstate 5 out of Eugene, Creswell pops up on the right. It is a small community with a population of 1,200, and most of the social activities center on the churches and VFW hall.

Nearby, in the hills, are some "hippie" communes with many bearded types—and these are not looked on with much favor by the townspeople. One man, looking wth disdain at a wild-haired youth departing. The Penguin restaurant, murmured, "I'd like to catch that guy out in the brush. I'd hogtie him and—" He bit off the sentence.

The Penguin is the older part of Creswell, which grew up around the Southern Pacific Railroad tracks near a busy lumber mill complete with a still-smoking wigwam burner. After I-5 was built, the town crept eastward with a succession of new store buildings two of the newest being the Community Bank of Creswell and Joe Estes' Texaco station directly across the wide street.

Estes' wife, Virgie, was taking care of the station Tuesday and keeping a large pot of free coffee brewing for customers who dropped in.

Virgie Estes is a smiling, pleasant individual whose friendliness tapers off a bit when it comes to "longhairs."

"I have boys working for me, and I treat 'em like my own sons," she says. "The only thing I require is honesty, hard work, and a haircut."

Mrs. Estes acknowledged that it was the long hair of a young man who walked into the station late Friday and asked for change for a quarter that kept her from studying him closely enough to give a good description.

Only a few minutes after she gave the change, the young man would walk to the vicinity of a white Oldsmobile parked in an adjacent car wash 200 feet west—and it was from that location that shots were fired that would take the life of the 31-year-old patrolman.

Some significant events leading up to the murder began to occur at about 5:40 that Friday evening.

Virgie Estes was trying to finish her chores early at the station so she could attend a Presbyterian dinner that evening with her husband.

Dusk was falling as she gathered up the afternoon's receipts and hurried across the four lanes of Oregon Avenue to the brightly lit, cedar-and-stone bank building that shortly was to become the scene of the fatal robbery.

Returning, she glanced only briefly at the white 1964 Olds parked inside the farthest of two open-ended buildings comprising the Venda-Wash car wash—not then connecting the car with the young man who followed her into the station.

"He was in his 20s, with a green sherpa coat and blond hair down to his collar," she recalled. "The way he looked irritated me. He had two quarters in his hand and he said, 'Can you change this?' and handed me one of them. I gave him two dimes and a nickel."

In retrospect, Mrs. Estes wonders about the significance of the request for change. The man put exactly 40 cents in the cigaret machine as if he knew the machine would return no change—which happens to be the case. He had not attempted to use the two quarters.

Another peculiar thing happened, said Mrs. Estes. "He went over and took the key to the john. The writing on those keys is small, and most people have to look to see which one is which. He just reached out and took the correct one."

As Mrs. Estes leaned against a counter, she could see the longhaired young man hand the key to someone else outside the station. She only saw the other person's hand take the key. Then the young man strolled slowly toward the Venda-Wash.

Shortly after Mrs. Estes left the station, a 17-year-old employe, Sheldon Patrick, watched a dark, foreign made car drive into the bank parking lot with its lights off.

A short time later he saw Patrolman Van Derson's prowl car enter the lot and stop just after clearing the curb. Patrolman Van Derson got out, ran around to the rear of the car and crouched with his pistol drawn.

Patrick didn't know that Van Derson had been dispatched to check a silent bank alarm.

Moments later, Van Derson spotted a bearded young man coming out of the bank and ordered him to sit with his hands below his head. What Van Derson didn't know—and what apparently had escaped the attention of the men in the carwash across the street—was that the two men in Halloween masks who had robbed the bank had already fled.

In the dusk—it was quite dark by this time—did the lookouts mistakely assume that one of their accomplices had been captured?

Whatever the case, several quick shots rang out from the carwash and hit Van Derson just as he started to get up. He pitched forward and died within minutes. The gunmen all fled.

Mr. McCLELLAN. Mr. President, I submit that this is important legislation. It will be our purpose when it is referred—as I am sure it will be—to the Subcommittee on Criminal Laws and Procedures, to move with all due expedition. We have already held a number of hearings on nearly every aspect of the bill. I hoped that we will be able to get the bill reported for action to the Senate early next year.

Mr. MANSFIELD. Mr. President, with the introduction today of this highly important omnibus criminal victim bill, I am happy to join the distinguished chairman of the Senate Subcommittee on Criminal Laws and Procedures. This is a most important step; one needed if we are ever to correct a grave deficiency in this Nation's system of criminal justice. What it provides is solid recognition for the victim of crime—the one who suffers most. As Senator McCLELLAN indicated, title I of this measure is patterned directly upon my bill, S. 750, a bill that underwent exhaustive hearings by the Criminal Laws Subcommittee less than 2 weeks ago.

What was then made clear was that the point has been reached where at the national level full consideration must be accorded the victims of crime; those for whom, thus far, the process of criminal justice has failed miserably. Indeed, it is because society as a whole has failed to protect its members adequately that such an obligation has become due to those who suffer.

I am pleased indeed, that the able chairman of the committee has now embraced the concept of criminal victim compensation. I am pleased as well that he, along with so many others, has come to recognize that at the very least, the victim of crime should be made whole for suffering personal injury. In this regard, title I of the Victims of Crime Act of 1972 does precisely what I sought to do with S. 750. Under it, when fully implemented, any person who personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Compensation Board or Commission which would make direct awards to the victim for injuries suffered in the course of the crime committed within the Federal criminal jurisdiction. In addition, a system of revenue sharing in the form of grants would underwrite similar State compensation programs for the victims who suffer from crimes within State and local criminal jurisdictions.

I would only reiterate that, when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensate the victim for that failure of protection. This measure, when fully implemented, covers everyone. The unsuspecting victim of rape. The policeman ambushed answering a routine call. The fireman shot by a sniper when responding to an alarm. The ghetto dweller. The suburbanite. In short, this proposal provides for all who suffer personal injury from criminal violence.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is interested in the problems and suffering of victims of criminal acts. The time has come to give these matters early attention, and I hope that the Judiciary Committee can soon report this and other measures which are designed to give long overdue consideration to the victim.

I gladly join in this measure. I would like to mention that this whole concept of compensation for victims of violent crimes was discussed at length in an article contained in a U.S. News & World Report issue of last April. The author of that article undertook a great deal of research and reported the success achieved by crime compensation programs where they presently exist. I ask unanimous consent that the article be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. MANSFIELD. I had the privilege also of addressing the Subcommittee on Criminal Laws and Procedures at the time of its hearings on my bill, S. 750, a week ago last Tuesday. I ask unanimous consent that my remarks before the subcommittee be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. MANSFIELD. In closing, I would only add that when this Congress adjourns next year, it is my profound hope that it will do so with the concept of criminal victim compensation firmly implanted into this Nation's system of criminal justice.

EXHIBIT 1

PUBLIC PAY FOR CRIME VICTIMS: AN IDEA THAT IS SPREADING

As violent crimes increase, pressure is building up for a federal law to provide compensation from public funds for innocent victims of those crimes.

Six States—New York, Massachusetts, Maryland, California, Hawaii and Nevada—already have enacted programs for such payments, and several other States are considering the idea.

Now bills have been introduced in Congress to make this type of compensation nationwide. One bill is sponsored by the Senate Majority Leader, Mike Mansfield (Dem.), of Montana, the other by Representative William J. Green (Dem.), of Pennsylvania.

Both bills not only would provide federal payments to persons injured by crimes that come under federal jurisdiction, but also would help States pay victims of crimes under State laws.

In addition, three bills have been introduced in the House to compensate those hurt by violators of federal laws.

HEARING ASSURED

Chances for passage of any such law in this session of Congress are regarded as dim. But Senator Mansfield has been given assurances that the proposals will at least get a hearing in this session—and backers predict the idea will gain momentum rapidly in years just ahead.

"This is an idea whose time has come," said Representative Green.

"We have passed a lot of laws directed at the criminals, and now we need to turn our attention to the innocent victims of criminals. It may not be this year, or next, but eventually we're going to have such a law."

If so, the United States would be far from the first nation to adopt the idea. Great Britain and New Zealand have been paying crime victims since 1964. Compensation programs are in effect in parts of Canada and Australia, and Sweden is setting up such a program. How those plans operate is told on page 42.

Here, in Senator Mansfield's own words, is how his proposal would work:

"There would be established a federal violent-crimes-compensation commission which would make direct awards to the victims for injuries suffered in the course of crimes committed within the federal criminal jurisdiction.

"In addition, a system of revenue sharing, in the form of grants, would underwrite similar State compensation commissions for those who suffer from crimes within State and local criminal jurisdictions. . . .

"The measure I suggest covers everyone: the unsuspecting victim of rape, the policeman ambushed answering a routine call, the fireman shot by a sniper when responding to an alarm, the ghetto dweller, the suburbanite. In short, this proposal provides for all who suffer personal injury from criminal violence."

Wide range of aid. Compensation would not be authorized for offenses against property—such as theft. Payments would cover expenses resulting from injury or death, loss of earning power, "pecuniary loss" to dependents of the victim—and could also compensate for "pain and suffering."

A limit of $25,000 would be set for payments to any one person.

Under State plans approved by the proposed federal commission, Washington would pay 75 per cent of the cost, with the States paying 25 per cent.

How much would it cost the taxpayer to compensate all the nation's citizens victimized by lawbreakers?

This is the big question, raised by opponents of crime compensation and of concern to backers of the plan as well. No clear indication is provided by the brief experience of the few States that have tried the idea.

California and New York were the pioneering States in this field—and their programs did not get under way until 1967. Compensation laws were passed by Hawaii in 1967, Maryland and Massachusetts in 1968, and Nevada in 1969.

Rising number of claims. Writing in the November, 1970, issue of "The Insurance Law Journal," Herbert S. Denenberg, a professor at the Wharton School of Finance and Commerce at the University of Pennsylvania, reported:

"Experience to date indicates that the costs of these programs can be kept within reasonable bounds."

As these young programs expand, however, and as more people learn about the aid they offer, the number of compensation claims is rising steadily—and bigger increases are seen ahead.

In Hawaii, for example, an official report says that "only a small percentage of victims of what appear to be eligible crimes committed in Hawaii are filing applications."

This, also, is suggested by one critic of crime compensation:

"If this ever becomes law nationwide, you would see a record number of crimes reported. Many victims are too embarrassed to report rape. But if it becomes worth several thousand dollars, the victim may not mind having her name in the newspapers."

How laws are working. A survey by "U.S. News & World Report" gives a picture of how the State programs are operating so far.

In Maryland, crime victims are compensated only when their losses create "serious financial hardship." Payments are limited to a maximum of $27,500 in a case of death or $45,000 in a case of total disability. Some awards may be paid in a lump sum, others in monthly payments over a period of time.

Here are some examples:

A woman, age 69, was assaulted on her way to church by a purse snatcher, and her hip was broken. She was awarded compensation of $1,136.82.

A 42-year-old man who was robbed and shot in the pelvis on a public street was awarded: $2,904 for medical expenses and $1,694 for time lost from work, plus monthly payments of $54 and assurances of reimbursement for future medical bills resulting from the crime.

A widow of a man who was shot to death was first refused compensation because she had approximately $32,000 in assets. But she won reversal on appeal after showing she had three young children, was unemployed and had an illness requiring extensive hospitalization. She was awarded $209.60 a month.

A 68-year-old widow whose husband was robbed and killed by a gang of youths was denied compensation because she had assets of $18,000 plus $119 a month from Social Security.

Over all, in the first year of the Maryland plan's operation—July 1, 1969, to June 30, 1970—there were about 1,250 applications for compensation. According to an official report, about 1,000 applications were rejected, 240 were accepted for full investigation, and 105 of those cases were decided with the following results: 63 claims disallowed and 42 awards granted, totaling $328,000.

Joseph Pickus, chairman of Maryland's Criminal Injuries Compensation Board, says "these figures are low because we were starting from scratch." He predicts that "within five years the program will be costing about 1 million dollars a year."

Maryland Governor Marvin Mandel told an international conference on compensation for crime victims last year that "the program has operated well," and "I think you're going to find in the near future that more and more States are going to get into this program."

"Good Samaritan" program. California has two compensation programs: one for victims of violent crime, another for those injured while trying to prevent a crime or help in the apprehension of a criminal—under what is known as the "Good Samarian law."

Ordinary crime victims must establish need and payments are limited to $5,000. From this program's beginning in 1967 through February of this year, 1,245 claims were made, 330 were granted for awards totaling $521,000 and 671 claims were denied, with 242 left pending.

Legislature must approve. Under the "Good Samaritan law" enacted in 1965, there have been only 50 claims, of which 32 were granted for a total of $137,000. The highest award, for $79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife. The State legislature must approve each "Good Samaritan" award, but no evidence of need is required.

New York State's program for crime victims began March 1, 1967, and since then approximately $2,320,000 has been paid in compensation.

In the fiscal year ended Feb. 28, 1970, the Crime Victims Compensation Board received 929 claims involving 537 "muggings," 140 murders, 121 stabbings, 120 shootings, 8 rapes and 3 motor-vehicle incidents. In 826 cases, the board made 336 awards.

The New York law has no limit on payments for medical expenses, but total reimbursement for lost earnings or loss of support may not exceed $15,000. According to Stanley L. Van Rensselaer, chairman of the Board, the average payment to a crime victim is about $1,400, the average to dependents of a man killed in a crime is $3,000, and the average to a disabled victim is $4,071 a year. Hardship must be proved.

$10,000 limit on claims. In Massachusetts, in two and a half years of the plan's operation, awards have totaled only about $37,000, but Attorney General Robert H. Quinn predicts that the program will expand. Compensation is designed to cover out-of-pocket losses from injuries, and the limit is $10,000 per claim.

Since Hawaii began paying crime victims in 1968, costs have risen steadily. There were 3 awards totaling $1,000 in 1968, 47 awards for $111,945 in 1969, and 121 awards for $267,157 in 1970—an average of about $2,200 each.

In Nevada, under a law passed in 1969, only one payment has been made—and that was for a "Good Samaritan deed" by a man who was shot while trying to disarm a robber. He got the maximum payment permitted—$5,000. Two more applications have been received since this first award was publicized. But many Nevadans are not aware of the law.

States interested. Bills to start paying crime victims have been introduced in the legislatures of Illinois, Ohio, Michigan, Arkansas and New Jersey.

Federal crime-compensation programs were proposed in Congress in 1968 and 1970, but failed even to reach the committee-hearing stage. A plan applying only to the federally governed District of Columbia cleared the Senate last year as a little-noticed part of a broad anticrime measure, but it was dropped from the bill finally passed.

Now, with five bills pending in Congress, interest in the idea of helping crime victims appears to be growing.

Society's responsibility? Former Senator Ralph W. Yarborough (Dem.), of Texas, who wrote the D.C. compensation bill, expressed the feelings of most backers of the idea when he told a committee last year that persons accused of a crime "are given every protection that society can afford them" and said:

"What happens to the injured person left lying in the street, sometimes half dead? If somebody calls an ambulance, the victim has to pay for it. If he goes to the hospital, he loses his salary from the time he is out from work. . . . He pays his own medical expenses. He pays his own hospital bill.

"Society takes care of the person accused of crime, but does little for the person who is suffering the injury"

How Crime Victim is Paid Abroad

New Zealand and Great Britain were the pioneers in the payment of compensation by the Government to victims of crime. Their programs began in 1964. Seven of Canada's 10 Provinces and some States of Australia have compensation systems. And Sweden is about to start one.

In Britain, since 1964, the Government's Criminal Injuries Compensation Board has handled 25,000 cases, made awards in 18,000 of those cases, and has paid out more than 15 million dollars in compensation. In 1969 alone, 4.7 million dollars was paid to 5,000 claimants.

Under Britain's plan, compensation is paid only in cases involving crimes of violence. Awards range as high as $50,000 and generally reflect the amounts awarded in civil suits.

Expansion in U.K.? Criticism of Britain's system is aimed mostly at its restrictions, rather than its performance. A Government investigation in 1970 recommended increasing the number of awards and a bill now before Parliament would liberalize the rules.

In Canada, compensation to crime victims

is financed by the provincial governments. But another plan is being considered that would provide for cost sharing by the Government.

Provincial systems vary somewhat, although generally similar. Ontario, the most populous Province, received 300 claims last year. An official estimates this number may double in the year ahead, with a predicted total of about $800,000 in payments. There is a ceiling of $10,000 for any one claim.

Most authorities say the system is working "satisfactorily" in Canada, and the three Provinces which do not now pay crime victims are reported considering compensation plans.

Sweden's program—scheduled to go into effect July 1—is relatively restricted in scope. It covers only personal damages and is intended primarily to compensate people with small incomes. Amounts of awards will be based on a means test. Maximum payments are to be fixed at about $10,000, except in exceptional cases. The Government, as a rule, will compensate victims only for economic damages not covered by the national-health program, other welfare benefits or private insurance.

Authorities expect the cost of the new program to be small at the start—only $200,000 is budgeted for the first year. But costs are expected to grow.

Some other European countries, including Norway, Finland, Netherlands and West Germany, are reported to be showing interest in Sweden's experiment.

EXHIBIT 2

TESTIMONY OF SENATOR MIKE MANSFIELD, OF MONTANA, BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, NOVEMBER 30, 1971

Mr. Chairman, distinguished members of the Committee, I appreciate very much this opportunity to appear before you today. I do so in behalf of the countless thousands of innocent victims of crime. I do so as well out of a deep personal concern for the effects of violence upon society today. With S. 750, I have sought to revive the concept of compensating victims of violent crime. In doing that, I have approached the issue, not as a lawyer, which I am not, nor as a student of law. I have endeavored rather to view the matter as one who is deeply concerned that recent efforts to stimulate new approaches to stemming and even reversing the ever-rising rate of crime and violence have focussed too little attention upon the innocent victims of crime.

By no means, Mr. Chairman, do I wish to diminish your superb record against criminal elements. No man, inside the Senate or out, has devoted more energy and effort to that end. Thanks in large part to you, Mr. Chairman, the United States Senate in the last Congress passed 18 or more anti-crime proposals. Societies, nevertheless, have suffered the ravages of violent crime and ours has been no exception. Chronicled daily by the press are crimes of the most heinous nature. To meet this situation it seems to me that there has been created a system of justice that too often presents an abstraction of the state versus the criminal, which in turn has left the victim unappeased, the government bogged down in court and the criminal becoming more expert at his trade.

To be sure, the accused is prosecuted for his crime, and if found guilty, punished by the state. But the victim's sole recourse, within our Federal jurisdiction, is to seek damages by instituting a civil action against the guilty criminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicates a bare 1.8% of the victims ever collected anything from their attackers. Yet 74.2% of them suffered economic loss, not to mention the physical damage and suffering involved. And as the President's Commission on the Causes and Prevention of Violence has documented so well, this alarming increase in the rate of violent crime has persisted and with it, no doubt, the great disparity between those victims who are compensated and those who are not.

At the same time, the victims of this violence have been virtually separated from the crimes. That is a matter of policy. It is a policy that abrogates any social contract that is thought to exist between the citizen and his society. The citizen pays his taxes, he obeys the laws imposed by society and in return he expects—some would argue on a contractual basis—to be protected by those laws from illegal acts which result in injury and suffering to himself. In short, if society fails in its efforts to provide basic protection then the social contract has been breached; the citizen has suffered. To him there is no particular non-punishable recourse available other perhaps than overt apathy. Reflective of this growing apathy, in my judgment, has been the significant increase in the number of cases where victims simply refuse to become involved—not as witnesses, not to assist the prosecution, not in preventing the crime, not in assisting a police officer.

In my judgment, this overt apathy or non-participation by citizens in regulatory functions of society is about to become a most critical and pressing problem. Today, citizens must recognize that through their plain apathy, they are committing crimes against society. To combat such an attitude, it is my view that we—the elected representatives—ought to become more cognizant of the need for legislation that would encourage, and even reward, acts that are socially responsible.

Another aspect of the problem concerns the government's task of rehabilitating criminals. How much violent crime, it should be asked, is committed at the hands of the recidivist who has been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has it failed to protect him with sufficient police and safety facilities, its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals.

It has been said that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest today in reviving the concept of victim compensation.

As a matter of public policy, social compensation programs are not revolutionary notions by far. Indeed, there is great similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker has historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitudes when facing matters of collective community need. Social security and medicare; aid to dependent children, assistance for the handicapped, the aged and the blind, notions of no-fault insurance and national health insurance all reflect a recognition of collective responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. If adopted at the Federal level, however, it would by no means represent the first such step taken in modern times. Indeed, within the last ten years, New Zealand, England, particular provinces in Canada and Australia, have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the states of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently, New Jersey, all have enacted some type of compensation program. I have asked some of these states for reports on their experience with the program and submit for the record the responses I have received.

Though I am not wedded to any particular procedure for achieving the task of recognizing the need for compensating the criminal victim, the main features of my bill do deserve some explanation. First of all, a three-man Violent Crime Compensation Commission would be created. The Commission would compensate innocent victims for injury or death resulting from 18 possible offenses. The 18 offenses could be grouped generally under the headings of homicide, assaults and sexual offenses of violence, all occurring within the Federal criminal jurisdiction. There would be a maximum limit of $25,000 for each award.

It would be the Commission's duty to examine the evidence presented both to determine what level of compensation should be granted and whether in fact the person making the claim is truly an innocent victim.

With some limitation, the Commission could order the payment of compensation to or on behalf of the injured victim, to the person responsible for his maintenance, to his dependents or close survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury. Obviously, however, the crime would have to be established.

As far as losses covered are concerned, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering and for any other direct, crime-related losses which the Commission deems reasonable.

Compensation would be denied in cases where the victim was living with the offender or in any case where the Commission finds that unjust enrichment would result to or on behalf of the offender.

Decisions and orders of the Commission would be reviewed by the appropriate Court of Appeals.

A most important provision would allow the Commission, where possible, to recover over against a convicted assailant the amount of any awards granted on account of his crime.

There is also provided a grant program which would encourage states to establish Crime Compensation systems within their individual criminal jurisdictions.

With these hearings, Mr. Chairman, and the study that undoubtedly will follow, I am certain many of the features of this proposal will undergo close examination and undoubtedly changes for the better will be made. Merging the state programs under the existing Law Enforcement Assistance Administration is one suggestion that deserves merit. Improvement, may I say, is an essential purpose of the legislative process.

May I say, too, that I am pleased President Nixon's recomendations for a special compensation program for survivors of policemen killed in the line of duty are here being considered along with S. 750.

One final note. Before this Congress adjourns in 1972, it is my hope that the legislative process will have been completed and that there will be established on the Federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the state. In the last 100 years, the criminal and the state have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and failing such protection, that citizens are entitled at least to be compensated for the losses they suffer from violent criminal action, can only serve to strengthen the social fibre of our Nation.

Thank you very much.

Mr. HRUSKA. Mr. President, I am very pleased to join with the chairman of the Criminal Laws Subcommittee, Senator McCLELLAN, and others, in introducing this bill: The Victims of Crime Act of 1972.

This proposal, along with those dealing with this same subject which are already before our committee, will afford us the opportunity for additional hearings on this most important subject. Several points of view are represented by these bills. While I do not endorse or approve all of its various parts, I look forward to the opportunity we shall have to study this question from every angle. Hopefully, after this scrutiny including additional hearings and our subsequent deliberations in subcommittee, we can report a comprehensive bill which will be as effective, as large in scope, and as representative of all points of view as possible. In this regard I know that the Senator from Arkansas will do his best to canvass all opinion on this subject before hearings are concluded.

In the course of its work, the Criminal Laws Subcommittee has looked at many aspects of crime and has approved legislation dealing with courts, corrections, and the police, as well as substantive criminal law. As in so much that we in Congress do, the exigencies of time and the need to grapple with the most pressing problems first, have resulted in our neglect up to this point of that element of society most deserving of our attention—the crime victim himself. This bill is designed to correct this neglect.

In his introductory remarks Senator McCLELLAN has discussed in great detail the five titles of the bill: First, compensation for victims of violent crime; second, group life insurance for public safety officers; third, death and disability benefits for public safety officers; fourth, civil remedies for victims of racketeering activities; and fifth, general provisions. I do not feel any legitimate need would be served at the present time by additional discussion of the individual provisions of this bill by this Senator. I will say that I am pleased that in drafting this bill the chairman has been very sensitive to and respectful of the proper role to be played by the Federal Government and the individual States regarding all aspects of law enforcement. This is one of the questions which I will want to continue to examine closely in our further deliberations on this subject.

As I indicated earlier this Senator is joining in introducing this bill so that it may serve as a vehicle for hearings and discussion on this important subject. I do not necessarily agree with everything in the bill as presently written and will have to devote considerable study to it before voting to report it or any related bill from the subcommittee. But I do want to emphasize my support for this type of legislation and to indicate my gratitude to Senator McCLELLAN for doing the preliminary work on it and for asking me to join him as a cosponsor today.

Mr. GRIFFIN. Mr. President, I rise to commend the distinguished Senator from Arkansas for his leadership again in this important field. He has made a very significant statement.

The legislation which he has described incorporates some features of a concept which the junior Senator from Michigan has advocated strongly in the past. I should like to join with the distinguished ranking minority member of the Judiciary Committee, the Senator from Nebraska. I ask unanimous consent that my name be added as a cosponsor of the measure.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the names of the Senator from Nevada (Mr. BIBLE) and the Senator from Michigan (Mr. GRIFFIN) be added as cosponsors of the measure.

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

Mr. BOGGS. Mr. President, I should like to add my support for the Victims of Crime Act of 1972, which the distinguished Senator from Arkansas (Mr. McCLELLAN) is introducing today.

This legislation, I believe, includes many significant features, including compensation for victims of violent crime, grants to State for such reimbursement, and expanded benefit programs for public safety officers. I support these provisions wholeheartedly.

Assistance for the victims of crime and those who spend ther lives fighting crime is an idea whose time has come. It is a natural response to the rising rate of violent crime throughout the country. While I believe that we must do all we can to strengthen the machinery of law enforcement, to improve corrections and rehabilitation programs, and to bring about judicial reform, we must not forget the victims of crime. And I include among the victims of crime the increasing number of policemen, corrections officers, and firemen who are killed or injured in the line of duty.

It is not fair that we should ask the victims of crime to tolerate the rising incidence of violent crime and to live in fear of personal harm while we labor to reduce the crime rate. Deliberate we must—for as long and as hard as it takes to find the right mix of social and legal antidotes to crime. In the meantime, we must also recognize our responsibility to its victims.

Mr. President, I am especially pleased that the Senator from Arkansas (Mr. McCLELLAN) has chosen to draw key elements of title III of this legislation from a bill (S. 2748) which I introduced earlier this year. That bill would provide a death indemnity of $50,000 for the survivors of police officers, corrections officers, and firefighters killed in the line of duty, whether they serve at the Federal, State, or local levels. In remarks which I delivered when I introduced that legislation, I pointed out that these men and women live daily with unusual danger to their well-being in order to protect our lives and property. This danger is just as great, and their service is just as vital whether they serve under a Federal, State, or local jurisdiction.

I also noted that we cannot expect to recruit and retain responsible, family men and women into these increasingly hazardous jobs without offering the kind of protection that survivors compensation provides. This need has already been recognized at the Federal level with a variety of compensation and benefit plans for law enforcement officers. A $50,000 death benefit is already provided the survivors of policemen killed in the line of duty in the District of Columbia. The Victims of Crime Act of 1972 would simply acknowledge the national scope of this need by making these benefits uniformly available to all public safety officers throughout the country.

Mr. President, I reiterate my support for this legislation and urge the Judiciary Committee to give it consideration at the earliest possible date.

By Mr. KENNEDY (for himself, Mr. HART, Mr. HUMPHREY, Mr. Moss, and Mr. METCALF):

S. 2995. A bill to provide for the compensation of innocent victims of violent crimes in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

FULL LIFE INSURANCE VERSION OF VICTIMS OF CRIME ACT OF 1972

Mr. KENNEDY. Mr. President, I want to congratulate and thank the distinguished Senator from Arkansas for his imagination and initiative in amalgamating several extremely constructive bills into the Victims of Crime Act of 1972. I am especially pleased that the sponsor of the bill who is also the chairman of the Subcommittee on Criminal Laws and Procedures, of which I am a member, has now demonstrated his support for the concept of a Federal program of low-cost life insurance for the Nation's law enforcement officers and other public safety officers, a concept I have been promoting since 1967. Last year the program in the law I proposed was adopted by the full Judiciary Committee and passed by the entire Senate as part of the safe streets extension. However, the House Members of the conference committee felt the House had not sufficiently considered the matter and asked that it await action this year. I am pleased to note that the chairman of the House Judiciary Committee, Mr. CELLER, has now introduced in the House a counterpart bill to S. 33, the law enforcement officers group life insurance bill, which I introduced in the Senate earlier this year, and he has promised to process it as expeditiously as possible next year.

Unfortunately in the process of amalgamating S. 33 with the other bills, which make up the proposed Victims of Crime Act, certain drafting changes have been made which may seriously limit the life insurance coverage, and seriously increase the cost of such coverage, for the Nation's law enforcement and other public safety officers.

Since they are depending on the passage of my bill at full strength, as it was passed last year, I want to make sure that they realize the full life insurance program is before the Senate and I am, therefore, introducing a full life insurance version of the proposed act which comports more fully in its life insurance title with S. 33.

I am hopeful that we can proceed to speedy consideration in committee, since there may be sections in addition to the one I have been most concerned with which are in need of some work. I hope the bill can then be reported out for speedy Senate passage.

I ask that the full text of title II be printed in the RECORD; and that Senators HART, HUMPHREY, Moss, and METCALF be listed as cosponsors.

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

S. 2995

A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

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 "Victim of Crime Act of 1972."

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this Part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes Compensation Commission established by this part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress and nervous shock;

"(10) 'percuniary loss' includes:

"(A) for personal injury—

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and

"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death—

"(1) funeral and burial expenses; and

"(2) loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, a neice or nephew;

"(12) 'student' means a person who is a 'student' as defined in subparagraph (17) of section 8101 of Title 5, of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this Part or killed or injured while assisting a law enforcement officer to apprehend a person who has committed a crime or to prevent the commission of a crime.

"COMPENSATION BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the "Board"). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of this part.

"(c) No member of the Board shall engage in any other business, vocation, or employment.

"(d) Except as provided in paragraph (1) of subsection (a) of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"SEC. 452. In order to carry out the purposes of this part, the Board shall—

"(1) receive and process applications under the provisions of this part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this part;

"(2) hold such hearings, sit and act at such times and places, and take such testimony as the Board or any member thereof may deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this part; and

"(4) take such other action as it deems necessary and appropriate to carry out the purpose of this part.

"ADMINISTRATIVE PROVISIONS

"SEC. 453. (a) The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) appoint such advisory committees as the Board may determine to be desirable to carry out the provisions of this part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(7) without regard to section 529 of title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"SEC. 454. (a) The term of office of each member of the Board taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) 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.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"SEC. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers within the District of Columbia.

"PROCEDURES OF BOARD

"SEC. 456. (a) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) many administer oaths, or affirmations, to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the victim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this part and order the payment of reasonable fees for such examination.

"(b) The Board shall permit every person appearing under section 460 of this part to have the right to produce evidence and to cross-examine such witnesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code, for the purpose of granting immunity to witnesses.

"SEC. 457. (a) In any case in which a person is injured or killed by any criminal act or omission of any other person enumerated in section 458 of this part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this part, if such act or omission occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation—

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or without hearings, supported by substantial evidence, finds that—

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any other legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"SEC. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this part for personal injury or death which resulted from crimes in the following categories—

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime involving the use of force, including poisoning, to the person; or

"(18) attempts to commit any of the aforegoing."

"(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.

"(c) For the purposes of this part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"SEC. 459. A person is entitled to make application for an order of compensation under this part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"SEC. 460. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"SEC. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"SEC. 462. The Board may order the payment of compensation under this part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"SEC. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"SEC. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the personal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of $100 or has lost 2 continuous weeks earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive compensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within 72 hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in excess of $50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"SEC. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any payments received by applicant—

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured or beneficiary—but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"SEC. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment is not made, the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the payment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"SEC. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"SEC. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"SEC. 469. There is hereby created on the books of the Treasury of the United States a fund known as the 'Criminal Victim Indemnity Fund' (hereinafter referred to as the 'Fund'). The Fund shall consist of such amounts as may be deposited in, or appropriated to such Fund, as provided by law, or as may be contributed to such Fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"SEC. 470. (a) Each Federal law enforcement agency investigating a crime to which this Part applies shall inform victims of their eligibility to make an application for an order of compensation under this part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this part.

"(b) If a victim of a crime does not cooperate with a law enforcement agency in the indentification, apprehension and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"SEC. 471. The Board shall transmit to the Congress an annual report of its activities under this part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board.

"(132) General Counsel, Violent Crimes Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Indemnity Fund.

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3579. Fine Imposed for Criminal Victim Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims of violent crime."

SEC. 106. Section 303 of such Act is amended by inserting "(a)" immediately after "303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this title, that such State has enacted legislation of general applicability within such State—

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuniary loss therefrom and order the payment of such claims;

"(2) providing for the payment of compensation for pecuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this title.

"(3) containing adequate provisions for recovery of compensation substantially similar to those contained in part F of this title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this title shall submit to the Administration a State plan. Each such plan shall—

"(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this section;

"(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title; and

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this Title in carrying out the objectives of the compensation program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verifications of such reports.

"(6) contain other data and assurance as the Administration deems necessary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

SEC. 107. Part C of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new sections:

"SEC. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (10) of section 301 of this Title. In addition to other matters such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered,

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"SEC. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this Title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section 301 of this Title shall be 75 per centum for any fiscal year.

TITLE II—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

INSURANCE PROGRAM AUTHORIZED

SEC. 201. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) The term 'month' means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

"(2) The term 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Attorney General.

"(3) 'public safety officer' means, pursuant to regulations issued by the Attorney General, an individual who is employed by a State or unit of local government—

"(A) primarily to patrol the highways or otherwise preserve order and enforce the laws, or

"(B) in any activity pertaining to a correctional program, facility, or institution, or to a court having criminal jurisdiction, where the activity is determined by the Attorney General to be potentially dangerous because of contact with criminal suspects, defendants, prisoners, or parolees, or

"(C) in firefighting.

"(4) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(5) The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs public safety functions.

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

"(c) The Attorney General shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

"(d) The Attorney General may at any time discontinue any policy which he has purchased from any insurance company under this part.

"PERSONS INSURED; AMOUNT

"SEC. 502. (a) Any policy of insurance purchased by the Attorney General under this part shall automatically insure any public safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency or office for such premiums. The insurance provided under this part shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this part he may thereafter, if eligible, be insured under this part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000".

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

"(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	"Amount payable
Loss of one hand or of one foot or loss of sight of one eye.	Full amount shown in the schedule in subsection (b) of this section.
Loss of two or more members or loss of sight in both eyes.	One half of the amount shown in the schedule in subsection (b) of this section.
	Full amount shown in the schedule in subsection (b) of this section."

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 503. Each policy purchased under this part shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"SEC. 504. Each policy purchased under this part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this part. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this part, shall be furnished a list of life insurance companies participating in the program established under this part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this part, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Attorney General under this part, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this part while on full-time duty as public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any public safety officer for each unit of insurance under this part may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 506. For each month any public safety officer is insured under this part the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT; EXPENSES

"SEC. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the United States under section 506 of this part together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this part and the administrative cost of the insurance program established by this part to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Attorney General is authorized to set aside out of the revolving fund such amounts may be required to meet the administrative cost of the program to the department or agency or office designated by him, and all current premium payments on any policy purchased under this Pact. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 508. (a) Any amount of insurance in force under this Pact on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"First, to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

"Third, if none of the above, to the child or children of such officer or former officer and descendants of deceased children by representation;

"Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

"Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

"(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this part has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this part and no claim for payment by any person entitled under this Part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this Part.

"(d) The public safety officer may elect settlement of insurance under this part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 509 (a) Each policy or policies purchased under this part shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts

of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving funds established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 510. The Attorney General shall arrange to have each member insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

"SEC. 511. (a) Any State or unit of local government having an existing program of group life insurance for public safety officers which desires to receive Federal assistance under the provisions of this section shall—

"(1) inform the public safety officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal Assistance under this section; and

"(2) hold a referendum of public safety officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this part.

The results of the referendum shall be binding on the State or unit of local government.

"(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 506 of this part, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate public safety officers under such existing program.

"ADMINISTRATION

"SEC. 512. (a) The Attorney General may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Department of Justice.

"(b) In administering the provisions of this part, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"(c) Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 513. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this part and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"JURISDICTION OF COURTS

"SEC. 514. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART H—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention control, or reduction, including highway patrol,

"(B) a correctional program, facility, or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in paragraph (17) of section 8101 of Title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"SEC. 526. (a) Under regulations issued by the Administration under Part I of this Title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full or part time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (d) of this section 527 of this Part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer.

"(2) If the public safety officer was killed and there is no spouse, to the dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the dependents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in a lump sum, in such equal monthly installments, or in such other fashion as the Administration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death which is the basis for the certification.

"AWARDS

"SEC. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse or dependents pending a final certification of the Governor.

"(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer, spouse or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would envoke severe hardship.

"(d) Subject to conditions and limitations as he may establish, the Administration shall provide for the following payments:

"Loss	Amount payable
"Death	Fifty thousand dollars.
"Loss of one hand or of one foot or loss of sight of one eye.	Twenty-five thousand dollars.
"Loss of two or more members or loss of sight in both eyes.	Fifty-thousand dollars."
Amount Payable	

AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gross income) is amended to read as follows:

"(A) $5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed $5,000, except that not to exceed $50,000 shall be excludable under the provisions of part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

SEC. 402. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

TITLE V—MISCELLANEOUS PROVISIONS REPEALS

SEC. 501. (a) Section 4–531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is hereby repealed.

(c) The provisions of subsection (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968 as amended and as redesignated by this Act is amended by inserting immediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $10,000,000 for the purposes of part F;

"(2) $20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of part G.

"(d) There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1972, and $20,000,000, for the fiscal year ending June 30, 1973, for the purposes of part H.".

SEVERABILITY

SEC. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 504. (a) Title I of this Act shall become effective 180 days after the date of enactment of this Act.

(b)(1) Title II of this Act shall become effective on the date of enactment of this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect for the public safety officers of any State or unit of local government participating in the public safety officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

(c)(1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such

public safety officer shall be deducted from any benefit paid under title III of this Act.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2997. A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mount Aix and surrounding lands with the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COUGAR LAKES NATIONAL RECREATION AREA

Mr. JACKSON. Mr. President, I introduce for appropriate reference a bill to establish a Cougar Lakes National Recreation Area of some 267,000 acres in the North Cascades region of Washington State.

The area encompassed in the proposal is immediately east of the Mount Rainier National Park. It extends south to and including White Pass and Rimrock Lake, easterly almost to Tieton and northerly to the Mather Memorial Parkway, including some 37,000 acres north of the highway. The entire area is now under the administration of the U.S. Forest Service, except for some 350 acres of privately owned land which was patented for mining purposes many years ago.

Because of its beauty and immense natural resource values, the North Cascades have been the subject of many books, reports, and travelogs almost since the first Federal forest reserves were established in the 1890's. Because of the early and continuing controversy over whether a North Cascades National Park should be established, together with associated problems of resource balance between competing users, a North Cascades study team was appointed in 1963 to "explore in an objective manner all resource potentials of the area and the management and administration that appears to be in the public interest." This multiagency team spent 2½ years studying more than 6 million acres of Federal land in the North Cascades before publishing their comprehensive report in October 1965. I should emphasize that the North Cascades study team engaged in one of the most complete public airings of regional land use policy that this country has ever witnessed.

Mr. President, in 1967 and 1968, I devoted considerable time on legislation encompassing much of the North Cascades region, time which culminated in the establishment of a 505,000 acre North Cascades National Park. Another 700,000 acres of dramatic alpine scenery, active glaciers, and mountain lakes in northern Washington were placed in a special status, including the Ross Lake and Lake Chelan Recreation areas, the Pasayten Wilderness, and additions to the Glacier Peak Wilderness.

Because of the sheer magnitude of undertaking long-range land use patterns for the entire North Cascades area, only those study team recommendations dealing with land north of the Stevens Pass Highway were the subject of legislation in 1967 and 1968. The measure I am introducing today represents one more step toward total congressional consideration of the study team's recommendations.

Nationwide interest has been focused on the entire Cougar Lakes area as a result of the establishment of the North Cascades National Park and related land areas. Conservationists for many years haxe expressed their concern about the protection, management and development of the lands involved in this measure. Because of the public's concern for protection for the outstanding natural beauty and grandeur, most of the Cougar Lakes area is currently being managed for its exceptional scenic, wilderness, and recreation values. This can be demonstrated by the following:

First. In 1946. the Forest Service established the 90,000-acre Cougar Lakes Limited Area. This land has been removed from the allowable cut calculations, and from other types of commercial development, and today remains in a primitive state.

Second. In 1965, the North Cascades study team recommended establishment of a 45,000-acre Mount Aix Wilderness. This isolated group of rugged ridges and clustered mountain peaks has been excluded from the allowable cut base and will remain in a protected status until Congress completes consideration of it for wilderness.

Third. In 1931, the Secretary of Agriculture, by a land classification order, established the Mather Memorial Parkway of some 24,300 acres "for the use and enjoyment of the general public for scenic and recreational purposes". As a result of this land use classification, natural resource developments have been reduced.

Fourth. In 1966 the Forest Service classified the 37,000-acre area north of the the Mather Memorial Parkway as a "back country roadless wilderness area," a classification which precludes any extensive land development.

The majority of the remaining 70,000 acres of land within the proposed Cougar Lakes National Recreation Area has already been classified, by the Forest Service, as "Landscape Management Areas," where esthetics and recreation are recognized as key values with all other resources and activities managed to maintain or enhance recreation values.

The Cougar Lakes area is not as rugged as most of the balance of the Washington Cascades. Glaciers and hanging alpine valleys are not apparent. However, the area has its own unique charm and scenic beauty. The area has variety that includes some islands of very rough rock-peak attractions such as Mount Aix and Fifes Peak areas, but I think much of its charm comes from its openness, punctuated as it is with many meadow areas. Trees and shurbs occur in great variety, and much of it is relatively open to travel and view, opportunity for people to disperse and have the solitude of wilderness experience. Wildlife and wildflowers are abundant. Access and movement within the area is relatively easy, and much of the scenic beauty is set off by the backdrop of Mount Rainier to the west and the Goat Rocks and Mount Adams to the south.

This bill contains provisions for a Mount Aix wilderness study unit of 152,000 acres within the core of the Cougar Lakes National Recreation Area. This study unit is composed mostly of acreage already in a protected status, including the majority of the 90,000-acre Cougar Lakes Limited Area, all of the 45,000-acre Mount Aix area proposed for wilderness by the study team, and several thousand acres of adjacent land.

The bill also requires the Forest Service to conduct a comprehensive study to determine the suitability or nonsuitability for wilderness of the entire study area. This study must be completed within 2 years from the date of enactment of this measure, with the recommendations to be forwarded to Congress for further consideration. The concept of a wilderness study area patterned after language contained in the Ross Lake National Recreation Area Act will also allow all interested parties an opportunity to comment on the future type of management of this area. I anticipate that public hearings will be conducted by the Forest Service to receive testimony from representatives of the forest products industry, water users, conservation organizations, interested individuals, and public officials from Federal, State, and local governments. It is essential that Congress have the full benefit of these recommendations before acting on the area in question. An act of Congress will be required to officially designate any area within the proposed national recreation area as a part of the National Wilderness Area System.

I consider a major portion of the Mount Aix wilderness study unit to be unique relative to the rest of the Washington Cascades and should be managed for primitive recreation, scenic, scientific, educational conservation, and historical values and opportunities to the extent consisted with the preservation and restoration of the wilderness resources of the land. In general, a large part of this scenic area is more open and accessible to people and horses. It is of lower elevation and less rugged. This does not make it less suitable for its wilderness value, but the area does naturally invite moderate use by people and horses. It is for this reason that detailed studies are needed before a decision can be made concerning its classification as wilderness. In particular, the questions of density of public use, level of wildlife population, and coordination with adjacent Mount Rainier Park management require careful studies.

The approximately 115,000-acre area outside the wilderness study area, will be managed to protect its scenic values and to improve its recreational potential as soon as this measure becomes public law. This could include campgrounds, picnic facilities, winter sports, organization camps, resorts, recreation residences, visitor information services, and boating facilities. Management of these areas should provide for a greater latitude in developing the area to accommodate larger numbers of people than would be possible in wilderness areas. In addition, timber harvesting activities will be allowed to continue in this area under the management guidelines provided for

language contained in section 2 of this in the Forest Service landscape management policy, and in conformance with measure.

At a time when wood fiber is so urgently needed to meet our Nation's growing demand for wood products, it is my contention that a portion of the national recreation area could be managed to demonstrate that wood production activities could continue to take place while still protecting the area's dominant visual and recreational values. I should point out that the southern part of the proposed national recreation area; that is, that region around Rimrock Lake, has already been extensively logged but still has national recreation area qualities. As a result, an opportunity has arisen to demonstrate that timber harvesting activities and intensive outdoor recreation activities can be compatible if well planned and properly carried out.

Preliminary estimates show that this proposed national recreation area contains approximately 3.75 billion board feet of standing timber. Much of this timber is not included in the present allowable cut base due to being reserved from harvest through earlier action by the Forest Service. About 1.4 billion feet of the standing timber inventory will be available to controlled harvesting activity.

In addition to timber, this area contains pronounced wildlife and water values. All of the area is a part of the Yakima Valley drainage and serves a most significant proportion of the domestic and irrigation water requirements of the intensive agriculture of the Yakima Valley. The Clear Lake, Rimrock Lake, and Bumping Lake impoundments are a part of this water supply system. The Bumping Lake impoundment is currently under consideration for enlargement, and nothing in this legislation will affect the operation, management or maintenance of that facility.

Mr. President, in the formation of this measure I have worked closely with various special interest groups and Federal agencies which have an interest in the area. There is wide support for the measure. I want to emphasize that I regard this bill as a working draft, which will serve as a means of soliciting further public views when hearings are held.

The combination of sunshine, scenic beauty, and ease of public access and travel through the Cougar Lakes area makes it unusually attractive to the large population of the Puget Sound region. Current public use is reaching beyond the capacity of regular national forest programs to cope with it and protect the resources. This agency has placed much of the area in a moratorium status against further development until the question of land classification and long-term management policy is decided. This legislation provides a mechanism whereby these decisions can be made.

Mr. President, I ask that the text of the legislation be printed into the RECORD at this point.

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

S. 2997

A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mount Aix and surrounding lands within the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for the protection, preservation, and public outdoor recreation use and enjoyment of the spectacular scenic, natural, recreational and other values of the Cougar Lakes-Mt. Aix area in the State of Washington, there is hereby established, subject to valid existing rights, the Cougar Lakes National Recreation Area (hereinafter referred to as the "recreation area"), within and as a part of the Snoqualmie and Gifford Pinchot National Forests, Washington, comprising approximately 267,000 acres. The boundaries of the recreation area shall be those shown on the map entitled "Proposed Cougar Lakes National Recreation Area," dated December 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, U.S. Department of Agriculture.

SEC. 2. The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules and regulations applicable to the national forest system, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of biotic, scenic, scientific, geologic, historic, and other values contributing to public enjoyment; and (3) subject to section 4 of this Act such management, utilization, or disposal of natural resources as in his best judgment will promote or are compatible with, and do not significantly impair the purposes for which the recreation area is established. In developing and implementing his plans for management of the recreation area the Secretary shall provide for a broad range of recreation opportunities, and shall manage such portion of the area as he deems appropriate for non-vehicular recreation uses, without the construction of public road, or the harvesting of timber except when necessary for the public safety or to protect or prevent the destruction of forest resources within the recreation area or on adjoining areas.

SEC. 3. Within one year after the effective date of this Act, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the recreation area and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made.

SEC. 4. As soon as practicable after the enactment of this Act the Secretary shall review the area delineated as the "Mt. Aix Wilderness Study Unit" on the map referred to in section 1 of this Act as to suitability or nonsuitability for preservation as a part of the National Wilderness Preservation System. In conducting his review, the Secretary of Agriculture shall comply with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by States and other agencies, and shall advise the Senate and House of Representatives of his recommendations with respect to the designation as wilderness of the area reviewed no later than two years from the date of enactment of this Act. During the review period provided by this section and for a period of at least five years after his recommendations are submitted to the Congress the Secretary shall manage and protect the resources of the Mt. Aix Wilderness Study Unit in such a manner as to assure that its suitability for potential wilderness designation is not impaired.

SEC. 5. Nothing in this Act shall be construed to affect the operation, management, or maintenance of Bumping Lake Dam and Reservoir, Yakima Project under authorities heretofore and hereinafter enacted, or to preclude consideration of future modification of said project.

SEC. 6. The Secretary shall permit hunting, fishing, and trapping on the land and waters under his jurisdiction within the recreation area in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the Washington Department of Game.

SEC. 7. The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may issue permits or leases for the removal of the nonleasable minerals from lands or interests in lands within the recreation area, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 24, 1930, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the Administration of the recreation area: *Provided,* That any lease respecting such minerals in the recreation area shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe. All receipts derived from permits and leases issued under the authority of this section for removal of nonleaseable minerals shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. Any receipts derived from permits or leases issued on lands within the recreation area under the Mineral Leasing Act of February 25, 1947, shall be disposed of as provided in the Act.

SEC. 8. The jurisdiction of the State of Washington and the United States over waters or any stream included in the recreation area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of water rights which are vested under either State or Federal law at the time of enactment of this Act shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

SEC. 9. The Secretary shall cooperate with the State of Washington or any political subdivision thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Washington or any political subdivision thereof of its rights to exercise civil and criminal jurisdiction within the recreation area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

By Mr. GRIFFIN (for himself and Mr. HART):

S. 2998. A bill to provide for a national cemetery at Fort Custer, Mich. Referred to the Committee on Veterans' Affairs.

NATIONAL CEMETERY AT FORT CUSTER

Mr. GRIFFIN. Mr. President, today I am introducing on behalf of myself and the senior Senator from Michigan (Mr. HART) a bill to establish a national cemetery at Fort Custer in Battle Creek, Mich.

The language of this bill is identical to one—H.R. 4921—introduced earlier in this session by Congressman GARRY BROWN and cosponsored by 14 members of the Michigan congressional delegation.

Mr. President, the need for an expansion of our national cemetery system has long been apparent. There are more than 28 million veterans throughout the United States who are entitled to be buried in a national cemetery; but as of October 31, 1971, less than 250,000 sites remained available.

In addition, those sites which are available are inequitably distributed throughout the country. As a result of historical accident and the absence of planning at the national level, there are more national cemeteries in the State of Tennessee, for example, than there are in our four largest States combined.

In Michigan more than 1.2 million veterans are eligible for burial in national cemeteries. In spite of this need there are no national cemeteries available in Michigan, Ohio, Indiana, or Wisconsin.

It is my understanding that both the House and Senate Committees on Veterans' Affairs expect to reexamine early next year the possibility of expanding the present national cemetery system. I hope that this bill which Senator HART and I are introducing today will help bring about the timely establishment of an expanded and improved national system which will include a national cemetery at Fort Custer.

Mr. President, I ask that the text of the bill be printed in the RECORD.

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

S. 2998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army is authorized and directed to establish a national cemetery at Fort Custer, Michigan. Such national cemetery shall include the site of the present post cemetery at Fort Custer, together with such additional land within the boundaries of the fort as the Secretary of the Army may deem necessary.

(b) The Secretary of the Army is authorized and directed to provide for the care and maintenance of such national cemetery.

By Mr. HUGHES:

S. 2999. A bill to authorize a treatment and rehabilitation program for members of the Armed Forces who are or may become drug abusers or drug-dependent persons. Referred to the Committee on Armed Services.

Mr. HUGHES. Mr. President, I introduce for appropriate reference a bill entitled the Armed Forces Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1971. It is designed to give the Armed Forces a foundation in law for their efforts to deal more effectively and humanely with service personnel who are caught in the web of drug abuse and drug dependence, including addictive involvement with the most widely abused dangerous drug of all, alcohol. I believe that this legislation soundly balances the needs of individuals afflicted by these diseases and the need of our society to maintain a strong, healthy national defense force.

This bill was not drafted hastily or without consideration for the special difficulties of dealing with a complex, deadly health problem in a setting where security must be the dominant consideration. Obviously, the main business of an army is warfare, not curing sick people. The drug problem in the Armed Forces was not foreseen and not immediately detected. Now that the problem has been fully recognized, an all-out effort is being made to deal with it.

Dealing with the problem requires understanding of the military organization as well as the technics of drug abuse treatment, rehabilitation, and prevention.

Behind this bill is the experience of almost 2 years of intensive and extensive inquiry by the subcommittees, of which I am chairman, into the long-standing problem of alcoholism and the more recent explosion of multiple drug abuse and narcotic addiction among the members of our military service. It is the legislative fruition of weeks and months of hearings, on-the-spot visits to military outposts in Southeast Asia, the Pacific, Europe, and the United States, and insights drawn from day-by-day, case-by-case studies of the way individuals have fallen victim to drug dependence and how they have been dealt with by the services.

With regard to the latter, I want to state that I believe the Department of Defense and the various services should be given immense credit for the way they have swung into action in the past 6 months to deal realistically with this unimaginably difficult problem. I have been particularly impressed with the enlightened attitude of the commanding officers.

It was not always this way. Many months before military geared up to its present drug offensive, the Subcommittee on Alcoholism and Narcotics had called attention to the dimension and rapid growth of the problem. The response of the military at that time was negligible.

Now the picture has entirely changed. President Nixon's announcement of a national drug offensive, his appointment of Dr. Jaffe to head the special White House drug office, and the installation of the urine testing program have had a notable impact. And the armed services have responded commendably.

As the military departments have come, first, to acknowledge these problems and, then, to try to come to grips with them in realistic fashion, it has become apparent that legislation was needed to remove certain existing roadblocks and to provide legal sanction for enlightened policies and procedures that have already been informally declared and initiated. For example, the "amnesty" policy announced by the Department of Defense more than a year ago was intended to encourage service personnel with drug problems to seek help without fear of punishment under the Uniform Code of Military Justice for their prior possession or use. But the amnesty program has been slow in attracting participants—in part, because of conditions on the amnesty stemming from existing laws, regulations, and military tradition that impaired its credibility with the men. Obviously drug users will be slow to apply for amnesty if they feel they will somehow be punished if they seek help.

A complaint that turned up repeatedly in our subcommittee field investigations concerned the fact that time spent by service personnel undergoing treatment for drug abuse is presently counted as "lost time" and is thus an extension of their service period.

The legislation I am presenting today contains provisions that I believe will assist the military in dealing with practical problems of this nature that have arisen since the military drug offensive began and which are abundantly documented by our studies.

It should be recognized that the command officers and the professional personnel working with drug treatment and rehabilitation in the military are confronted with the same enigma that besets the civilian sector—how best to treat and rehabilitate the patients. In much of the drug treatment field, throughout our society, we are still in an experimental stage. Different treatment modalities work with different individuals and in different sets of circumstances.

Successful treatment of drug dependents is difficult enough under any circumstances. Obstacles to successful treatment in the military that are not essential to national security should be removed. The confidentiality of the doctor-patient relationship, for example, is important in military, as well as civilian, life, and this is recognized in this bill.

In the drafting of this bill, it was recognized that latitude and time for flexibility in treatment programs is needed in the military, as elsewhere. Already, our studies indicate, the Armed Forces are providing an excellent laboratory for experimenting with various treatment modalities. At one large Army post in the Pacific Northwest, for example, there is a therapeutic community run by a civilian "guru." At other bases, a visitor will find inpatient and outpatient programs of different kinds, "rap houses," halfway houses, unit drug counselors—in short, a wide variety of innovative efforts, all aimed at restoring drug users to useful functioning in the service of their country.

Out of this array of experiments, I am convinced, may come some of the breakthroughs we have been seeking for dealing with the drug epidemic among the youth of our country. This gives further emphasis to the need to provide the mili-

tary with the resources, the legal guidelines and the public support to deal with the drug problem with maximum effectiveness.

The main thrust of the bill is to give the military unmistakable legal authority to deal with drug addiction and dependence, including alcoholism, as a disease or illness, and not a crime.

Until this concept gained some degree of public acceptance, no progress was made in controlling the various forms of chemical addiction in civilian life. In my judgment, it is also a crucial point in the success or failure of the drug program in the Armed Forces.

The bill recognizes that it is unrealistic to expect that the armed services can succeed in controlling the other aspects of the drug problem and sweep alcoholism under the rug. It seeks to encourage the military departments to deal sensibly and humanely, rather than punitively, with a problem that over many years has ruined innumerable careers, broken up families and cost the Armed Forces dearly in valuable personnel. The high economic cost was brought home to the Congress just recently by a report from the Comptroller General of the United States. This study found that, assuming conservatively that 5 percent, or about 130,000, of our military population are alcoholics, the monetary waste alone amounts to a quarter-billion dollars a year. It also found that as much as half of this could be saved by the institution of the kind of treatment and rehabilitation programs that have succeeded in private industry and elsewhere. Some of the services have made a commendable start by creating alcoholism treatment programs with reported success rates ranging from 60 to 90 percent. But here again, they need the backing of Congress to make significant and continuing progress.

I might remind my colleagues that the Congress itself has already made a start toward this objective. Title V of Public Law 92–129, the Draft Extension Act, which became law this past September 28, provides, for the first time, that the Armed Forces shall—

> Identify, treat, and rehabilitate members . . . who are drug or alcohol dependent persons . . .

It also calls upon the Secretary of Defense to make plans and create programs to achieve this purpose and to recommend additional legislation that may be required, in the words of the act—

> To combat effectively drug and alcohol dependence in the Armed Forces and to treat and rehabilitate effectively any member found to be a drug or alcohol dependent person.

Both Houses of the Congress agreed to these provisions with the understanding, as stated in the conference report on the entire act, that these provisions were to be a prelude to further legislative action by the respective Armed Services Committees. The bill I am introducing today is in pursuance of this understanding, and I anticipate that hearings by the Subcommittee on Drug Abuse of the Committee on Armed Services will consider this and related legislation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2345

At the request of Mr. HATFIELD, the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 2345, to establish a tax deduction for blood donations.

S. 2981

Mr. AIKEN. Mr. President, the day before yesterday, on behalf of the distinguished Senator from Georgia (Mr. TALMADGE) and myself, I introduced a bill carrying amendments to the Small Watershed Act and also to the Bankhead-Jones Farm Tenants Act.

At that time, I announced that while there were only two of us sponsoring the bill, other sponsors would be welcome.

The bill is S. 2981, to provide for environmental improvement in rural America.

I ask unanimous consent that the following Senators be made cosponsors of the bill: COOPER, SPARKMAN, YOUNG, CURTIS, JAVITS, STENNIS, BOGGS, JORDAN of North Carolina, KENNEDY, TAFT, HANSEN, BAYH, MANSFIELD, BELLMON, EASTLAND, CHILES, ALLEN, RANDOLPH, STAFFORD, COTTON, MCCLELLAN, PACKWOOD, GURNEY, BAKER, JORDAN of Idaho, HRUSKA, DOLE, and PEARSON.

Mr. President, at the next printing of the bill, I understand that may not come until afer the bill has been approved, or by the committee at least, I ask that the names of these sponsors and also any other members of the Senate who would like to be sponsors of the bill may be added.

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

Mr. AIKEN. Mr. President, I will say that for anyone that has an election coming up, this would be a very good bill to be a sponsor of. (Laughter.)

Mr. President, if there is no objection, for which I now ask unanimous consent, would the Senator from Montana (Mr. METCALF), now occupying the Chair, and the Senator from West Virginia (Mr. BYRD), and the Senator from Michigan (Mr. GRIFFIN now in the Chamber allow me to add their names as cosponsors? This is a good bill, and the legislative and executive branches I am sure will be found in agreement on it.

Mr. GRIFFIN. Mr. President, with that assurance from the Senator from Vermont, I would be glad to be a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, the three additional names will be added as cosponsors.

MIGRATORY LABOR SUBCOMMITTEE SCHEDULES HEARINGS FOR CALIFORNIA ON JANUARY 11, 12, AND 13, 1972

Mr. STEVENSON. Mr. President, as chairman of the Migratory Labor Subcommittee on Labor and Public Welfare, I announce that the subcommittee will hold hearings in San Francisco, Calif., on January 11 and 13, 1972, and in Fresno, Calif., on January 12, 1972, on "Land Use, Ownership and Distribution in Rural America." The hearings are part of our continuing investigation of the impact of agribusiness and agrigovernment on farmers and farmworkers. Witnesses will include farmworkers, farmers, representatives of consumer organizations, labor leaders, local, State, and Federal officials, businessmen, and others with expertise in a variety of subject areas, including tax policy, rural sociology, agriculture economics, population distribution and movement, the environment, and economic development.

ADDITIONAL STATEMENTS

THE "BACKGROUND" OF INDIA-PAKISTAN POLICY AND KITCHEN DIPLOMACY

Mr. SYMINGTON. Mr. President, because I am confident that the contents of these three articles will be of interest to the Senate, I ask unanimous consent to place in the RECORD at this time said articles from the New York Times of this morning: first, "Goldwater Strips Kissinger of Anonymity;" second, " 'Backgrounders': Disputed Anonymity;" and third, "Kitchen Diplomacy."

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

[From the New York Times, Dec. 11, 1971]

GOLDWATER STRIPS KISSINGER OF ANONYMITY

(By Bernard Gwertzman)

WASHINGTON, Dec. 10.—Senator Barry Goldwater ignored White House rules today and revealed that Henry A. Kissinger, President Nixon's national security adviser, was the "White House official" who defended the Administration's policy toward India and Pakistan on Tuesday.

The Arizona Republican, apparently unconcerned about breaking with tradition, inserted in the Congressional Record the transcript of a "background briefing" on India and Pakistan given at the White House under strict conditions of anonymity.

The 50 newsmen who attended the briefing were obliged to identify the individual who gave the briefing as "White House officials" and were enjoined from quoting directly from his remarks.

SESSION "ON BACKGROUND"

The White House briefing of reporters on Tuesday was "on background" and the transcript as supplied by Senator Goldwater gives the flavor of how the session was conducted:

Mr. ZIEGLER. Dr. Kissinger is here with us this afternoon. What he says to you will be background. You can attribute it to White House officials, but no direct quotations. We have, of course, had a number of inquiries and questions about the situation in South Asia. What I am saying to you now is, of course, on background, because it relates to this. We thought it might be worthwhile for Henry to come out this afternoon to discuss our views on a background basis with you to put the matter into further perspective for you.

Question [from a newsman]. Ron, is there any necessity for no direct quotation? Could you explain why that is?

Mr. ZIEGLER. The purpose of this session is more putting our view and our position into perspective, and we would just prefer no direct quotation. I think it would be more productive for you.

Senator Goldwater, asked why he inserted the material into the Record, said he had asked the White House for a policy statement to clear up confusion in people's minds on

the Administration's reasons for blaming India for the war.

"The night before last I received a hand-delivered envelope from the White House," the Senator said. "It looked like a typical press handout. To me there was no marking to indicate 'secret' or 'off-the-record.' Besides I don't work that way. Occasionally I'm invited to a secret briefing. I say the hell with it."

At the White House this afternoon, Gerald L. Warren, a deputy press secretary, was asked for reaction to Senator Goldwater's revelation. He coughed, shook his head, and said, "I was not aware of that." He said that he would rather withhold comment.

"BACKGROUNDERS": DISPUTED ANONYMITY

(By Frank Lynn)

Ronald L. Ziegler, the White House press secretary, brought a guest briefer along with him last Tuesday for Mr. Ziegler's daily 4 P.M. briefing of newsmen on President Nixon's activities.

The guest was Henry A Kissinger, the President's assistant for national-security affairs, but that was not publicly known until yesterday when Senator Barry Goldwater. Republican of Arizona, identified Mr. Kissinger and inserted his briefing in The Congressional Record.

Like a visiting lecturer, Mr. Kissinger had stepped behind the podium in the mortuary-like West Wing briefing room and told 40 reporters that the United States had been working on a political settlement of the India-Pakistan conflict when India attacked Pakistan.

Mr. Kissinger, one of the most active aides on the briefing circuit, spent an hour detailing the varied diplomatic and military maneuvers in the crisis and responding to the newsmen's questions.

UNIDENTIFIED AIDES CITED

Within hours, radio, television and newspapers were telling the nation how unidentified "White House officials" viewed the conflict on the Asian subcontinent.

They were operating under an agreement with Mr. Ziegler that the information elicited at the "background" briefing could be used but that the briefer could not be identified or directly quoted.

Four days earlier, operating under similar ground rules at a briefing, Joseph J. Sisco, an Assistant Secretary of State, had criticized India for expanding the India-Pakistan conflict but was identified only as a State Department official in news stories and broadcasts reporting his verbal attack on India.

A GROWING CONTROVERSY

The incidents pointed up a growing controversy over the use of "backgrounders" by officials at all levels of government. The background sessions are used even more by governments in countries where the press is less independent than in this country.

The backgrounders are in effect full-blown news conference, with one major difference. The official conducting the news conference cannot be identified and thus is not directly responsible for what he said.

The controversy does not involve the relationship between individual reporters and government sources in which the informants risk their jobs by providing information that is often adverse to the administration in power. These contracts are generally initiated by reporters.

BRADLEE ASKS BOYCOTT

Benjamin C. Bradlee, executive editor of The Washington Post, in a recent talk at Yale University, called for a boycott of backgrounders. He contended that "by accepting unattributed information, we are allowing ourselves to be used by the government."

Noting that the sessions cannot be kept secret in government, diplomatic and media circles, because they involve so many newsmen, Mr. Bradlee said that only the reader was kept in the dark.

In an interview, A. M. Rosenthal, managing editor of The New York Times, was also critical of the background sessions. He said such sessions were justifiable at times, but added that "the press had allowed this to go much too far."

"The backgrounder has become a way of life and often becomes an obstacle in the way of the flow of full information," Mr. Rosenthal said.

USED FOR OFFICIALS' ENDS

Mr. Bradlee and other newsmen noted that such sessions were sometimes used for Administration propaganda, to float policy trial balloons and even to inform Government officials indirectly that they were in disfavor and should resign before being dismissed.

Defenders of the backgrounders, including Herbert G. Klein, the Nixon Administration's Director of Communications, and some newsmen, contend that officials are less inhibited and more likely to be frank in such sessions.

"Reporters can get more information on an informal basis," said Mr. Klein in a telephone interview. "The more important thing is to get the people the information. They don't care about who is giving the information."

The rationale for the backgrounders on the India-Pakistan crisis was that direct criticism of India by President Nixon or Secretary of State William P. Rogers would have prompted a caustic reply by Indian leaders and increased tensions between the two countries.

In diplomatic circles, backgrounders dealing with foreign affairs are viewed as primarily intended for domestic use and not to be considered an official communication between governments.

By comparison, background briefings are considerably less frequent in New York. Governor Rockefeller first revealed his intention to crack down on rising welfare costs in a rare non-budget background session earlier this year in which he explained some of his plans.

CITY HALL BACKGROUNDERS

In addition, the Governor's budget is explained at a background session in the Executive Mansion's living room every year to give reporters an opportunity to question the Governor and other state officials freely on the long, complex document.

Similarly, the Lindsay administration conducts a briefing, such as one this week, hours before release of the capital budget. However, there have been no other backgrounders that City Hall reporters can recall.

Some corporations also conduct press briefings, but they are infrequent and considerably less important than Federal Government briefings.

Despite the controversy and the varied views, Washington's background sessions have proliferated in recent years to the point where even reporters now sponsor them.

ATTRIBUTION LEVEL VARIES

There are at least five groups of reporters in Washington who regularly invite politicians and Government officials to breakfast, luncheon or dinner, depending on the group.

The principal course is an informal discussion that is sometimes completely off the record and thus cannot be printed. At other times, it may be for use but with no identification of the informant, and occasionally it may be completely on the record.

At one of these sessions, for example, the late Robert F. Kennedy first indicated that he was considering running for President in 1968.

OUSTED BY A BRIEFING

At another, James Keogh, who was leaving his post as a Presidential aide, told reporters that three Cabinet members would be leaving the Administration. It took nearly a year for the prophecy to be fulfilled, but Walter J. Hickel, David M. Kennedy and Clifford M. Hardin eventually left their Cabinet posts.

Reporters at the session were convinced that Mr. Keogh was speaking with Administration knowledge and approval and that by letting the Cabinet members read about their impending departures, he was, in office, dismissing them.

Despite the use of these reporter-sponsored sessions for such political infighting, the major controversy has been over the Government backgrounders that are initiated and controlled by the Administration, not reporters.

KENNEDY CHRISTMAS TALK

A year ago, President Nixon asked eight conservative columnists to his office. Within days, their columns were filled with unimpeachable intelligence that the President intended to name a Southerner to the Supreme Court and that liberal Republicans who opposed the Administration should pay heed to the defeat of Senator Charles E. Goodell in New York.

The late President Kennedy conducted an annual Christmastime backgrounder with reporters as he vacationed in Florida. Mr. Kennedy gave a rundown on his Administration's accomplishments during the year. Reporters, of course, were free to accept or reject all or part of the President's accounting of his own stewardship.

The invitation lists for these sessions vary. Sometimes it is reporters or columnists who have been kind to the administration; at other times, newsmen for the major newspapers and networks are invited, and, occasionally, the audience is merely those who happen to be present in a press room when a briefing is scheduled.

One exclusive invitation by Vice President Agnew backfired at a governor's conference earlier this year. A group of reporters were invited to Mr. Agnew's suite for a drink * * * record views on many subjects, including his misgivings about the growing rapprochement between Communist China and the United States.

The reporters attending the session were proscribed from printing Mr. Agnew's remarks, but when reports of his views began to circulate, other reporters—not in attendance and therefore not proscribed—printed the story.

KITCHEN DIPLOMACY

(By Anthony Lewis)

LONDON, December 10.—In the United States the President makes foreign policy. That understanding is fundamental to the constitutional system. In the end the American voice will be heard clearly only when he speaks.

But there are great dangers in Presidential policy-making, one of them that the process of decision may be too closely held, too personal. A striking example of this danger is afforded by President Nixon's policy in the Indo-Pakistan dispute.

Mr. Nixon is a committed supporter of Pakistan. The extent of that commitment, if anyone doubted it, was made clear when in receiving a new Pakistani Ambassador he publicly welcomed "the efforts of President Yahya Khan to move to reduce tensions in the subcontinent." That of a man whose forces in the last eight months have cold-bloodedly murdered thousands of innocent civilians and forced millions to flee because of their race—the most savage pogrom the world has seen in many years.

Among those who know or care about the Indian subcontinent, American policy has evoked widespread incredulity. That may rest on moral grounds, as in the case of a former American official in Pakistan who wrote Mr. Nixon to say that he could not square the policy with "my life as an American." Or the reaction may be as hard-boiled as that of The

Economist of London, which in an article highly critical of India said, "It is a mystery why the Americans should have chosen to climb so ostentatiously on board the sinking Pakistani ship."

The President must have recognized that his policy had gone to a self-defeating extreme when he sent a White House aide out to explain it all to the press. There was a defensive tone to what this unidentified man said. We still thought India was a great democracy, he said, and a stanch friend. But she had precipitately broken up secret American efforts to bring President Yahya to a political settlement with the Bengali rebels—efforts that had been near success.

Is it conceivable that the White House official believed that explanation as he gave it? Sincerity must be assumed, but it would really be worrisome if a serious man believed such a fantasy as the idea of an imminent political agreement being aborted by India.

First, there never has been any realistic chance of a settlement with the Bengalis unless Yahya freed their leader, Sheik Mujibur Rahman, and talked with him. The informed men in the State Department, the British Foreign Office and everywhere else knew that. But Yahya kept him imprisoned and put him on secret trial for his life.

Second, according to qualified American sources. Yahya in his alleged concessions had not gone near the degree of autonomy for East Pakistan that his own brutal repression had made the inescapable price for a settlement. He had talked only of a kind of federalism, with the central Government keeping the main powers of finance, foreign affairs and defense. And what concessions there were may have been encouraged by fear of Indian military action.

Third, Mr. Nixon's own State Department and other experts—not surprisingly in the circumstances—were skeptical of the prospects for those secret talks. It was even less of a surprise that the Indians were losing patience, fearing that the talks were just a device to let the Pakistan Army continue its repressions in the east indefinitely and leave the burden of ten million refugees on India.

Fourth, the Indians had reason to doubt the appropriateness of Richard Nixon as a mediator, for they had observed in him no sign of sensitivity to the torment of millions. There are times for quiet diplomacy, but to remain silent in the face of horror on that scale is too quiet.

Now there was no great mystery to these factors; certainly they were well known to the President's chief foreign policy adviser, Henry Kissinger. Why, then, did Mr. Nixon react so intemperately, so emotionally on the side of Pakistan when hostilities began?

The emotion suggests that the President felt himself involved—and injured—on a very personal level. It is well known that Mr. Nixon has long liked and respected Yahya Khan. On the other hand, he is said to have found Mrs. Indira Gandhi cold and didactic. In the words of one close observer, "This was a matter of personal chemistry."

Beyond that, the President had invested his own political capital in the effort to heal the Pakistani division. However remote in fact, he must have thought he had a chance to pull off a diplomatic coup and been overcome by pique at its failure. Then, too, there was the threat that an Indo-Pakistani war might pose to his boldest diplomatic venture, the trip to Peking.

What all this shows is the risk of overpersonalization when a President takes to himself too much of the process of foreign policy-making. The Nixon-Kissinger operation works well in important ways, avoiding the deadening bureaucracy of the State Department. But it is quite wrong when it allows the policy of a great power to be so sharply affected by personal feeling without the restraints of time and reflection that a system provides.

THE ALLENDE GOVERNMENT IN CHILE

Mr. ALLOTT. Mr. President, frequently in the period since the Allende government came to office in Chile I have called to the attention of Senators news stories that confirm my growing concern about the course of events in that country. From the start I have not shared the rosy optimism which some persons seem to feel about Allende.

My general suspicion of the Marxist Allende rested on the belief that Allende was a reasonably candid man. That is, I was alarmed by the fact that he probably is pretty much what he says he is—a Marxist. This is cause for alarm because there never has been a Marxist Government that was not first arbitrary, and then despotic, and always a determined enemy of democracy.

The arbitrariness of the Allende Government was evident from the start in dealings with American businesses operating in Chile, and most especially, of course, in dealings with American copper firms.

But in recent weeks the Allende government seems to have moved to the next predictable stage—an open embrace of totalitarian people and practices.

Cuba's Castro, this hemisphere's most conspicuous and devoted totalitarian, has just completed nearly a month in Chile. During this extended visit Allende missed no opportunity to identify with Castro.

And now Allende, perhaps inspired by the presence of the Cuban dictator, is moving with new speed through the last steps toward a solidified Communist dictatorship. He has declared emergency rule and directed his substantial police force to beat and tear gas a group he finds menacing.

And what group is this?

It is just a group of Chilean housewives who have the temerity to object to the condition that most typifies a Communist Government.

And what condition is that?

A food shortage, of course.

Any squalid dictatorship can harass rival newspapers and rival political parties. But the true mark of a real Marxist regime is that it could not grow a rose in a greenhouse. And, sure enough, Chile now has a robust food shortage.

This shortage probably helps explain Allende's embrace of Castro's month-long circus in Chile. Allende, being a not very imaginative fellow, would like to rule with the old Roman combination of bread and circuses. But he is up against the standard Marxist problem: A bread shortage. So poor old Castro has to serve—and serve for a full month—as a circus that will even distract people from the fact that there is precious little bread to go around.

But now the housewives of Chile have been beaten and gassed; and Allende has decreed emergency rule; and Allende is muttering the dark and utterly predictable nonsense about the housewives being the thin end of the Fascist wedge.

Is it not clear, Mr. President, that we have seen this sad, tiresome scenario elsewhere?

MIDAIR COLLISIONS

Mr. MOSS. Mr. President, there is perhaps no other area of greater concern to the Nation's 31,000 airline pilots than the nightmare of midair collisions. Thus, far in 1971, there have been five midair collisions in which airline aircraft have been involved. In the past 25 years, there have been some 71 such collisions—the loss of life has been horrendous. As more and more aircraft, with ever increasing capacity and speed, take to the skies, it is obvious that the hazard of midair collisions will increase.

In July, I introduced S. 2264 to require the FAA to promulgate national standards with regard to collision avoidance systems by 1973 and to require the installation of such systems on all aircraft by 1975.

This month's Airline Pilot magazine contains a lead article summarizing the problem and the solution to the hazards of midair collisions. It stresses that the problem is not just a bad dream—but a grim reality. "The SOS has been sounded: The choice is solution or slaughter."

I recommend this article to Senators and ask unanimous consent that it be printed in the RECORD.

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

THE MIDAIR NIGHTMARE

(By Carl L. Smith (WAL), Chairman, Collision Avoidance Systems Committee)

Midair collisions have been occurring with regularity for 61 years. They pose an international problem that must be solved worldwide to maintain the required standards and degree of air safety that are acceptable to any pilot—general aviation, military or air carrier. The first midair collision occurred in Italy in 1910; the first fatal midair occurred in France in 1912; the last midair collision happened . . .(?) Until such time as adequate and effective systems and measures are developed to eliminate this hazard to air safety, the most clairvoyant prognosticator would hesitate to venture even the wildest guess.

In the past several years, attention to the midair problem of both collision and near-miss has seemed to center in the United States because of the high degree of traffic density and the mix of general aviation, military and air carrier equipment. The first eight months of 1971 should bring the focus on the international level: One quarter of the midair collisions this year involving air carriers occurred outside the U.S. Just as a review, and to further point out that the problem involves all categories of aviation, the collisions were: between a Boeing 707 and a Cessna 150 in New Jersey; between an F–4 and a DC–9 in California; between an F–86 and a Boeing 727 in Japan, and between a 707 and a Cessna 150 in California. Fortunately, one of these did not incur fatalities, but the one in Japan caused the highest fatality toll yet experienced. The latter three happened during the months of June, July and August respectively. What will the future hold in store?

A bibliography of ALPA reviews and recommendations concerning the urgent need for development of adequate CAS-PWI devices consists of reports in the April 1969, January 1970 and March 1970 issues of *Air Line Pilot*. A most interesting Flight Safety Foundation report titled "Techniques for Managing the Risk of Midair Collision" discusses the problem and potential preventive measures in an unbiased manner.

The Air Transport Association, recognizing the magnitude of the collision problem, has spent about $4 million for the review and testing of the time-frequency collision avoidance system together with the joint efforts of McDonnell Douglas, Bendix and Wilcox/Sierra Research to standardize a package suitable for installation in any air carrier aircraft. Recognizing the need for a less-expensive model (consequently, less complex and comprehensive) that could operate in the same environment with the full CAS, McDonnell Douglas developed a Micro-CAS, which was displayed at the ALPA Air Safety Forum in Dallas last July. The other manufacturers are also developing low-cost time-frequency CAS-PWI equipment for use in general aviation aircraft.

Perhaps 1971 will be significant, not only for its grim record of midair collisions and continuing near-misses, but for the entrance into the field of CAS-PWI development by such other avionics and electronics companies as Honeywell, RCA and Motorola, all of which were represented at the Forum and reported varying degrees of interest and development of a system.

The ALPA CAS Committee over the past five years has been in contact with many different developers-theoreticians, all of whom have offered either a theory or an actual piece of system hardware that would hopefully provide an acceptable form of warning. ALPA cannot become engaged in the research field nor can it have a proprietary interest in any device or company, therefore, when only theories were presented, the parties were encouraged to develop some workable hardware and obtain the needed research funds. Unfortunately, funds are hard to come by and generous angels are even scarcer. As a result, the current possibilities are limited to a relatively few conceptual approaches, all of which have some drawbacks.

The two acronyms CAS and PWI are sometimes used interchangeably and occasionally erroneously, even when an accurate definition of each has been determined:

A proximity warning indicator (also sometimes called pilot warning) is not a collision avoidance system, but it is the preliminary requisite to pilot action leading to avoidance. The human eyeball is the original PWI device employed in the "see and be seen" concept of avoidance with all of its attendant problems and deficiencies. Conspicuity is the key to detection of a visual threat, and ALPA support of improved strobe lighting should not be misinterpreted as a substitute for development of a more efficient warning and avoidance system. In its purest form, PWI infers a noncooperative system that does not require installation of special equipment on other aircraft to provide an identifying signal source. A single PWI installation would theoretically provide sufficient information for the pilot to execute an avoidance maneuver. Most such systems, until now, have been cooperative systems due to the lack of sufficient technical knowledge.

CAS is dependent upon cooperation with other *suitably equipped* aircraft to exchange those bits of information that are necessary to indicate both a warning and an evasive maneuver, hence it is classified as a cooperative system. The time-frequency CAS, because of its complexity, is expensive. And the cost will vary widely from the full CAS (currently estimated to be $50,000 or more per installation) to the limited CAS, which provides only limited protection at a substantially reduced cost figure.

The interchangeable use of CAS-PWI occurs when the limited system acts as a "telephone pole" that transmits a signal to the full CAS equipment saying: "Here I am, don't hit me!" Unfortunately, the minimum equipment (telephone pole) does not have the capability of cooperating with other minimally equipped aircraft to initiate an avoidance maneuver.

The elements needed for an adequate collision warning system (and this generally applies to both PWI and CAS) are (1) relative altitude of the concerned aircraft, (2) range between the aircraft, (3) the closing velocity, also called the range-rate and (4) some determination of the time to collision (TAU). TAU is computed in the CAS equipment and provided as a readout generally in the form of a command to execute an avoidance maneuver by the pilot. In the PWI system, TAU constitutes the pilot reaction time *after* sighting the threat as a result of receiving at least items 1 and 2 above.

Several approaches to the collision warning problem have been developed and each has advantages and limitations. The use of infrared detection has been studied extensively by the former NASA Electronics Systems Center at Cambridge, Mass., and by Loral Corp. of New York, which has spent considerable time, effort and money in developing a detection system geared to the use of infrared emitting strobe lights.

This work is being continued by FAA at the National Aviation Facilities Experimental Center in Atlantic City. The cost of such a system is the lowest of any currently under development and is consequently among the most attractive to owners of light aircraft. In addition to the visual conspicuity of strobe lighting, the infrared emitted by the light can be detected by special sensors that can be mounted on any aircraft, thereby providing an additional warning. The Loral device can provide azimuth data, plus a limited degree of relative altitude information and has a sensing range of approximately three miles in VFR conditions. Converting distance to time, three miles will provide approximately a 30-second warning time at a convergence speed of 350 knots (the average head-on convergence between general aviation and air carrier aircraft at the critical altitudes below 10,000 feet MSL). The disadvantage of this system is its limitation in IFR conditions and the unavailability of speed and range readouts, particularly when applied to jet aircraft detection. Also, the strobe-light lenses can become pitted or dirty, further reducing effectiveness.

NASA's Langley Research Center has been conducting extensive tests on a system of CW doppler radar, consisting of a transmitter, receiver and display instrument plus a transponder. This system provides range, closing velocity, bearing and altitude measurements. When only the transponder is installed, it will warn of the presence of the aircraft to one fully equipped (the "here I am, don't hit me" situation) but will not provide protection to other transponder-only equipped aircraft. It is relatively simple in design and inexpensive for air carrier use, but is generally out of the price range for private aircraft. It also has the restricted capability of warning against only one threat at a time, selecting only the most severe threat.

There are at least two additional proposals that employ the use of air traffic control radar beacon system (ATCRBS) transponders. The most-limited such system measures the signal strength of transponder replies from other aircraft to an ATCRBS ground query. When a signal is strong enough, it triggers a cockpit alarm. However, it lacks the ability to sense direction and, even more important, the relative altitude of the triggering signal. It is understood that this device has been withdrawn, at least temporarily. Assuming that these basic problems are overcome, it has the advantage that all airline and most military planes are equipped with transponders, plus the more than 46,000 in use by general aviation. This does not offset the disadvantage of being entirely dependent upon the operation of the ATC system, nor the inability to determine range and range rate.

The RCA SECANT system of collision avoidance operates on an entirely different principle of transponder usage employing a 30 mHz band of frequencies to resolve the elements of relative altitude, range, range rate and time to collision. The system is designed in modular form so that only the minimal telephone pole unit may be initially installed for about $300. Modules providing greater degrees of warning and avoidance information may be added later with gradually increasing cost to the user. It is entirely independent of ground stations of any kind and claims are made that the system's accuracy meets all the critical ATA criteria. Hardware has been produced and flight tested by RCA. Tests by the Navy, with FAA input, have been conducted since early November. An assessment of the advantages and disadvantages cannot be made until full information is released concerning design and test results. Cost will be a primary factor for lightplane acceptance and usage and will control the total number of modules that will be used in any aircraft.

A latecomer in PWI–CAS development is Motorola, which until very recently has been concentrating on military production of moving target radar units. Its recent expression of interest might open up a new avenue of research into collision prevention, but time is a critical factor. Several other manufacturers have also indicated their interest in this area.

Honeywell has developed and produced a warning system for the U.S. Army helicopter school at Fort Rucker, Ala. It has accumulated over 300,000 flight hours using 285 units. It is a C-band pulse beacon ranging system with relative altitude information and the ability to discriminate range. Honeywell has modified the basic system for use by fixed-wing aircraft with an accurate determination of range, range rate and relative bearing added to the existing altitude information. It has the advantage of the building-block approach from minimal to maximum information availability with a corresponding increase in cost, and it is not dependent upon any ground system for operation or control. There is a possible problem of a requirement for a complex receiving antenna installation. Critics of this system indicate that the random nature of interrogation and reply could lead to a problem of frequency saturation.

One anticollision system that has passed ATA testing at the Martin Co. in Maryland is the one produced by McDonnell Douglas and reported in detail in the January 1970 issue of the *Air Line Pilot* by the ALPA CAS Committee. Originally named EROS (eliminate range zero system), it is used in testing military aircraft. Operational since 1966, it has made more than 15,000 flights. A similar system for civil aircraft known as EROS II, also employs the time-frequency technology and can handle up to 2,000 aircraft every three seconds. The display unit provides both advisory and command information, and the accuracy of the time-ordered reporting is maintained through ground stations or by airborne clocks carried in only a limited number of CAS-equipped aircraft. All commands relate to a vertical plane of avoidance, and advisories of potential threats are reported without any specific bearing required.

As a supplement to this full CAS, a Micro-CAS that would provide minimal information to its user and still operate fully in the time-frequency system has been developed for general aviation aircraft. A display demonstrating this ability to cooperate with the full CAS was presented at the 1971 Air Safety Forum and was the subject of a great deal of interest. Piedmont was the first airline to order the McDonnell Douglas system and United Air Lines tested it on West Coast flights in October.

Advantages of the time-frequency system are its proven use as an anticollision device with little danger of saturation and the presentation of both a threat situation and

a command action to the pilot to avoid collision. It has been endorsed by ATA for U.S. airlines.

Bendix, one of the companies participating in the ATA test and evaluation program mentioned earlier, has also developed its time-frequency CAS along lines similar to those of McDonnell Douglas. This system is known as IMAGE (intruder monitoring and guidance equipment). Its disadvantages are the high cost of the full CAS, the requirement for installation of expensive ground stations, and the relatively high cost of the Micro-CAS for general aviation. It will work in conjunction with other time-frequency systems, and there is a question of acceptance by the general aviation community.

The NASA Langley Research Center is currently working with a number of manufactureres, including Sierra Research, that participated in the ATA tests to develop a low-cost PWI for general aviation aircraft.

The "Near Midair Collision Report of 1968" published by FAA in July 1969 established areas of greatest probability for collisions based upon 2,230 situations that were reported. It indicated that for every near-miss reported, there was a probability that four others were unreported. The greatest danger of collision is between two general aviation aircraft; the greatest risk to air carrier aircraft is the danger of collision with (1) general aviation, (2) military and (3) other air carriers in a diminishing order of probability.

In November 1969, the National Transportation Safety Board held a public hearing in Washington on the midair collision problem. Every agency, organization and group with an interest in aviation was invited to participate and express its views and recommendations for a solution to this safety hazard. NTSB issued a report in 1970 that included recommendations calling for "the development and implementation of collision avoidance systems for transport category aircraft" and for "a pilot warning indicator for all aircraft or a device for small aircraft compatible with collision warning systems."

NTSB also recommended that FAA should encourage the expeditious development of a CAS for air carrier and large general aviation aircraft, make funds available for ground-support equipment required by CAS, sponsor development contracts for PWI systems to evaluate their practicability, and develop regulations to require the installation of CAS and PWI systems when they become available.

The potential loss of life in a midair collision of two wide-body or jumbo jets, although the least probable, is the worst possible situation for a single accident. The probability of two separate collisions involving air carrier aircraft with general aviation (for example, 747-Cessna 150) or military planes (DC–10—F–4) is many times greater and the final result just as disastrous.

Cost will be a major factor governing voluntary installation of CAS–PWI equipment by the general aviation fleet. Without general acceptance, no systems can satisfactorily fill the urgent need for adequate collision avoidance. Reliability of a warning system depends upon full compliance, either voluntarily or by regulation. Legislation has been introduced by Senator Frank E. Moss (D-Utah) that would require some form of CAS–PWI at a future date. No doubt there will be objections from the general aviation community until a system can be produced that will be acceptable on the basis of cost. A major investment has already been made by ATA on development. The installation cost will be even greater for the individual airlines to outfit fleets complete with full CAS equipment. Initially the protection for airlines will be only from each other until a system of mass production reduces total costs to a price range within reach of the full aviation community.

The basic requirements for satisfactory functions to be performed by airborne CAS are:

Detect all aircraft that represent a *potential danger*.

Evaluate the hazards presented by the detected aircraft.

Determine if a maneuver is required.

Indicate the evasive maneuver required to maintain safe separation.

In determining what is acceptable, the ALPA Collision Avoidance Systems Committee (composed of C. F. Pocius (FTL), A. E. Smith (PAI) and the author) set forth the following recommendations:

Any warning system must be independent of ground controller operation.

The warning system must provide protection for adequate safe aircraft separation.

It must operate equally effectively in VFR and IFR conditions for the wide range of today's aircraft speeds as well as future SST operation.

The midair nightmare is not just a bad dream—it is a grim reality. An SOS has been sounded: The choice is solution or slaughter.

DAVID REYNOLDS: INDUSTRY ENVIRONMENTALIST

Mr. HANSEN. Mr. President, the executive vice president and general manager of Reynolds Metals Co., Mr. David P. Reynolds, was named "Packaging Man of the Year" by the Packaging Education Foundation.

Mr. Reynolds was selected from more than 70 persons nominated for the award. In selecting Mr. Reynolds, the foundation recognized his contributions to the packaging field, his stature in the industry and community, his outside activities and general social consciousness, and interest in education.

The foundation very properly, in presenting the award, noted that—

Mr. Reynolds has been a leader in advancing the idea of recycling as a solution to the nation's litter and solid-waste problems.

In this regard, Mr. President, the fall-winter edition of Aluminum Progress printed an article entitled, "Aluminum's Value Will Help 'Mine' City Dumps." The article acknowledges that under the aluminum can reclamation program instituted almost 5 years ago by Reynolds metals, aluminum cans are being redeemed at the rate of more than 50 million per month. David Reynolds was a pioneer of the aluminum can recycling concept.

Mr. President, the people of Wyoming are proud that the Reynolds Co., a leader in projects aimed at preserving America's natural beauty, has invested in Wyoming's future. I ask unanimous consent that the article from Aluminum Progress be printed in the RECORD.

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

ALUMINUM'S VALUE WILL HELP "MINE" CITY DUMPS

Like a rolling snowball, the nation's aluminum can reclamation programs each month get bigger and bigger—more cans collected, more collecting stations opened, more thousands of citizens turning in cans for cash.

All-aluminum beverage cans now are being redeemed at the rate of over 50,000,000 per month in areas where these cans are in distribution. Instituted nearly five years ago by Reynolds Metals Company and now supported by much of the beverage industry and other aluminum producers, aluminum-can reclamation has become a way of life for millions of Americans.

David P. Reynolds, pioneer of the program and executive vice president and general manager of Reynolds Metals Company, reports that a number of other companies in the aluminum and packaging industries have joined in the aluminum-can recycling effort and that the number of collection points continues to grow. The latest tabulation indicates there are now more than 660 aluminum can collection centers in 31 states, and the system is still expanding and being supplemented by a fleet of mobile recycling units.

More than 12.5 million pounds of aluminum cans and other aluminum household scrap have been returned so far this year to Reynolds Aluminum—a pioneer of aluminum can recycling concept—at its reclamation centers. And, at 10 cents a pound, the company reports it has paid the public more than $1.25 million for the used aluminum, which is made into new aluminum products. This reclaimed metal is the equivalent of nearly 300 million, 12-oz. aluminum beverage cans.

"There is no question as to public approval of the aluminum industry's approach. Each month the total amount of aluminum cans and household scrap returned exceeds the previous month's total," commented Paul Murphy, vice president of Reynolds Packaging Division. "In some areas, the public response has been so enthusiastic that more than half of the total cans in use are returned for payment."

"Because of the high scrap value of household aluminum, we can pay the public a worthwhile sum, in contrast with reclamation drives for other containers that have little or no money reward," said Richard N. Bolling, manager of recycling for Reynolds.

"This cash incentive spurs environmentally concerned citizens and organizations to action. They are conducting can reclamation drives coupled with intensive and continuous programs to clear parks, beaches and roads of litter," Mr. Bolling said.

"Further expansion through new permanent centers and additional satellite collection points is planned for the coming year," Mr. Bolling said.

So, reclamation through collection centers is working, expanding and will continue to grow indefinitely because of the cash incentive. But, these programs cannot collect all of the aluminum existing in garbage. Cans are easy to save, but some will be lost regardless of how many are collected through this program. Also household foil, frozen dinner trays and other aluminum products in the home are still waiting to be reclaimed.

Two programs of householder separation of aluminum from garbage in the home are in the pilot stage. Homeowners in a suburb of Ft. Lauderdale and in several suburbs in San Francisco are removing aluminum cans and other household scrap from household refuse. The separated aluminum is picked up on the regular rounds by trash collectors and sold direct to the aluminum industry. Under this system, no further separation is required so the only reclamation process required is payment on the basis of weight. The metal is readily melted and used for a variety of new aluminum products.

Even though aluminum makes up only a small fraction of the total solid waste volume, its reclamation and high value can help subsidize a total recovery system in which many of the other recovered materials have little or no salvage value.

Mr. Bolling pointed out aluminum has several advantages which are not common to most materials which can be reclaimed from solid waste. Markets exist for the metal throughout the United States rather than in a limited geographical area; it is the highest value component of a given volume of municipal refuse and can be removed from

solid waste using existing technology and available equipment.

Dr. Robert F. Testin, director of environmental planning for Reynolds, explains the methods of separating the various materials in mixed trash and garbage this way:

"The normal first step is shredding or some other size reduction process. This breaks up the mateirals into more easily separated parts. Paper is readily removed by air classification; steel, by magnetic separation; glass, through screening, and aluminum and other valuable non-ferrous metals through dense media separation. All are processes commonly used in industry."

In the San Francisco Bay area, Reynolds is taking part in a consortium of private refuse collectors, municipalities, equipment manufacturers and material suppliers, to undertake a complete recovery program. As a result, a recycling proposal utilizing these techniques has been submitted to the U.S. Environmental Protection Agency. The same general process is being investigated for other locations as well.

Unlike the steel reclaimed from mixed municipal refuse which at this time has limited value as scrap, methods have been developed which promise the recovery of highly valuable purified aluminum from mixed municipal waste as well as incinerator ash.

The concept of total recycling of mixed municipal refuse is dependent not only on technology and equipment but on existing markets for the materials recovered—markets based on sound economics. The economic recovery of recycled materials in this refuse is dependent on the recovered aluminum. Its high scrap value and existing market price of $200 a ton helps subsidize the recovery of other materials with significantly less value.

NO-FAULT INSURANCE

Mr. MOSS. Mr. President, a letter published in the letters to the editor column of the New York Times on November 29 discusses one of the issues which is clouding the no-fault insurance issue. It was written by my friend Stanley Frankel, who reports that he has received a number of letters from others who read the letter and who felt he had touched upon a vital and determining factor affecting the changes of the legislation.

I ask unanimous consent that Mr. Frankel's letter be printed in the RECORD.

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

LETTERS TO THE EDITOR, THE NEW YORK TIMES, NOVEMBER 29, 1971

ENDING CONFLICTS OF INTEREST

To the Editor: I would hope that the issue of no-fault insurance be decided strictly on its merits, entirely free of the conflict-of-interest clouds which now hover over the debate principally because many of our legislators are, in addition, practicing attorneys.

To protect from suspicion that great majority of our legislators who are honest, dedicated and competent, and also lawyers, I would strongly recommend that all members of the legislature voluntarily make public the number of dollars, if any, in their annual income for the past five years attributable, directly or indirectly, to the handling of negligence cases which would be affected by the proposed no-fault law.

There is sound basis in precedent and law for such disclosure. In New York the code of ethics contained in Section 74 of the Public Officers Law includes a legislative declaration that ". . . The people are entitled to know that no substantial conflict between private interests and official duties exists in those who serve them." Included in Section 74 of that law is the further statement that no member of the legislature or legislative employee should "accept other employment which will impair his independence of judgment in the exercise of his official duties."

Further in the same vein, Section 73(6)(a) of the Public Officers Law provides that every member of the legislature or legislative employe shall (annually) file with the Secretary of the Senate or Clerk of the Assembly a written statement of any "interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed."

This voluntary disclosure would free our legislators to vote their conscience, in the public interest. It might, just might, also result in the passage of the no-fault insurance law.

STANLEY A. FRANKEL.

SCARSDALE, N.Y., October 21, 1971.

THE CHANGING NATURE OF THE WESTERN HEMISPHERE

Mr. CHILES. Mr. President, the events and circumstances of the visits of President Medici of Brazil and Prime Minister Trudeau of Canada point to the changing nature of the Western Hemisphere community and the need to reformulate the frameworks for our relations with the countries of the Americas. At this time, such a reassessment cannot take place without considering the cause and effects of the President's new economic policy.

The failure of President Nixon's "economic game plan" of the last 2 years, which culminated in the announcement last August 15 of the "new economic policy" has affected the lives of every American. We have been asked to tighten our belts and make sacrifices. It is indeed in the best interest of all that the new policy does work, because the Nation's prosperity is at stake. When a nation tightens its belt because he has not lived within his means, he does not pass his bills on to his neighbors. And yet this is exactly what we have done with many other countries. What is worse, we have penalized with the 10-percent surcharge on imports those nations which can least afford the penalties and which bear no guilt for our deteriorating balance-of-payments situation.

I wish to make it clear that I support the President's overall economic policy. I support his efforts to strengthen the economy and to halt the deterioration of our balance-of-payments situation. There are countries that because of their monetary or trade policies have taken unfair advantage of our past trade policies, and I support steps, including the use of the 10-percent surtax as a lever to correct these unfair practices.

What I cannot support is the use of the surcharge in a manner which will worsen our already precarious relations with less-developed countries. I am particularly concerned with its impact on the nations of Latin America. The administration claims the surcharge was necessary, because of the deterioration of our balance-of-payments situation. What the administration has not pointed out is that trade with Latin America constantly produces a surplus for the United States, $790 million in 1970 and approximately half a billion dollars in the first half of 1971. In this past year our agricultural exports alone to Latin American countries amounted to $528,906,000, a significant factor in our surplus, and this total is growing as can be seen in the following figures:

VALUE OF AGRICULTURAL EXPORTS TO LATIN AMERICAN COUNTRIES [1]

	1967	1968	1969	1970
Mexico	70,497	81,253	91,580	154,864
Guatemala	13,937	14,814	10,198	14,396
British Honduras	2,370	2,471	2,285	2,913
El Salvador	7,696	8,300	9,549	11,453
Honduras	5,676	6,909	5,444	7,965
Nicaragua	6,475	6,142	5,501	5,756
Costa Rica	7,688	8,777	6,798	9,442
Panama	16,413	15,611	15,573	17,126
Colombia	2,485	32,417	30,701	37,703
Venezuela	90,129	89,817	89,726	97,155
Ecuador	10,611	11,840	10,848	12,495
Guyana	4,791	3,555	4,838	3,947
Surinam	3,733	4,138	4,001	5,343
Peru	41,939	21,690	14,446	32,441
Bolivia	12,211	10,545	7,888	6,747
Chile	24,630	34,954	25,788	31,688
Brazil	109,312	87,407	68,206	68,166
Paraguay	9,970	3,422	3,136	2,673
Uruguay	2,438	19,890	2,508	1,850
Argentina	2,675	3,378	11,557	4,783
	436,677	467,330	420,571	528,906

[1] All figures in thousands of dollars.

To penalize Latin American nations with the surcharge seems, therefore, not only unjust, but self-defeating since trade with those nations actually benefited our balance-of-payments situation. In addition, one effect of the surcharge will be to decrease the purchasing power of these nations and thereby adversely affect the United States since these countries purchase most of their imports from us. Some countries have been particularly hard hit. For example, 39 percent of Mexico's exports to the United States, 71 percent of Argentina's, and 86 percent of Uruguay's are affected by the surcharge.

The reaction by the Latin American nations to the surcharge has been understandably bitter. I have read reports that many nations are intensively searching for new markets for their products. It is an economic fact of life that once new trading relationships are established, our old customers will be making purchases from their new partners and not from us. The developed nations, our competitors for the markets of the world, are making every effort to attract these potential customers. They are doing so by granting import credits and other special concessions. The actions of President Nixon have played into the hands of the very nations which he claims have contributed to the deterioration of our situation. He has so alienated less developed nations with what one of their spokesmen referred to as "indiscriminate application" of the surcharge, that the long-range negative results of his actions may not be measured until long after the elections of 1972.

In order to attempt to correct the inequities of the surcharge aspect of the President's program, I suggest that President Nixon state exactly when he intends to abolish the surcharge which he called a temporary measure more than 3 months ago. The American people must

be aware that the failure to abolish the surcharge may well result in a trade war, and in this type of war there are no winners, only losers. In addition, I suggest that the nations of Latin America be exempted immediately from the surcharge. The surcharge is directed at the very sectors of the Latin American economies in which there is greatest potential for an increase in exports. These countries have industrialized at the encouragement of various U.S. programs and now the surcharge penalizes the results of those efforts. In addition, the surcharge is incompatible with the commitment of the United States, as stated by President Nixon himself, to give Latin American products easier access to the U.S. market.

In light of the President's recent statement to Prime Minister Trudeau that the United States will simply be trying to maintain an overall position of balance in the world economy community, continuing the surcharge on Latin American imports becomes even more incompatible with this country's expressed desires.

It is my opinion that we must take these actions if we are to regain the respect of our neighbors. We must act as befits the greatest nation in the world, not as a protectionist country afraid of competition. I have sufficient confidence in the ability of U.S. industry to compete freely in the world that I do not believe it must hide behind artificial barriers.

Two years ago President Nixon stated that the nations of Latin America "need to be assured of access to the expanding markets of the industrialized world." I believe the United States should assume a position of leadership in this respect. The first step to take in this direction is to exempt Latin America from the surcharge.

TRAGEDY IN ULSTER—XIII—THE COMPTON REPORT

Mr. KENNEDY. Mr. President, one of the most significant developments in recent weeks on the situation in Northern Ireland is the release of the Compton report, the report of the official British inquiry into the allegations of torture and brutality in the Ulster internment camps.

Although the report contains a great deal of additional information and discussion, the heart of the report is its finding with respect to the interrogation procedures used against internees—the so-called interrogation in depth—paragraphs 43–105 of the report. The report found that allegations in five separate areas were substantiated:

Internees were hooded.

They were subjected to loud and deafening noise.

They were forced to stand against a wall for hours at a time, with their legs spread apart and their hands over their heads against the wall.

They were deprived of sleep.

They were deprived of food, or restricted to a diet of bread and water.

In the case of each of these allegations, the report found that the actions constituted "physical ill-treatment," rather than torture, cruelty, or brutality. As the report states in paragraphs 104 and 105:

104. It will be noticed that while we are asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.

105. Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality on the part of those who handled these complaints. We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.

Elsewhere, I have made my own comments on the report and the distinction it attempts to draw between brutality and "ill-treatment." I hope that all who are concerned over the deepening tragedy in Northern Ireland will read the report and judge for themselves whether such actions can possibly be justified or condoned in any circumstances. I believe they cannot.

Mr. President, I ask unanimous consent that the Compton report be printed in the RECORD, together with the following items: News articles from the New York Times and Washington Post of November 17, 1971, on the publication of the report; an editorial from the London Sunday Times of November 21, 1971, entitled "A Lowering of Civilized Standards;" additional articles by Anthony Storr, Nicholas Tomlin, and Lewis Chester in the same issue; an editorial for the London Observer of November 21, 1971, entitled "Where Compton Went Wrong;" an article from the London Sunday Times of November 28, 1971, by Lewis Chester, entitled "Ulster Doctors Say Interrogated Patients Have Been Injured," and, finally, a letter to the London Times by Graham Greene, reprinted in the New York Times of December 2, 1971.

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

[From the New York Times, Nov. 17, 1971]

BRITISH COMMISSION DENIES BRUTALITY IN ULSTER PRISONS

(By Bernard Weinraub)

LONDON, November 16.—An official British commission found evidence today of mistreatment of political prisoners in Northern Ireland but rejected allegations of widespread brutality.

The three-man panel, in a detailed 72-page report, listed cases of "physical ill-treatment" of suspects who were seized Aug. 9 in roundups directed at Irish extremists. The commission said that prisoners were placed in "hooded isolation," subjected to "continuous and monotonous noise," placed on a bread-and-water diet and deprived of sleep.

"Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality," said the commission, headed by Sir Edmund Compton, Northern Ireland's ombudsman. "We consider that brutality is an inhuman or savage form of cruelty. We do not think that happened here."

The findings are expected to arouse controversy in Britain and Northern Ireland. Although the two-month inquiry listed cases of mistreatment against the interned Roman Catholics, more serious charges of brainwashing, third-degree methods, savage beating and torture were swept aside. The charges had been made by Catholics as well as by Amnesty International, a private organization, and in reports published in The Sunday Times of London and other British and Irish newspapers.

CHARGES TURNED DOWN

With the report, the Government firmly turned down the charges.

"The Government reject any suggestion that the methods currently authorized for interrogation contain any element of cruelty or brutality," said Reginald Maulding, the Home Secretary. "The report of the committee confirms this view."

But Mr. Maulding, speaking to an unruly House of Commons, took note of the "ill-treatment" and announced a review of the Government's rules of interrogation in Northern Ireland. An emergency debate on the Common report will take place tomorrow.

The commission members said that suspects were ill-treated in numerous ways in the early days of internment in the British province.

"Detainees were required to be kept fully hooded except when interrogated or in rooms by themselves," the report said. While detainees were held together pending interrogation or between interrogations, they were subjected to a continuous hissing noise, or electronic 'muuh,' loud enough to mask extraneous sounds and prevent effective oral communications."

The inquiry added: "We find ill-treatment in the diet of one round of bread and one pint of water every six hours for men who were being exhausted by other measures at the same time. It was confirmed that it was the general policy to deprive the men of opportunity of sleep during the early days of the operation."

LEANED AGAINST WALLS

The committee found that prisoners were forced to stand, legs apart, leaning with hands raised up against a wall for four-hour to six-hour periods.

Another part of the report discussed five men who alleged that they had been forced to carry out prolonged, physically taxing exercises. They said they had been kicked, punched and struck with sticks if they failed to perform the exercises.

The inquiry, rejecting the allegations of brutality said that the physical activity "must have caused hardship but we prefer to take the view that the exercises were devised to counteract the cold and stiffness of which the arrested persons complained."

"We think there was lack of judgment there, but not cruelty or brutality," the report said.

PANEL DEFINES CRUELTY

It added: "We consider that brutality is an inhuman or savage form of cruelty—and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think it happened here."

Northern Ireland's Protestant-dominated Government, with the support of Britain, announced the controversial internment policy on Aug. 9 to root out terrorists and gunmen in the six counties of Ulster. The tactic spurred a wave of rioting, arson and killings in Ulster and thrust the province into the most severe crisis of its 50-year history.

The Roman Catholic minority said that the policy of indefinitely interning suspects without trial was aimed solely at their community, and bypassed Protestant gunmen. Catholics also charged that the army and the police were seeking merely to uphold the provincial Protestant Government, which most Catholics now reject.

A total of 980 men were seized under the internment policy from Aug. 9 to Nov. 10. A little more than half—508 men—have been released. The British Government said that 472 were now being held.

The other members of the panel, besides Sir Edmund, were Dr. Ronald Gibson, former chairman of the British Medical Association Council, and Edgar Fay, a judge from Plymouth.

ULSTER GIVES NO RESPONSE

BELFAST, NORTHERN IRELAND, November 16.—The Government of Northern Ireland made no official comment today on the Compton report, but privately some officials regarded it as vindication of Prime Minister Brian Faulkner's recent insistence that there had been no brutality.

Gerry Fitt, leader of the Opposition Social Democratic Labor party, said he found it hard to accept the report's definition of ill-treatment as opposed to brutality. It is no more than an exercise in semantics, he said.

The Civil Rights Association, whose campaign for reforms has been swept aside by terrorism, described the report as a whitewash. Nevertheless, it added, it was still a damning indictment of the internment operation. The association again urged the Government of Ireland to start proceedings against Britain before the European Commission for Human Rights at Strasbourg.

The Rev. Ian Paisley, the militant Protestant, said the report proved that the "outrageous allegations" were totally unfounded.

[From the Washington Post, Nov. 17, 1971]

BRITAIN DENIES USING TORTURE IN ULSTER

(By Alfred Friendly)

LONDON, November 16.—An eminent British investigating team rejected today allegations that terrorist suspects in Northern Ireland had been tortured or subjected to brutality, but reported that about 14 of some 900 men arrested under internment orders had suffered calculated "ill-treatment" during prolonged "deep interrogation."

The ill-treatment consisted—almost exactly as asserted in a series of statements or reports smuggled to Irish and British newspapers some weeks ago—of subjecting the men interrogated to deprivation of sleep; standing anywhere from 9 to 49 hours while leaning on their hands, legs apart, against a wall; constant exposure to a high-pitched sound for days on end; a bread-and-water diet; and being hooded with a sack or opaque bag throughout the two to four-day period of interrogation.

The treatment was administered by the Royal Ulster Constabulary, but the methods, it was acknowledged, were those developed by the British army and used by it in the past in such "internal security" situations as Cyprus and Aden. Some army "advisors" were present during the interrogation sessions.

Home Secretary Reginald Maulding, presenting the inquiry commission's report to Parliament today, said he was "entirely satisfied" that the methods did not violate the rules laid down. The commission said the rules themselves followed the broad principles of those permitted in the Geneva Convention for persons arrested in civil disturbances.

Nevertheless, the report was disturbing enough to prompt the British government to establish a Privy Council board of three men to consider whether the methods, even though they are authorized for the interrogation of terrorist suspects, need to be amended.

The board will be chaired by Lord Parker, the former chief justice of Britain, with one privy counsellor to be named by the government and the other by the opposition Labor Party. They are expected to take evidence and make a report promptly.

A significant increase of suspects arrested and munitions discovered since the internment order suggests that the interrogations have produced results.

Since the first of this year, 35 British soldiers, 9 police and 76 civilians have been killed, and about 200 soldiers and 400 civilians, two-thirds of them women, have been hospitalized in Ulster—almost all from the guns and bombs of the illegal Irish Republican Army (IRA) in Ulster. Many of them have been maimed for life.

The inquiry commission, comprised of Sir Edward Compton, the former ombudsman of England and present ombudsman of Northern Ireland, a barrister, and a physician who is head of the Royal Medical Society, examined all known allegations of torture, cruelty and maltreatment of the approximately 900 persons arrested (more than 500 have since been released) since Aug. 9, when the Special Powers Act was invoked providing for internment without trial of IRA suspects.

Only one of the complainants, however, appeared before the commission. For the rest, it had to examine allegations published in the newspapers or by Amnesty International, most of which, with names of alleged victims specified, were forwarded in their original form to the commission.

From internal evidence, however, the report is persuasive that with respect to the army's arrest Aug. 9 of more than 300 suspects and its treatment of them until they were put into police jails, there was a minimum of ill treatment and all of it indavertent, albeit careless and callous.

The real question was what happened to 14 men, all believed to be key IRA figures, with detailed information to be wrested from them.

For these cases, the Compton Commission said that "while we were asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.

"Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality . . . . We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in the victim's pain. We do not think that happened here."

Nevertheless, the commission's report shows that the "ill-treatment" was a deliberate method to elicit information.

[From the London Sunday Times, Nov. 21, 1971]

A LOWERING OF CIVILISED STANDARDS

The main question raised by the Compton Report on internment in Ulster concerns not the British Army but the British and Northern Irish Governments. That this fundamental point should be so widely overlooked is a measure of the extent to which the Irish problem is once again subverting British politics. In last week's Commons debate, probably the worst since the election, it was regularly asserted that the Army was magnificent, that it was miraculously restrained, that it faced an inhuman enemy, that it merited the support of every Englishman. All that is true but it does not close the discussion. For it is not the Army but the two Governments which have decreed how suspects may be arrested, detained and interrogated, just as it is they whose policies have placed the Army in a pitifully vulnerable position on the streets of Ulster. Politicians have no rightful claim on the soldier's privilege of shelter behind a grand summons to patriotism.

Compton is an inevitably imperfect inquiry. The unjustifiable refusal of the detainees to testify about their treatment made it impossible seriously to test the counter-evidence of the authorities. Too often Compton gives the authorities the benefit of the doubt, where the doubt is by any quasi-judicial standard so great that no convincing conclusion is possible. Similarly, as Dr. Storr shows on this page, Compton accepts at face value the distinctly odd official descriptions of the purpose of hooding, deafening, isolating and exhausting some prisoners. None the less Compton's supreme value is that it has confirmed the existence of these practices, stigmatised them as ill-treatment and published its conclusions. People can judge what is being done in their name.

These interrogation methods have been variously justified. They flow naturally, it is said, from internment itself. This is a bloody business, but what is one more piece of necessary bloodiness compared with the bestial actions of the IRA? Besides, the methods are not as unpleasant as they might be. They are used on only a tiny fraction of prisoners. They fall within regulations approved by the Labour Government after Aden in 1967. In any case and above all, the argument concludes, the methods are proving effective.

This defence is unsatisfactory in several respects. The 1967 rules are far from conclusive. They specify only general principles, and leave wide discretion to the particular authorities in the particular place at the particular time. Among other standards they decree that interrogation methods must not be "humiliating" or "degrading" or "cruel." Could the methods used in Ulster be thus described? Compton, unhappily, shrinks from saying.

In our view the methods, considered objectively, are plainly cruel and need to be justified as such. If they were approved for use in any British police station, where the need for information is sometimes just as urgent as in Ulster, there would be universal outrage. They might even be called brutal; just as the physical regime applied to detainees at Ballykinler detention camp would be considered inhuman in English prisons, even if applied to convicted murderers.

In judging whether such cruelty is justified, it is relevant to remember that we are not discussing the penalty for a convicted killer. Some of the men interned are, undoubtedly, gunmen and actual or potential murderers. Others have close connections with the Provisional IRA and could supply much information. But many other detainees fall into neither of these categories. Of all people detained since August, half have been released. Several of those dealt with by Compton have also been released. Moreover there is no reason to suppose that these interrogation methods have not been applied to many other detainees. We are dealing here, therefore, not solely with cruelty inflicted on gunmen but with cruelty inflicted on people who are innocent in law and perhaps in fact.

A hypothetical question is sometimes posed to justify this. If you knew, the apologists argue, that a man had information which, if extracted from him, would save a life, is not cruelty then justified to get it out of him? But this question begs others: how can you be sure he knows, or that death would otherwise follow, or that cruel methods extract reliable information? Another hypothetical question could equally well be posed: If you knew that by ending cruel interrogations, and internment itself, you could increase Catholic support for moderation and reduce support for the IRA, would not that be the best course?

These are both uncertain speculations. Against them stands the certain fact that in this country the State is the guardian of law, order and civilisation. Even if the methods employed against detainees in Ulster have had some useful effect, there is in our opinion no situation which justifies a State in performing acts of systematic cruelty, still less in performing them against inevitably random suspects. Both for self-respect and for the respect of the world, the British must keep clean hands. Society weakens rather than strengthens itself when it lowers its own standards. British society now stands in such a danger.

That hooding, deafening and exhausting untried prisoners can be justified as acts of State is a sign, as Mr. Callaghan suggested that we are following the vicious men of the IRA down the spiral of inhumanity. That these methods can be justified today by people who only a few weeks ago attacked this

newspaper for disclosing them is evidence that public debate is also on a downward slide. It was said then that publication was irresponsible: the stories were a terrorist fantasy; the integrity of the authorities was being undermined by manifest propaganda. Yet Compton surely justifies the view that public debate, based on knowledge of the facts, is a necessary corrective to official conduct.

This is one answer, if any were needed, to the demand for censorship. Mr. Faulkner himself has now ruled out censorship. It would be a disastrous as well as an evil expedient. However, a subtler form of censorship than the official variety is already beginning to show itself. This consists of an attempt to imprison all who report on Ulster or express an opinion about it within a narrow dialectic. On this view, any criticism of present policy is an attack on British soldiers, and any scepticism about Ulster's future is support for the IRA; no report, in other words can be free of taint or virtue, as a contribution either to defeat or to victory.

This view is put forward by newspapers as well as politicians but it is a quite unacceptable definition of the journalist's task. It is possible to detest and abominate the methods of the IRA, as we do, and still question the future of Stormont. It is possible to endorse and support the British Army, as we do, and still despair of the statesmen. There is no inconsistency here and no betrayal. This is not a war for the survival of Britain, but a political disaster which must be resolved in the end by democratic politicians and democratic methods. The real betrayal would be for newspapers to abdicate their part in that process.

[From the Sunday London Times, Nov. 21, 1971]

A Psychiatrist Explains Why Hooding Is Mental Torture

(By Anthony Storr)

The Compton Report has commented unfavourably upon the use of certain interrogation techniques in Northern Ireland in the following terms: "We consider that the following actions constitute physical ill-treatment: posture on the wall, hooding, noise, deprivation of sleep, diet of bread and water." To a psychiatrist, the phraseology seems odd. For, although these techniques do of course constitute physical ill-treatment, the mental effects of them are far more striking than the physical (with the possible exception of loss of weight); and the primary purpose of using them is to produce mental disturbance and disorientation in order to persuade the victim to become compliant in supplying information.

To anyone who has read anything about psychological experiments in so-called "sensory deprivation," the derivation and purpose of these techniques is obvious. Psychologists have for some years been investigating what happens to people when their normal sensory contact with the external world is cut off or grossly diminished. To this end they have confined volunteers in sound-proof, darkened rooms for varying periods, and have also tried to reduce tactile stimulation to a minimum. Even in volunteers who are actively trying to cooperate with the experiment and who are being well paid, the results are striking.

The normal brain depends for its proper functioning upon a continuous stream of information reaching it from the external world. Deprive it of this "sensory input" and it begins to function abnormally. Nearly all subjects become disoriented in time; and most report serious difficulty in concentration. Even a day or two of sensory deprivation impairs a subject's ability to solve complex problems. More importantly, sensory deprivation increases suggestibility.

To one experiment, susceptibility to propaganda was shown to increase eightfold in subjects confined in these special rooms as compared with controls in normal circumstances exposed to the same propaganda. A high proportion of subjects experience visual hallucinations. One out of five apparently normal volunteers demand to be released prematurely from the darkened room because they cannot stand the mental effects; and this almost always takes place within the first forty hours of the experiment. Some become convinced that the experimenter has abandoned them; others suffer attacks of panic or become preoccupied with strange obsessions. In the experimental situation, a "panic button" is always provided, and the subject told that he is to press it if the stress becomes intolerable.

Sensory deprivation mobilises a man's most secret fears and anxieties, more especially the suspicious, "paranoid" component which exists to varying extent in all of us. In one experiment conducted chiefly with Princeton students, the few extra volunteers who came from further afield stood the process much less well than those who were on familiar terms with the experimenters.

Sound-proof, light-proof rooms are very expensive, but "hooding" is an effective substitute. A thick hood over his head prevents a man getting visual information. Moreover, such a hood can be tightened to the point where a man fears suffocation. Noise machines are equally efficient. If you cannot prevent a man hearing anything at all, you can at least restrict his auditory experience to one loud, monotonous and unpleasant noise which prevents him hearing anything else.

The brain does not only depend upon sensory input for normal functioning, it also needs oxygen and sugar. Starve a man, or restrict him to six-hourly bread and water, as was done in Ulster, and his brain will become short of sugar. We have all experienced the irritability and loss of concentration which occurs when we have missed a meal and our blood sugar is low. Partial starvation greatly increases a man's susceptibility to pressure.

Moreover, being forced to stand upright for hours against a wall (in one case for 43½ hours over a period of six days) impairs the blood supply to the brain, which is why guardsmen sometimes faint on duty. Add to this deprivation of sleep, and it is easy to see that brain function will quickly become so impaired that the sufferer is in no state to resist the pressures brought to bear upon him.

Sensory deprivation is alarming enough when carried out on volunteers under ideal and friendly conditions. When used against enemies the effects must be terrifying. Mr. Maudling has said publicly that there was no permanent injury of either a physical or a mental nature to any of the men concerned, but I wonder how he knows.

I once examined a diplomat who had been confined in a Communist mental hospital and who had been interrogated to obtain information. He did not recover quickly from his experience. Extreme psychological stress of the kind described may leave after-effects for years; chronic anxiety states, phobias, tremors, and all the symptoms of a "traumatic" neurosis. Psychiatrists who worked in the Forces in the last war did not find that all patients who had been exposed to extreme stress recovered quickly or even at all.

Even at the physical level, the results must surely be uncertain. Only long-term followup of peope who have been subjected to these highly stressful procedures will reveal whether they have been permanently damaged either mentally or physicially. If Mr. Maudling knows of such a long-term study he ought to give us the reference.

The Compton Report may not willfully misrepresent the effects of noise and hooding, but the phrases it uses of these procedures appear to be tendentious understatements. Hooding, for instance, is said to provide security for the detainee and his guards, because it interferes with identification. The tentative last sentence upon its effects runs: "It can also, in the case of some detainees increase their sense of isolation and so be helpful to the interrogator thereafter." Similarly, of the use of noise, the report states: "The continuous use of noise to which detainees may be subjected prevents their overhearing or being overheard by each other and is thus a further security measure." But the nub of the matter is in what follows: "By masking extraneous sound and making communication more difficult it may enhance the detainee's sense of isolation."

In other words, sensory deprivation is being used as a rapid technique of producing an effect which ordinary solitary confinement takes some weeks to achieve. Students of Russian and Chinese methods of dealing with prisoners have long been familiar with the fact that isolation in an ordinary prison cell, even without sensory deprivation, produces profound mental effects in most normal persons. There have of course been striking examples of unusually robust individuals maintaining their mental health more or less intact over long periods, even when all communication with other human beings is rendered utterly impossible. But the average man is so dependent upon human relationships for maintaining his sense of identity and his mental health, that sudden deprivation of it causes breakdown.

Isolation renders a man intensely dependent upon his interrogator, since the latter is the only human contact available to him; and the purpose of the isolation routine is to induce this dependence, so that confessions may be obtained. It is probable that such a state of mental breakdown can be far more quickly achieved if sensory deprivation is used as well as, or even instead of, simple isolation. Although there is no evidence as yet that the detainees in Northern Ireland have been subjected to total isolation of the kind used by the Russians, yet there is no doubt that the procedures described have as their object the cutting off of the detainee not only from his normal sources of sensory input, but also from human contact. Of course this is "helpful to the interrogator." Whether it is morally justified is another matter.

Nearly everyone can be reduced to a state of helplessness, dependency, and even mental illness if the right techniques are used. The physical results of such treatment are severe enough, and some may be permanent. The mental effects are much more difficult to predict; but the effects of terror are seldom entirely transient.

Debate that Fell Flat

(By Nicholas Tomalin)

On Wednesday the House of Commons spent three hours debating the Compton Report. It should have been a memorable debate, for the ill-treatment (or brutality, or rigorous questioning) used against detainees in Northern Ireland is, to say the least, an important subject.

Yet all that remains vividly in the mind after all that talk is that Sir Harry Legge-Bourke has a grandfather who once horsewhipped a newspaper editor, and Mad Mitch—now Lieutenant-Colonel Colin Mitchell, MP for Aberdeenshire West—delivered a paeon of praise for British military Interrogators which included this classic of officer-like brusquerie: "One cannot have every loose Jock interrogating prisoners."

Indeed we can't. But is this the only limit we are to place on judicial violence? And what is a loose Jock, anyway? An ordinary Scottish soldier, apparently.

The problem, presumably, is that although it is an excellent idea for the Commons to debate great matters while they are still fresh and important, the new Section Nine procedure which allows MPs to do so,

seems to be too swift. Most MPs hadn't had time to read the Compton Report.

Therefore most of the debate consisted of stock responses, angrily shouted to-and-fro. The Tories from military constituencies or backgrounds used the opportunity to curry favour with their voters, and Left-wingers or Irishmen used it as a convenient stick with which to beat the British Government.

It was left to two or three front-benchers and to Roy Hattersley, to try to explore what the debate should really have been about—how far Compton had revealed that British interrogators had gone too far in their "ill-treatment?" And beyond that: to what extent are the elected leaders of a country which tries to behave decently, even in virtual war situations, prepared to tolerate violence against imprisoned enemies?

Obviously, as everyone tacitly agreed, some violence must be used. This is necessary both to get the enemy into prison and then to persuade him to offer useful information once he's there. But how much violence? And what are the guidelines? And when does such violence begin to help the enemy more than the captors because he uses it for his propaganda?

The Home Secretary's argument was based on two lines of defence. Firstly, Mr. Maudling declared that Compton had shown all the questioning procedures to be reasonable, except perhaps the so-called "interrogation in depth" of the 11 detainees. And here, he said, the information gained by the rough stuff was worth being rough.

Secondly, even if the Opposition found such questioning techniques bad, they were all conducted according to guidelines laid down in 1965, by the Labour Government. They had been previously used, in Malaya, in Borneo, in Aden—and who had protested then?

Denis Healey rose, and in the nearest which the debate got to a serious analysis of the situation, sought to explain that the guidelines about questioning prisoners merely laid down things which interrogators should *not* do. That is to say, they had defined the limits beyond which questioners should not go. Within these limits, who had told the troops and Special Branch to hood prisoners, to make them lean against walls? Who had authorized that "monotonous sound"? *Someone* must have issued specific instructions.

Here Roy Hattersley scored a good point. If there was a vague area where troops could be specifically instructed, was it perhaps Stormont more than Westminster that was calling the tune? Had the standard of behaviour, perhaps, declined because different people were now issuing the orders?

Because of that—perhaps—the Army was progressively losing the Catholic population's confidence in the fact that it was still an impartial force.

The men who should have answered these questions summed up the debate. James Callaghan, with his great talent for sounding wise and judicious, managed at times to be both. He made it clear that in his opinion the Compton Report had shown that interrogation had gone too far, and whether this was called ill-treatment or brutality didn't matter too much.

Beyond that, he merely urged everyone to be worried about it, to urge Lord Parker and his Commission to think *hard* about what we were doing.

BEASTLY

And so to Lord Balniel, Minister of State for Defence, who once again said that Compton had shown that, by and large, the Army and interrogators had behaved well. That in the tiny number of cases where prisoners had suffered "hardship" it hadn't been inflicted deliberately, and anywhere where it had, this had been done according to those 1965 guidelines. Northern Irish politicians had directed some of the actions, but the Westminster Government had agreed.

Lord Balniel started to round off his argument; he sounded—almost—as if he was going to do some proper summing up. But then Miss Bernadette Devlin stood up, and started shouting, and others shouted at her, and the Speaker was angry, and five minutes passed, and by the time it was over the noble Lord had no time to say anything except that IRA were beastly and the information obtained" was valuable—which we knew before.

Still, there's another debate on the subject soon. Maybe MPs will have more time to get down to fundamentals then.

CHARGES THAT STUCK

(By Lewis Chester)

On October 17 The Sunday Times published an article entitled "How Ulster internees are made to talk." It provoked bitter controversy and emergency Cabinet meetings in both Stormont and Westminster.

Various military experts asserted on television their disbelief of the allegations described. Lord Chalfont, for example, a former professional soldier, and Minister in the last Labour Government, said on Panorama that the allegations suggested a degree of organised ill-treatment that did not have the ring of truth. He thought they showed "a certain amount of vivid imagination and a careful study of television programmes."

A letter from a Belfast reader (which we published) censured The Sunday Times for publishing the internees' "impossible fantasies of ill-treatment."

On the day after the article appeared, The Times reported: "Mr. Heath heard directly from Mr. Faulkner, Prime Minister of Northern Ireland, that the charges are substantially without foundation."

It now appears that the allegations, contained in the original article, were substantially *with* foundation. In some respects they may have been understated.

On the basis of the official inquiry, headed by Sir Edmund Compton, and published last Tuesday, one can test the validity of these allegations. The original article referred in some detail to the experiences of 14 people arrested under the Special Powers Act.

The Compton inquiry confirmed the following aspect of the original story:

1. That 11 of the men named in our article did experience "in depth" interrogation for a period of six days at a centre in Northern Ireland.

2. That the interrogation methods, though largely conducted by Royal Ulster Constabulary personnel, were evolved by the Ministry of Defence.

3. That it was normal for these detainees to be kept hooded with black bags except when interrogated or alone in the rooms.

4. That they were required to stand against a wall (legs apart, leaning with hands raised up) for periods of four to six hours. The Compton report volunteers the information that the total period varied from 43½ hours in one case to nine hours in others.

Compton notes, however, that in one case mentioned in our article the wall-standing procedure may have been less exhausting: Mr. Patrick McClean "persisted in collapsing."

5. That for much of the time detainees were afflicted by a continuous electronic "mush" which contributed to their sense of isolation.

The Compton inquiry did not confirm the following allegations made in the original article:

1. That one of the 11, Mr. Patrick Chivers, was deprived of food and sleep for two or three days. Compton notes, however, that for all those named a policy of sleep deprivation was the norm during the initial period of interrogation. Similarly, although food was not refused, the normal ration for the first four days was bread and water at six hourly intervals. Compton considered both the diet and the sleep deprivation evidence of "physical ill-treatment." (Hooding, noise and enforcement of the wall position also fell in this category).

2. That during his interrogation Mr. Bernard McGreary was regularly beaten about the stomach. Compton concluded that this allegation was not substantiated.

3. That Mr. William Shannon, while detained at Police Holding Centre in Palace Barracks, Holywood, was denied proper treatment for his ulcer and beaten about the stomach. Compton notes that the medical officer at Holywood was appraised of Shannon's suspected ulcer. The beating charge was not substantiated.

However, Compton did ascertain that when Shannon was transferred to the more rigorous interrogation centre, medical examination revealed "a small bruise on his back, his left shoulder and his left side at the level of the navel." Compton offers no explanation for these injuries. At the interrogation center Shannon went through the hooding and wall-standing routine for six days. This information was not contained in the original Sunday Times article.

4. That the "in-depth" interrogation took place at Holywood. Compton did not, however, say where it did take place.

Other instances of alleged ill-treatment of seven other detainees named in a Sunday Times article of October 24 appear to have fallen outside Compton's terms of reference.

The committee refers to the justification for the interrogation methods as necessary "in the interest of saving lives" but does not comment on its validity.

In his introduction to the report, the Home Secretary, Mr. Maudling, stresses this aspect, pointing out that since August, 1969, more than 150 people have been killed in connection with the Ulster emergency. He does not mention, however, the fact that well over half have been killed since internment (and with it, of course, the interrogation procedures outlined by Compton) was introduced just over three months ago.

[From the London Observer, Nov. 21, 1971]

WHERE COMPTON WENT WRONG

The Compton report into allegations of brutality by troops and police in Northern Ireland raises a number of important, difficult and extremely disquieting issues that cannot be shrugged aside. To say this is not to wish to "stab the Army in the back," but to prevent it being plunged more deeply into the kind of bloody morass it experienced in Palestine in 1948 and, more recently, in Cyprus and Aden.

The Compton Report, like the conduct of the Army, cannot be divorced from the political background. The IRA has already succeeded, to an alarming degree, in becoming the champion of a large part, perhaps a majority, of Ulster's Catholics. Unfortunately, the Report—by the inconclusive nature of many of its findings and the numerous doubts it raises and fails to dispel—has failed to convince the Catholics of its impartiality.

The cards were stacked against the inquiry from the start. Its composition and limited terms of reference were hardly calculated to induce confidence. The choice of Sir Edmund Compton as chairman was particularly unfortunate. He has, in a high degree, the virtues of the Civil Service: he is patient, conscientious and honest. He showed, as Auditor-General, a considerable capacity for uncovering abuse. But as Ombudsman he was notoriously bureaucratic and defensive. He lacks legal training and political experience, and his whole background predisposes him to avoid publicity and present the most unpleasant facts in the most neutral language.

It is arguable that a judge—such as Mr. Justice Scarman—might have commanded more confidence. So might the inclusion of at least one international figure—from Canada or Australia, say—who could have approached the task from a position of greater detachment. More witnesses might then have been willing to testify, and this might have led to more complete findings. The decision to hold the inquiry in private was another crippling handicap to securing Catholic co-operation. It may have been necessary for the identity of soldiers to be kept confidential because of the danger from the IRA, but it should at least have been possible to allow the complainants to give their evidence in public if they wished.

Notwithstanding all the committee's shortcomings, it clearly establishes that there was a basis for allegations of ill-treatment and physical hardship. Its most important findings concern the methods used in carrying out "interrogation in depth" at the Special Interrogation Centre. The report reproduces a note from the Government on the general rules governing the custody of detainees and the process of interrogation. These rules, drawn up in 1965 and amended two years later, apparently allow the use of four practices to induce isolation and impose strict discipline; the putting of black hoods over the heads of detainees, subjecting them to continuous noise, making them stand against a wall, and putting them on a bread and water diet. These methods, however, must not involve "violence or humiliating treatment." The report finds that in a number of cases there was excessive use of each of these practices, such as to constitute physical ill-treatment—but it goes on to say, "We are not making a finding of brutality."

By a remarkable use of language, the tribunal sets out its own definition of what distinguishes ill-treatment from brutality. 'Where we have concluded that physical *ill-treatment* took place, we are not making a finding of brutality. We consider that *brutality* is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.' This distinction is tantamount to saying that a victim's sufferings are to be judged in terms of what the person inflicting the pain feels about his own actions.

Mr. Maulding, the Home Secretary, in his introduction to the report, seriously misrepresents the committee by deliberately obscuring all that is unpleasant in its findings, especially about the methods used at the Interrogation Centre. However, it is to Mr. Maulding's credit that he has now appointed another committee under Lord Parker to review the rules governing interrogation by the Army. But what is important is not the way the rules are drawn up, but the way they are applied. What Compton criticises is the excessive use of apparently approved methods under conditions of isolation and discipline.'

Apart from the moral issue of whether methods involving ill-treatment and brutality can ever be justified, there is the political issue of whether their use, even if morally justified, may not be counterproductive. *The Observer* shares Mr. Callaghan's view that on the moral issue 'we cannot yield upon the matter of physical ill-treatment as a means of securing information.' On the political issue, if the operations in Ulster depend, as they so clearly do, on winning back the lost Confidence of the Catholics, then military or police action that could make sense on security grounds could be politically indefensible. These are the kind of questions that should now be publicly argued if the opportunity provided by Lord Parker's inquiry is not to be lost.

The justification put forward by Mr. Maulding for using these special methods of interrogation on suspects is that the information obtained in this way can save the lives of civilians and soldiers. But where does the balance of judgment lie between sanctioning these methods and accepting the danger of risking lives by forbidding them? The dilemma is formidable: how do you defeat the enemy without using his ruthless methods? Where do you draw the line between tough expedients which might save lives, both Irish and British, and the pursuit of policies which will further undermine the confidence of the Catholic minority in Ulster as well as the responsible leadership now in power in Dublin?

Should *any* form of harmful pressure be used to extract information from the suspect person? It is said, for example, that certain London gangsters could never have been convicted without the use of unusual pressures to break down the resistance of accomplices. Had the facts about this been a public outcry? Probably not. The circumstances, it would have been argued, were so unusual. But cannot our security authorities in Ulster similarly plead that they too were justified in what they did for the protection of society?

This argument has some obvious appeal. But can a democratic society such as ours allow that, without its knowledge and in its name, individuals with no legal protection should be subjected to such painful and secret indignities? What ends justify what means? And if we decide, as a democratic society, that undemocratic and inhuman standards of behaviour must, in some abnormal circumstances, be allowed, let us at least reach this decision openly, let the methods be defined and closely controlled, and let the names of the victims be known. Above all, someone must take responsibility.

Mr. Enoch Powell's case about the brutalities committed against hard-core Mau Mau detainees in the Hola camp in Kenya in the 1950s was that it was not enough to dismiss the responsible officer in the camp. Responsibility should be fixed first on the Governor of Kenya and then on the Colonial Secretary himself. What he was arguing, in effect, was that no power should be exercised by officers of the State except by direct authority of Parliament, to whom those who misuse power should be finally accountable.

This is the right approach. If detainees in Ulster were to be subjected to 'interrogation in depth,' the decision to do so should have been taken only by the Home Secretary under rules endorsed by Parliament. An alarming omission in the report is that nowhere does Compton establish who was responsible for the actions his committee criticises. We are not even told who gave the orders to carry out this particular form of interrogation. In fact, it appears to have been Mr. Faulkner in his capacity as Ulster's Home Secretary, and not Mr. Maudling. The interrogators were men of the Ulster constabulary instructed by a special security unit within the Army.

It is probable that Mr. Maudling did not even know what was happening in the interrogation centres, and that he would have remained in the dark but for the clamour in the Press and elsewhere—itself an answer to the current demands for censorship of news from Northern Ireland.

The IRA gunmen are out to break the morale of the soldiers and so sicken the British public with bloodshed and destruction that the Army's withdrawal will come to be seen as the lesser of two evils. But nothing is more likely to ensure victory for the gunmen than to create the impression, as Ministers increasingly do, that the Army is simply fighting a war against criminals and thugs. The IRA does contain criminals and thugs, and they employ the most cowardly and brutal methods, but they are seeking a *political* objective. And they have begun to win the loyalty—if not yet the hearts and minds—of a depressingly large section of the Catholic minority. To condone official violence in Ulster is to play directly into their hands.

This is perhaps the most critical period in Ulster, when the Government's policies and the behaviour of our troops may well decide whether its problems can be solved by normal political means. The real task—hard though it may be in the prevailing beastliness—is to find political weapons that carry more weight with the Catholics than the policy of violence offered by their new champions. In dealing with the terrorism, we must never lose sight for a moment of the crucial fact that a peaceful settlement can be achieved only with the support of Irish Catholics on both sides of the border.

[From the London Sunday Times, Nov. 28, 1971]

ULSTER DOCTORS SAY INTERROGATED PATIENTS HAVE BEEN INJURED

(By Lewis Chester)

Doctors and solicitors in the Belfast area who have seen men arrested since internment started on August 9 are finding evidence consistent with allegations that they suffered physical violence during interrogation by the Royal Ulster Constabulary (RUC).

Last week, I was given documentation from a dozen Belfast professional men in this category. Their impressions were very much the same.

Not all are critical of the Compton Report, but they are bitter about the political use to which the report has been put.

Mr. Conor Gilligan, a surgeon at the Mater Hospital in Crumlin Road said: "When I see politicians on television using Compton to argue that there is no evidence of brutality and I reflect on what I have seen, well, frankly, I feel my blood starting to boil."

These are some of the cases that have produced this mood of disenchantment:

1. Patrick O'Neill claims he was arrested on November 2. He alleges that he was taken to Girwood for interrogation, where he was beaten with batons, fists and hands about the body. He claims he was made to lie down and beaten across the soles of his feet with something like a carpet rod. He was released and examined by Mr. J. P. Lane, a surgeon at the Mater Hospital. The examination was carried out on the evening of November 3. Mr. Lane says he found evidence of bruising and abrasions on his legs and thighs. The left heel was fractured. Mr. Lane concluded his report: "It is unlikely that he will be able to return to normal activity in under three months."

2. Patrick Laurance O'Neill was picked up on November 13. He alleges systematic beating by his RUC interrogators at Holywood. This man was not released but remanded on an arms possession charge. Dr. Gilligan examined him in Crumlin Road jail on November 18. Part of his report reads: "This man has objective evidence of bruising to face, chest, abdomen, lumbar areas, groins, thighs, hands. . . . The extent of the bruising on the abdomen is most striking. . . . All the findngs are consistent with his claim that he was struck repeatedly with considerable force in the areas recorded."

3. Gerard Maxwell, 38, was picked up on November 2. He alleges that he was beaten in the chest with rifle butts while enroute to the interrogation centre at Palace Barracks, Holywood. While at Holywood, he claims to have been regularly assaulted by RUC interrogators. After his release, he consulted his local doctor and was referred to the Mater Hospital for a full medical.

The report of the consultant physician, Dr. J. P. Donaghy, dated November 4, reads: "General inspection reveals extensive black to purple discolouration of lumbo-sacral area extending lateralwards, especially right, and

down both gluteal (buttock) areas to upper posterior thighs. . . . Multiple areas showing bluish to yellowish discolouration of skin to back extending to scapular throughout dorsal area. . . . Anterior aspect of lower limbs—bluish and yellow."

4. Patrick McGee claims he was arrested on October 31, and interrogated at Holywood before being released. His local doctor in the Falls Road area, Dr. Raymond Shearer, examined him on November 2. Dr. Shearer found "evidence of bruising on both sides of his back and from mid-chest to his loins." Dr. Shearer told me that he was called in to examine a prisoner on remand last Thursday. He showed a pattern of injuries uncannily similar to those sustained by McGee."

5. The Quinn brothers were picked up on October 29. They are now remanded on charges of arms possession. Both were interrogated at Holywood and allege that they were systematically beaten up. On November 3, James Quinn was examined at Crumlin Road jail by Dr. Kevin A. Bready. Tis report lists 29 instances of bruising and abrasion about the prisoner's body. Anthony Quinn was examined in Crumlin Road by Dr. George D. O'Neill. His report lists 20 instances of bruising and abrasion. He concluded his report dryly: "In my opinion, Mr. Quinn was assaulted."

6. Thomas Sinclair was "lifted" on October 16, and interrogated at Holywood by the RUC. He was examined by Dr. Gilligan at Crumlin Road jail on October 22. Part of his report reads: "Uniform deep purple discoloration is present over the entire inner aspect of both thighs, extending three quarters of the way around the circumference of each limb, and the upper limit of the changes is in the groin areas . . . I believe that repeated application of a blunt force would have been necessary to result in the extensive changes."

7. John P. Watson was arrested on November 1. He is now a detainee. He alleges systematic beating up by RUC men at Holywood. He was examined by Dr. Beirne on November 3. The doctor found evidence of multiple bruising in the chest and on both legs below the knee.

8. Seamus Lynch was "lifted" on October 17. He alleges that he was beaten by soldiers on the way to Girdwood Barracks, and that he received further beatings during his RUC interrogation there. In his report of October 21, Dr. Gilligan notes injuries to the prisoner's abdomen and legs and a fracture of the left scapula.

9. Michael Nelson was arrested on November 18, and was taken to Holywood where he alleges he was beaten about the head and body by RUC Special Branch men. His family doctor, Dr. W. K. Breslin, saw him at Crumlin Road jail on November 20. He found bruising on the inside of both thighs and on the lower ribs and "a traumatic perforation of the ear drum of very recent origin."

Two points should be made about these case histories. The doctors did not *see* beatings take place. All they can say is that the injuries they have seen are consistent with the stories told by the men involved to them or their solicitors.

Secondly, most of the men mentioned, say in their statements that they were released from interrogation after being asked to sign a "No complaints" slip about their treatment. They asserted that they signed because they feared that refusal would simply prolong the interrogation.

Thirdly, there is no reason to doubt the status of the doctors' reports. Those at the Mater Hospital have treated Catholics, Protestants and British soldiers since the troubles began. Surgeon P. J. Lane, who made some of the examinations described in this report, is a former Member of Britain's Royal Army Medical Corps.

There have been more than 100 explosions in Northern Ireland since the beginning of this month. In the same period, 19 people have been killed, among them four RUC men and five British soldiers. Another 21 soldiers sustained injuries that required hospital treatment.

[From the New York Times, Dec. 2, 1971]

SHAME OF THE CATHOLICS, SHAME OF THE ENGLISH

(By Graham Greene)

To be at the same time a Catholic and an Englishman is today to be ashamed on both counts. As a Catholic one is ashamed that more than a thousand years of Christianity have not abated the brutality of those Catholic women who shaved a young girl's head and poured tar and red lead over her body because she intended to marry an English soldier. As an Englishman the shame is even greater.

"Deep interrogation"—a bureaucratic phrase which takes the place of the simpler word "torture" and is worthy of Orwell's "1984"—is on a different level of immorality than hysterical sadism or the indiscriminating bomb of urban guerrillas. It is something organized with imagination and a knowledge of psychology, calculated and cold-blooded, and it is only half condemned by the Compton probe.

Mr. Maudling, in his blithe jolly style, reminiscent of that used by defenders of corporal punishment when they remember their school days, suggests that no one has suffered permanent injury from this form of torture, by standing long hours pressed against a wall, hooded in darkness, isolated and deprived of hearing as well as sight by permanent noise, prevented in the intervals of the ordeal from sleep—these were the methods we condemned in the Slansky trial in Czechoslovakia and in the case of Cardinal Mindszenty in Hungary.

Slansky is dead; he cannot be asked by Mr. Maudling how permanent was the injury he suffered, but one would like to know the opinion of the Cardinal on methods which when applied by Communists or Fascists we call "torture" and when applied by the British become down-graded to "ill treatment." If I, as a Catholic, were living in Ulster today I confess I would have one savage and irrational ambition—to see Mr. Maudling pressed against a wall for hours on end, with a hood over his head, hearing nothing but the noise of a wind machine, deprived of sleep when the noise temporarily ceases by the bland voice of a politician telling him that his brain will suffer no irreparable damage.

The effect of these methods extends far beyond the borders of Ulster. How can any Englishman now protest against torture in Vietnam, in Greece, in Brazil, in the psychiatric wards of the U.S.S.R., without being told, "You have a double standard: one for others and another for your own country."

And after all the British tortures and Catholic outrages, what comes next? We all know the end of the story, however long the politicians keep up their parrot cry of "no talk until violence ends." When I was young it was the same cliché they repeated. Collins was "a gunman and a thug." "We will not talk to murderers." No one doubts that it was in our power then to hold Ireland by force. The Black and Tans matched the republicans in terror. It was the English people who in the end forced the politicians to sit down at a table with "the gunman and the thug."

Now too, when the deaths and the tortures have gone on long enough to blacken us in the eyes of the world and to sicken even a Conservative of the right, there will inevitably be a temporary truce and a round-table conference—Mr. Maudling or his successor will sit down over the coffee and the sandwiches with representatives of Eire and Stormont, of the I.R.A. and the Provisional I.R.A. to discuss with no preordained conditions changes in the constitution and in the borders of Ulster. Why not now rather than later?

[Home Office]

REPORT OF THE ENQUIRY INTO ALLEGATIONS AGAINST THE SECURITY FORCES OF PHYSICAL BRUTALITY IN NORTHERN IRELAND ARISING OUT OF EVENTS ON AUGUST 9, 1971

(Chairman Sir Edmund Compton, G.C.B., K.B.E.)

(Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty, November 1971.)

Her Majesty's Stationery Office, London, 52½p net, Cmnd. 4823.

Enquiry into allegations against the security forces of physical brutality in Northern Ireland arising out of events on the 9th August, 1971.

Members—Sir Edmund Compton, G.C.B. K.B.E. (Chairman); His Honour Edgar S. Fay, Q.C.; Dr. Ronald Gibson, C.B.E.

Secretaries—J. L. Heritage, Esq.; C. G. Leonard, Esq.; R. M. Morris, Esq.

INTRODUCTION BY THE HOME SECRETARY

1. On the 31st August 1971, I appointed a Committee of Inquiry under the chairmanship of Sir Edmund Compton, G.C.B., K.B.E., with His Honour Edgar Fay, Q.C., and Dr. Ronald Gibson, C.B.E., as members, with the following terms of reference:

"To investigate allegations by those arrested on 9th August under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 of physical brutality while in the custody of the security forces prior to either their subsequent release, the preferring of a criminal charge or their being lodged in a place specified in a detention order."

2. The Committee of Inquiry visited Northern Ireland from 1st September until 26th October and have now sent me their report which is published in this Command Paper.

3. The Government are grateful for the care and thoroughness with which the members of the Committee of Inquiry carried out their difficult task.

THE SITUATION IN NORTHERN IRELAND

4. In considering the Committee's report it is important to have in mind the circumstances in Northern Ireland in which the Northern Ireland Government decided to exercise their powers under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 to arrest, detain or intern persons suspected of having acted or being about to act in a manner prejudicial to the preservation of the peace or the maintenance of order.

5. At the beginning of February this year the I.R.A. began to increase the ferocity of their well-established campaign of violence. A marked increase in intensity occurred in July, and has been maintained up to the present time. This campaign of murder and intimidation has included gun attacks on military and police patrols, explosive attacks on offices and buildings, together with indiscriminate bombings of occupied buildings in the cities, killing and injuring members of the general public. More recently there has been a concerted attack on individual police officers, police premises and the homes of police officers. Since August 1969 104 civilians, 12 members of the R.U.C. and 38 members of the Armed Forces are known to have been killed; and many civilians and members of the Armed Forces have been injured, some seriously. There have been over 1,000 incidents involving explosives; and the weight of explosives used by the terrorists so far has been calculated at about 11,000 lbs. Up to the morning of 10th November 1971, the security forces had uncovered 293 pistols and revolvers, 234 rifles, 24 machine guns, 116 shotguns, 123,614 rounds of ammunition, over 1½ tons of explosives, 1,607 pipe, petrol and nail bombs, 154 grenades, 26 gallons of acid, and large quantities of fuses, detonators and electric cable. These figures refer only to arms found in Northern Ireland; they do not include, for example, the large quantity of arms recently discovered at Amsterdam.

6. The aims of the I.R.A. are to intimidate the population by brutal terrorism and so to prevent any co-operation with the Government, the police and the courts of law; to inhibit normal political activity and constitutional progress; and to cause the public in Great Britain to become so sickened by the ceaseless bloodshed and destruction that the Army's withdrawal will come to be seen as the lesser of two evils. No responsible Government can afford to yield to pressures of this kind.

Introduction of internment

7. The preservation of law and order in Northern Ireland is primarily the responsibility of the Northern Ireland Government. By July and early August the deterioration in the situation in Northern Ireland had reached the point where they felt it necessary, with the agreement of Her Majesty's Government, to resort to their powers of internment.

8. In announcing the decision to introduce internment on the 9th August, 1971, the Prime Minister of Northern Ireland, Mr. Brian Faulkner, said:

"If Northern Ireland is to survive and prosper, two things are essential. We must sustain a continuing programme of economic and social development, and we must find the means to create a more united society here—one in which all men of goodwill, however divergent their legitimate political views, may participate to the full. These things are, and will continue to be, the aims of our policy.

"Neither will be possible in a climate of terrorism and violence. The outrages to which we have been subjected now threaten our economic life and create every day deeper divisions and antagonism within our community. These, indeed, are the clear objects of those who carry them out.

"Every means has been tried to make terrorists amenable to the law. Nor have such methods been without success, because a substantial number of the most prominent leaders of the I.R.A. are now serving ordinary prison sentences. But the terrorist campaign continues at an unacceptable level, and I have had to conclude that the ordinary law cannot deal comprehensively or quickly enough with such ruthless viciousness.

"I have therefore decided, after weighing all the relevant considerations, including the views of the security authorities and after consultation with Her Majesty's Government in the United Kingdom last Thursday, to exercise where necessary the powers of detention and internment vested in me as Minister of Home Affairs".

9. 342 men were arrested on the Monday, 9th August; and the arrests of others under the Special Powers Act have continued. 980 had been arrested by midday on the 10th November, 1971. In each case very careful consideration was given to the question whether an internment order was necessary. In the event 299 had been interned by the 10th November and were being held at Long Kesh internment camp. 104 were being held under detention orders in Belfast Prison. 508 had been released and 69 were being held pending a decision on the making of detention orders.

10. Wherever possible, the normal processes of law are followed. Since the 9th August 1971, over 300 persons have been arrested and charged in the ordinary way with offences arising from civil disturbances.

11. An advisory committee under Regulation 12 of the Special Powers Act has been set up under the chairmanship of His Honour Judge Brown to review the cases of all those against whom internment orders are made. The members are Mr. R. W. Berkeley and Mr. P. N. Dalton. The rate of progress of this review is dependent on the time required to work up cases for its consideration; but at the 2nd November 99 cases had been reviewed. In 10 cases the Advisory Committee had recommended release to the Minister of Home Affairs of the Northern Ireland Govrenment. All ten of these internees have been released and two further releases have been made on the advice of the R.U.C.

Allegations of physical brutality

12. A number of allegations were made about the treatment of those who were arrested on the 9th August. I thought it right that these allegations should be investigated by an impartial inquiry; and it was for this reason that I appointed the Committee whose report has now been presented to me.

The Committee's findings

13. The capacity of the I.R.A. for indicative retaliation needs no emphasis. I therefore asked the Committee to adopt procedures which were designed to protect the lives of those who had conducted the arrests and interrogations. Nevertheless, every individual who believed that he had grounds of complaint had the opportunity to put his case forward and was assured of a full and impartial hearing. Hardly any did so. The Committee carried out a thorough examination of the evidence, both oral and documentary, put forward by members of the security forces. In the great majority of cases they set against it nothing more than unsubstantiated and uncorroborated allegations which is all that they had before them. In many cases the Committee themselves have felt unable to carry the matter any further; but in the Government's view the balance of credibility is clear.

14. The allegations which the Committee have examined fall broadly into two classes, those relating to the initial arrests and a small number concerned with the subsequent process of interrogation. As regards the initial arrests it is clear from the report that there were very few complaints and those there were had, in the Committee's view, very little substance. The record of events reflects great credit on the security forces, who carried out a difficult and dangerous operation in adverse circumstances with commendable restraint and discipline. The more serious allegations which the Committee were able to investigate relate to the subsequent interrogation in depth of 11 individuals. Here again the Committee have found no evidence of physical brutality, still less of torture or brain-washing. Their findings about physical ill-treatment do, however, raise certain questions about the detailed application of the general rules governing interrogation.

15. These rules are summarised in the Government's evidence to the Committee (paragraph 46) which also points out that:

"The precise application of these general rules in particular circumstances is inevitably to some extent a matter of judgment on the the part of those immediately responsible for the operations in question. Intelligence is the key to successful operations against terrorists, and the key to intelligence is information regarding their operations, their dispositions and their plans. When combating a terrorist campaign, time is of the essence; information must be sought while it is still fresh so that it may be used as quickly as possible to effect the capture of persons, arms and explosives, and thereby save the lives of members of the security forces and of the civil population".

16. In the present circumstances of Northern Ireland, as described in paragraphs 3–5 of this note, it is imperative to obtain all available intelligence in order to save the lives of civilians and members of the security forces; and it is therefore essential to interrogate suspects who are believed to have important information. The principles applied in the interrogation of suspects in Northern Ireland since August this year, and the methods employed (which are necessary not only for reasons of security and control but also to protect the lives of those being interrogated against the risk of reprisals), are the same as those which have been employed in all emergencies of this kind in which Britain has been involved in recent years. The rules now in force, as summarised in paragraph 46 of the report, were issued in 1965 and were revised in 1967 in the light of recommendations made by Mr. Roderick Bowen QC in a report on the procedures for the arrest, interrogation and detention of suspected terrorists in Aden (Cmnd 3165).

Action by the Government

17. The Government reject any suggestion that the methods currently authorised for interrogation contain any element of cruelty or brutality. The report of the Committee confirms this view. But it also brings out the difficulty of implementing the rules in detail in circumstances in which rigorous and intensive interrogation is vitally and urgently necessary. The Government have therefore decided that it would be right to make arrangements for examining and providing authoritative advice upon the procedures for the interrogation of persons suspected of involvement in a terrorist campaign, including their custody while subject to interrogation, and the application of those procedures.

18. The main strain of protecting the population in Northern Ireland falls upon the Armed Forces and the RUC. It is clear from the Committee's report, and from personal observation by a large number of responsible witnesses from all walks of life, that the security forces have discharged their onerous duties with the utmost restraint despite the provocations of which the Press and other public media give us daily evidence. The Government do not regard the findings of the Committee as in any way reflecting adversely on the responsibility and discipline with which the security forces in Northern Ireland are conducting their fight against a vicious and ruthless enemy.—Reginald Maudling.

CHAPTER I

Terms of reference

1. We were appointed on the 31st August, 1971, by the Secretary of State for the Home Department with the following terms of reference:—

"To investigate allegations by those arrested on the 9th August under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 of physical brutality while in the custody of the security forces prior to either their subsequent release, the preferring of a criminal charge or their being lodged in a place specified in a detention order."

2. In our letter of appointment the Secretary of State said that these terms of reference included in our Enquiry complaints of physical brutality in respect of a small number of persons who were interrogated in depth after a detention order had been made against them: these persons were made the subject of a removal order and were lodged for a short period in a place other than that specified in the detention order.

3. The Secretary of State also informed us that in order to ensure the personal safety of members of the security forces against whom allegations might be made, it was necessary that our Enquiry should be undertaken in private and that there should be no opportunity for a confrontation between complainants and members of the security forces against whom complaints were made. At the outset the Secretary of State indicated that legal representation would not be appropriate: but on the 3rd September he reviewed this direction, and suggested that the essentially private nature of our Enquiry could still be safeguarded if both complainants and those complained against were permitted, if they desired it, to be accompanied by a legal representative when they appeared before us; such legal representatives would not however be permitted to cross-examine witnesses or given access as of right to transcripts of evidence.

4. In the event, for the reasons we give below, complainants did not avail themselves of these facilities for legal representation. On the other hand, many of the army and police personnel complained against were so represented when we took evidence from them.

CHAPTER II

Course of proceedings

5. We held our first meeting at the Home Office in London on the 31st August. On the 1st September and subsequently, the Enquiry was located in Northern Ireland and we have been in continuous operation in the Province from the 1st September until the 26th October when we moved to London where we heard further evidence and deliberated on the terms of our report.

6. On the 9th August, 342 men were arrested and were taken to a Regional Holding Centre. When we opened our Enquiry, 105 of these had been released and 237 were in detention in H.M. Prison Belfast (commonly known as Crumlin Jail) and the *Maidstone*, the depot ship moored alongside a quay in Belfast docks.

7. At the start of our proceedings, we thought it right to afford to each of those arrested on the 9th August, the opportunity to come forward to us, if they wished to substantiate an allegation. We did this by public announcement on the 2nd September and by individual letters posted that day to each of the men released and delivered to each of the men held in detention. A subsequent letter was sent to each man to inform him that he might be legally represented, though our proceedings would continue to be held in private. The Northern Ireland Civil Rights Association let it be known that our enquiry was unacceptable to them because of our constitution and private procedure. We received relatively few replies to our letters sent to those released. Most of those signified refusal for the reasons given by the Association. In a number of cases however it was clear that the released man made no complaint because he had none. We wrote again to all released men who replied they did not wish to complain asking if they had received any medical treatment as a result of their detention. None indicated that he had. One man who had been in Girdwood Park replied: "I did not receive any treatment at all as I did not need any. I was not mistreated in any way at all. I thought they were very good in conduct according to the circumstances." Of the 9 released men who originally indicated a wish to make a formal complaint to us, only 2 pursued their intention. One appeared before us. Another, having set out his allegations in writing as requested, was unable to appear before us to give oral evidence as he had left the Province. None of the others replied to further letters save one, who wrote withdrawing the complaint because, he said, although he was wrongfully arrested he suffered no physical brutality.

8. As regards those detained, we received a written statement from 115 men held in Crumlin Jail, to the effect that they had complaints but would not make them to us. At the *Maidstone*, we received the same answer from 77 detainees when we visited the vessel on the 8th September and saw each detainee in turn and in private. Two *Maidstone* detainees told us they wished to complain to us, but withdrew later.

9. The upshot is that only one of those arrested on the 9th August has availed himself of the opportunity to substantiate his complaint by appearing before us. This has not frustrated our Enquiry, since material for our investigation has been made available to us in the form of allegations published in the Press and transmitted to us from a number of other sources. We have thought it proper to use as the starting point for our investigations, such allegations as are identified with specific persons arrested on the 9th August and relate to their personal experiences. But the fact that complainants have not appeared personally before us has limited our ability to reach findings in cases of conflict of evidence, as we explain in paragraphs 21–28 below.

10. At the outset of our proceedings we issued a statement in which we asked that any individual or organisation with relevant information to give to the Enquiry should get in touch with us at our Belfast office. On the 17th and 18th September we repeated this request in advertisements published in the Northern Ireland press. On the 16th September our Chairman wrote to the Editors of 9 newspapers published in the Irish Republic and the United Kingdom which had reported allegations, asking them if they would assist the Enquiry by turning over to us such specific evidence as they might hold.

11. We had no material response to these requests till at a late stage in our proceedings we received information from the *Daily Telegraph* and the *Sunday Times*. The material sent to us by the *Daily Telegraph* on the 14th October had already reached us from other sources. As regards the *Sunday Times*, an article in the 17th October issue of that paper had shown that it held allegations by a number of men arrested on the 9th August and subsequently, including 11 men arrested on the 9th August and interrogated in depth. The *Sunday Times* handed over this material to us on the 19th October. Most of these allegations appeared to have been made in August, and a number had previously been transmitted to us from other sources and had already been investigated by us. Any new allegations published in the *Sunday Times* of the 17th October in respect of persons arrested on the 9th August have been covered by our investigation and the results are included in this Report.

12. The total number of complainants whose allegations have been investigated and are covered by this Report is 40. The list of the complainants is given at the Appendix. Given the sources available to us, our Enquiry could not have been comprehensive. But at least the cases we have investigated are sufficient to cover all aspects of the 9th August operation.

CHAPTER III

Nature of Evidence

Nature of Evidence from Complainants

13. It follows from this that with two exceptions our evidence of complaints is hearsay. Apart from press reports it consists of written statements purporting to be signed by complainants and in many cases appearing to have been obtained and circulated by a body called the Association for Legal Justice. The documents from this body are duplicated in typescript with typed signatures. It is apparent that many of the newspaper reports were founded on these statements. Thirteen of the documents handed to us by the *Sunday Times* were protocopies of handwritten statements apparently taken down from detainees in prison and signed by them. Most of the statements are witnessed. From other sources we obtained one similar photocopy and 47 transcripts of recorded statements. Despite our inability to obtain verification of the statements, we have thought it right to assume that the statements correctly represent what the respective complainants have to say.

Nature of Other Evidence

14. Apart from complainants' statements we have drawn our evidence from three sources:

(a) Our personal inspection of the sites where the events took place,

(b) Contemporary documentary evidence,

(c) Oral evidence from persons in charge of operations, and from army and police personnel identified as having been supervising local operations and in contact with the complainants when the alleged events took place.

(a) Sites

15. As we indicate when we come to describe the 9th August arrest operation (paragraph 29 below) the arrested persons were temporarily held in three Regional Holding Centres before being released or moved into detention in Maidstone Depot Ship or Crumlin Jail. We visited each of the three Centres, at Ballykinler, Magilligan, and Girdwood Park, and reconstructed the proceedings at each place with the army and police personnel who had been in charge of those proceedings on the 9th–11th August. Similarly we visited the Maidstone and Crumlin Jail and reconstructed the proceedings in those places up to the point of lodgement in detention there.

(b) Contemporary documentary evidence

16. This includes the following:—

Operational Orders

Results Reports by Brigade Commanders and officers in charge of Regional Holding Centres.

Arrest files for each person admitted to Regional Holding Centres (including photographs of each person taken on admission).

Doctors' reports on persons admitted to or treated at Regional Holding Centres.

Doctors' reports on persons admitted to detention.

Doctors' notes of examination at the interrogation centre.

(c) Oral evidence

17. We have sought to test each case where we have received specific allegations by taking written statements and oral evidence from army, police and prison officers identified as having supervised the operation or as having been in contact with the complainant between arrest and lodgement in detention. We also in certain cases heard oral evidence from the medical officers involved.

18. In the course of taking this evidence during 17 hearing days, we heard 95 army witnesses, 26 police witnesses, 11 prison officers, 5 regimental medical officers, 2 medical staff officers, 2 civilian doctors and 2 specialists, one from a military and one from a civilian hospital. We received written evidence taken by our secretaries from one police officer and 10 prison officers. We heard evidence from one complainant in person, and received written evidence direct from another. In accordance with the modification in our procedure made by the Home Secretary on the 3rd of September, legal representation of the witnesses before us was permitted. Mr. John Creaney, Mr. R. Macartney and Mr. Peter Smith, all of the Northern Ireland Bar, appeared before us on behalf of army and police personnel and were of great assistance to the Enquiry.

Definition of "brutality"

19. We have confined our investigation to that part of a complaint that relates to physical treatment.

20. Our terms of reference require us to investigate allegations of physical brutality. We have not, however, thought it right to start with our own definition of brutality and confine ourselves to allegations that satisfied our definition. For we have to recognise that our starting point can only be the allegation of ill-treatment which is brutality in the mind of the complainant. Therefore we have sought to reach our conclusions by describing the events that occurred so far as our enquiries have enabled us to ascertain them: then we offer our opinion on the extent, if any, to which the allegation of ill-treatment is substantiated; if we think it is, we proceed to say whether we have found in it any element of brutality as we understand the term. We take the opportunity to develop our definition of brutality in connection with the first set of detailed allegations on which we report, connected with the process of interrogation in depth (see paragraph 105) and regard that definition as applicable to any other instances of ill-treatment in allegations dealt with subsequently in this Report.

Effect on findings of fact of complainants' refusal to appear

21. The refusal of complainants to appear before us and give us their evidence has limited to some extent our ability to reach conclusions about the validity of their allegations.

22. We emphasise that in our view, our ability to reach conclusions has not been impaired by the fact that we heard evidence in private. It has been open both to complainants and to those complained against to be legally represented. No complainant availed himself of this facility, though we were assisted by the legal representatives of army and police witnesses. Nor have we felt the need for powers to compel the attendance of witnesses and production of documents, as far as the army and police evidence is concerned.

23. The limitation we have experienced is that the absence of the complainants as witnesses has left us with an unbalanced body of evidence. There is no problem when the evidence, oral or documentary, from security sources confirms the allegation. Usually, however, the evidence from security sources is, to a greater or lesser extent, in conflict with the allegation. In this situation, as a tribunal conducting a private enquiry, we would have sought to resolve the conflict by separately examining both complainant and respondent, in order to test the account each gave of the events that took place, and to form a view of the comparative credibility of the witnesses in the course of examining them.

24. We have indeed been able to test the army and police witnesses by so examining them and to form a view of their credibility, with or without the corroboration of documentary or other independent evidence. But we have not been able to compare their credibility with that of the complainants; and it would offend against the principles of justice if we were to reach conclusions which assumed that the credibility of witnesses we have examined was superior to the credibility of those we have not seen. To this extent, therefore, there are allegations on which our conclusions may do less than justice to the case made to us by the army and police witnesses in that their account of events has been thoroughly tested in our hearings yet we have been able to do little more than report the evidence they have given to us.

25. In three classes of cases however we have been able to go further than merely reporting a conflict of evidence and have been able to a greater or lesser extent, to form a view upon the facts of the matter in dispute.

26. The first category is where internal evidence of inaccuracy is found in the complainant's statement itself.

27. The second category arises from the existence of contemporary documentary evidence, including photographs of complainants, and the information we have obtained by our personal visits about the topography, accommodation and other physical features of the places where the events complained of took place. As will appear, the documentation that is of special value consists of the original medical notes and other records, made at the time, of the physical condition and treatment of individuals between arrest and lodgement in detention.

28. The third category consists of the oral evidence that we have obtained from the doctors and medical officers who examined and treated the arrested persons at various stages of the operation between reception at a Regional Holding Centre and lodgement in detention. We have in many cases been able to use this evidence, combined with the medical notes made by these same doctors at the time, as confirming or correcting the allegations made by the arrested persons. The weight of such evidence is derived from the professional status of the doctors, from the fact that they are not persons against whom allegations have been made, and from our assessment, after lengthy oral examination, of their attitude to the events in question and to the persons whom they were called upon to attend.

CHAPTER IV

The arrest operation on the 9th August, 1971

29. As explained to us, the overriding requirement that governed the planning and execution of this operation was that complete security should be maintained about the identity of the persons to be arrested and the date and time when the arrests were to be carried out. We understand that the authorities accepted that in consequence of this security requirement, the operation would be carried out with a considerable element of local improvisation and might be attended by some administrative confusion, but that they considered this to be the lesser evil in relation to the paramount need to maintain security and achieve surprise.

30. A factor that added to the element of improvisation in one particular area was the decision, taken late on the 7th August, not to locate the Belfast Regional Holding Centre in Crumlin Jail itself as had been planned up to that date but to set up the Holding Centre in the adjacent Girdwood Park Territorial Army Centre. We have no doubt that some of the defects in the arrangements at Girdwood, which we notice later in this Report, are to be attributed to this last minute change of plan.

31. The operation consisted of five phases as follows:—

(a) The arrests

32. Parties of soldiers effected arrests according to lists prepared by the Royal Ulster Constabulary Special Branch. Very occasionally RUC officers acted as guides but in all cases the arresting was done by the military. Speed was the prime consideration to avoid the chance of hostile crowds gathering even at that early hour. Each arrester completed a report relating to the person he arrested.

33. The arrests took place at 0430, or as near to that time as possible, on Monday, the 9th August. Each soldier making an arrest was instructed to say:—

"I am arresting you under the powers conferred by the Civil Authorities (Special Powers) Act (Northern Ireland) 1922"

and to add, if a person questioned the arrest in any way, no more than:—

"I am not required to give any further explanation. I warn you that if you resist arrest you may have committed an offense."

34. As to the manner of arrests, the arresting soldiers were governed by general instruction requiring them never to use more force than the minimum necessary to enable them to carry out their duties. Except in one Brigade area, they had no specific orders about the use of restraints on arrested persons.

(b) Transport to Regional Holding Centre

35. There were 3 Regional Holding Centres, each under the overall charge of a senior officer where identification of arrested persons was confirmed and the decision taken whether they should be detained or released. These were Magilligan Weekend Training Centre in County Londonderry, Ballykinler Weekend Training Centre in County Down and Girdwood Park Territorial Army Centre in Belfast.

36. In Belfast the movement of the arrested person was short in time and distance from the point of arrest to a rendezvous for preliminary identification (often at the vehicle to be used for the next stage of the journey) and thence to the Regional Holding Centre at Girdwood Park. In the other two regions the distances were in most cases much greater and the arrested person was usually taken from the point of arrest to a rendezvous for preliminary identification (normally at an established point like a barracks) designated a Prisoner Collection Point (P.C.P.) and thence to either Ballykinler or Magilligan Regional Holding Centre.

(c) Processing at the Holding Centres

37. All arrested persons were interviewed by R.U.C. Special Branch officers prior to the decision about detention. The processing at Holding Centres lasted from early the 9th August to early the 11th August, but arrested persons whom it was decided not to detain were released at any time during that 48 hours.

38. At all the Holding Centres a uniform system of records was maintained, including entry and exist registers and a photograph of each arrested person on entry. At Ballykinler and Magilligan a medical officer was in post who carried out an examination of each arrested person on entry and recorded the result of the examination. At Girdwood a medical orderly was in attendance and a doctor was within call at 30 minutes' notice. There was no system of medical examination on entry.

(d) Transport to places of detention

39. Arrested persons who were to be detained (apart from a limited number mentioned in the next paragraph) were sent by helicopter from Ballykinler and Magilligan to the Maidstone in Belfast harbour, and on foot from Girdwood to Crumlin Jail. Girdwood is immediately adjacent to the Prison, and the arrested persons passed into the Prison through a hole, made early on the 9th August, in the wall that divides the Prison area from Girdwood Park. Also a wing of the Prison was used as an annex to the Girdwood Regional Holding Centre.

(e) Special Questioning

40. A limited number of persons whom it had been decided to detain were selected for interrogation in depth and on the 11th August were moved for that purpose from their Holding Centres to a place other than the place specified in the detention order before being lodged in detention in Crumlin Jail on the 16th and 17th August. (This special class of arrested persons is covered in section 6 of our Report.)

41. The number of persons arrested and handled by the Holding Centres was as follows:—

	Ballykinler	Magilligan	Girdwood Park
Arrested and admitted to regional holding centre	89	68	185
Moved into detention	80	40	117
Released	9	28	68

CHAPTER V

Pattern of complaints

42. The complaints investigated by us related to actions from arrest to arrival at one or other of the Regional Holding Centres, to events at the Centres, and to a place at which interrogation in depth took place. While many of the complaints were of an individual nature, others fell into categories where a number of complainants alleged that they were collectively subjected to treatment of which they complained. Although the individual complaints must be dealt with separately, we have found it convenient to group together the above-mentioned categories for the purpose of our Report. In listing these categories we have used names that correspond to descriptions and references commonly used in complainants' statements and press reports. These names are not to be taken as indicating the precise nature of these events as they appeared on investigation. These groups we deal with under the following headings:—

(a) Interrogation in Depth.
(b) The Helicopter Incident (Girdwood Park).
(c) The "Obstacle Course" (Girdwood Park).
(d) Late Releases on the 10th August (Girdwood Park).
(e) Special Exercises (Ballykinler).

CHAPTER VI

Details of allegations, evidence and conclusions

Grouped Allegations—1 Interrogation in Depth

43. Under our terms of reference we are asked to examine allegations in respect of persons who were questioned in depth after a detention order had been made against them. Like the other complainants with whom we are concerned, these men were arrested on the 9th August: but whereas the others then arrested were either released or placed in detention by the 11th August, these men were on that date removed to another place for a period of intensive questioning before being lodged by the 17th August in the place specified in the detention order.

44. Complaints of 11 men have been transmitted to us, which include specific allegations of physical ill-treatment during this period of intensive questioning. The men are: James Auld, Joseph Clarke, Michael Joseph Donnelly, Kevin Hannaway, Patrick Joseph McClean, Francis McGuigan*, Sean McKenna, Gerald McKerr, Patrick McNally, Patrick Joseph Shivers, and Brian Turley.

Timetable of Events

45. We have ascertained that the timetable of events for all the men in this category was as follows:

11th August—0630 Arrival from a Regional Holding Centre at an interrogation centre (hereinafter called "the centre").

11th August—1545 Departure from the centre to Crumlin Jail for service of detention and removal orders, returning to the centre on the same day by 1900 hours.

11th August—1900 to 17th August—1150 (in one case until 1115 on 16th August) Held at the centre.

17th August—1150 Departure from the centre to be lodged in detention in Crumlin Jail.

Government Policy in Relation to Interrogation

46. In the course of our investigation we were requested by Her Majesty's Government to receive a note on the subject of Government policy in relation to interrogation methods. We were asked also to include this note in our report for publication. It runs as follows:

"Note on interrogation—(1) The general rules governing the custody of detainees and the processes of interrogation have been reviewed from time to time by the Government Departments and agencies concerned in the light of experience gained in the various internal security operations in which H.M.G. have been involved since the last war. The techniques of interrogation currently in use have also been employed in many previous internal security situations. The latest instructions on the rules to be followed were issued in 1965, and were revised in 1967 to provide for the daily inspection by a medical officer in the light of the recommendations in the Report on the Aden situation by Mr. Roderic Bowen, Q.C., issued in November, 1966 (Cmnd. 3165).

(2) These general rules include the following safeguards:

(a) Medical examination and record of weight of subject on admission and discharge.

(b) Subjects to be seen daily by a Medical Officer.

(c) The following are prohibited:

(i) Violence to life and person, in particular, mutilation, cruel treatment and torture.

(ii) Outrages upon personal dignity, in particular humiliating and degrading treatment.

(d) Subjects are to be treated humanely but with strict discipline.

(These rules follow the broad principles for the treatment of persons under arrest or detention during civil disturbances as laid down in Article 3 of the Geneva Convention relative to the Treatment of Prisoners of War (1949)).

(3) The precise application of these general rules in particular circumstances is inevitably to some extent a matter of judgment on the part of those immediately responsible for the operations in question. Intelligence is the key to successful operations against terrorists; and the key to intelligence is information regarding their operations, their dispositions, and their plans. When combating a terrorist campaign time is of the essence; information must be sought while it is still fresh so that it may be used as quickly as possible to effect the capture of persons, arms and explosives and thereby save the lives of members of the security forces and of the civil population.

(4) Information can be obtained more rapidly if the person being interrogated is subjected to strict discipline and isolation, with a restricted diet; but violence or humilitating treatment, as explained above, are forbidden. Equally any person undergoing interrogation must be assured of security against either violent treatment by his fellow detainees or recognition by them; the evidence of I.R.A. vengeance against informers underlines the importance of this safeguard."

47. The evidence we received from the officials we interviewed about the application of the general rules set out in the Government memorandum we reproduce above can be summarised as follows:

The objectives mentioned in the memorandum may involve the use of the following methods, the circumstances and duration of whose application may vary according to the staff and accommodation available at the interrogation centre and the length of time for which detainees may be left alone or must be kept together:—

(a) Wall standing

48. Requiring detainees to stand with their arms against a wall but not in a position of stress provides security for detainees and guards against physical violence during the reception and search period and whenever detainees are together outside their own rooms in a holding room awaiting interrogation. It also assists the interrogation process by imposing discipline. Although the security need for this technique could be reduced by an increase of staff sufficient to provide for the separate custody of each individual while in transit between his own room and the interrogation room, there would be increased risks of physical contact between detainees and guards.

(b) Hooding

49. The hood (a black pillow-slip which the detainee is not required to wear while he is being interrogated or while he is alone in his room) reduces to the minimum the possibility that while he is in transit or with other detainees he will be identified or will be able to identify other persons or the locations to which he is moved. It thus provides security both for the detainee and for his guards. It can also, in the case of some detainees, increase their sense of isolation and so be helpful to the interrogator thereafter.

(c) Noise

50. The continuous noise to which detainees may be subjected prevents their overhearing or being overheard by each other and is thus a further security measure. By masking extraneous sound and making communication more difficult it may enhance the detainee's sense of isolation.

(d) Bread and water diet

51. A diet of bread and water at six-hourly intervals may form part of the atmosphere of discipline imposed upon detainees while under control for the purpose of interrogation. The rules about medical inspection are referred to in paragraph 2 of the Note above.

52. These methods have been used in support of the interrogation of a small number of persons arrested in Northern Ireland who were believed to possess information of a kind which it was operationally necessary to obtain as rapidly as possible in the interest of saving lives, while at the same time providing the detainees with the necessary security for their own persons and identities.

Course of Investigation

53. It has been our object in this, as in the other areas of our investigation, to test allegations of physical ill-treatment against all evidence, documentary and oral, that we can get in order as far as we can to establish the facts about the treatment that took place. We have had unrestricted access to all the records made at the time, and taken evidence from the persons who supervised the operation.

Oral Evidence

54. We took oral evidence from persons who supervised the operations at the centre. From them we received a detailed account of the arrangements for conducting the operation, as ordered before the event and as executed in the event. They also gave us their eyewitness accounts of the treatment and behaviour of the persons making allegations. In particular we have had the benefit of evidence from the medical officer who was stationed at the centre throughout the operation. He was able to substantiate and amplify to us the written records he made at the time of each complainant's physical condition on entering the centre on the 11th August and in leaving it on the 16th or 17th August. In addition, he was able to tell us about the conditions of the complainants during their stay in the centre, as ascertained by him when he visited them daily in the course of the operation. He told us that those in charge of the centre had impressed him with their concern to avoid physical injury to their charges and had given him every support in allowing him to exercise his professional duties. We put on record that both in his actions as recorded and by his evidence given to us, this officer satisfied us as having maintained the standards of the medical profession to which he belongs.

Documentary Evidence

55. The contemporary documentation which we studied, and which was of the first importance in testing the facts, including:—

(a) *The entry medical record,* written by the doctor when he examined each detainee on entry into the centre on the 11th August. The purpose of this examination was for the doctor to certify whether the detainee was fit for interrogation: we have confirmed that before he did so he was briefed as to the conditions that the interrogatee would experience. The patient was stripped and examined, his medical history and present state of health ascertained and recorded, with notes

*Whilst Mr. McGuigan's name is included in this list because we understand the *Sunday Times* had sight of a statement from him, we have seen no such statement ourselves. The *Sunday Times* tell us they inadvertently returned the original without taking a copy. For this reason we have been unable to investigate any specific allegations, although we have ascertained Mr. McGuigan was at the interrogation centre at the same time as the other men.

of the patient's weight and the existence or otherwise of cuts, bruises or other bodily damage.

(b) *The exit medical record,* written by the same doctor, when he examined the detainee on leaving the centre.

(c) *Colour photographs* of the detainee, naked, back view and front view, likewise taken on his leaving the centre.

(d) *The prison medical record* of the examination carried out by the prison doctor after the detainee was lodged in detention in Crumlin Jail.

(e) *The feeding record.* We have examined the contemporary record which was kept showing the time at which each detainee was offered drink and food, if he took it and what he took.

The Allegations

56. We deal first with those allegations of physical ill-treatment common to all or most of the complainants and turn thereafter to allegations limited to particular individuals.

Common Allegations

57. All the interrogatees whose statements we saw complained of one or more of the following matters:

(a) *Hooding*

Head hooded in a navy or black coloured bag of tightly woven or hessian cloth at all times other than interrogation interviews.

(b) *Noise*

Held in a room where there was a continuous noise variously described as loud and deafening like the escaping of compressed air, the roar of steam, the whirring of helicopter blades, or a drill. Returned to the room with this noise between periods of interrogation.

(c) *Enforced posture on wall*

Facing wall, hands high above head on wall: legs spread apart; forced with batons to maintain posture; so kept till collapsed, when lifted up again; treatment continued for 2 or 3 days, or up to 4 days.

(d) *Sleep*

Variously complained that had none for 2 or 3 days or very little.

(e) *Food*

Variously complained that deprived of food for 2 or 3 days, or that diet severely restricted to occasional administration of dry bread and a cup of water until the last day or so. One man (Mr. Shivers) said he had nothing to drink for the first 4–5 days.

Common Allegations—Evidence of Supervising Staff

58. The persons supervising the operation commented as follows:

Hooding

59. It was confirmed that the detainees were required to be kept fully hooded except when interrogated or in rooms by themselves. This meant, therefore, that hooding was confined to journeys outside the centre or movement within it and to the periods when complainants were held jointly or at the wall (see below). We were told that in fact some complainants kept their hoods on when they could have removed them if they wished.

Noise

60. It was confirmed that while the detainees were held together pending interrogation or between interrogations, they were subjected to a continuous hissing noise, or electronic "mush", loud enough to mask extraneous sounds and prevent effective oral communication between detainees. The noise was neutral, i.e. no music or speech sounds were intruded.

Posture on the wall

61. It was confirmed that from time to time pending and between interrogations, the detainees were made to stand against a wall in a required posture (facing wall, legs apart, leaning with hands raised up against wall) for anything between 4 and 6 hours, except for periodical lowering of the arms to restore circulation. It was pointed out that the posture was not the same as the search position. This was not a stress posture: that is, the legs were not so wide apart, the arms so stretched up, or the weight of the body put forward to the same extent as in the search position.

62. It was confirmed that detainees attempting to rest or sleep by propping their heads against the wall were prevented from doing so. If a detainee collapsed on the floor, he was picked up by the armpits and placed against the wall to resume the approved posture. (In Mr. McClean's case it was said that he persisted in collapsing from the start and after a short time was not forcibly held up but allowed to lie on the floor.) Although a number of complainants alleged roughness and beatings, it was denied that any excessive force was used to keep people in the posture or make them resume it. The staff were instructed, for example, to part legs not by kicking or hacking them but by pushing them outwards with the inner calf of their own legs. No-one was batoned to make him stay against the wall or was otherwise beaten whilst in the position.

63. In only one case was it necessary to use any considerable degree of physical constraint. This was the case of Mr. Clarke, with which we deal below. In the other cases (though not, as mentioned, in that of Mr. McClean) we were told that the atmosphere of rigid discipline was largely effective in its purpose, and, therefore, to enforce the posture any substantial degree of physical force was unnecessary and was not used. In the circumstances there had to be bodily contact between guards and detainees, but the guards had been specially trained to handle detainees by methods which avoided violence or physical damage.

64. We find from our inspection of the records kept at the time of this operation that the men were at the wall for periods totalling as follows:

Mr. Auld	43½ hours
Mr. Clarke	40 hours
Mr. Donnelly	9 hours
Mr. Hannaway	20 hours
Mr. McClean	29 hours
Mr. McGuigan	14 hours
Mr. McKenna	30 hours
Mr. McKerr	15 hours
Mr. McNally	13 hours
Mr. Shivers	23 hours
Mr. Turley	9 hours

65. We were told that the interrogatees were not made to stand at the wall in the required posture throughout. As stated above, the period of standing was 4–6 hours at a time. At other times they would have been sitting against the wall. The evidence regarding Mr. McClean, as we note in paragraph 62 was that, though at the wall for 29 hours, he was hardly in the required posture at all.

Sleep

66. It was confirmed that it was the general policy to deprive the men of opportunity to sleep during the early days of the operation.

Food and Drink

67. The records we examined showed that bread and water was offered at 6-hourly intervals from 1230 on the 11th August until the morning of the 15th August, when the diet began to be increased to normal rations. Hot soup was taken at 2230 on the 13th August by all interrogatees except Mr. McClean who refused it, and we were told that a cereal had been offered earlier that evening. It appears that Mr. Auld accepted food and drink whenever offered between the 11th and 15th August except for two occasions when we understand he was sleeping. Mr. Clarke refused bread on eight occasions. Mr. Donnelly accepted food and drink whenever offered. Mr. Hannaway refused bread altogether on 3 occasions, and ate only part of what was offered on 5 other occasions; he did not always drink all the water offered. Mr. McClean refused both food and drink on 5 occasions, and refused bread alone on a further 4 occasions. Mr. McGuigan did not drink all the water offered on two occasions, otherwise accepted food and drink when offered. Mr. McKenna refused food and drink when offered. Mr. McKenna refused food and drink on the first occasion it was offered, but took it thereafter, save once when he was sleeping. Mr. McKerr accepted food and drink when offered except for a period of sleep on the 14th August. Mr. McNally refused food twice, and took only half what was offered on two other occasions. Mr. Shrivers consistently refused bread, eating only a small fraction of what was offered on only one occasion; he refused water, or took very little, on 3 occasions. Mr. Turley accepted food and drink except for one period when he was sleeping.

Weight

68. The records kept by the doctor for each detainee on entering and leaving the centre all show loss of weight during the time spent there.

Particular Allegations

69. A number of interrogatees made specific complaints of ill-treatment at the centre which are not comprised in the matters set out in the preceding paragraph, and with these we now deal.

70. *James Auld:* When he had been placed against the wall in the required posture he asked to go to the toilet; he was refused, and his hooded head banged against the wall for talking. When his back arched a baton was rammed into it to straighten it.

71. *Joseph Clarke:* When in the required position against the wall, his hands kept going numb. If as a result he closed his fist, his hands were beaten against the wall till he opened them and replaced them in the required posture. If he rested his head against the wall it was banged and shaken. After interrogation he was beaten until he collapsed. When brought round he was beaten again, and fought back. He then suffered another severe beating. He continued to fight back, and his wrists were handcuffed behind his back. The handcuffs were pulled back as he stood with his head to the wall, causing his wrist to be chafed and cut.

72. *Michael Joseph Donnelly:* If he did not keep his head straight and his back rigid in the required posture at the wall, he was struck with a fist. On occasions, though not, he says, very often, he was struck in the genitals with a hard object, and on other occasions a similar object was thrust into his anus.

73. *Kevin Hannaway:* If he relaxed from the required posture at the wall he was kicked, "kneed" and beaten with fists. On another occasion his head was beaten against the wall. A further allegation appeared in the Irish Press of the 18th August, that Mr. Hannaway had a head wound requiring 27 stitches.

74. *Patrick Joseph McClean:* He was assaulted on a number of occasions in different ways. He was bounced on, and rolled along the ground, punched with fingers in the stomach, kicked in the testicles, his arms were twisted backwards and his head bumped on the floor and he suffered various other assaults of varying severity. As to toilet facilities Mr. McClean says: "Toilet, no. Wet where we lay. No inclination to excrete. Slept in wet."

75. *Sean McKenna:* He was beaten on the legs, hands and buttocks to force him to maintain the required posture at the wall.

76. *Gerald McKerr:* He was beaten around the kidneys when he collapsed from the required posture. He kept falling and was invariably beaten when he did so.

77. *Brian Turley:* He was kicked and beat-

en in an effort to force him to adopt the required posture on the wall and after interrogation his head was rammed several times against a door.

78. *Mr. Auld's* complaint that he was refused permission to relieve himself was denied. It was not clear to us how a man in the required posture, hooded and surrounded by a loud noise, was expected to indicate his need. We were told he would have to use gestures. Such gestures might initially be construed merely as an attempt to move from the required posture. If this were so, he would be put back in the posture in the manner described, at any rate to start with. We were however told that lavatory facilities were available and were regularly used under escort by all the interrogatees, with the exception of Mr. McClean. We were told that many interrogatees used these facilities on the occasion of an interrogation.

Particular Allegations—Evidence of Supervising Officers

79. No abnormality in Mr. Auld's physical condition was detected on examination by the centre medical officer on admission to the centre. On examination when leaving on the 17th August, the medical officers noted an area of paraesthesia (pins and needles) in the right arm. In Crumlin Jail the prison medical officer noted on examination on the 17th August "Pain in left wrist. Normal appearance. Complains of tenderness and movements slightly restricted. Appendix scar."

80. In reply to *Mr. Clarke's* complaint about the beating of his numb hands we were told that in a number of instances as a result of maintaining the required posture for a considerable period an interrogatee would find his hands or arms had become numb. In such cases the guards would rub the hands, or swing the arms, of the interrogatee to restore normal feeling. The complaints of beating are denied. We were however told that Mr. Clarke was a strong young man who resisted with considerable force attempts to make him adopt and maintain the required posture. It is admitted that in order to restrain him he was handcuffed. We have seen a contemporary note that the first pair of handcuffs were too small for him, and chafed his wrists. A larger pair was fitted, and Mr. Clarke's wrists were treated with ointment. Mr. Clarke's medical records show that on entry into the centre no defects were observed in his upper or lower limbs. The medical officer at the centre, in the course of his morning rounds on the 13th August, observed that Mr. Clarke's ankles were swollen and bruised. This was at 1130. At a latter examination on the same day (1730) he observed an effusion (i.e. swelling due to fluid on the joint) the right knee. He had the knee bandaged and advised that Mr. Clarke be handled properly, and allowed to be seated with his leg straight. On the 15th August he noted that the knee and ankle swellings were improving. On leaving on the 17th August Mr. Clarke's medical record shows him as having an effusion of the right knee after a fall on it. When examined on the 18th August at Crumlin Jail, this condition was confirmed and he was wearing a crepe bandage over the knee. He was treated in the prison with an analgesic, and the bandaging was continued. The photographs taken on departure from the centre show a crepe bandage from the top of the right knee, over the knee cap, to half way down the shin, and a red mark on the rear of the left arm above the elbow. The notes made at the time by the supervisors at the centre show that Mr. Clarke was aggressive and resisted strongly. They could not tell us how the injuries were suffered.

81. *Mr. Donnelly's* complaint of beating was denied. We were told that the guards responsible had been carefully briefed in, and required to practise, procedures that avoided violence or the infliction of injury. No abnormality was detected in Mr. Donnelly's condition on arriving at, or leaving, the centre. No violence towards him had been observed by the supervisors. At Crumlin Jail, the prison medical officer recorded that he had examined Mr. Donnelly on the 18th August, and found: ". . . numbness left thumb—full movement. Superficial abrasions dorsum of wrist". No complaint of injury to the genitals is recorded. The evidence we head does not explain the finding of minor injuries by the prison medical officer.

82. *Mr. Hannaway's* complaints, and the allegation concerning his head wound, were denied. On admission to the centre the medical officer recorded a graze on the upper lumbar spine. No mention of this appears in the note of the medical examination on leaving the centre on the 17th August. On examination at Crumlin Jail the prison medical officer recorded: "Superficial contusions right shoulder. Eczema of right calf. Black eye left. Betnovate ointment. . . ." The evidence we heard threw no light on the origin of the injuries. The medical officer at the centre and the prison medical officer have confirmed to us that Mr. Hannaway did not have a sutured (i.e. stitched) scalp wound.

83. We noted also that the entry medical record contained the entry "? heart attack". We were told that it was Mr. Hannaway not the medical officer who had raised the question of heart trouble. The medical officer had contacted Mr. Hannaway's doctor and obtained copies of his medical record. The medical officer told us that this showed Mr. Hannaway had had Reynaud's disease since a child, but that otherwise there was nothing abnormal about his condition and no need for treatment. He was satisfied he was fit for interrogation.

84. *Mr. McClean's* complaint that he was denied toilet facilities is mentioned above, in connection with the similar complaint of Mr. Auld. In Mr. McClean's case however we were told by the supervisors that it was not true that opportunity to relieve bowels or urinate was denied him or that it was several days before he was allowed to the toilet for the first time. The lavatory facilities were there. It was Mr. McClean's own fault that he did not use them. Due they thought to the general policy Mr. McClean adopted of "going limp", there had been 3 such occasions. Once Mr. McClean had wet himself whilst at the lavatory, and his overalls had been changed. On another occasion he had urinated on his mattress. A third time (when visited by the doctor and asked for a specimen) he had urinated on the floor of his cell. The medical officer, in his oral evidence to us, confirmed that the lavatory facilities were satisfactory, available and used by all except Mr. McClean, who in his opinion did not use them on the occasions mentioned because he chose not to do so.

85. In the entry medical record the medical officer recorded, inter alia, "Peptic ulcer. Taking Aludrox. Under Omagh County Hospital". The only other abnormality then recorded was a slight expiratory wheeze. Mr. McClean's physique was recorded as "flabby". On examination on departure, the medical officer recorded: "? peptic ulcer" and observed also "Bruising right shoulder and both legs". The prison medical officer, examining Mr. McClean on arrival at Crumlin Jail, recorded "? Duodenal ulcer. Aludrox. 1 pint milk. Bronchitis. Black eye left. Contusions arms and chest. Prison Hospital".

86. With reference to the entry "peptic ulcer" in his entry medical record, the centre medical officer said he had later been satisfied that this was not a correct description of Mr. McClean's present condition. No tenderness was elicited on examination of the abdomen, and there appeared to be no symptoms which could be attributed to the presence of an active peptic ulcer. The history of medication had in fact been irregular, Mr. McClean taking medicine occasionally when he suffered from indigestion. Again, after careful observation, the medical officer had concluded Mr. McClean's action in flopping when placed at the wall was in no way attributable to any medical condition: although flabby and tending to obesity, there was nothing medically wrong. This view was confirmed to us later by the prison medical officer who, although he admitted Mr. McClean to the prison hospital for observation and treatment on arrival as recorded above, told us that he eventually came to the conclusion that his symptoms were not attributable to a peptic ulcer and that he had not suffered from bronchitis, as initially suspected. The prison medical officer wrote to us later giving evidence to confirm that Mr. McClean was no longer complaining of abdominal pain and was well. On leaving the centre, the only bruising seen by the center medical officer, and recorded by him at the time, had been superficial. The black eye and other bruising noted on admission to the hospital were not present on departure from the centre.

87. The centre medical officer in his evidence to us about his daily visits, made it clear he had had a good deal to do with Mr. McClean. On the first day (the 11th August), in addition to the entry medical examination, he attended Mr. McClean in the evening and indicated at 2215 that he should be allowed to rest on a mattress as long as necessary. (It was thought at that time Mr. McClean's apparent inability to stand at the wall might be due to unusual tiredness.) The medical officer also examined Mr. McClean particularly the following day when the medical orderly had informed him at 1340 of a rise of one degree in Mr. McClean's temperature. This the medical officer thought might be due to a mild throat infection. The pulse had always been normal. On the 15th August at 1100 the medical officer, concerned at Mr. McClean's low fluid intake, ordered a supplementary fluid diet for him that included sweet tea at half-hourly intervals. In general, the medical officer said Mr. McClean had always behaved very politely to him and he had never complained to him at all. Far from fluids being denied, they had been pressed upon him.

88. *Mr. McKenna's* complaint of beating is denied, and we have found no other evidence which throws any light on the fact that the departure medical record shows "a few small bruises, right ankle, left shin". The entry and departure records also show "mild heart trouble. Hernia 3 years ago". Mr. McKenna had raised the question of previous heart trouble. The medical officer had questioned him about it but had been satisfied from Mr. McKenna's account of his history and treatment that there was no need to pursue the question further with Mr. McKenna's doctor. In the departure record a query mark is placed against the entry of heart trouble. Nothing abnormal was discovered on examination at Crumlin Jail by the prison medical officer on the 18th August, save a tingling in the fingers of both hands.

89. *Mr. McKerr's* allegation that he was beaten around the kidneys is denied, as is his more general allegation of beating. No abnormalities were detected at either the entry or the departure medical examinations at the centre, nor (apart from defective vision clearly of long-standing) by the prison medical officer at Crumlin Jail.

90. *Mr. Turley's* allegation of beating was denied, and there was no knowledge of any incident such as he described at the conclusion of interrogation. His condition showed no abnormality on entry medical examination. On departure, the centre medical officer recorded "healing scars right knee and left shin". We confirmed the existence of such injuries from examination of photo-

graphs taken on departure. We heard no evidence to account for them. The entry made by the prison medical officer for Mr. Turley on admission to Crumlin Jail reads:

"Ecchymosis. Superficial abrasions left hand and right shin. Gave no history of cause."

Conclusions

91. The timetables of events given in some statements by interrogatees are clearly at variance with the written and oral evidence we have received. We consider that such discrepancies are readily explained by confusion as to time and date which could follow from the hooded isolation in which these men were held.

92. As regards the *posture on the wall*, we find that the action taken to enforce this posture constituted physical ill-treatment. In Mr. McClean's case we draw attention to the evidence that he soon avoided the posture by repeated collapsing and to the evidence that the guards let him lie and did not use violence in overcoming his inertia. It therefore appears that any ill-treatment suffered by Mr. McClean under this head was of comparatively short duration.

93. As regards *hooding*, the general allegations are substantiated, and we consider that they constituted physical ill-treatment.

94. As regards *noise*, we find that the men were subjected to continuous and monotonous noise of a volume calculated to isolate them from communication, and this we consider to be a form of physical ill-treatment.

95. As regards deprivation of *sleep* we consider that this constituted physical ill-treatment.

96. As regards *deprivation of food and water*, we find physical ill-treatment in the diet of 1 round of bread and 1 pint of water every 6 hours for men who were being exhausted by other measures at the same time. But in the light of the contemporary documentation we find it difficult to give credence to the far more serious allegation by some detainees that they were denied food and water for long periods, and think it was they who failed to take such food and drink as was offered them.

Particular Allegations

Beatings and other violence

97. Eight of the complainants give particulars of being beaten, kneed and kicked in various parts of the body and at various times, but especially in connection with the force that they say was used to make them maintain or resume the required posture on the wall. We make no findings under this head, for there is a conflict that we cannot resolve between the allegations and the denials that have been made to us by the supervising staff who controlled the proceedings and saw what took place. While it cannot be regarded as conclusive, account must be taken of the evidence adduced in support of these denials, consisting of (*a*) the special training given to the guards to handle detainees by methods which avoided violence or physical damage, and the constant supervision exercised over the operation to ensure that these methods were used in practice and (*b*) the absence of any record of significant physical damage in the medical record made for each of these men, or of any sign of such damage in the photographs taken of these men, on exit from the centre on the 16th and 17th August—except for the special case of Mr. Clarke dealt with separately.

98. We note that there is no evidence at all of a major trauma (again either from medical reports or photographs) that might have been expected to follow from some of the rough treatment complained of by individual detainees (e.g. being struck in the genitals, beating hands against the wall; punched with fingers in the stomach).

99. We consider it probable that there could have been "pins and needles" and numbness in the fingers and hands as a result of prolonged pressure against the wall; we note here that supervisors must also have been aware of this possibility for active measures were taken to control it from time to time. Similarly, swelling of the ankles could be expected after periods of standing against the wall in this unnatural posture.

100. In the particular case of *Mr. Clarke*, it is confirmed that the handling of him was more forcible because of his active resistance. The particular injury for which we have evidence is the effusion of his knee which occurred between the two visits made by the doctor at 1130 and 1720 on the 13th August. We have not been able to ascertain how this happened but we are satisfied that the treatment given to it in the centre was correct, that he was kept under medical supervision and that this treatment was continued after admission to Crumlin Jail. We are not disposed to find that he suffered ill-treatment over and above the ill-treatment that he suffered in common with the other complainants.

101. *Mr. McClean's* specific allegations of physical assault are denied by those who supervised the 11th–17th August operation. Their denial is confirmed by the evidence of the medical officer who visited him regularly during his 6 days in the centre. The medical officer's exit certificate of the 17th August records "Bruising right shoulder and both legs" which was not present on his entry certificate on the 11th August. But the medical officer had emphasised to us that these bruises were superficial and, he thinks, consistent with the handling required to move Mr. McClean who on account of his limp resistance had to be carried about the centre. The further injuries to Mr. McClean mentioned in the 18th August medical records from Crumlin Jail. "Black eye left. Contusions arms and chest", are not, we think, due to action in the centre but must have been suffered by Mr. McClean in transit by lorry and helicopter from the centre to Crumlin Jail. Our enquiries have failed to establish when and how this damage took place. Mr. McClean himself makes no allegation of ill-treatment during his transit and it would therefore appear that the injuries were accidental.

102. A similar comment applies in the case of Mr. Hannaway who was recorded as having a black eye on arrival at Crumlin Jail. He too made no allegation of ill-treatment in the course of the journey in question.

103. *Lavatory facilities*—In respect of the complaints by Mr. Auld and Mr. McClean we draw attention to the evidence that these facilities were not denied and that Mr. McClean wetted his overalls, his mattress and his cell by his own choice.

104. It will be noticed that while we are asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.

105. Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality on the part of those who handled these complainants. We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.

2. The Helicopter Incident

106. The incident took place at the Girdwood Park Regional Holding Centre. The complainants were:

Henry Bennett, Thomas Gerard Johnston, Gerard McErlean, Desmond O'Hagan, George Patrick O'Hara, and Seamus O'Toole or O'Tuathail.

107. Although they may have made other complaints dealt with elsewhere, we have here grouped together those parts of their complaints that have a common basis. The allegations are that they were taken in parties of 5 by military policemen and forced to run over broken glass and rough stones to a helicopter: that they were menaced by police dogs, kicked into a helicopter and pushed or forced to jump out after 15 seconds or so in it; that in one case when the helicopter had taken off a complainant whose hands were bound was threatened with being thrown out above ground; and that they were forced to crawl back to the building whence they had come being kicked, struck and called abusive names. Reports in various versions were published in England in the *Daily Telegraph* on the 17th August and in the *Guardian* on the 18th August, and in Ireland in the *Irish Independent* on the 17th and 18th August and the *Irish News* on the 18th August. In addition in many cases we have before us copies of statements purporting to be made by the complainants.

Sources of Evidence

108. We took oral evidence from 11 members of the security forces. These included the senior military police officer who had, sharing responsibility with another officer of equal rank, been in charge during the events complained of and a number of N.C.O.s who had participated in one or more of the sorties to the helicopter and back. The documentary evidence examined included the records made by the medical officer on duty at Girdwood of any cases to which he attended and the records of the medical examinations given on reception to the Prison proper to all men who left Girdwood for detention. We saw the ground for ourselves.

109. We travelled in a Wessex helicopter and familiarised ourselves with it.

The Oral Evidence

110. Our witnesses told us that the movement to and from the helicopter had taken place on the 9th August and according to a deliberate plan to stage a "Deception" the object of which was to deceive onlookers into believing the arrestees were being taken away from Girdwood. To this end an R.A.F. Wessex helicopter flew into Girdwood. The scheme was to take out overtly to it parties of arrestees from the main building, place them momentarily aboard but then surreptitiously remove them and conceal their return to the building, the helicopter meanwhile taking off to all appearances with a full load. Thus it was hoped onlookers—and Girdwood was overooked from a number of directions—would believe an airlift was taking place. This in turn might help to reduce the attention being paid to Girdwood from outside and obviate the danger of attack on its perimeter or attempted interference within e.g. by sniping.

111. "Deceptions" had taken place 5 times, the first 3 with arrestees and the last two with dummy runs involving members of the security forces only. On the "live" runs the procedure had been for the military police to assemble parties of arrestees within the building, escort them at an ordinary pace from the building to the helicopter parked with rotors running about 40 yards away, and place them aboard. The R.A.F. crewman would then close the doors, and after a brief interval open them for the arrestees to get out. This time the men would return in the custody of the military police, but in a much tighter formation designed to protect their charges from view. The return involved the arrestees being made to adopt a crouching posture and moving as quickly as that posture allowed, back to the building.

112. Our witnesses, including the R.A.F. crewman, were unanimous that no arrestee had at any time been in the helicopter when it left the ground nor had anyone been in the helicopter with them during their short stay inside except for the R.A.F. crewman. No force had been used to push men in or pull men out of the helicopter and no-one had been inside to force them out except for the crewman. It was contrary to R.A.F. orders to touch passengers, and he had not touched them. No-one had used their batons

or their personal weapons if they had them, to strike arrestees. The crouching posture on return to the building had been signalled to the arrestees and enforced by bodily pressure only, i.e. each man had been held by one arm and the escort's free arm had been used to press him down on the shoulders or small of the back if he tried to straighten up. But beyond this, no-one had been dragged or forced to crawl. Making arrestees crawl would not have helped to secure deception. It would merely have elongated the concealing escort and prolonged excessively the period of return to the building.

113. An attempt was made to select only the apparently fit. Witnesses also said the purpose of the exercise had not been explained to the arrestees; indeed, some of the military police themselves had not fully understood at first what had been afoot. Some of the arrestees asked what was happening but the policy was not to brief them lest, if they were released, the security of the exercise would be compromised. One man had attempted to break away on approaching the helicopter, but had been manhandled without undue roughness back to his place. The escorts had not been allocated specific arrestees and often had a different man on the return journey. Two or three had slipped and fallen on the return. Witnesses were divided about how the arrestees were shod: most thought they wore socks or plimsolls; one clearly recollected a man wearing shoes; and the crew member recollected them as all having footwear.

114. Witnesses denied there had been anything unusual about the terrain: there had been no glass or other obstacles; apart from a flower bed, the route after the tarmac in front of the building was entirely grass. There had been dogs about at the time of the operation but they had at all times been tied up against one of the surrounding vehicles. Whilst one or more dogs may have become agitated, none was near enough to threaten damage to the arrestees even when on its lead. The helicopter engine made so much noise it would have been virtually impossible for the arrestees to have heard abusive language if it had been used but it had not.

Documentary Evidence

115. None of the complainants was treated by the medical officer at Girdwood. Of those admitted to Crumlin Jail the prison medical officer recorded on reception two cases of duodenal ulcer for which he prescribed aludrox and 1 extra pint of milk daily (Mr. O'Hara and Mr. O'Toole) and one case with a history of a gastric ulcer, then asymptomatic (Mr. Johnston).

Conclusions

116. We are satisfied that the allegations relate to this deception operation at Girdwood on the 9th August, in which the complainants were made to take part.

117. We draw attention to the evidence contradicting the allegations of men being taken off the ground in the helicopter, threatened with dogs or otherwise assaulted. In this regard we give special weight to the evidence of the R.A.F. crewman, who has the status of an independent eye-witness in that he was in no way concerned with the custody or control of the arrested men, and was only concerned with the safe operation of the helicopter. In particular, we accept his denial of the allegation that the complainants were taken off the ground in the helicopter (an action incidentally which would have defeated the purpose of the operation as a deception) and of the allegations that military policemen accompanied them into the helicopter and pushed them out of it. We also discount allegations of physical action by military policemen in or near the helicopter being backed by verbal threats and abuse, since we established that the rotors of the helicopter were in motion throughout the time the men got in and out of it, and it is a fact that the noise of the Wessex helicopter engine drowns speech. Having ourselves inspected the site of the helicopter landing in relation to the entrance to the main building we know that the route to and from the helicopter went over 10 yards of tarmac, a flower bed and some 30 yards of grass, and do not accept the allegation that the complainants were forced to run over broken glass and rough stones. (There may be some confusion here between this incident and the so-called "obstacle course": see paragraphs 120–136.)

118. The movements of the complainants, as substantiated by the evidence of the army witnesses, consisted of being made to walk under escort for the 40 yards from the building to the helicopter, climb aboard, then after a few seconds (when the helicopter did not leave the ground) get down and move, hastened by their escorts and held down in a crouched position, over the 40 yards back to the building. It does not seem that these movements resulted in any physical damage to any of the complainants, apart perhaps from accidental and very superficial injury. Nor do we think that the escorts who applied some force to the complainants in order to move them with haste in the required posture, did it in order to hurt them.

119. While, however, we make no finding of brutality, we are disposed to criticise the action taken to force the complainants to take part in this deception operation. The purpose for which they were held at Girdwood was that of identification and questioning to decide whether they should be released or lodged in detention. Their use as actors in the deception operation lay outside that purpose, and we think it was a questionable decision so to use them. They were not told why they were being made to take part in the act. It is understandable that they should have been frightened by the unknown and should have thought in the absence of any other reason, that the intention must be to victimise them by putting them through a meaningless exercise involving physical hurt or the threat of it. In fact, as we have said, they seem to have suffered no physical damage: but we think the physical experience they were forced to go through under these circumstances does constitute a measure of ill-treatment.

3. The "Obstacle Course"

120. These incidents took place at Girdwood Park Regional Holding Centre. The complainants are:

Brendan Anderson, Michael Oliver Brady, Gerard Campbell, Thomas Joseph Conlon, Sean Drumm, Michael Farrell, Eamon Kerr, Gerard McErlean, James Moore, James Mullan, Desmond O'Hagan, and Seamus O'Toole or O'Tuathail.

121. Whilst they may have made other complaints dealt with elsewhere in our Report, we have here grouped together those parts of their complaints that have a common thread. They alleged variously that they had been made to run over granite chippings whilst being kicked and shouted at; that they had had to run barefoot over an obstacle course of tree stumps, sharp stones, broken glass, tacks and garbage strewn in their way: that they had been abused verbally as well as poked and struck with batons and that one man on complaining of glass in his foot had had a military policeman stamp upon it and that an R.S.M. had tried to stamp on the feet of others. Reports in various versions were published in England in the *Guardian* on the 18th August, the *Daily Mail* on the 19th August, the *Sunday Times* on the 22nd August and the *Morning Star* on the 23rd August, and in Ireland in the *Irish Independent* on the 17th August, the *Irish Press* on the 18 August, the *Irish Times* on the 17th, 18th, 20th and 27th August, and the *Sunday Independent* on the 22nd August. In one case (Mr. Moore) a complainant came before us in person and made his allegations. In a number of others we received typewritten copies of statements.

Sources of evidence

122. We took oral evidence from one complainant (Mr. Moore) and 19 members of the security forces and prison service on duty or in charge at the relevant times. They included the senior infantry officer in charge of internal security at Girdwood, the senior military police officer, his N.C.O.'s, the R.U.C. officers on duty at the material times, and members of escort parties. We also saw prison officers who had been on duty at material times within the Prison itself. The documentary evidence we examined included the records made by the medical officer on duty at Girdwood of any cases he saw, and the records made by the medical officer on duty to all men who had left Girdwood for detention, on reception in the Prison proper. In addition as we have already explained, we visited Girdwood and the Prison walking over the ground concerned.

Oral evidence

123. Mr. Moore told us he had been taken out of the main building by a side door and entered a barbed wire corridor. He was not clear what time of the day it had been but, since the visibility had not been good, he thought it best described as twilight. There had been a wire stretched low across the ground in the corridor and its purpose had been, he imagined, to make prisoners stumble, although he had not done so himself. He had not himself seen the wire, which he thought to be very thin; he had only felt it. After passing through the hole in the wall of the Prison he had started to go up a grass bank to the football pitch. Thereupon his escort had told him to go back and follow the perimeter route. The first part of the route had consisted chiefly of housing bricks loosely laid as part of a hardcore base for a path. He had not had time to pick his way though them since he was being made to run. He got a cut on one foot but described it to us as "slight" and "nothing to talk about". He had passed over some grass heaped on the path approximately half way between the hole in the wall and the first corner. He assumed there was glass underneath it because as he trod on it he had heard a crackling noise like glass or possibly something similar like broken pottery. He had not seen underneath the grass because he had had no time to inspect the surface. He had noticed no garbage near the route he followed. There had been no sniping that he noticed. R.U.C. officers had been standing openly on the football pitch and it was improbable they would have done so if sniping had been going on. He had seen no dogs on the journey.

124. The witnesses from the security forces said the arrestees in Girdwood had been moved through the hole in the wall to the Prison in two principal batches. The first batch of 84 men went through in daylight during the morning of the 9th August and the second of 59 during the early and dark hours of the 11th August.

125. Members of the first batch on the 9th August were, after their documentation and interview was completed in Girdwood, taken in parties of at most 6 out of a side door of the building through the hole in the wall into the Prison, around the perimeter of the football pitch, through an inner gate and thence to a wing of the Prison where they were in the custody of the R.U.C.

126. The parties were escorted by a mixture of military police and infantry and followed by a dog handler with his dog. Each arrestee was accompanied by a military police N.C.O. and each party by a group of infantry 3–4 strong. The latter carried batons only and no firearms; the former generally had their personal weapons which were either pistols in holsters or sub-machine guns slung on

their backs. All the soldiers denied using abusive language but they confirmed their prisoners either wore stockings or went barefoot. There had been running from the hole in the wall to the right angle turn at the corner of the football pitch but parties had not invariably been made to run along all or part of the route and the older men and the infirm were allowed to proceed at their own pace.

127. The route to the hole in the wall over the granite chippings was selected because it had seemed the most direct. But beyond the hole in the wall no route had been laid out within the prison itself. A number of witnesses were unclear why the perimeter route around the football pitch within the walls was chosen: most of them had simply followed the people in front; others guessed it was because it took the parties nearer to the prison walls where they were less exposed and vulnerable to the danger of sniping. We are satisfied from other evidence, however, that the perimeter route was in fact improvised and not chosen deliberately. The senior infantry officer in Girdwood had not understood his authority to extend beyond the wall and the first parties emerging through the hole in the wall had been informally directed to the perimeter route by a prison officer because it was less exposed either to the danger of sniping or to the gaze of the regular prison inmates who might be unsettled and make a disturbance. The arrestees were without shoes because these had been put in their property bags on arrival at Girdwood and the N.C.O.s in charge had understood their orders to be that men moved into the Prison should have their property bags with them but unopened. Some of the witnesses had assumed their charges had been unshod to lessen the danger of their attempting to escape.

128. Witnesses were unanimous that no-one was forced to run over glass, nails, tin-tacks, struck with batons and rifle butts, stamped upon or made to crawl. Some arrestees had made abusive or threatening remarks to their escorts but none had complained. None had been made to run through garbage, although they had passed near a garbage heap. The only timber on the route was the chippings and twig remains (together with a few boxes) of what appeared to have been timber cutting in the Prison some time before the 9th August. Many logs had been piled up on the verge of the route.

129. Dogs had been kept on the leash throughout, had followed at a distance of some yards behind the parties, and had generally cut diagonally across the football pitch itself rather than follow identically the route of the parties.

130. The 59 men who had gone into the Prison during the early hours of the 11th August had all been shod. They had taken the same route as the 9th August parties up to the hole in the wall but, thereafter, rather than following the perimeter route around the football pitch, they had taken the most direct route by going up the grass bank and out on to the pitch itself. This time the escorts had consisted of military police, infantry and some R.U.C. Each man had been accompanied by a policeman and parties had, apart from the infirm, been ordered to run across the football pitch. We think the route was across the pitch and not round the perimeter because it was done in the dark. They ran because the military police had so interpreted an order that arrestees should be taken into the Prison as quickly as possible because of the sniping. Again, all witnesses denied there had been anyone who had been forced to run over glass, nails, tin-tacks, struck with batons, and rifle butts, stamped upon or made to crawl. The dogs were withdrawn on this occasion and took, therefore, no escort role at all. Gunfire was going on and rounds had entered the vicinity. Neither on the 9th or the 11th August had an R.S.M. or similar figure been on duty.

Documentary evidence

131. There was no record of anybody being treated by the medical officer at Girdwood for cut feet and only one of the complainants in this case had been seen by him although some men had been brought back through the hole in the wall for treatment for one ailment or another at their request. (The medical officer at Girdwood treated Mr. Moore on the 10th August but only for a cut in his arm.) The prison medical officer recorded a statement by Mr. Brady that he had glass in his foot but Mr. Brady himself alleged he had received this before arriving in Girdwood (see paragraph 182 below). None of the other complainants detained were recorded by him as having symptoms in any way to be associated with the alleged events.

Inspection

132. Our own inspection of the route on the 15th September showed that in two places it presented difficulty to a barefoot pedestrian. The first was a short stretch of path near some huts on the Girdwood Park side of the hole in the wall, where the surface was composed of small loose granite chippings. The other was a stretch between the hole in the wall and the first angle in the Prison wall where, in preparation for making a cement path, hardcore had been laid. This hardcore was largely composed of bricks and pieces of brick but included a little broken crockery.

Conclusions

133. The allegation is that the men concerned were forced to run, unshod, over an "obstacle course", that is over a route designed with the intention of doing them physical injury.

134. We have no doubt that we have identified the "obstacle course" as the route that these parties of unshod men were made to take from Girdwood through the "hole in the wall" into the Prison on the 9th August, particularly where the route traversed the chippings by the huts in Girdwood and took the hardcore path after passing through the hole in the wall. It was a route that would cause considerable discomfort to a man required to run over it barefoot: but on the evidence we see no reason to think that this route was chosen, still less prepared, with the intention of causing physical discomfort or injury to the arrested persons who were made to go over it. The facts seem to be that the intended route went across the football pitch, but the first party as it arrived through the hole in the wall into Prison terirtory was diverted on to the hardcore path by a prison officer on grounds of prison discipline, and subsequent parties followed the first. We have gone on to consider what if any measure of ill treatment the men suffered by being made to move hastily over a route adopted by accident but which happened to have some rough features, especially for unshod men. We do not think that they were made to go unshod in order to hurt them. The removal of shoes from arrested persons in Girdwood was the standard procedure to reduce the risk of attempted escape or assault. It was thoughtless on the part of those who directed the movement on the 9th August not to realise that the going was rough in places and that the men concerned might reasonably be allowed some form of footwear, as indeed was done for the batch of men who were moved on the 11th August. Again we have found no evidence to support the view that the escorts' object in hastening them was to do them injury, and we are disposed to accept the explanation that hastening action was taken on grounds of security. Moreover, the objective test of whether ill-treatment took place, would be found in any contemporary record of physical injury associated with the "obstacle course" and we notice the complete absence of any such evidence, either in the record of cases treated by the Girdwood medical officer or in the medical records of the complainants who moved from Girdwood into detention and were examined by the prison medical officer.

135. Finally we derived considerable assistance from the evidence of Mr. Moore who (as we mention in paragraph 294) impressed us as a truthful witness. We think the wire which he encountered was a field telephone wire which we had observed crossing the path at the Girdwood side of the hole in the wall and had not been placed there as an obstacle. It is significant that Mr. Moore made no mention of garbage or tacks and that his opinion that there was glass on the route was derived from "hearing it crackle" under grass cuttings and not from seeing it. Nor did he allege any beating or urging on with batons. His complaint appeared to ge more one of humiliation than of danger of injury and he made light of the "slight cut" which he said he received on one foot.

136. We have not investigated allegations of verbal abuse which lie outside our terms of reference. As regards their physical treatment, our conclusion is that the men concerned in this episode may have suffered some measure of unintended hardship from the rough going. We are unable to reach a finding on the allegations of assault by batons and stamping on feet, in the absence of evidence from complainants.

4. Late Releases on the 10th August (from Girdwood)

137. The men who complained were:

Brendan Anderson, Gerard McErlean, and James Moore.

138. We deal here with the allegations common to all three relating to the circumstances in which they were released from Girdwood on the night of the 10th August. They claimed variously that they had been released at about 2300 with a large group of others in the middle of a riot with bullets flying and some of the men had taken shelter for the night in an entry near the prison and at the nearby Imperial Hotel. Versions of the allegations in some cases were published in the *Irish Independent* of the 17th August and the *Irish News* of the 18th August. We heard oral evidence from one of those involved, Mr. Moore.

139. We saw 8 witnesses from the security forces. They included the senior military police officer at Girdwood, a number of his N.C.O.s and the Camp Guard Commander for that night. With one significant exception, we were unable to rely on any documentary evidence.

140. Mr. Moore told us that he and some other men had been taken in a group to the Clifton Park Avenue gate of Girdwood. They had been released and none of them thought they had the option of staying. Conditions outside were dangerous. Mr. Moore saw soldiers in the street crouching in fire positions, looking out for snipers. As his white vest was prominent and an easy mark, he had asked for and was given a khaki shirt to put over it. He got also a pair of socks to wear with his shoes. He judged it too dangerous to make for his home which was in an area subject to disturbance. He therefore made for a friend's house in a quieter district but even so, narrowly escaped being shot on his way. He told us emphatically that he thought no-one should have been released until the following morning when things were quieter.

141. The military police officer said that late on the 10th August it had been decided to bring together in Girdwood Park all the men either already there or in the prison whom it had been decided to release. They were duly assembled and, where their clothing was inadequate, it was supplemented with army items. The men had been conducted to the Clifton Park Avenue exit of Girdwood in batches between about 2230 and 2300. No-one had been forced to leave Girdwood and the men had been encouraged to

take the advice of the military and civilian police before leaving about the state of affairs in their various parts of the city, as well as the best routes in the circumstances to their own homes. No general invitation to stay overnight had been issued to anyone who might prefer it since the situation did not seem to merit it. There would have been no question of turning people out into a local gun-battle if one had been going on. There had not been: firing could be heard in the area but no rounds were entering the vicinity and there was no rioting in the street. This witness understood that, although no general invitation was issued, two men had stayed in Girdwood overnight.

142. We also saw two military police N.C.O.s who had been concerned with the release of the 50 men and had escorted batches to the gate. They both corroborated the officer's account of the outside situation at the time of release. The first had offered advice about best routes and appropriate action on meeting armed patrols. He said that no-one had showed reluctance to leave and it was an absolute fabrication to say that anyone had been forced out or that they had been pushed out into gunfire.

143. The second N.C.O. said he, too, had been active in advising the released men. Whilst there was no local danger at Girdwood, a lot of distant firing could be heard and some men had been apprehensive about what they might find at home. One man from the first batch on hearing a burst of firing from the Old Park area had run shouting "Don't shoot, I'm on your side" and his companions had laughed because of his panic when the firing was not endangering them. About half a dozen men had hung around outside the gates for about 30 minutes talking amongst themselves. None had come back but there was no doubt they would have been re-admitted to Girdwood had they wished it. He was sure one of the complainants and a companion had stayed overnight in Girdwood. The two had asked on departure whether they could stay. The N.C.O. had said it was not something he could authorize and advised them to approach a more senior rank. Although he had accompanied all further parties to the gate, he had not seen the complainant again and was positive he had not left that night. The N.C.O. knew the Imperial Hotel and thought that, if there had been shooting locally as claimed, it would have been a silly place to stay since it would have been a target.

144. The Camp Guard Commander told us there had been no threat to the security of Girdwood or the Clifton Park Avenue Gate at the time the men were released. The procedure for opening the gate would have been for the military police escorting the batches to vouch for them. Had there been any question of forcing men to leave he would have expected the gate picquet to have sought directions. They had not.

145. We saw three R.U.C. officers who had been on duty in Girdwood and the Prison on the night in question. Two separately told us there had been no shooting in the vicinity for some while before and some while after the men's release. The third was less clear and, although he had not experienced difficulty himself, thought a further colleague we were unable to see had remained behind for some hours after the material time at Girdwood, waiting for the situation outside to settle down before he went home.

146. The officer who had had the closest contact with, and larger responsibility for, the released men said he had no doubt it had been right to release them when they were discharged. The only signs of disturbance had been fires visible in the New Lodge Road district and sounds of gunfire from the Old Park district, neither areas threatening Girdwood. The group of 18–20 with which he had been most closely associated had been glad to be released. He had told them they could stay overnight at Girdwood if they wanted, but none had. They had been entirely free to leave and there had been no question of the authorities keeping them any longer against their will. One man he knew well had wanted, as the officer had recommended, to go away by taxi and the officer had lent him 25p for the fare. The R.U.C. officer had seen no men stay overnight at Girdwood. The military police officer to whom we later put this point since it conflicted with his earlier evidence maintained his position saying the released men would have been free to move at will in Girdwood except for the holding area in the gymnasium and they would have been indistinguishable from the large number of police officers there in plain clothes.

147. None of the witnesses was able to say whether any of the men had gone to the Imperial Hotel for the night. Although this did not seem a crucial issue, enquiries were made at the hotel on our behalf. The hotel's register recorded none of the released men as having stayed on the 10th and 11th August.

Conclusions

148. There is a conflict of evidence between the complainants and the army and police witnesses and we can make no finding, beyond drawing attention to the absence of an entry in the Imperial Hotel Register which—for what it is worth—goes against the complainants' account, and the evidence, independently given to us by the military police and R.U.C. about (*a*) the absence of a gun-battle at the gates of Girdwood (*b*) the fact that the men were not made to leave and that some stayed. In this connection we think it should be noticed that in connection with the release of Mr. Anderson from Girdwood the previous day (see paragraphs 165–176), we had good evidence that it was not the practice at Girdwood to force released persons to get out of the place.

5. Special Exercises at Ballykinler

149. In this case we investigated the allegations of:

Peter Eugene Collins, Dermot Gourley, Michael Joseph Harvey, Richard Rodgers, and Desmond Smith.

150. Amongst other allegations made by these men we found that all made similar complaints about the exercises they were required to do at Ballykinler Camp. They say that after passing through the reception procedure at Ballykinler they were put in a hut and were ordered to sit on the floor. They were then forced to carry out a series of floor exercises which were physically taxing and of long duration. These exercises included sitting with arms stretched upwards for 10–15 minutes, sitting with the arms clasped behind the head, lying on the floor with legs stiffly pressed on the floor and fingers touching the wall, and bending forward in the kneeling position, with the hands clasped behind the back at waist level until the head touched the floor. If anyone refused or failed to carry out an exercise he was kicked, punched or struck with a baton.

151. Allegations of this kind were published in an article in the *Irish Times* of the 26th August, reporting an interview with Mr. Rodgers. Other allegations are contained in written statements by arrestees and particularly in a detailed statement by Mr. Harvey prepared by the Association for Legal Justice and sent to the Home Office.

152. We heard evidence from 8 members of the security forces, including the senior R.U.C. officer responsible for reception arrangements at Girdwood and 2 detective sergeants R.U.C., one of whom assisted at reception, and the other of whom interviewed one of the complainants and took him home on the 10th August. We heard also the senior officer of the detachment of Royal Military Police at Ballykinler, two staff sergeants each in charge of a platoon of military police, and two of their N.C.O.s. We visited Ballykinler, and were shown the area of the camp used for the operations of the 9th, 10th and 11th August by senior officers of units involved.

153. We were told by the senior military witnesses that arrestees had been put in huts which were empty of all furniture and fittings. The unit preparing the huts had been ordered to clear out furniture and fittings in order to remove all material from which makeshift weapons might be improvised. Each hut might in use contain up to 30 arrestees, with 3 guards to supervise them. At first the arrestees had to stand. At about 0730, however, the Special Branch officers at the camp pointed out that, as they passed, they were visible from the windows of the arrestees' huts. They asked that the arrestees be prevented from seeing and identifying them. The R.U.C. accordingly asked that the arrestees sit down, to keep them below the window sill level of 4 feet 6 inches. By midnight on the 9th/10th August hessian screens were in position around the windows, but we understand that for the greater part of the daylight hours of the 9th August the men in the huts were required to sit or lie on the floor.

154. After a period of sitting on the floor, a number of arrestees complained of discomfort. Some movement was necessary to relieve stiffness and prevent cramp. For reasons of security the military authorities were reluctant to permit random individual movement. The guards inside the perimeter of the camp were ordered to carry no weapons, either firearms or batons. We understood this was intended to prevent not so much the improper use by troops of such weapons as their seizure by arrestees in an escape attempt. The guards in a hut, three men guarding perhaps thirty, were anxious at all time to preserve their authority over the arrestees, and to maintain control over movement in particular.

155. No general orders were given about exercise. The two staff sergeants commanding the military police platoons, acting independently, told their subordinates that, if complaints were made, they should ensure that the arrestees changed position. They assumed that one position would be periodically changed for another on a word from one of the guards. The senior N.C.O. in each hut, according to the evidence given by army witnesses at this level, appears in practice to have decided that from time to time the arrestees in his charge should be told to change their position; sometimes for example to sit with the legs towards the wall, sometimes with back to wall. It was agreed by these witnesses that the arrestees were also instructed to do simple exercises, such as stretching forward in a sitting position to touch toes, or leaning back from a sitting position, putting hands behind the neck or on top of the head. The army witnesses said that there were no complaints about the exercises.

156. We heard conflicting evidence about the extent to which arrestees understood the purpose of the instructions to change position and to carry out exercises, and about the extent to which compliance with these exercises was voluntary. A witness from one of the military police platoons who had been on duty in a hut said that there was no compulsion and that arrestees understood why the exercises were taking place. One man who refused to do an exercise had been ignored. A witness from the other military police platoon said that no-one in his hut had refused, but that in the event of refusal, they would have done nothing; this witness felt that the arrestees in his hut did not appreciate the purposes of the exercises during the 9th August, but realised the following day that they were helpful. The platoon commanders and senior officers were uncertain of the extent of compulsion. All witnesses agreed that anyone who was not

able to vary his position readily—we were given the example of one man with piles—was allowed to adopt whatever position was most comfortable; others who were unable to carry out some of the exercises, for example, because they complained of back injury, were not required to do them. With the exception mentioned above, we were given the impression by the army witnesses that anyone capable of performing the exercises might well have felt that he had no alternative but to comply with the instructions he was given. One of the platoon commanders agreed that some of the arrestees, ignorant of the reason for the exercises, might have resented them and regarded them as part of a programme of harassment.

157. There was no clear indication, in the evidence we heard, of the duration of position-changing and the frequency of exercise. Position-changing must, according to the evidence we heard, have continued for the greater part of the 9th August. The night of the 10th August was cold, and the arrestees had no beds or bedding. In at least one hut in the small hours of the morning there were complaints of the cold, and all those in the hut (including those sleeping) were got up to walk or jog around. They were allowed to lie down again at 0300 and to get such sleep as they might until called for breakfast between 0600 and 0630.

158. Of the five men listed above who complained of these exercises, we found medical evidence that one, Mr. Smith, had back trouble, probably connected with a slipped disc. Mr. Collins was released at 1530 on the 9th August with a note from the medical officer to his doctor which did not relate to any injury. Mr. Rodgers, on examination on the 10th August on the Maidstone, complained of a sore right knee, though no physical abnormality was detected. His complaint of pain in the knee was repeated at an examination on the 17th August. Neither Mr. Harvey nor Mr. Gourley had a medical examination on leaving the Holding Centre.

Conclusions

159. The evidence we took from the military police in charge of the Ballykinler huts, confirms that the exercises took place, that their nature and duration was much as described in the allegations, and that they were done under some degree of compulsion. We have noted the inconsistency in this evidence as to the degree of compulsion. On balance we have formed the view that while the supervisory staff believed that the compulsion was limited to securing a simultaneous change of position, the choice of position being left to the arrested person, in practice the man in charge kept control by selecting positions and ordering all the persons in the hut to take up a given position from time to time. There is conflict of evidence on the action taken in cases of disobedience. The allegation is that those who refused or failed to carry out an exercise were assaulted. Against this, we record the evidence of the military police that such assault did not take place, that generally speaking orders were obeyed but those who did not comply were ignored. The medical evidence suggested that one of the detainees, Mr. Smith, should not have been required to perform exercises that imposed an unusual strain on the back. Mr. Rodgers complained of a sore right knee, a condition consistent with performance of some of the exercises described; there was however no physical sign of this condition, though pain in the knee persisted until the 17th August. There were no marks or bruises consistent with the complaints of beating.

160. We think it is plain that these compulsory exercises must have caused hardship to some at least of those who were made to do them, especially those in poor physical condition, and we have noticed as a particular hardship that some men were woken up to do them in order to secure uniformity of action in the hut. On the other hand, we do not regard the exercises as "cruel", if the adjective means that the exercises were thought of and carried out with a view to hurting or degrading the men who had to do them. We prefer to take the view that the exercises were devised to counteract the cold and the stiffness of which the arrested persons complained, but that it should have been foreseen that a system of voluntary changes of position at set times was bound to turn into a form of physical drill compulsorily performed without regard to the relative capacity of the performers, and that the routine was thoughtlessly prolonged after it had served its proper purpose. We think there was lack of judgment here, but not cruelty or brutality, and we think the complainants may have suffered hardship but we made no findings of deliberate ill-treatment.

Individual Allegations—Brendan Anderson

161. Mr. Brendan Anderson complained that he was treated on arrest in Belfast in a fashion similar to that complained of by Mr. Elisha Anderson, his father. We deal with Mr. Elisha Anderson's complaint as the next case, and do not here repeat the sources, the evidence or our conclusions on this point. We have also seen a copy of a statement by Mr. Anderson which was sent by the Association for Legal Justice to a number of Government Departments including the Home Office. Mr. Brendan Anderson complained also that he was forced over the "obstacle course", and that he was released late on the 10th August into an exchange of fire. We deal with these complaints above under the group headings "Obstacle Course" (paragraphs 120–136) and "Late releases on the 10th August at Girdwood Park" (paragraphs 137–148).

162. Mr. Anderson complained also that in Crumlin Jail during the night of the 9th/10th August, he and others in his cell were woken three or four times by police and warders. Mr. Anderson was one of the arrestees at Girdwood Park Regional Holding Centre who were lodged for a period in a wing of the Prison used as an annex of the Centre (see paragraph 39). There is no doubt from the oral and written evidence we have received from both the prison staff and the R.U.C. that during this period before their formal admission to the Prison on the 11th August, the arrestees were the responsibility not of the prison staff but of the army and the police. Prison officers were on duty in the prison wing when arrestees were lodged in it. The custody of the arrestees was not, however, their responsibility R.U.C. officers were on duty who dealt with this and all connected matters. The prison officers acted only as turnkeys. They did not enter cells, or speak to any of the arrestees

163. We heard evidence on Mr. Anderson's complaint of disturbance from two police officers. The constable on duty at the material time said he had carried out a two hourly check of the arrestees in cells In some instances he could do this by looking through the peep-hole in the cell door. In some instances he could not in this way see all it. In all cases, using the switch outside the cell, he had put on the cell light. In no case had he woken, spoken to. or touched an arrestee. A police inspector confirmed that checks were made as described during the night. The frequency had not been laid down and might have varied between individual areas of responsibility. We received evidence also that a number of prisoners rang for attention during the night, and that there was a fairly frequent noise of movement in most parts of the prison wing.

Conclusion

164. We think that Mr. Anderson's statement that he was awakened 3 or 4 times during the night is likely to be accurate. But we consider this was not done intentionally but followed from action properly taken by the police in the course of their duties and was not ill-treatment.

Elisha Anderson

165. Mr. Elisha Anderson who said he was 55 and had a chronic heart condition complained that when arrested in Belfast at 0430 a sandbag was put over his head and he was dragged out over broken glass cutting his foot. At Girdwood, although his distressed condition was obvious, he was made to climb stairs and did not see a doctor for an hour after asking to do so. When released from Girdwood he had to walk along a glass strewn Antrim Road in bare feet. A report of his allegations was published in the *Irish News* on the 18th August.

166. We saw 8 members of the security forces including members of the arrest party, the doctor who treated Mr. Anderson at Girdwood and the N.C.O. whose job it had been to look after Mr. Anderson with two other elderly men in Girdwood. The documentary evidence included the record of his reception at Girdwood and the medical officer's notes of the treatment given him. We had also before us a copy of a statement signed by Mr. Anderson which had been sent by the Association for Legal Justice to a number of Government departments including the Home Office.

167. The N.C.O. who had been in command of the arrest party told us the party had had to force the inner front door of Mr. Anderson's house since, although the street door had been open, knocking had failed to produce a response. The inner door had glass panels and some of them had broken when the door was forced. Mr. Anderson had not been a reluctant prisoner and there had been no need to use force to get him out of the house. Unbound and unrestrained, Mr. Anderson had been conducted out of the house with one escort holding his arm and into the army vehicle outside the front door. When leaving his house he would have had to cross the floor where lay the glass fragments from the forced door but he had not been hurried across. There had been no attempt to put a sandbag over Mr. Anderson's head in the house or at any other time: one had simply been handed to him so that he could take a limited number of belongings with him. Mr. Anderson had not seemed a feeble 55: he looked stocky and well-built, and he had made no complaint of breathlessness or heart trouble.

168. The junior N.C.O. with the arrest party corroborated his senior's version and was able to add some details. First, Mr. Anderson had been barefoot on leaving the house. Secondly, the party had taken only 3 sandbags into the house because they expected to—and did—arrest only 3 men and each would have required a sandbag for his property. The warrant officer in charge of the vehicle had seen the party emerge from the house and did not think they had hustled Mr. Anderson out even though they had been told by the warrant officer to hurry up because people were beginning to come out into the streets. Neither during the journey in the vehicle to Paulett Avenue nor in the 4 ton lorry thence to Girdwood did anyone recall Mr. Anderson's complaining.

169. The R.U.C. officer on reception duty at Girdwood produced to us a copy of the entry he had made in his records of Mr. Anderson's arrival. He had come before the officer at 0550 and had been noted as in good condition and making no complaints. Although the officer was unable to recall whether Mr. Anderson was barefoot, he felt he would have recollected a foot injury had there been one. Mr. Anderson had not seemed at all distressed.

170. We saw the medical officer who had treated Mr. Anderson at Girdwood. The doctor's notes recorded that Mr. Anderson had

complained of dizziness and shortness of breath and that he had a history of cardiac irregularity and been treated with digoxin and tranquilizers. Examination confirmed the cardiac irregularity. The doctor issued appropriate pills to calm him down and noted that Mr. Anderson should receive no strenuous exercise and that he should be released if possible. (There were no records of when Mr. Anderson had first asked for and then received medical attention and none of our witnesses were able to assist us on this question.)

171. The doctor was able to add in his oral evidence to us that, despite Mr. Anderson's condition, he thought it reasonable that the soldiers should not have noticed it. He had observed him and noticed that his shortness of breath had not prevented him from walking into the examination or stripping himself to the waist. He had not complained of glass in his feet to the doctor although it would have been open for him to have done so.

172. The military police N.C.O. who had looked after Mr. Anderson and 2 other men in a room on the first floor of Girdwood said Mr. Anderson had looked initially fatigued but had said he was all right when asked. (We know, from our inspection of the place, that to get to the first floor Mr. Anderson would have had to climb two flights of stairs with an intervening wide landing at the turn.) Mr. Anderson had at no time seemed breathless and had talked happily, sitting like the other two on chairs that had been provided.

173. The N.C.O.'s evidence was that when it was decided to release Mr. Anderson and the other two men, he had taken them downstairs to collect their property (and their shoes, if any) and escort them to the Antrim Road gate. (The decision to release Mr. Anderson was recorded in the R.U.C. reception book as being made at 1045 on the 9th August.) Mr. Anderson was barefoot and attempts to find shoes for him were unsuccessful. Mr. Anderson had walked slowly from Girdwood apparently suffering no discomfort and exhibiting no signs of foot injury. At the gate (which the N.C.O. estimated had been reached approximately half an hour after the release decision had been communicated to him) Mr. Anderson had told the N.C.O. not to worry about him and that he would be all right. Leaving him at the gate standing with another man, the N.C.O. had approached the R.U.C. to provide a patrol car to take Mr. Anderson home because of the special circumstances. He found Mr. Anderson still at the gate when he returned later and had, therefore, made further enquiries of the R.U.C. The N.C.O. this time asked Mr. Anderson whether he had any complaint and he had said he had not. The N.C.O. had not thereafter seen him again but he knew of no reason why Mr. Anderson could not have stayed at the gate if he had wished to. He had told the guard at the gate Mr. Anderson was waiting for transport.

174. The officer in command of the guard at the Antrim Road gate said he could remember Mr. Anderson arriving there for release and the N.C.O. saying he would try to arrange transport. One of the two men with whom Mr. Anderson had arrived was escorted back into the camp to use the telephone to see if he could arrange private transport. The man claimed on return that he had been successful and the officer had produced chairs from the guard room so that the waiting men could sit down. He had not seen them leave. He said that, due to the disturbances then in progress, the Antrim Road was strewn with a certain amount of debris at the time, and this might well have included broken glass but there was no such debris on the road that led about 100 yards from the guarded gate into the public road. The officer had spoken with Mr. Anderson who had not been breathless but rather pleased to be released. There had been no question of ejecting the waiting men and they would have been allowed to wait for their transport.

Conclusion

175. We make no finding about Mr. Anderson's complaint of injury to his foot from glass on his arrest, having noticed that he seems to have made no complaint of it on reception into Girdwood or to the medical officer who examined him at a later stage in Girdwood.

176. Given Mr. Anderson's age and the doctor's report on his condition, we think that there was a lack of consideration in the order given to discharge him from Girdwood, barefoot into a road strewn with debris, in a disturbed area. We draw attention, however, to the evidence given us about the efforts made to secure transport for Mr. Anderson and the evidence that he was not compelled to leave but allowed to wait till transport came but decided to walk away of his own accord. We do not think that anyone at Girdwood took any action with the deliberate object of hurting Mr. Anderson.

James Patrick Boyle

177. Mr. Boyle complained that after his arrest at Ballymoney, County Antrim, on the 9th August at 0430 he was dragged out to a jeep. He asked for a drink of water, and was refused and struck with a baton. His hands were tied behind his back so tightly that they swelled.

178. Mr. Boyle made a formal complaint to the Enquiry, of which he gave details by letter. He was invited to give oral evidence. We heard in answer to our invitation from his mother, who told us he was working in England and could not attend the Enquiry. We have therefore dealt with his complaint on the basis of his written evidence.

179. In relation to Mr. Boyle's complaint of his treatment on arrest, we heard oral evidence from 4 members of the security forces, including the captain in charge of the arrest party. After arrest, Mr. Boyle broke away from the arrest party three times, twice in the house and once outside. On the third occasion he was pursued into the house and was found in the kitchen drinking milk. The officer in charge of the party was concerned at the possibility that firearms might be available. He ordered that Mr. Boyle's hands be bound. One of the party used for this purpose a roll of crepe bandage from their vehicle's first aid kit. He denied the bonds were tight, and told us that Mr. Boyle had gone to sleep at one point on the journey to the prisoner collection point at Ballykelly, where he was unbound and made no complaint. We heard evidence also from another member of the arrest party who had been armed with a baton; he denied that he had struck Mr. Boyle, and said he was standing 5–10 yards away when Mr. Boyle broke away from his escorts on the third occasion.

180. We noted that on admission to Magilligan camp at 1344 Mr. Boyle is recorded to have made no complaint and at his medical examination at 1354 he is recorded as being healthy looking and as having no external injuries.

Conclusion

181. We do not think that the admitted binding of Mr. Boyle's hands constituted ill-treatment. We are unable to resolve the conflict whether he was struck with a baton.

Michael Oliver Brady

182. Mr. Brady, who was arrested in Belfast, complained he was trailed through dirt and barbed wire at the Albert Street collection point shortly after 0430; that he got a piece of glass in his foot when taken out of the compound; and that he was forced with his hands bound to mount a lorry via a chair, which was kicked away by soldiers as he was about to step on it. En route to Girdwood Park, a soldier hit his foot and toes with a rifle butt. Mr. Brady also had complaints that relate to the "obstacle course" and they are dealt with in paragraphs 120–136 above. An account of these allegations appeared in the *Irish Times* of the 20th August.

183. We saw 5 witnesses including the officer in charge of the Albert Street collection point and the soldier who arrested Mr. Brady. Documentary evidence included the record of Mr. Brady's reception at Girdwood on the 9th August and his examination at Crumlin Jail on being detained there on the 11th August.

184. The officer in charge at Albert Street said he had been the only officer present and that the arrestees had been put on arrival in a compound—an area fenced off with barbed wire—in the collection point. No-one had been beaten in the compound—no soldiers were inside it—nor had anyone had their hands tied. After everyone had been collected and it was time to move the arrestees on to Girdwood, all then had their hands tied in front with 4 by 2 flannelette—the standard army cleaning material for pulling through rifling. After being tied the men were walked to the lorries through the parted rolls of barbed wire. No-one was pushed or dragged to the two lorries where 9 prisoners and 9 soldiers boarded each. The ground in the compound was smooth but the ground outside was not. The prisoners had not been wearing shoes but no-one had been intentionally walked over glass—if there was any—nor over barbed wire. Although he had not been able to observe the compound all the time, he had seen all the prisoners board the lorries and no-one had had a chair kicked away from under him. It had not been necessary to prevent prisoners from speaking and, accordingly, he had issued no order to that effect.

185. The warrant officer we saw confirmed the officers' description of events except that he did not remember chairs being placed by the lorries. He added that the compound was clean and the path to the lorries clear of rubbish and rubble, and no-one could have got glass in his feet. The prisoners had had to pass between rolls of barbed wire. The rolls had been separated when necessary to obtain access. No-one had had to walk over strands of wire.

186. We saw two private soldiers, the first had been present at Albert Street and the second had arrested Mr. Brady and accompanied him to Girdwood. The first said the prisoners had had to walk about 4 yards from the compound to the lorries where in each case a chair was used to help men board, the same chair being moved from the first to the second lorry when the first was full. No-one had fallen from the chair.

187. The arresting soldier said he had found Mr. Brady quite pleasant, quiet and no problem at all. When mounting the lorry to Girdwood Mr. Brady had preceded the soldier. There was a chair and the procedure was to use the chair as one step and the back of the lorry as the other. Mr. Brady had stumbled on the chair and half fallen but he had not completely lost his balance or fallen to the ground. Had he fallen, the soldier would have caught him. In the lorry, Mr. Brady sat on the floor with his back against the side. The soldier had stood by Mr. Brady during the journey. No-one had assaulted the prisoner or hit his feet, nor had the soldier himself done so.

188. The R.U.C. officer who noted down Mr. Brady's particulars on his arrival at 0645 at Girdwood produced to us the entry he had made. This recorded Mr. Brady's appearance as normal and that he had made no complaint. The officer said he would have noted anything obviously wrong with Mr. Brady, as he had done in the case of other entries he had made that were produced to us.

189. There was no record of Mr. Brady receiving medical attention at Girdwood. An R.U.C. officer told us he had received a com-

plaint from Mr. Brady just after lunch on the 10th August, when Mr. Brady was in the wing of the Jail used as an annex of the Holding Centre, that he had glass in his foot but, apart from noticing a smear of blood on the top of the foot, the officer did not inspect it. He passed on Mr. Brady's request for attention to a prison officer. On Mr. Brady's reception into Crumlin Jail proper on the 11th August the prison medical offier noted:

"States he has glass in foot—dressing. Nil abnormal palpable. No wound to be seen."

Conclusion

190. Mr. Brady's statement of his experience at Albert Street seems broadly consistent with the army witnesses' account of events there: he passed through barbed wire, and was in difficulties when he mounted the lorry via a chair: but he seems to have come to no harm by doing so if we may judge by the evidence of his condition when he was admitted to Girdwood. We make no finding on his allegation about being hit on foot and toes with a rifle butt, except to notice the evidence that damage was neither noticed nor complained of when he reached Girdwood. We also make no finding as regards the allegation of glass in his foot, noticing the evidence of the prison medical officer that when he complained of this he was examined and nothing was found.

Edward Eamon Campbell

191. Mr. Campbell alleged that after arrest in Belfast on the 9th August he was struck with batons on the head and threatened by the escort in a lorry moving from the Henry Taggart Hall to Girdwood. At Girdwood after interrogation all his bodily hair was shaved off on the false grounds that he had "venereal scabies." His allegations were referred to in the Irish Press of the 14th August, the *Belfast Telegraph* of the 17th August and in *Private Eye* of the 10th September.

192. We examined 6 members of the security forces including his arrester and all the medical staff who had dealt with him at Girdwood. We received expert evidence from a consultant dermatologist. Documentary evidence included the record of Mr. Campbell's reception and the note made by an R.A.M.C. officer who treated him in Girdwood.

193. The N.C.O. who accompanied Mr. Campbell in the lorry to Girdwood, and who had been a member of the party that had arrested him, said that although he could not be sure, there had been up to possibly 15 arrestees in the lorry. With the exception of an elderly man, they had been made to lie face down on the floor and the escort had consisted of 10 soldiers travelling with them in the back of the lorry. The soldiers sat on benches along the sides of the lorry with their feet on the top of the men on the floor. The soldiers had had rifles only, there being no batons on the lorry. Mr. Campbell had been a quiet prisoner who had not been struck either getting in or out of the lorry or at any time during the journey. Although there had been a bit of verbal abuse, no-one else had been struck either. Nor had the young man been put on the side of the lorry exposed to a hostile crowd, pulled up by the hair or told to sing "God Save the Queen". As regards his crucifix, Mr. Campbell had said as he got onto the lorry that he had lost it but search failed to find it. On arrival at Girdwood the N.C.O. had noticed Mr. Campbell had a bleeding lip he had not had when first getting on the vehicle.

194. The R.U.C. officer who had noted Mr. Campbell's particulars on arrival at Girdwood had recorded the cut lip. We have seen the contemporary entry made about the injury on Mr. Campbell's arrival at 0535, and also his photograph taken at reception, which shows the cut lip. The R.U.C. officer said Mr. Campbell had made no complaint about his arrest or treatment during transport, nor had he volunteered or been asked how he had sustained his injury. The officer had not noticed any other injury.

195. At Girdwood Mr. Campbell was treated for an itching rash of which he had complained. In the Irish Press of the 14th August Mr. Campbell was recorded as saying merely that he had been shaved by soldiers but in an article in *Private Eye* on the 10th of September it was said he had been examined by the medical correspondent of the *Irish Times*, Dr. David Nowlan. The article said Dr. Nowlan had found Mr. Campbell to be suffering from "mild pityriasis rosea, 'a bland symptomless, harmless condition' affecting the left side of his chest. There is no such condition as 'venereal scabies'. The treatment for scabies is never shaving. Scabies never spreads to the face and scalp."

196. We saw the two medical officers who inspected Mr. Campbell at Girdwood, the R.A.M.C. medical orderly on duty, the military police N.C.O. who assisted, and a consultant dermatologist. We also corresponded with Dr. Nowlan and a doctor who had seen Mr. Campbell shortly after his release from Girdwood.

197. The military police N.C.O. told us that on the morning of the 10th August the military police escort in the hall in Girdwood announced that all those who felt unwell could take part in the sick parade then being organised. Some 30 or 40 men stood up and they were moved to one side of the hall and taken one by one to the room where the R.A.M.C. medical orderly was working.

198. Mr. Campbell was one of the first to come before the medical orderly. He had complained to the military policeman of a rash on his body and scalp. The orderly told us he had instructed Mr. Campbell to strip to the waist and then examined him. He found he had a rash on his chest, back, arms and neck. He concluded that Mr. Campbell was suffering from scabies, a condition he had seen before on his service abroad. The hair was matted, long and greasy. There were nits of lice in it.

199. The orderly had then sought advice from his medical officer. We saw this doctor and he told us he remembered clearly that Mr. Campbell was "a very dirty young man". There were scratch marks on his arms and under his armpits. The head hair was infested with fleas and nits. He confirmed the orderly's diagnosis, said that Mr. Campbell's head should be shaved, and the scabies treated with successive applications of benzyl benzoate emulsion after thorough washing. Having confirmed that the orderly knew how to carry out the treatment, the doctor had left the premises and did not see Mr. Campbell again. Mr. Campbell was told to think whether he would undergo treatment then or wait until his immediate future was more clear, that is until he was either released or a detention order made. Mr. Campbell in the presence of the orderly and the N.C.O. said he preferred to undergo treatment at once.

200. There and then the military police N.C.O. started to cut Mr. Campbell's hair with scissors and comb. He had made some progress when a different medical officer, the one on 30 minute call at Girdwood Park throughout the operation and not the orderly's ordinary superior, appeared on the scene having learned about Mr. Campbell's case. This doctor made case notes, which we have seen. He told us Mr. Campbell complained he had an itching rash and indicated his trunk, forearms and scalp. The doctor found a rash on the forearms and trunk, with the forearms, wrist and back of the head quite badly excoriated as a result of Mr. Campbell's efforts to relieve the irritation. The lesions, he agreed, were consistent with scabies and with headlice. Neither of the doctors nor any of the others who had dealt with Mr. Campbell noticed any bruising upon him, and the doctors were clear that the marks on the back of the head were scratch marks and not bruising. The second doctor recollected using the term "venereal scabies" to the military policeman, the term being a correct medical description of the condition.

201. He had had to deal with the question of infection because the military police had asked for advice about how to handle all the men in the hall. He had reassured them that the danger of infection was slender. He confirmed both the diagnosis of headlice and scabies, and the treatment.

202. After finishing the hair cutting the military police N.C.O. took Mr. Campbell into the showers and there shaved his head with a safety razor and soap. (Mr. Campbell's chest hair was also removed.) After the shave, the N.C.O. took Mr. Campbell back to the orderly for application of the emulsion. The orderly began the treatment and on reaching the waist, asking Mr. Campbell to lower his trousers. It then became clear that the rash was present in the groin and on the upper part of the thighs. The orderly advised Mr. Campbell that it would be best if his bodily hair in these regions were removed. Mr. Campbell agreed with this recommendation, returned to the showers and there shaved himself with the safety razor nicking himself a couple of times as he did so. The emulsion was then applied and Mr. Campbell dressed himself in clothes provided by the army.

203. The two medical officers who saw Mr. Campbell, the second of whom made notes of his findings, received no complaint from Mr. Campbell either about the treatment he had received from the orderly and the N.C.O. or about any injuries he had sustained at the hands of the security forces beforehand. His demeanour seemed the usual one of a patient seeing a doctor and, if anything, he seemed pleased that he was being treated for the irritating condition from which he was suffering. The medical orderly and the N.C.O. said that Mr. Campbell at no time complained to them, and that he consented of his own free-will to the treatment that was given to him. Because of the crowded conditions, other people were able from time to time to observe Mr. Campbell's treatment or were present when it was taking place either in the room by the hall or in the showers. Neither the doctors, nor the medical orderly, nor the N.C.O. could recollect Mr. Campbell being the butt of unflattering or hostile remarks about his condition. No-one recollected saying he did not want his hair removed because he was a member of a pop group. The next day the medical officer asked if Mr. Campbell had received the second treatment, and found he had been discharged.

204. The burden of the *Private Eye* report on the 10th September was that the diagnosis at Girdwood had been wrong and the treatment, therefore, incorrect. This was a very serious allegation and we were, therefore, most concerned to pursue the question.

205. We wrote to Dr. Nowlan of the *Irish Times*. In reply he said he had examined Mr. Campbell at the Central Citizens' Defence Committee (C.C.D.C.) premises in the Falls Road where the case had been brought to his attention by a doctor he thought to be Mr. Campbell's G.P. Dr. Nowlan thought Mr. Campbell had pityriasis rosea over his left chest wall and said this had been confirmed by a letter the doctor he thought to be Mr. Campbell's G.P. had received later from a consultant dermatologist at the Royal Victoria Hospital. We subsequently wrote to the doctor mentioned by Dr. Nowlan as the patient's G.P. He replied saying that he was not the patient's G.P. but like Der. Nowlan had seen Mr. Campbell at the request of the C.C.D.C. We also understand that Mr. Campbell was not examined by a consultant dermatologist at the Royal Victoria Hospital, but by a house officer.

206. Owing to the conflicting diagnoses in this case—one given by two doctors as a result of the patient's complaint of an itching rash, the other some time later by two

other doctors at the request of the C.C.D.C.—we decided to take further expert medical advice from a consultant dermatologist. He said nit infestation would always be clear enough to a doctor and it was unlikely there could be any doubt about that part of the diagnosis. As to pityriasis rosea the chief point was that the patient was more likely to complain about the rash itself than the irritation since itchiness was not the main feature of this condition, as contrasted with scabies. Further, it was unlikely the rash would be confined to one part of the body, e.g. the upper left anterior chest wall. Characteristically the rash of pityriasis rosea started from a small area (the herald patch) and thereafter appeared all over; its incidence was more common in autumn and spring than other times of the year.

207. He concluded from all the data available to him that Mr. Campbell had been suffering not only from pediculosis capitis and scabies as diagnosed at Girdwood but also seborrhoeic dermatitis either coincidentally or developing later. Close hair-cutting and the application of benzyl benzoate was entirely justified as the quickest and safest method of curing the condition.

CONCLUSIONS

208. We are clear that Mr. Campbell suffered no ill-treatment, still less brutality. He was not shaved to punish or degrade him. On the contrary, the treatment was given him for his benefit and in accordance with the prescription professionally given at the time by not one but two medical officers for a condition which they independently diagnosed. We have no doubt, from the contemporary record and their evidence to us, that there was a satisfactory doctor-patient relationship between the R.A.M.C. doctors and Mr. Campbell. In these circumstances it was not strictly necessary for us to enquire into the correctness of their diagnosis. But since part of the allegation was that the diagnosis of "venereal scabies" was irresponsible and needlessly discreditable to Mr. Campbell, we thought it right to take full evidence on this point, from which it clearly emerges that the diagnosis is supported by responsible medical opinion, both in general terms and in relation to the facts as ascertained at the time and subsequently confirmed about the symptoms exhibited by Mr. Campbell.

Gerard Campbell

209. Mr. Campbell complained that on arrest in Belfast his hands had been tied behind his back, that the end of the rope had been constantly pulled hard and that in a Saracen vehicle, to which he had been pushed, the rope had been put around his neck to choking point. En route to Girdwood through the Ardoyne district amidst brick and bottle throwing he was beaten with batons and held at the back of the lorry as a human shield. His complaint that at Girdwood he was made to run an obstacle course is dealt with in paragraphs 120–136 above. A report of these allegations was published in the *Irish Times* on the 20th August. We saw two witnesses, the N.C.O. in charge of the arrest party and a private who had been a member both of the party and the escort to Mr. Campbell on the way to Girdwood. The documentary evidence included the record of his reception at Girdwood and of his medical examination on admission to the Prison proper.

210. The N.C.O. said the arrest party had gone to the vicinity of Mr. Campbell's house in an Armoured Personnel Carrier (A.P.C.). With the private (whom we saw) he had entered the house and Mr. Campbell had been arrested. No violence had been used by either the arresters or Mr. Campbell at that stage. The entire party had then left the house to walk to the A.P.C. parked about 200 yards down the street and where they were joined by another arrest team. Mr. Campbell had not been bound on the journey to the A.P.C. or whilst in it. However, at the Company rendezvous, where documentation took place, Mr. Campbell's hands were tied with approximately 3 feet of parachute cord in pursuit of general orders issued by the Company Commander. The hands had been tied at the wrist and no cord had been passed around the neck. Mr. Campbell had not been pushed to the A.P.C. nor had the cord been pulled constantly at that stage since binding had not taken place until later.

211. After documentation the N.C.O. said Mr. Campbell had been taken to Girdwood in a lorry. Although he had not been in the lorry, the N.C.O. had accomplanied it in an escorting A.P.C. and observed the route. The journey had taken the small convoy past a group of about 20 people standing on the side of the road and throwing stones at the vehicles. It was not what the N.C.O. would call intensive rioting; most of the crowd had consisted of women and adolescents. The vehicles had not gone through the Ardoyne district.

212. The private confirmed to us the N.C.O.'s account of the journey to the Company rendezvous and particularly that Mr. Campbell's hands had not been bound at any stage before arrival. The private said he had done the binding palm to palm with approximately 2 feet of parachute cord. He had asked Mr. Campbell whether the bonds were too tight and, on being told they were, had slackened them off. The soldier said he had accompanied Mr. Campbell to Girdwood in the back of the lorry. The route had not gone through the Ardoyne but in the general direction of the Springfield Road Police Station. The rioting they passed had been taking place at a road junction in Andersontown. With Mr. Campbell he had gone right up to the cab end of the back of the vehicle since they had been the first party to board. At no time had Mr. Campbell been put at the open end of the vehicle in an exposed position. The floor of the lorry was covered with internal security equipment and to expose Mr. Campbell at the back would have meant making him clamber over the equipment, when using the equipment itself would have afforded better protection to the people inside. Although missiles had been thrown none had entered the vehicle and no-one had been injured. Mr. Campbell had made no complaint about his hands. It would not have been possible to have put the cord around Mr. Campbell's neck since only about 3 inches remained loose after tying; and nor had the cord been pulled. The private denied beating Mr. Campbell with a baton: he had not been carrying one himself, although some had been lying on the lorry floor.

213. As to documentary evidence, we saw that the R.U.C. officer who had taken down Mr. Campbell's particulars on arrival at Girdwood at 0625 had made the entry "No complaints. Good condition". The prison medical officer on examining him on admission to the Prison on the 11th of August had noted nothing except about a duodenal ulcer. There was no record of Mr. Campbell having sought treatment for any injuries whilst at Girdwood.

Conclusion

214. The allegation of hand-tying is confirmed: but having taken evidence about the method and length of cord used, we discount the allegation that the "rope" with which his hands were tied had also been used to pull or choke him.

215. We make no finding in the complaint of beating with batons, which is denied. The account given by the witnesses of conditions in the lorry is by no means conclusive, but diminishes the likelihood of the allegation that the complainant was held as a "human shield" against brick and bottle throwers.

Liam Cummings or O'Comain

216. Mr. Cummings was arrested at Limavady and taken in an armoured vehicle to a collection point at Ballykelly and thence to Magilligan Regional Holding Centre. He is said to have complained that on arrest his hands were tied behind his back, and an empty sandbag pulled over his head. In the lorry soldiers beat him and urinated upon him. A string was tied to his thumb and jerked. He was tapped steadily on the head with batons and the soldiers refused to remove the hood when he was coughing because of the dust inside it. At Ballykelly he was kneed in the groin, and as he straightened up thereafter he was struck in the face with a baton, sustaining a deep cut in the mouth. A soldier called "Taffy" hit him on the chest with a rifle butt. Reports of these allegations were published in Ireland in the *Irish News* and the *Irish Press* of the 12th August, in England in the *Times*, the *Daily Telegraph* and the *Guardian* of the 12th August, and in *Private Eye* of the 10th September. We have also seen notes of an interview of Mr. Cummings by a *Sunday Times* reporter.

217. We saw 7 witnesses, including the officer in command of the arrest party and the medical officer who examined Mr. Cummings on his arrival at Magilligan. Documentary evidence included the arrest report, the reception record, and the doctor's notes of his examination.

218. The arresting officer said Mr. Cummings had accompanied his arresters out of the houses without resistance but, once outside, he had shrugged off his escort and swore at them. Because of this "bolshy" behaviour, the officer said he had ordered Mr. Cummings' hands to be tied behind his back, a sandbag to be put over his head, and his shoes to be removed during the journey in the armoured vehicle to Ballykelly. He also ordered Mr. Cummings to lie on the floor of the vehicle. These orders had been given because of the officers' concern about Mr. Cummings' potential for causing trouble in the congested conditions of the back of an armoured vehicle where there were between 6 and 8 soldiers as well as their prisoner. Had he given trouble to his escort, rather than it being easy for them to overwhelm him, he might have succeeded in causing confusion. The bag over the head was to prevent him running away, and the wrist bonds to prevent him from removing the bag. The officer, a junior subaltern, had received no orders to bind or hood men: he did it on his own initiative. Nor had he specific orders about how he should handle arrestees under the Special Powers Act. Although he had been concerned with effecting arrests before, it had usually involved no more than snatching a rioter to be handed over immediately to the military police. He had not been responsible for a prolonged period of custody before, involving as in this case a long journey through potentially hostile territory where precautions had to be taken against ambush.

219. The private who had found and hooded Mr. Cummings told us he had used the draw cord from a camouflage smock. We saw an example of the cord. It was khaki coloured, flexible fabric cord of approximately ¼" diameter and 2–3 feet long. The hands had been tied wrist over wrist at the rear, just tightly enough to hold them, and the spare ends had been left free. At no time had the method of tying been changed or altered in any way and, in particular, nothing had been tied to Mr. Cumming's thumb and jerked. The sandbag used had been a new hessian one and the witness demonstrated to us, how it had been used by placing it over his own head. He claimed that, apart from the discomfort of the roughness around the neck, there was no difficulty in breathing through the coarse weave.

220. The private corroborated the officer's account of Mr. Cummings' conduct on arrest. He said he had helped Mr. Cummings into the armoured vehicle by putting a hand under the armpit and telling him to be careful because the soldiers themselves were always falling off or slipping on the step. However,

Mr. Cummings had slipped and struck his chest and chin on the floor of the vehicle. Thereafter Mr. Cummings had travelled lying prone on the floor. He had seen no-one strike Mr. Cummings and an N.C.O. had specifically forbidden the use of violence, warning that anyone who resorted to it would be charged. No-one had urinated on Mr. Cummings during the journey and nothing had been poured over him. He had not seen Mr. Cummings' clothes wet and the vehicle floor had been dry. Mr. Cummings had been removed from the armoured vehicle by his being pulled to the back until it was practicable to tell him to sit up and put his legs down over the back ledge. No-one had struck Mr. Cummings with a rifle but it was true that his requests to have the sandbag removed when he had a coughing fit were refused.

221. An N.C.O. who said he was known as "Taffy" corroborated the accounts given by the officer and soldier except to say he had not actually witnessed Mr. Cummings fall in the vehicle since he had been getting in himself at the time at the front where he normally travelled. During the journey to Ballykelly no-one to his knowledge had struck or interfered with Mr. Cummings although it was true the latter had once complained of being uncomfortable on the floor and he had coughed occassionally. The N.C.O. had seen Mr. Cummings dismount and he had not been assaulted then by the N.C.O. or anyone else. He could not have struck Mr. Cummings with a rifle butt since he had no rifle, only a baton. It was true, however, that Mr. Cummings had stumbled on getting out of the vehicle; but he had been caught and sustained no injury.

222. This N.C.O. had accompanied Mr. Cummings from the vehicle into the prisoner collection point at Ballykelly and thence in transport to Magilligan. The hood had been removed within ten minutes of arriving at Ballykelly. The N.C.O. then noticed Mr. Cummings had a graze on the chin. Mr. Cummings had made no complaint during the reception and waiting period at Ballykelly or during the later journey and the N.C.O. had not noticed that Mr. Cummings' clothes were wet in any way. Nor on arrival at Magilligan did Mr. Cummings complain to the R.U.C. officer on reception duty.

223. There were two men on reception duty at Magilligan: an R.U.C. officer who noted down personal particulars of arrivals and a senior N.C.O. of the military police who completed arrest reports brought in by the soldier escorts. We saw both men. The first said he remembered Mr. Cummings because he had, unusually, given his name in both the English and Irish versions. Although the man had had a slight abrasion on the chin, it had been too insignificant for him to note in the injuries column of the record entry that was produced to us. Mr. Cummings has made no complaint: he seemed pretty jovial and undepressed. The R.U.C. officer had not noticed any wetness about the clothing and Mr. Cummings had not complained when the same officer had seen him before his release on the 10th August. We established, however, that during an interview Mr. Cummings had later at Magilligan with police officers he had alleged to them that he had been abused by soldiers, that they had punched him and that they had put a bag over his head.

224. The military police N.C.O. on receiving duty at Magilligan told us Mr. Cummings was the only one of all those who arrived to display any sign of injury. The N.C.O. noticed he had a graze on the chin and Mr. Cummings had also mentioned, although the N.C.O. had not seen the injury himself, that he had a slight cut on the inside of his lip. On asking Mr. Cummings how he had sustained his injuries, the latter had replied that it had happened when he had fallen that morning at the back of an army vehicle. We saw the entry made at the time by this N.C.O. in the arrest form, it read:—

"He sustained a very slight cut to his lower lip and graze to the chin whilst in M.O.D. vehicle."

225. We also saw the photograph taken on arrival at Magilligan which showed the graze extending from the lip to the point of the chin. The N.C.O. was clear Mr. Cummings had actually said he had fallen.

226. The medical officer who had examined arrestees arriving at Magilligan had made notes of each examination and we saw those made in respect of Mr. Cummings. The doctor explained he had noticed 3 superficial injuries: an abrasion on the left of the chest, a small laceration on the left of the lower lip, and some brusing on the right kneecap, He would have asked how the injuries had occurred but he could not recall Mr. Cummings' response beyond that he had been co-operative, helpful and pleasant. On the notes we saw the doctor had recorded Mr. Cummings as "uncomplaining". The doctor thought the injuries were consist with coming into contact with a blunt object but did not think lying on the floor of the armoured vehicle during a partly bumpy ride could account for them. He had not noticed the injury to the chin or any wetness about Mr. Cummings' clothing.

Conclusions

22. As regards the allegations of beating at arrest and being urinated on, we have identified and questioned the persons against whom the allegations are made, and draw attention to their denials and the evidence supporting the denials. In particular we notice the evidence of other witnesses that neither Mr. Cummings' clothes nor the floor of the armoured vehicle were wet, while the contemporary medical record of Mr. Cummings on admission to Magilligan does not support his allegation that he sustained a deep cut in the mouth.

228. On the other hand the allegations of wrist bonds (though not of string tied to thumb and jerked) and hooding with a sandbag, are confirmed by the military evidence. We also have the contemporary record both of the receiving officers of the military and civilian police and of the medical officer, that, on admission to Magilligan Holding Centre, Mr. Cummings showed injuries described by the receiving officers as a graze of the chin and by the medical officer as injuries consisting of an abrasion on the left of the chest, a small laceration on the left of the lower lip and some bruising on the right kneecap. Not having been able to interview Mr. Cummings, we have not been able to question him on the statement attributed to him that the injuries on chin and lip had happened when he had fallen at the back of the Army vehicle. Those injuries are consistent with such an incident, and if they were so caused we have to consider whether such an accident would not follow from the condition in which Mr. Cummings was held during a ride of 20–25 minutes duration in the armoured vehicle. What is clear is that this man travelled, hooded and bound, prone on the metal floor of a small vehicle surrounded by 5 seated soldiers. We accept the arresting officer's explanation that he ordered Mr. Cummings to be hooded and his wrists bound not as a punishment but as a military precaution. We consider, however, that the order showed lack of judgment, that as a result of it Mr. Cummings suffered hardship and a measure of ill-treatment from the hooding and the wrist bonds, and that the injuries which the medical officer who recorded as superficial may well have been caused, in our opinion, by his being moved from arrest to Ballykelly in that condition.

Sean Drumm

229. Mr. Drumm complained that after his arrest in Belfast his shoes were removed and his hands tied behind his back. At Girdwood Park he was forced to "run the gauntlet" and was later sent over the "obstacle course" to Crumlin Jail. At the Prison he was interrogated. Aged 20, he has a bad stammer and his interrogators punched him on the head if he did not answer quickly enough. (His allegations concerning the "obstacle course" are dealt with in paragraphs 120–136.) Reports of Mr. Drumm's complaints appeared in the *Irish Independent* of the 17th August, the *Irish News* of the 18th August and the *Irish Times* of the 27th August.

230. We heard no evidence from Mr. Drumm but we had before us his statement, a copy of which had been forwarded to us by the Chief Constable of the R.U.C. to whom Mr. Devlin, M.P., had sent it, and another copy which had been sent to a number of Government departments by the Association for Legal Justice.

231. We heard evidence from a member of the party who arrested Mr. Drumm on the 9th August. He confirmed that Mr. Drumm's hands had been tied behind his back; this was because he struggled and it was thought likely he would attempt to escape if not restrained. We were told also that on arrival at Girdwood Park, in accordance with standard practice, his shoes and socks were removed.

232. The complaint that Mr. Drumm was forced to "run the gauntlet" has given some difficulty. It appeared to us upon investigation that the only occasions when such treatment might have been inflicted on Mr. Drumm were either those we have described as the helicopter incident and the "obstacle course", or the period of exercise the arrestees were allowed on their first day of confinement In his statement Mr. Drumm says: "I was then taken outside with about 7 or 8 others. We were forced to run the gauntlet between two rows of military policemen. I was grabbed, kicked, knocked down, jumped on and trailed into the hall".

233. This does not read like the description of the helicopter incident. It cannot be a description of the "obstacle course" for Mr. Drumm describes that experience as occurring at a later stage. We therefore investigated this complaint as an allegation of improper treatment as described by Mr. Drumm during a period of exercise.

234. The army witnesses including the senior officer of military police on duty at Girdwood told us that when the work of reception had been completed the arrestees were permitted to exercise. They had gone in crocodile with escorts from the building to walk round the field adjoining it. There was an outer picquet of civilian and military police with at least one dog handler from the Parachute Regiment with his dog. There had been no demonstrations, not even singing. There was therefore no occasion for any physical intervention by the guards and none had occurred.

235. One junior N.C.O. told us that the majority of arrestees had been friendly at this stage, willing to talk and to walk round with their escorts. He said he had given cigarettes to two of them. We were told that the dog or dogs (the number was not clear) were kept well away from the arrestees as well as from the escorts walking with them and the outer picquets.

236. We heard evidence from two civilian police officers who had been concerned in Mr. Drumm's interrogation. Mr. Drumm had had altogether 3 periods of interrogation, one lasting about one quarter of an hour, the others, about one half of an hour. They agreed that they had noticed that Mr. Drumm had an impediment in his speech. They were emphatic that he had not been assaulted in any way during his periods of interrogation.

Conclusion

237. This is another case where in the absence of evidence from the complainant we can do no more than report the allegations and the firm denials.

Michael Farrell

238. Mr. Farrell complained that he was forced over the "obstacle course" between Girdwood Park and the Prison, and that during this episode he was set on by a dog who tore his jacket. (He had been arrested in Belfast.)

239. We received part of Mr. Farrell's statement, headed "Case History of arrest and detention of Michael Farrell" at a late stage in our investigations when it was included in the papers we collected from the *Sunday Times* on the 19th October. Allegations concerning Mr. Farrell had been published in the *Guardian* of the 11th August, in the *Irish Press* and *Irish Independent* both of the 18th August and the *Irish Press* of the 19th August, and in the *Sunday Times* of the 22nd August. There was a further report in the *Morning Star* of the 23rd August.

240. In his detailed statement Mr. Farrell gave an account of his move from Girdwood Park to the Prison which clearly identifies the route involved as being that which we examined while investigating allegations concerning the "obstacle course". Mr. Farrell's narrative includes an incident which does not occur elsewhere, an actual assault by a police dog set on him by the military dog handler. Mr. Farrell said that the dog had torn to shreds the back of his coat on the left-hand side. A member of our staff has seen in the *Sunday Times* office a coat which was sent to the paper as being Mr. Farrell's. It had a tear on the left-hand side of the rear vent. The *Sunday Times* said that forensic tests were carried out on the coat to see if any residues of dog saliva remained on it; but the coat had been too recently dry-cleaned to enable any result to be achieved.

241. We refer to the evidence in relation to dogs recorded under the heading of the "obstacle course". It is agreed by the Army witnesses that the dogs when on a leash and under close control would not only bark but might also snap at people who approach their handlers too closely. All the witnesses we heard, dog handlers and escorts alike, denied that there had been any case where a dog had been close enough to an arrestee to enable the dog to succeed in an effort at biting or seizing clothing.

Conclusion

242. We make no finding, for we cannot resolve the conflict of evidence here. The torn coat is not supported by any oral evidence to us from Mr. Farrell or anyone else, and all the witnesses we saw, deny that any dog was close enough to tear it.

William Gilmore

243. Mr. Gilmore was alleged to have been roughly treated on arrest, in Londonderry, and to have been shot in the stomach at close range with a rubber bullet. Reports of the arrest appeared in the *Irish Independent* of the 18th August, and of the shooting in the issue of *Private Eye* dated the 10th September.

244. We heard evidence from five members of the security forces: the officer in charge of the prisoner collection point to which Mr. Gilmore was brought; the medical officer who there examined Mr. Gilmore; the warrant officer who was in charge of the arrest; a non-commissioned officer who was a member of the arrest party; and a private soldier who had a riot gun and who fired a baton round.

245. The course of events described to us by these witnesses was as follows: The arrest party consisting of the warrant officer and 9 men with a driver went to the street in Londonderry where Mr. Gilmore lived. On arrival they saw a group of rioters at the other end of the street. They dismounted, and the driver was told to turn around the vehicle, a 4-tonner. The private soldier with the riot gun was left to guard it. Mr. Gilmore's house was one of a row of pre-fabricated dwellings set back from the street down an alley way. The warrant officer stationed men at the back and the front of the house and took 4 men with him to effect the arrest. Two men were found in the house, Mr. Gilmore and a younger man. Both men were arrested. As they left the house the rioters were some 40 yards away. The warrant officer anticipated heavy stone throwing and possibly petrol bombs, with the possibility of sniper fire. He divided his party into two. He sent off the younger man with a party under the non-commissioned officer. This party ran from the house. Visibility was poor, but they came under a volley of bricks and bottles from the approaching rioters. After the first volley of stones the warrant officer started off with the remainder of the party. He was on one side, Mr. Gilmore in the centre, and another soldier on the other side. The rioters were by now 25 yards away. The warrant officer heard Mr. Gilmore groan just after they had started, and assumed he had been struck by a stone.

246. In the meantime, at the lorry the young private soldier with the riot gun was watching with some concern for the return of the arrest party. Visibility was poor, and it was impossible to distinguish detail at more than 25–30 yards. At the first approach of the rioters he fired one baton round in their general direction. They drew back a little. Just after he had fired, the first arrest party returned to the lorry. He assumed the young man they had with them was the intended arrestee. As they got aboard the rioters approached again. He discerned three shapes, whom he assumed to the rioters, coming close. He fired a baton round in their direction. They continued to approach and with some consternation he recognised the warrant officer. Mr. Gilmore was groaning and holding his left side.

247. At Ebrington Barracks in Londonderry, the prisoner collection point, the warrant officer learnt that Mr. Gilmore was in severe pain. He was lifted into the barracks, and the officer in charge immediately sent for the medical officer. The medical officer had been watching arrivals and as soon as he saw Mr. Gilmore being carried in he fetched his bag, and was at hand at once. He found serious bruising on the left part of the abdomen and left hip. He anticipated the danger of some kind of internal injury, and arranged for Mr. Gilmore's admission to Altnagelvin Hospital for X-ray. He understood that he there had undergone an operation for a ruptured small bowel.

248. After seeing Mr. Gilmore to the medical officer, the warrant officer returned to the arrest party. The private soldier admitted to him that he had mistaken the warrant officer's party for rioters. At the range he fired, the round might have struck any member of the party. The warrant officer told us his party was wearing flak jackets, but no web equipment. There were no clear recognition marks. He confirmed visibility was poor: on turning out of the alleyway, the lorry was not visible at the end of the road. There were no street lights.

Conclusion

249. There is a clear conclusion in this case. Mr. Gilmore did indeed suffer ill treatment, but certainly not brutality: for the damage was done by accident, the cause being a mistake on the part of the soldier who fired the rubber bullet, without any suggestion that his object was to hit, still less to hurt, the arrested man.

250. The remainder of the evidence shows that no time was lost in getting Mr. Gilmore into medical care.

Joseph Hughes

251. Mr. Hughes complained that at the time of his arrest in Belfast he was pulled by the hair into the street, batoned and kicked; he was made to run 400 yards in bare feet, then forced to lie face down in a lorry where he was again kicked and where a soldier inflicted a stomach wound with his gun barrel. He refers also, without details, to other assaults, to being forced over the "obstacle course", and to being released late on the 10th August (see paragraphs 120–136 and 137–148).

252. Reports of these complaints appeared in the *Irish Times* of the 16th August, the *Daily Telegraph* of the 17th August, and the *Irish Independent*, the *Irish News*, the *Irish Press* and the *Irish Times*, all of the 18th August. A copy of a statement signed by Mr. Hughes was forwarded to us by the Chief Constable of the R.U.C., to whom Mr. Devlin, M.P. had sent it for investigation; another copy was sent by the Association for Legal Justice to the Home Office.

253. We heard evidence from 6 members of the security forces. The sergeant in charge of the arrest party told us that at first Mr. Hughes had refused to leave the house. He seized him in a hold that involved grasping the hair and an arm, and took him downstairs. He then handed Mr. Hughes over to a junior N.C.O., who took him by a similar hold and ran him to a rendezvous 400 yards distant at the vehicle of the arrest party.

254. The hold used was demonstrated by the N.C.O. on our Chairman, and we were told that it is a regular hold known as the "Kado" which had been taught to him for use on such occasions. All those involved denied the allegation that Mr. Hughes had been kicked or struck with a baton. They all agreed that he was made to run and that he was barefooted. Mr. Hughes was arrested in Butler Street and there was need for particular haste to get clear before a hostile crowd had formed.

255. It was agreed that all the prisoners of whom Mr. Hughes was one had been required to lie on the floor of the 4-ton Bedford vehicle in which Mr. Hughes was taken to Girdwood Park. There were 9 prisoners in this vehicle and they had plenty of room to lie down. Blankets were put over them. Between 6 and 10 soldiers were in the lorry sitting on the side benches or with their legs over the lowered tail board. It was denied that Mr. Hughes had been struck with a rifle butt and we were told he could not have been struck with a rifle barrel in the stomach because he had been lying on his front.

256. There was no record that Mr. Hughes had received any treatment at Girdwood Park, and no complaint is recorded in the reception records. Mr. Hughes was released late on the 10th August and not moved into detention so that for him we have no medical record of his condition on entry into detention at Crumlin Jail.

Conclusion

257. The complaint of being pulled by the hair into the street, we identify with the "Kado" grip which the arresting soldier admitted he used. The effect of the grip on the subject can be harsh, but it is a recognized method for the controlled use of force, and the evidence gave us the impression that in this case the arrester used no more force than was necessary to get the arrested person to move with the urgency that the situation required.

258. As to Mr. Hughes' experiences in the lorry, it is clear that he had an uncomfortable journey, but in view of the conflict of evidence we can make no finding on the allegation of assault during the journey, beyond noting the absence of any evidence of complaint of injury or treatment for injury at Girdwood Park. This is another case where we have regretted that the Girdwood admission system has not provided us with medical records of the condition of arrested persons on their arrival.

Thomas Gerald Johnston

259. Mr. Johnston complained that he had been made to walk on barbed wire and been put in a compound at Albert Street in the

course of being moved after arrest at his home in Albert Street to Girdwood Park. His complaint was published in the *Irish Times* on the 20th August.

260. Mr. Johnston's complaint is comparable with that of Michael Oliver Brady in paragraphs 182–190 above. When taking evidence about conditions at Albert Street, we had the complaints of both men in mind but there is nothing in this case to add to the evidence already recorded.

Conclusion

261. The conflict of evidence, which we cannot resolve, is that Mr. Johnston says he was made to walk on barbed wire, while the army witnesses say he had to move between rolls of barbed wire. Either way he seems to have come to no harm, if we may rely on the evidence that he did not complain of hurt on admission to Girdwood Park or ask for medical attention there.

Eamon Kerr

262. Mr. Kerr, who was arrested in Belfast, complained that at Girdwood while still on the transport awaiting reception cigarettes were stubbed out on the back of his neck, and while on the "obstacle course" he was made to walk in bare feet on tacks strewn on the ground, and poked and struck with batons. Reports of the complaint appeared in the *Irish Press* on the 18th August and the *Irish Times* on the 20th August. (Mr. Kerr's complaint about the "obstacle course" is considered together with similar complaints at paragraphs 120–136.)

263. In relation to the stubbing out allegations only, we took oral evidence from 4 witnesses and saw the documentary evidence recording his reception at Girdwood and the medical record of his reception into Crumlin Jail on the 11th August after a detention order had been served upon him.

264. We saw two members of the party that had arrested Mr. Kerr, an N.C.O. and a private soldier. The N.C.O. had accompanied Mr. Kerr throughout this journey to Girdwood from the point of arrest. He said that after arrest Mr. Kerr had first been taken to Mulhouse Street and thence in an armoured vehicle with 3 other arrestees to Girdwood. On the journey there had been himself and 3 other soldiers with the arrestees. The N.C.O.'s position in the vehicle had been on the left-hand side at the back, and from there he had had a clear view inside the vehicle at all times. No-one had smoked during the journey to Girdwood. It was not true that anyone had assaulted Mr. Kerr in any way, or put a cigarette close to him or stubbed any cigarettes out on his neck. The N.C.O. spontaneously informed us he had "given him a mouthful", i.e. had abused verbally, but he characterised the stubbing out allegations as ridiculous and untrue. We were particularly impressed by this witness.

265. The private soldier we saw, said he had not accompanied Mr. Kerr in the vehicle to Girdwood but he had been a member of the arrest party and he had travelled to Girdwood simultaneously with the vehicle (although not in it because it had been full) and arrived at the same time. At Girdwood the whole arrest party had escorted Mr. Kerr and the other arrestees to the building. On the brief walk there from the transport, the soldier had been behind Mr. Kerr. The latter he had not heard to complain or say anything at all. Nobody had been smoking in the back of the vehicle when he had got there to join the party. He knew nothing about cigarettes being stubbed out on the back of Mr. Kerr's neck nor had he heard any talk of it. Since he had walked behind Mr. Kerr to the building he thought he would probably have noticed anything wrong with Mr. Kerr's neck if there had been a visible wound.

266. The R.U.C. officer who recorded Mr. Kerr's particulars on reception in Girdwood produced to us a copy of his entry in the reception book about Mr. Kerr. This showed that no complaint by Mr. Kerr had been recorded on his arrival at 0640. The officer told us he had asked all arrestees who had come before him whether they had a complaint and he would have recorded anything they said.

267. As regards the medical evidence, the medical officer on duty at Girdwood did not see Mr. Kerr and, so far as we have been able to establish, Mr. Kerr was not treated there. The prison medical officer who examined him on admission to the prison proper on the 11th August recorded in an entry we have seen that Mr. Kerr had superficial burns to his neck and that they were to be dressed. This doctor told us there were two small superficial burns and in all they received several dressings. He recollected Mr. Kerr claiming to him that the burns had been caused by cigarettes held to the neck. Although the burns were small, they were consistent with Mr. Kerr's claim.

Conclusions

268. This is a case of conflicting evidence which cannot be reconciled by us. The report of the prison medical officer indicates that on reception in the prison on the 11th August, Mr. Kerr carried two small superficial burns to his neck, and it was the doctor's opinion that these were consistent with Mr. Kerr's claim to him that they had been caused by cigarettes held to the neck. On the other hand, we have the denial of Mr. Kerr's arrest escort that they did it to him. Their denial is supported by the evidence that Mr. Kerr on entering Girdwood on the 9th August within minutes of the alleged assault showed no sign of having undergone what, if the allegation is true, was a recent and very painful experience, and by the evidence that he made no complaint of it either to the reception officer or to the medical officer. The possibility cannot therefore be excluded that the burns took place before Mr. Kerr was arrested.

269. We regret, therefore, that we are unable to reach a positive conclusion in this case.

Thomas Largey

270. Mr. Largey, aged 53, complained that on arrest in Belfast he was dragged downstairs by the head and forced to run about half a mile to a lorry. On arrival at Girdwood he was deprived of his shoes and searched. During the search a soldier stamped on his feet and a later request for treatment of his feet was ignored. Reports of this complaint were published in the Irish Press and the Irish Times both of the 18th August, and we also received a copy of the statement Mr. Largey made to the Association of Legal Justice.

271. We took evidence from 7 members of security forces including the N.C.O. in charge of the arrest party and members of the R.U.C. who dealt with Mr. Largey at Girdwood. Documentary evidence included a record made at the time of his arrival at Girdwood after arrest.

272. The N.C.O. in charge of the arrest party told us they had had to force entry to Mr. Largey's house after a woman's voice had said that they would not be let in. In the house they had been met by a woman, understood to be Mrs. Largey, who had attempted to obstruct the N.C.O. as he had gone upstairs. Although Mr. Largey himself came peacefully on arrest, Mrs. Largey continued to obstruct and abuse the soldiers on the way out of the house. Mr. Largey had come downstairs of his own accord between the N.C.O. and another soldier; there had been no need to use force nor had he been dragged down by the hair of his head. Downstairs Mr. Largey had picked up his jacket and outside the party had moved off at some speed down the road with a soldier on either side of Mr. Largey. The total distance of this transport had been, the N.C.O. estimated, between 600 and 700 metres but they had only run from Mr. Largey's house as far as the Crumlin Road—a distance of 200-250 metres—and Mr. Largey had been shod. The N.C.O. was clear the distance had been as little as 200-250 metres only and not the half mile Mr. Largey had alleged. The latter had not seemed unduly distressed by the run. Like the soldiers he was out of breath. On arrival at the rendezvous at Woodvale Drive Mr. Largey had been helped up on to the 4-ton lorry. The junior N.C.O. of the arrest party confirmed his senior's account to us. He added that the only force that had been used was to hand off Mrs. Largey. The soldier was not clear in his evidence to us about what exactly had occurred on leaving the house, specially who had been holding on to whom. The distance they had run after leaving the house was rather less than half a mile. After running it they had all been puffing and panting.

273. The private who had been a member of the arrest party confirmed to us the account we had already received of the entry to the house and that no force had been used to get Mr. Largey downstairs. He added that Mrs. Largey had shouted a lot and called the soldiers names. One of the reasons why, on leaving the house, the party had run the 200-300 yards through the Ardoyne had been because Mrs. Largey had been shouting. The private accompanied Mr. Largey in the 4-ton lorry to Girdwood, where the man simply climbed off the back and had not been kicked out. Once Mr. Largey had got off the lorry, military police had taken over but before he got off Mr. Largey had removed his shoes at the behest of the military police. None of the soldiers at the back of the lorry had used his baton on the prisoners. The witness said he himself had not a baton and only a couple of others on the vehicles had. Whilst he had had a rifle he had not prodded anyone with it.

274. We took evidence also from an N.C.O. who had been engaged on intelligence duties at the rendezvous to which the arrest party had taken Mr. Largey. This N.C.O. had also been on the vehicle upon which Mr. Largey had travelled to Girdwood. He said that when the vehicle had arrived at Girdwood they had had a wait of between 15 and 20 minutes because of the other vehicles in front of them. Because of the delay, the three prisoners in the vehicle had been made to stand against it when they got off while they waited for the men ahead to be processed through reception. The N.C.O. had seen Mr. Largey get off the truck with assistance from someone on the ground. Whilst waiting outside the vehicle the prisoners had been made to turn with their faces toward it, with their legs apart, and their hands forward upon the side of the vehicle. In this "spread eagle" position Mr. Largey had been searched but he had not been struck on the legs with a baton and no-one had stamped on his feet.

275. The R.U.C. officer who had been on reception duty at Girdwood produced to us a copy of the entry he had made of Mr. Largey's personal particulars on his arrival at 0606. He did not recollect Mr. Largey and had noted nothing in his record about Mr. Largey's condition, although he said he would have done so had there been anything unusual about it. It would have been possible for him to notice anything unusual since Mr. Largey had to walk from the door to the desk some feet away. Similarly, there was no record of Mr. Largey having complained in any way, and a note would have been taken had he done so. One of the two officers who had been concerned with interviewing Mr. Largey said he had interviewed him on two separate occasions with another officer. Mr. Largey had been in his stockinged feet and had had opportunity to complain if he wished to do so, but he had not. The officer was nearly certain he recollected asking Mr. Largey whether he had any complaints. If Mr. Largey had asked for medical attention it would have been obtained since the officer knew that it was available. The officer also said to us that he had accom-

panied Mr. Largey through the hole in the wall into Crumlin Jail and noticed nothing unusual about his condition.

276. There was no record of Mr. Largey having received any medical treatment at Girdwood or the Prison but with Mr. Largey in mind we took the opportunity of asking the medical officer who had bee on call at Girdwood about the arrangements for dealing with medical complaints made by men in the prison wing used as an annex to the Holding Centre before either release or detention in the Prison proper. The medical officer confirmed that the military police who were in charge of the custody of arrestees at Girdwood knew that he was standing by and they had shown no inhibitions in approaching him about medical cases. He would not have refused to attend men held in the prison wing and the question had arisen on the 10th August when two men who had been taken into the prison wing had sought medical attention. An officer had come through the hole in the wall to ask the medical officer to see the two men and he had arranged that they should be brought back for him to examine them.

Conclusion

277. This is another case in which we can make no finding because of the unresolved conflict of evidence. As regards the allegation of violence to Mr. Largey in his house during arrest, we have the account of events by the arresters pointing to conflict not with Mr. Largey but with Mrs. Largey. As regards the allegation of damage to his foot at Girdwood and disregard of his request to have it treated, we have been unable to trace the incident in the evidence of events from military and police sources. We notice the absence of any record of medical treatment, and the absence of evidence that Mr. Largey asked for treatment.

James Moore

278. Mr. Moore complained personally to us that soldiers broke into his house at Benares Street, Belfast, between 0400 and 0500 on the 9th August and while he was holding the door against them his left arm was cut in two places, in one deeply. He was arrested and tied by a string with one end round his right wrist, which was forced up his back, and the other end round his neck. He was taken to Girdwood where he was made to go on the "obstacle course". He received no attention for his cut arm, although he sought it on both the 9th and the 10th August, until late on the 10th August. He was released from Girdwood at 2300 on the 10th August when it was most dangerous to be on the streets.

279. Mr. Moore's allegations are not elsewhere reported. We have considered evidence given by Mr. Moore himself, by members of the security forces and by prison officers.

280. Mr. Moore told us that he heard a commotion in the street early on the 9th August and got up to see what was afoot. Wearing his vest and trousers he went to his front door. There his presence attracted the attention of passing soldiers. They moved towards him and he slammed the door. The soldiers then broke into his house whilst he tried to hold the door against them. His left arm was cut, he believed by a piece of flying glass. When the soldiers broke in they bundled him into the back part of the house and tied a piece of string around his right wrist. His wrist was put up his back and the free end of the string tied around his neck. He told us the string around his neck was not so tight as to cause discomfort unless he moved his arm. He was made to run to a nearby street where a lorry was waiting. Before mounting the vehicle a soldier put a bandage on his cut arm. At this point also the shoes he had put on before leaving the house were removed and put in a bag.

281. In dealing with events after his admission to Girdwood Mr. Moore described to us the move from Girdwood Park to the adjoining Prison wing which was clearly a description of the "obstacle course" mentioned in other complaints. Mr. Moore's complaints under this head have been stated in paragraphs 120–136 above.

282. Mr. Moore said that as soon as he arrived at Girdwood, he had asked for medical attention. He had lost some blood, and blood was visibly soaking through his bandage. He received no attention. He asked again in the prison wing. The prison officer he approached told him the R.U.C. would deal with all such requests. He said that no R.U.C officer came round on the 9th August for this purpose. He asked again on the morning of the 10th August and was told to make his request in the afternoon. He did so, and eventually was taken to Girdwood Park where he saw a doctor at, he thought, 1630 on the 10th August.

283. His complaint about ejection from Girdwood Park late on the 10th August has been stated in paragraphs 137–148 above.

284. Mr. Moore told us that he could not have been arrested as a suspect. He was a member of the Ulster Defense Regiment (U.D.R.) and had no connection with any illegal organisation. He added that he proposed to claim compensation for the events he had described to us.

285. Mr. Moore's allegations fall into 4 parts:—

(*a*) Assault on arrest;

(*b*) Taking part in the "obstacle course" at Girdwood Park;

(*c*) Failure to obtain medical aid for cut arm;

(*d*) Ejection from Girdwood Park into dangerous street conditions.

(a) Alleged assault on arrest

286. The army witnesses told us that Mr. Moore was not on their list for arrest. An arrest party having failed to make their arrest were going down a street towards a commotion at the far end. The last man in the squad collided with a man and fell to the ground. The soldier who fell told us that this man had jumped out of a door, knocked him over and kicked him in the stomach as he fell. He was, even so, able to see the man run back into a door, which he slammed. Other members of the squad turned back, hearing the sound of the fall. They broke into the house and the same man went for them again. They secured him by tying him with parachute cord fastened to both elbows across his back. We were told this is a standard method of tying a prisoner who has to be moved rapidly from one place to another. The military witnesses were emphatic that they had not used the method described by Mr. Moore. It was agreed by these witnesses that it might have been better not to tie an admittedly wounded arm, but we gathered from the evidence that the severity of the wound was not immediately apparent to them. The witnesses from the arrest party told us that Mr. Moore had not attempted to identify himself at the outset as a member of the U.D.R. In the vehicle *en route* for Girdwood Park, however, Mr. Moore had told the arresting soldier he was in the U.D.R and indeed that he would take the soldier to court for arresting him. They did not believe him at the time.

287. The evidence of the arresting party was given to us after we had heard Mr. Moore. Having heard them we asked Mr. Moore for his comments on the assertion that he had assaulted and kicked the soldier. He strenuously denied that he had done so.

(b) "Obstacle course"

288. We examine Mr. Moore's evidence about the "obstacle course" in the section of our Report that deals with the group of complainants concerned with this incident (paragraphs 120–136 above).

(c) Medical attention

289. We refer to the evidence concerning responsibility for arrestees held in the prison wing which we report in the cases of Mr. Brendan Anderson and Mr. Largey (see paragraphs 162 and 276). It appears from the evidence of the R.U.C. that no formal sick parades were held for Girdwood men held in the prison wing on either the 9th or the 10th August, and no routine had been established by which arrestees were to report sick. The R.U.C. officers on duty had not thought it necessary to announce that requests for medical attention would be entertained and relied on the detainees to say if they needed it. As regards medical attention at Girdwood itself, we heard from one of the medical officers on duty at Girdwood Park and from an N.C.O. who was concerned with the reception of prisoners, that no formal sick parades were held at Girdwood Park. Both, however, felt that as a medical orderly was continuously present in a room used for medical treatment and as the medical officer (who from his bag would have been recognised as a doctor) frequently visited the room, no arrestee should have been in any doubt where he should go if he needed treatment. We were told that announcements concerning medical treatment were made to groups of arrestees.

290. We heard evidence also from the R.U.C. officer on duty at the reception desk, who had noted in the entry record for Mr. Moore: "left arm bandage bleeding". He told that he did not know what medical arrangements were in force at Girdwood Park and had not been told in his preliminary briefing. It was not part of his duty to refer injuries to a medical officer although if he had seen a man who was apparently seriously hurt he would certainly have tried to get medical attention for him.

291. The medical officer confirmed that he had treated Mr. Moore at about the time alleged, late in the afternoon of the 10th August. In his note he recorded "complains of laceration left fore-arm—36 hours old RX: suture, tet tox, penicillin". The medical officer recalled that the cut was gaping and needed stitching. He had not noted the number of stitches, but agreed that it may well have been four. (The scar and marks on his arm which we examined when we saw Mr. Moore were consistent with the insertion of four stitches.) The medical officer, when we asked why Mr. Moore had not sought treatment if it was clearly available, replied that he thought he was a matter-of-fact and stoical individual who would have treated it as merely a scratch, and would not have made much of it perhaps until he looked at it on the morning of the 10th and had realised that the cut was gaping and required stitches.

(d) Alleged ejection from Girdwood

292. This part of Mr. Moore's complaint is covered by that section of our Report where we deal with the allegations made by him and several others about the arrangements for men released late on the 10th August from the Clifton Park Avenue Gate of Girdwood (see paragraphs 137–148).

Conclusions

293. As we have said, Mr. Moore appeared before us to substantiate his allegations. By his own choice he was not legally represented. Our conclusions on his allegations are as follows.

294. We formed a favourable impression of Mr. Moore. We do not think that he assaulted the soldier outside his door. No doubt some person did so, but in the prevailing circumstances, and in the dark, a mistake of identification of the assailant could easily take place. We are disposed to believe that he was tied in the way he recounts and would comment that if it was thought necessary to tie him it was better to do so this way than to tie his injured and bleeding arm. Altogether we think that Mr. Moore was arrested by mistake; it is

clear that the cut to his arm from broken glass was caused accidentally when the door was broken down in the course of arrest. Mr. Moore underwent a considerable degree of hardship. But he was not treated with brutality.

295. As regards the failure to obtain medical aid, it is common ground that the gash in his arm was serious and should have had medical attention. We have taken account of the evidence of the opportunities he had to ask for medical attention, both at Girdwood Park itself and while in the prison wing. Against that we have Mr. Moore's evidence, which we believe, that he did ask for medical attention (*a*) on reception into Girdwood Park on the morning of the 9th August, (*b*) in the prison wing later on the 9th August, (*c*) on the morning of the 10th August, and did not get it till the afternoon of the 10th August. We find that Mr. Moore suffered hardship, not from intentional ill-treatment but through deficiencies in the systems of communications at Girdwood and through avoidable neglect.

296. Our conclusions regarding Mr. Moore's part in the "obstacle course" and release from Girdwood late on the 10th August, are in paragraphs 133–136 and 148 above.

Felim O'Hagan

297. Mr. O'Hagan, aged 16, was arrested at Lurgan. His mother, Mrs. O'Hagan, complained that her son, although he made no resistance at the time of his arrest, was pulled out of the house with his arm twisted up his back and struck with a baton across the shoulders. The allegations we saw were a copy of a statement it was said Mrs. O'Hagan had made to the Association for Legal Justice.

298. We saw two witnesses, both members of the arrest party. The first, the private who had actually effected the arrest, said that they had had to force entry by smashing a pane of glass after Mr. O'Hagan's mother had refused to open the door. With others, the soldiers had gone into a downstairs sitting room where he had seen a youth sitting clothed in a chair. The soldier had been instructed by the N.C.O. in charge of the arrest party to arrest the young man. The soldier thereupon asked the youth to come along with the party but the youth had not replied and had not made any move. The soldier then said he had put Mr. O'Hagan in an arm-lock which he demonstrated before us on our Chairman. For reasons that the demonstration made clear, the lock had been successful in making Mr. O'Hagan leave the sitting position and accompany the arrest party. The young man had been plainly frightened by the proceedings. He had said nothing himself although his mother kept on shouting that the soldiers had got the wrong man. It had been necessary to maintain the armlock outside the house because it appeared that even then Mr. O'Hagan was reluctant to accompany the soldiers. The soldier told us that both he and all the other escorts had had batons but he had not used his on Mr. O'Hagan. The allegation that the young man had been pulled with the arm twisted up his back was an incorrect description of what had happened.

299. The N.C.O. in charge of the arrest party told us that he had had orders to arrest three men in Mr. O'Hagan's house. He had had photographs of all the three and it had been plain on getting into the house that none of them was there. The N.C.O. had then gone out of the house to take direction from his superior officer explaining that the only male in the house was Mr. O'Hagan. The officer ordered that the youth should nonetheless be taken along.

300. The N.C.O. said he had repeated the words of arrest to Mr. O'Hagan who had made no response and had continued to sit in the armchair. He had heard the soldier ask Mr. O'Hagan to accompany the troops but Mrs. O'Hagan had told the youth to remain where he was. The N.C.O. was sure that had Mr. O'Hagan gone when first asked there would have been no trouble but it appeared he was trying to follow his mother's directions. When the soldier from whom we had taken evidence approached Mr. O'Hagan to take him into custody the later had shied backwards and the chair he was sitting in had fallen over. The soldier had then assisted him to stand, simultaneously putting on the arm-lock. The party had then proceeded out of the house walking, without any special measures being taken to propel Mr. O'Hagan along even though his mother tried to hold him back. No batons had been used at any time during the arrest and the whole proceedings had been within the N.C.O.'s view. There had been no need to use excessive force as Mr. O'Hagan was obviously frightened and the arm-lock largely a formality.

Conclusion

301. The allegation of the "arm twisted up his back" is identified as the arm-lock which the arresting soldier said he used. The application of this lock, a controlled use of force, is only painful if resisted. We do not think it was used with the object of hurting, but only to the extent, which according to the evidence was small, required to make the arrested person comply.

302. We cannot resolve the conflict between the allegation of striking with a baton across the shoulders, and the witnesses' assertions that they had not used batons at any time during the arrest.

George Patrick O'Hara

303. In a statement taken by a solicitor Mr. O'Hara, who was arrested in Belfast, complained that at Girdwood he was taken to a helicopter which had just landed some detainees and he was taken up in it, bound, by two military policemen who threatened to throw him out at tree-top level and, indeed, held him half out of an open door. Despite its rather different nature, we are satisfied from the evidence that we have described elsewhere that this case stems from the incident that we described above under the "Helicopter Incident" (see paragraphs 106–119 above).

304. The evidence that we outlined there was unanimous in stating that no helicopter ever took off during the operation with the arrested men aboard or that there were members of the security forces inside the helicopter other than the R.A.F. crew member.

Conclusion

305. No other arrested man made a similar allegation. While we can reach no determination without seeing the complainant, we should be surprised if this allegation proved to be well-founded.

Richard Rodgers

306. Mr. Rodgers complained that after his arrest at Newry at 0430 on the 9th August he was punched and struck with batons and gun butts both in a vehicle *en route* for a collection point at Newry, and later on the way to the helicopter that was to take him to Ballykinler. He complained also that at Ballykinler he was forced to perform exercises with which we have dealt above. A report of these complaints appeared in *The Times* of the 26th August.

307. We took oral evidence from two members of the security forces who had been concerned in the arrest and transport of Mr. Rodgers. We examined the record of the medical examination carried out on Mr. Rodgers' admission to the Ballykinler Holding Centre.

308. The army witnesses, a junior N.C.O. and a private soldier, denied using any force on the complainant. He had not resisted arrest and had in fact been co-operative. It was not necessary to restrain him in any way, nor to force him to leave his house or enter the army vehicle.

309. On admission to Ballykinler, no cuts, bruises or marks were found on medical examination, and Mr. Rodgers signed a statement certifying that he was in good health and had sustained no injury.

Conclusion

310. We record the evidence given by the military witnesses that they had not used force on him or needed to do so. This evidence is supported by the record of Mr. Rodgers' medical examination on entry into Ballykinler and his own certificate given on entry that he had sustained no injury. We doubt whether these allegations can be sustained.

Desmond Smith

311. Mr. Smith, who was arrested at Bessbrook, County Armagh, complained of his treatment at Ballykinler Camp and commented adversely on his treatment at Musgrave Park Hospital. Our investigation concentrated on the complaints relating to Ballykinler, in particular that on arrival he was pushed out of a helicopter before it had touched down, when it was six feet from the ground; that after admission he was made to perform hard exercises; that at first he was refused any place or opportunity to relieve himself, and that when eventually taken out for this purpose was given insufficient time; that when he could not perform the exercises he was beaten and had water thrown over him; and that when he went into a convulsive fit a military policeman pushed a knife into his mouth with such force that several back teeth were smashed and the blade of the knife snapped in two.

312. We have dealt above with the complaint about exercises. In relation to this and the other complaints, we heard evidence from a specialist, the medical officer, and 7 members of the security forces including 1 police officer.

313. In relation to the helicopter journey Mr. Smith commented that he and others had been kept in the draught of turning rotor blades before boarding, and he complained that on arrival at Ballykinler, he and other arrestees on board had been pushed from the helicopter before it touched the ground.

314. We heard evidence from an N.C.O. who was one of the helicopter escort party. He told us that no-one was deliberately kept in the slipstream of the rotors before boarding, though they might have had to wait for a short time for the signal from the crewman that it was safe to board. He confirmed that in that period the engine and rotors would have been operating in accordance with normal procedure, but denied that the result would cause any hardship. The escorting N.C.O. also denied that any men had been pushed from the helicopter before it touched down and said that he was the first to leave it when it had done so.

315. Mr. Smith made a number of complaints about toilet facilities at Ballykinler, in particular that to start with all the arrestees were refused permission to relieve themselves, to the point where a number of them urinated on the floor. Then he says a hole was dug outside, but when Mr. Smith asked to use it, he was hustled out by two military policemen, and back again before he had had a chance to relieve himself, so that on his return he wet himself.

316. We heard in evidence from the army witnesses that the distance from the huts to the ablutions hut was 100–150 yards. In the early stages a journey to this hut involved taking each arrestee there under escort. Later on latrines were prepared between the huts with pits and buckets, to which arrestees could more conveniently be taken to urinate. We heard from one witness that anyone who wanted to relieve himself had been allowed to do so, and to take what time he required. Another witness told us of one occasion when arrestees had been hastened. On the 10th August, the platoon coming on duty at 1200 had to see the arrestees

had a meal, a visit to the ablutions hut and a final interview before 1500. The soldiers also had to be fed. As some 90 arrestees were involved, they had been required, unless ill or elderly, to run to the ablution hut and back.

317. Mr. Smith then complains that he was subjected to an increasing degree of ill treatment until he had a fainting fit, when he was pulled out of the hut by the hair and had a bucket of water thrown over him. The military witnesses say that a bucket of water was tipped over one arrestee. not Mr. Smith, who began shouting at the top of his voice and who continued to do so after he had been placed in a hut by himself to calm down. There is no evidence other than his own statement that Mr. Smith received the same treatment. Mr. Smith says he was unconscious at the time, and is repeating what others told him.

318. This episode was followed according to Mr. Smith by his having an attack of epilepsy. He says that according to other onlookers a military policeman pushed a knife into his mouth so hard that is smashed several back teeth, and the blade was snapped in two; it was withdrawn dripping with blood. He was then brought round by the doctor, who administered an injection. We have studied a number of contemporaneous medical records, and heard evidence from the medical officer and a specialist who later treated Mr. Smith. There is no doubt that Mr. Smith suffered a convulsive fainting attack. Expert medical opinion is divided on whether it was an epileptic fit, but the medical officer who was sent for and saw the closing stages of the episode had no doubt that Mr. Smith was indeed undergoing a grand mal convulsion.

319. The medical officer told us that after a quick examination, he thought it best to protect Mr. Smith from the risk of biting his tongue during the convulsion. He called for a spoon to hold the tongue down. No one could find one, and eventually a metal-handled knife was provided from a set of Army utensils. The medical officer opened Mr. Smith's mouth, and used the handle of the knife to hold his tongue down, inserting it some 2 cms. between the front teeth. He said it went nowhere near the back teeth. After Mr. Smith had recovered from the fit he gave him an anti-convulsant drug which was taken orally. He had no injections available. Mr. Smith was then removed to hospital.

320. We have studied the medical reports made thereafter both in hospital and by the civilian medical officer on the *Maidstone*. None of them record any complaint of damage to the back teeth. In view of the history of convulsion, it would be routine to examine the mouth for tongue-biting or other injury; no injury is recorded.

321. In his statement Mr. Smith goes on to make allegations about this treatment in hospital and the conditons of his detention. The latter lie outside our terms of reference and it would not be appropriate for us to investigate or comment upon them. We do not consider that his narrative contains further allegations of physical ill-treatment.

Conclusions

322. We do not consider that there is substance in the complaint about ejection from the helicopter while it was off the ground. Apart from the denial by the escort, and his evidence that he left first, account must be taken of the standard procedure, independently controlled by the helicopter crewman, by which passengers are not permitted to leave the machine before it has landed. We think this complainant, like others, may have been misled into thinking the machine had not landed if he left while the engines were still on and the rotors turning. The reference to the height of 6 feet in the allegation may be an overestimate of the distance (about 4 feet) between the cabin floor of a landed helicopter and the ground.

323. On the sanitary arrangements at Ballykinler, we recognise the conflict of evidence between the complainant and the military and police witnesses. We can only report the evidence we have received in reply to the allegations, and make no finding other than to say that we had no adverse comment on the sanitary arrangements at Ballykinler from the medical officer.

324. There remains the complaint of maltreatment in connection with what we consider, on balance, to have been an epileptic fit. Here the evidence of the medical officer refutes the allegations, and shows that treatment was promptly and correctly given.

John Dermot White

325. Mr. White complained that, after his arrest at Londonderry, he had been kicked and beaten *en route* for Magilligan Camp; that at the camp he and the other detainees had no food until 1900 on the 9th August, having been arrested at 0430, and when it came it was of poor quality; at the camp he and the others were kept awake by soldiers who beat on their hut with batons; and that he was interrogated in three 3-hour sessions, and then was threatened unless he co-operated.

326. Mr. Boyle also complained he was not fed for a long time, and that the food was of poor quality.

327. These complaints were reported in the *Irish News* of the 12th August and the *Evening Standard* of the 1t1h August. The *Evening Standard* quoted Mr. White as saying that on arrest he was taken away wearing only his underpants, and that he had marks on his leg to substantiate the complaint of beating.

328. In relation to Mr. White's complaint of ill-treatment on arrest, we heard evidence from 5 members of the arrest party including a captain and a warrant officer. They said that Mr. White did not resist being taken from the house, though his brother was prevented from leaving it. Between the house and the arrest party's vehicle, Mr. White attempted to dig his heels in to prevent or slow down forward progress. A riot situation was developing and people were throwing bottles and stones. The troops went as quickly as they could. Mr. White's resistance was overcome by two soldiers who took one arm each, and lifted him, not quite clear of the ground but so that his feet could not grip well enough to resist forward progress. We established the identity of one of these soldiers, but there was a conflict of evidence as to the identity of the other. The escort party say that, although no violence was used, Mr. White was admittedly pushed into the vehicle, an armoured personnel carrier, and made to go to its front. They were unable to account for the superficial injuries from which he was later found to be suffering.

329. The witnesses say that Mr. White was fully dressed but for his jacket when first encountered in his house. He was not then nor thereafter only in his underpants. We have seen a photograph taken on arrival at Magilligan Camp. It is a half-length picture of Mr. White, and he is clearly wearing a shirt, tie and trousers. Mr. White first was taken to Ebrington Barracks, Londonderry. Thence with other arrestees he went by van to Magilligan Camp. One member of the arrest party went to the Camp in a land rover in convoy with the van. He told us that Mr. White was at this stage quite co-operative, and there was no occasion on this journey on which he might have received abrasions or bruises. At Magilligan Camp he is not recorded as making any complaint, and the medical officer who examined Mr. White found that he had a "few superficial injuries" specifying "abrasions—medial aspect left knee; right scapular region; right elbow".

330. In relation to the supply and quality of food Mr. White's complaint is joined with that of Mr. Boyle (see paragraphs 177–181 above). We heard evidence from two witnesses, a captain who is a quartermaster of the unit on duty at the camp, and a warrant officer in the Army Catering Corps. They told us that cooks from the infantry unit had started work soon after the unit's arrival, that tea was soon available and a breakfast meal had been served in the morning. We were told that arrestees were not served breakfast. From 1100 a mid-day meal was served, consisting of meat and vegetable stew from tins, and tea. This, as for soldiers and police, was available to the arrestees. Many came through late for lunch, which in practice merged with the evening meal which commenced at 1700. This, also, given to the arrestees, consisted of steak and kidney pudding, hamburgers, meat pie and three kinds of pudding. Neither witness could understand the allegation that arrestees had not been fed until 1900. No permanent record was however available to show whether an individual arrestee was offered a meal at a given time.

331. We heard evidence from the senior officer at Magilligan Camp and from a warrant officer that no noise had been made deliberately to keep men awake. It was agreed that some disturbance might have been caused by men being taken out for questioning. With regard to the use of batons to make noise, we noted the evidence of another arrestee that batons had been rapped on the outside of his hut at 0630 by way of sounding reveille.

332. In relation to the complaint Mr. White made about his interrogation, we heard evidence from the two police officers responsible. They had recorded the times interrogation began and ended. There were three periods, at the following times:—

on the 9th August, 0920–1010 and 1500–1550;

on the 10th August, 1105–1255.

They denied that they had uttered any threats or raised their voices. The only complaint Mr. White made, during his first interrogation, was that he was cold. They gave him a blanket to put around his shoulders.

Conclusion

333. We think the photograph mentioned above refutes the report that Mr. White was arrested and taken away clad only in under pants. It would appear from the evidence of abrasions to his left knee, right chest and right elbow that he had suffered some rough handling and we think this is likely to have occurred between arrest and arrival at Ebrington Barracks. Whether this was accidental, or whether, as Mr. White alleges, deliberate we cannot determine.

CHAPTER VII

Medical arrangements

334. There is one area in which our investigations have enabled us to identify and comment on a general feature of the operation, namely the medical arrangements. We think that a detailed consideration of the organization and administration of the necessary medical arrangements should have been included in the preliminary planning of the arrest operation and that the senior medical staff officer (in this case, the Assistant Director of Medical Services) should have been brought in at this stage. This would have insured that, at the appointed hour, medical officers posted to the various stations would have had comprehensive instructions as to the nature of their duties and, more important still, these instructions would have embraced all the stations involved so that arrestees, wherever they were, would have been the subject of a considered and consistent scheme of medical care and record.

335. In the event, the senior medical staff

officer (A.D.M.S.) was not in on the preliminary or the planning stage (and, indeed, was unaware that the operation was taking place till it was in progress). The medical officers concerned were sketchily briefed by non-medical staff officers a few hours before the exercise was due to take place. Each had to make his own *ad hoc* arrangements and decide for himself on the time, the nature and extent of his examinations of arrestees and on the machinery necessary in order to deal promptly and adequately with those reporting sick. Inevitably, therefore, the medical organization varied from area to area and was unco-ordinated. One result of this lack of central direction was that no consideration seems to have been given to including in the procedure a medical examination of each arrested man on discharge from the Regional Holding Centre as well as on entry to it.

336. Girdwood in particular suffered from this lack of attention to medical planning. There were two medical officers, neither of whom appeared to know that the other existed until they met by chance. Moreover, owing to the rescinding of a Brigade Administrative Order no medical examination took place either on admission or discharge from the camp.

337. Those transferred to Crumlin Jail were covered by the prison doctor, who examined all detainees on reception, but this did not include those discharged from Girdwood back to their homes, and it does not seem to have been understood whether or not the prison doctor was available to give medical attention to arrested persons while in the wing of the Jail used as the annex to the Holding Centre.

338. We accept that it would have been difficult for the two medical officers at Girdwood, even if they had been informed of each other's existence, to cope with their duties to the soldiers fighting in the streets, to the civilian population and at the same time to have examined all the arrested persons, but it should have been possible for the A.D.M.S. (had he known of the exercise in time) to have made arrangements for other doctors to cover these "in and out" examinations.

339. We particularly regret the rescinding of the instruction for the medical examination of each arrested person on arirval at Girdwood. Its omission at Girdwood has had the result for our Enquiry, that as regards allegations from arrested persons taken to Girdwood, we are without the systematic medical records that we have for complainants who went into Ballykinler and Magilligan. But the importance of the system lay in the need to ascertain for each arrested person whether he was fit for the experience of being questioned and held in detention and to ensure that his condition was known on entry, and medical attention given if needed. The requirement for such a system was as great, if not greater, at Girdwood as at the other Regional Holding Centres.

340. Generally, therefore, there appears to have been an insufficient awareness of the medical hazards involved in this type of operation. Nevertheless we record our commendation of the medical officers concerned for the efficient manner in which they carried out these unexpected duties.

ENQUIRY STAFF

341. Mr. R. M. Morris of the Home Office was our Administrative Secretary for the whole of our Enquiry. Mr. C. G. Leonard of the Treasury Solicitor's Department was our Legal Secretary for the first week, when Mr. J. L. Heritage of the same Department succeeded him.

342. They have maintained the highest standards of ability, judgment and good temper throughout the two months of sustained and concentrated work that they have done for us—first in setting up our Belfast Office and establishing our communications; then in organising our casework, briefing us and recording the evidence given to us by 143 witnesses over 17 hearing days, as well as the numerous occasions when they have joined us in our deliberations; and not least in assisting us to prepare this Report. We have exploited them, and they seem to have enjoyed it. We now express our thanks and our admiration for such outstanding service.

343. We are no less grateful to the supporting secretariat, consisting at various times of two or more of the following:—Sylvia Barclay, Margaret Bark, Christine Barwick, Isabel Lewis, and June Thomas.

They have served for long hours and over weekends as a matter of course, and have known no limit to their capacity for hard work of the highest class. We thank them warmly, and we are the more grateful for their unfailing cheerfulness.

CHAPTER VIII

Summary

The arrest and detention operation with which we are concerned, relates to 342 men arrested on the 9th August and subsequently released (105 men) or detained (237 men).

The operation was in two parts:—

(*a*) Arrest and movements to one of three Regional Holding Centres—Ballykinler, Magilligan and Girdwood Park.

(*b*) The process of identification and questioning, leading either to release or movement into detention at the *Maidstone* or Crumlin Jail.

We have investigated allegations made by 40 of the men arrested on the 9th August. Except in one case, the complainants have not appeared before us to substantiate their allegations. One has communicated with us in writing; in other cases we have acted on complainants' statements published by the Press or otherwise transmitted to us.

In the course of our investigation we have had full disclosure of contemporary documentation by the army and police, and we have made particular use of the medical records for testing allegations of physical ill-treatment. We have visited the three Regional Holding Centres and the two places of Detention, the *Maidstone* and Crumlin Jail. We have taken oral evidence from 95 army, 26 police, and 11 prison personnel, and from 11 doctors.

We report on 5 groups of allegations and 20 individual allegations.

Our investigations have not led us to conclude that any of the grouped or individual complainants suffered physical brutality as we understand the term.

As regards the group allegations:—

Group 1—Questioning in Depth (11 names)

We consider that the following actions constitute physical ill-treatment; posture on the wall, hooding, noise, deprivation of sleep, diet of bread and water.

Group 2—Helicopter Incident, Girdwood (6 names)

We criticise the action taken to force the complainants to take part in this deception operation and consider that the physical experience of these men constitutes a measure of ill-treatment.

Group 3—"Obstacle Course" Girdwood (12 names)

We conclude that the men concerned may have suffered some measure of unintended hardship.

Group 4—Lake Releases on the 10th August, Girdwood (3 names)

Given the conflict of evidence we make no findings, but draw attention to the evidence that men released from Girdwood were not made to leave and that some stayed.

Group 5—Special Exercises at Ballykinler (5 names)

We consider that these compulsory exercises must have caused some hardship but do not think the exercises were thought of and carried out with a view to hurting or degrading the men who had to do them.

Individual Cases (20 names)

We report 2 cases where we consider there was a measure of ill-treatment: one (Mr. Cummings) suffered from hooding and wrist bonds ordered not as a punishment but as a military precaution, the other (Mr. Gilmore) from damage done by accident. We report one case (Mr. Moore) where we think the complainant suffered hardship in that he was accidentally cut by broken glass on arrest and there was avoidable neglect in getting medical attention for him at Girdwood. In the remaining cases, the conflict of evidence has prevented a finding, or we consider that the complaint cannot be sustained.

We draw attention to defects in the administrative arrangements regarding medical cover for the arrest and holding operation generally, and for Girdwood Park Holding Centre in particular.

November 3, 1971.

Edmund Compton,
E. S. Fay,
Ronald Gibson.

APPENDIX

List of complainants

Anderson, Brendan.
Anderson, Elisha.
Auld, James.
Bennett, Henry.
Boyle, Patrick.
Brady, Michael Oliver.
Campbell, Edward Eamon.
Campbell, Gerard.
Clarke, Joseph.
Collins, Peter Eugene.
Conlon, Thomas Joseph.
Cummings or O'comain, Liam John.
Donnelly, Michael Joseph.
Drumm, Sean.
Farrell, Michael.
Gilmore, William.
Gourley, Dermot Francis.
Hannaway, Kevin.
Harvey, Michael Joseph.
Hughes, Joseph.
Johnston, Thomas Gerard.
Kerr, Eamon.
Largey, Thomas.
McClean, Patrick Joseph.
McErlean, Gerard.
McGuigan, Francis.
McKenna, Sean.
McKerr, Gerald.
McNally, Patrick.
Moore, James.
Mullan, James.
O'Hagan, Desmond.
O'Hagan, Felim.
O'Hara, George Patrick.
O'Toole or O'Tuathail, Seamus.
Rodgers, Richard.
Shivers, Patrick.
Smith, Desmond.
Turley, Brian.
White, John Dermot.

NEED FOR A NATIONAL SENIOR SERVICE CORPS

Mr. WILLIAMS. Mr. President, recent Department of Labor statistics provide a grim reminder that our widespread unemployment is affecting practically every sector in our economy, all regions in our Nation, and every age group.

Since January 1969, the jobless rate has jumped sharply from 3.4 to 6 percent, adding nearly 2.5 million workers to the unemployment rolls. During this same period, long-term joblessness—15 weeks or longer—has risen precipitously from 355,000 to 1,058,000, for a 210 percent increase. Today nearly 500,000 individuals have been out of work for 27

weeks or longer. This is about four times as many as in January 1969.

By whatever barometer one would choose to use, the administration's employment "game" plan has been a colossal failure for today's workers. And despite Pollyanna-type prophesies by administration spokesman, our unacceptable level of extraordinarily high unemployment is likely to continue during the months ahead.

For the older worker, our economic slowdown has frequently had a disastrous double barreled impact. These individuals have not only lost their jobs but their pension coverage as well.

Today there are nearly 500,000 jobless persons 55 and older, about 89 percent greater than in January 1969. Once unemployed, these individuals run a substantially greater risk of being without work for a long period of time. Today one out of every three unemployed persons 55 and over has been looking for a job for 15 weeks or longer, compared with one in five for all jobless individuals. And our mounting unemployment has helped contribute to the 100,000 increase in the poverty population for persons in the 55-plus age category during the past 2 years.

For many of these jobless individuals, Operation Mainstream has literally been a lifesaver, providing gainful employment in a wide range of useful community activities. But Mainstream is essentially a demonstration program. However, we do not need any more proof that these projects—such as Green Thumb, Senior Aides, and the Senior Community Service programs—will work. What we need now is a genuine national program, as authorized in the Older American Community Service Employment Act.

This legislation is now before the Subcommittee on Aging of the Senate Labor and Public Welfare Committee, of which I am chairman. Last July 2 days of hearings were held on this legislation. Every single witness, with the exception of administration spokesmen, enthusiastically endorsed this legislation. However, the President's recent address at the White House Conference on Aging has provided a possible signal that the administration has, at long last, reassessed its strong opposition to special emphasis programs to maximize employment opportunities for older workers.

Recently, I was joined by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Missouri (Mr. EAGLETON) in writing a letter to the Secretary of Labor to obtain clarification of the administration's position with regard to the Older American Community Service Employment Act.

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

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

DECEMBER 9, 1971.

Hon. JAMES D. HODGSON,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: During his recent address before the delegates at the White House Conference on Aging, President Nixon emphasized:

"Some of the best service programs for older Americans are those which give older Americans a chance to serve. Thousands of older Americans have found that their work in hospitals and churches, in parks and in schools gives them a new sense of pride and purpose even as it contributes to the lives of others.

"Federal programs to provide such opportunities have proven remarkably successful at the demonstration level. But now we must move beyond this demonstration phase and establish these programs on a broader, national basis."

At the outset, we wish to express our strong support for the President's statement. It was for these very reasons that we have enthusiastically supported the Older American Community Service Employment Act (S. 555), which was introduced last February by Senator Edward Kennedy. This measure would provide a basis for converting the successful pilot programs under Mainstream—such as Green Thumb, Senior Aides, and the Senior Community Service projects—into permanent, ongoing national programs.

Last July, two days of hearings were held on this legislation by the Subcommittee on Aging of the Senate Labor and Public Welfare Committee. With the exception of Administration spokesmen, all witnesses expressed enthusiastic support for the enactment of this measure. The Administration, however, recommended against the enactment of this proposal because of its opposition to categorical programs. For example, Mr. Paul J. Fasser said:

"Despite the apparent success of several of the categorical programs such as the Community Senior Service program, it is clear that, as a whole, because of the multiplicity of separate and distinct programs each vying for a share, the categorical approach of recent years has not fulfilled the expectations of manpower programs for older people or for anyone else."

However, in view of the President's recent declaration, it appears as if the Administration may possibly be reconsidering its position with regard to the Older American Community Service Employment Act. With unemployment increasing by nearly 89 percent for persons 55 and older since January 1969, it seems imperative to us that legislation should be enacted as promptly as possible to maximize employment opportunities for older workers.

For these compelling reasons, we would appreciate your early response to the following questions:

Has the Administration changed its position with regard to the enactment of legislation to establish a national senior service corps, as envisioned in the Older American Community Service Employment Act?

If the answer to the first question is "yes", would the Administration have any further suggestion for improving this measure?

If the answer to the first question is "no", what alternatives does the Administration support to increase employment opportunities for low-income persons 55 and older?

With best wishes.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.
EDWARD M. KENNEDY,
Subcommittee on Health.
THOMAS F. EAGLETON,
Subcommittee on Aging.

STATEMENT BY SENATOR STENNIS

Mr. STENNIS. Mr. President, late this morning I learned of the resignation of Mr. David Packard as Deputy Secretary of Defense. While I certainly respect and honor his reasons for resigning, his leaving is an enormous loss to the country. I will have more to say on this early next week.

In the meantime, I have been handed four letters relating to his resignation: First is a letter of December 10 to Mr. Laird from Mr. Packard; second is a letter of December 10 from Mr. Packard to President Nixon; third is a letter of December 11 from Mr. Laird to Mr. Packard; and the fourth is a letter of December 11 from President Nixon to Mr. Packard.

Mr. President, I ask unanimous consent that these letters be inserted in the RECORD.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., December 10, 1971.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MEL: As you know, last July I advised the President that I could not remain in a full-time government position after this year. I advised the President today that for strictly personal reasons I must resign as Deputy Secretary of Defense effective 13 December 1971.

I cannot leave the Department without expressing my personal appreciation for all that you have done to make this a most challenging and rewarding experience. I wish to add my great admiration for the personal leadership you have given to the Department of Defense as we have moved to help meet the President's objectives of a generation of peace through strength, partnership, and negotiation.

I accepted your request to join you in the Department of Defense with the hope that I could make some contribution to the nation that has done so much for me. I appreciate your confidence and admire your courage in affording complete trust and full support to this nonpolitician and nonbureaucrat in his work with national security affairs and the largest bureaucracy in the country. You have taught me much about the roles of the legislative and executive branches of government and how to get things done within them.

Much has been accomplished during our service together in the Department of Defense and I believe we can be proud of this record even as we honestly recognize that there is much more to be done. Vietnamization has worked, and our focus now is properly beyond Vietnam. Management is better, our planning more realistic and our procurement policies have been improved. The Department has a good focus on Human Goals.

Under your leadership the entire Department, military and civilian, has worked as a team in support of the President's national security objectives. I am sure you agree that this progress rests upon the dedication and support we have had from the men and women of the Department. I leave the Department with the conviction that it has a great source of strength in its people, military and civilian, and I'm sure they will continue to give their full support to you and to my successor.

I remain ready to assist you in any way appropriate from private life. You can be assured of my continued and active support of our vitally important programs to assure that our nation remains strong and free and our people safe. It has been an honor and privilege to serve with you and all the military and civilian members of the Department of Defense.

Sincerely,

DAVID PACKARD.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., December 10, 1971.
The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last July I informed you that for strictly personal reasons I could not continue in a full-time government position after this year. I want to advise you today that I must resign as Deputy Secretary of Defense effective December 13, 1971.

I will leave the Department of Defense with both regrets and a real sense of accomplishment. I have developed great admiration and respect for the men and women of the Department—military and civilian. Their dedication and personal competence is the Department's greatest source of strength and our best assurance of maintaining our national security.

Secretary Laird has built an excellent management team in the Department and I believe that its accomplishments have established this excellence. I have seen what I believe to be major forward steps, particularly in the fields of management, procurement and equal opportunity. I am sure these steps will help you in the years ahead in maintaining both a more economical and effective national defense. I am equally confident that this team will continue its effective implementation of your national security programs and will work closely and well with my successor.

I want to take this opportunity as a citizen and as Deputy Secretary of Defense to express my appreciation and admiration for the outstanding leadership you have provided to the nation and the Department of Defense. Under your leadership I have seen the Vietnamization program turn the nation from war to peace, seen great new initiatives in negotiations and in nation-to-nation contacts, and seen a basic restructing of national and international programs to recognize new realities and essential new priorities. You have established the basis for a generation or more of peace.

It has been a privilege and honor to serve you and to play a small role in assisting you in exercising American leadership for world peace and in supporting your determination that our nation remain both strong and free.

I want to emphasize that my decision to resign from a full time government position has been made for strictly personal reasons. I am, of course, available to assist you from private life in any way you may feel appropriate. I am certain the American people will re-elect you in 1972 so that you can continue your great work for peace and stability both at home and abroad. I want to help and will help in this important job of pointing out in coming months your accomplishments, your goals, and the importance of your re-election to the welfare not just of the United States, but to the entire Free World.

It has been the greatest honor of my lifetime to have served in your Administration. Your leadership, backed by courage, wisdom and understanding, has been magnificent. Thank you for the opportunity to serve my President and my country.

Respectfully yours,

DAVID PACKARD.

THE SECRETARY OF DEFENSE,
Washington, D.C., December 11, 1971.

DEAR DAVE: No one could regret more than I your resignation effective Monday as Deputy Secretary of Defense. I fully understand the personal matters involved. Barbara and I know more than anyone else in government of the great sacrifices you and Lu have made in order to serve our nation. I originally asked you to help me for two years, and I deeply appreciate your willingness to serve a full year beyond that.

You have been indispensable in helping me form the close-knit management team which has functioned so well at Defense these last three years. This team—as a result of the contribution you have made—will be able, I am sure, to carry forward its work in implementing the President's national security initiatives for peace. It is a major measure of your success that the team is strong and will be able to continue its progressive momentum even without the daily benefit of your counsel and decisiveness.

You and I recognize that we have not solved all the problems nor overcome all the challenges, but following your example we will continue to meet challenges head-on, to handle them forth-rightly and never to sweep them under the rug. You have led the Department to better management, better procurement, better planning, and to equal-opportunity accomplishments that point the way for every other American institution.

Your personal and unfailing commitment to honesty, realism and straight talk was a driving force behind our development of a new and better way of doing business in the Department of Defense. Indeed, you have been a rather unique phenomenon in Washington and, in my judgment, the best thing that has happened to the Department of Defense since it was established. I certainly will take full advantage of your characteristic offer of continued help.

I value greatly the contributions you have made to the successful Vietnamization program and the resulting transition of our country from wartime to peacetime. Your help was also instrumental in our work with the President and the Congress to eliminate inequities in the Selective Service System while resolutely moving toward our goal of Zero Draft calls.

Dave, you have been a leader and a friend. You have exercised clear, firm but always kind and fair guidance and leadership for all the men and women, military and civilian, of the Department of Defense. For all of them, thank you and Godspeed.

With best regards and many thanks for your great help and support these past 35 months.

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THE WHITE HOUSE,
Washington, December 11, 1971.
Hon. DAVID PACKARD,
Deputy Secretary of Defense,
Washington, D.C.

DEAR DAVE: It is with the deepest regret that I accept your resignation, as you have requested, as Deputy Secretary of Defense, effective December 13, 1971.

Few men have given so much and so willingly to their country as you have for the past thirty-five months—and few have discharged their responsibilities with such distinction and excellence. In assuming this demanding position—at great personal and financial sacrifice—you demonstrated once again your commitment to effective public service and gave testimony to your belief that every American can and should contribute to the cause of good government.

Managing a vast array of exceedingly complex defense matters, you have shown outstanding judgment and uncommon ability, and have justly won the admiration and respect of your colleagues. Your wise counsel in vitally important national security questions has been of immense value to Mel Laird and to me, and I want you to know that these exceptional accomplishments have earned for you the Nation's gratitude.

As you return to private life, I am sure that each and every one of your many friends and associates here would want to join me in thanking you for a job superbly done and in wishing Lucile and you the happiness you so richly deserve.

Sincerely,

RICHARD NIXON.

A SIZEUP OF PRESIDENT NIXON

Mr. HART. Mr. President, scholarship, objectivity, and moderation do not mark every politician, and this is unfortunate.

But they are possessed in striking degree by the distinguished majority leader (Mr. MANSFIELD). This heightens the interest many will find in the interview with Senator MANSFIELD published in the U.S. News & World Report, reflecting the majority leader's impressions of the state of the Nation.

This interview captures to a great degree the quiet strength that is so characteristic of this man of the West. His insight, his profound appraisal of the world as he observes it are all expressed with the refreshing candor that has marked so well the long and outstanding career of MIKE MANSFIELD.

I call it to the attention of my colleagues here and ask unanimous consent therefor that it be printed at this point in the RECORD.

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

A SIZEUP OF PRESIDENT NIXON

(Interview with MIKE MANSFIELD, Senate Democratic leader)

Q. Senator Mansfield, as the leader of the Democrats in the Senate, how do you get along with President Nixon?

A. We have a good relationship. It's not intimate because there is a line of demarcation between the two branches of the Government. But I have nothing but praise for our personal relationship. After all, I did serve with Mr. Nixon in the House and the Senate and have known him for a good many years, and I believe I have an awareness of the difficulties which are any President's.

Q. Do you regard this divided Government—one party controlling the Congress and the other the White House—as harmful to the country?

A. On the contrary, I think it's good for the country because it gives both sides a chance to be heard—with, of course, the preeminent power being in the hands of the President. It's a matter of co-operation and accommodation.

One thing that does disturb me is that when we in Congress offer amendments or substitutes in an effort to be helpful, it is sometimes—a good many times—looked upon as an adversary proceeding. I don't think this is the President's fault, but I think that is the attitude taken by some of his close advisers because they have the idea that maybe we're playing politics—that we're trying to undermine the President—when the exact opposite is true.

Q. Senator, how do you size up the 1972 presidential outlook? A few months ago you said Senator Edmund Muskie of Maine was the front runner for the Democratic nomination. Do you still feel that way?

A. Yes, I think Senator Muskie is the front runner, but I think the advantage he has is being dissipated as others come into the race, as tough questions arise and difficult answers are being given.

Since that time, also, I would say President Nixon has increased his prestige because of his foreign policy—even though there are disagreements between the two of us. Mr. Nixon has done something which no Democrat could do, and that was to accept an invitation to visit Mao Tse-tung and Chou En-lai in Peking. He has also accepted an invitation to go to Moscow.

Mr. Nixon has gotten the strategic-arms-limitation talks [SALT] under way with two minor successful agreements already reached and the possibilities fairly good, I would as-

sume, of others being achieved. He has pursued, in my opinion, the right policy in the Middle East. He's tried to walk a line between the Arabs and the Israelis without getting us involved too much.

The President has brought about a reduction of something on the order of 1.1 million men in the armed forces. He has reduced the number of bases overseas by somewhere between 400 and 600. He has changed the direction of the Vietnamese war, the Indo-China war, from in to out—not fast enough to suit some of us, but in the right direction.

So I want to give the President credit. I think he's done, over all, extremely well in the field of foreign policy. In the field of domestic policy there are differences, but over all he hasn't done too badly. What he's trying in the field of the economy of this country is welcome—long overdue. Something should have been done a long time before it was done, but the old saying, "Better late than never," holds.

So I think that, over all, Mr. Nixon has done a good job, and it's made him stronger and, according to the latest polls, it appears that the people think so, too.

But there is a lot of time between now and next year. If this economic policy fails, he may fail with it. If something happens in the foreign-policy field, especially in Indo-China, which is not along the lines of the people's thinking, it may react against him, too.

The two big factors, I think, are the economy and Indo-China. And, of course, you also have the questions of drug addiction, crime, pollution, the ghettos, busing and so forth.

Q. Do you think President Nixon is going to be pretty tough to beat in 1972?

A. Yes.

Q. Between these two factors—the economic and the foreign—which do you expect to be predominant in deciding next year's election?

A. The economic, I think, because when you hit people in the pocketbook that's when they feel it.

Q. Do you believe the President's new economic policy was necessary?

A. Yes, I do. And I approve the way he announced it—the shock treatment—even though it did cause cries of anguish here and there. Something had to be done.

I recall speaking to the President a day or two after he made his August 15 speech, and he turned around to me and said, "If we had gone on for two weeks more without doing anything, the bottom would have dropped out of the dollar," or words to that effect.

Q. Is his program going to work?

A. It's hard to say. I think, all things considered, it's worked so far. It will depend on a good deal of cooperation among the membership of the boards, and a good deal of understanding on the part of the public, and a certain amount of courage on the part of the Congress.

Q. What do you mean by "courage on the part of Congress"?

A. That Congress will have to pass the necessary legislation which will hurt some groups and which will bring about adverse reactions. Members of Congress have to face up to it.

Q. Will big labor unions also have to face some hard decisions—and possibly some sacrifices?

A. Oh, yes—big labor, especially, because it will have the whip hand, and a great deal of responsibility will be on the labor members of the [Pay] Board. They will have to show statemanship and understanding.

Q. There seems to be some inclination in Congress to alter the economic program by changing the proposed tax and labor legislation. Is this helpful?

A. I think so. I don't think that the President sends things up and expects us—or at least he shouldn't—to just say, "Yes, sir." We have some pretty smart people down there in the Congress, in both Houses. I'm sure the President would be willing to consider reasonable compromises.

Q. Do you think he would have an easier time with a Republican-dominated Congress?

A. I don't know. He has troubles with his own party. The Republicans are split just as the Democrats. The answer is hard to say. What we have to consider is that the old Southern Democratic-Republican coalition has been on the way out gradually over a number of years. In its place has come a modern-Republican, liberal-Democrat coalition which seems to be getting stronger with each passing year.

Q. What is the purpose of changes that Congress may make in the President's wage-price controls? Will there be an effort to impose a time limit or restrict his authority?

A. It will be extended, whether it will be for six months or a year remains to be seen. There was some talk about letting it go until April next year. That seems to have died down. There was some talk about giving him just a six-month extension, so that we could come back next year and wouldn't leave it entirely in his hands, but that talk seems to have died down, too. I don't know what will happen.

My guess would be that he'll probably get the one-year extension which he desires on the Congress-initiated measures affecting wage-price-rent controls. After all, he said he never wanted the authority in the first place.

Q. Senator, turning to foreign affairs: What is your position on the war in Vietnam?

A. I have always been against the war in Vietnam and so stated to two Presidents before we became involved. I thought my position was pretty well known. I feel the involvement was a tragic mistake, that we have no vital interest in Southeast Asia. We involved ourselves when we didn't have to.

I think the greatest tragedy was the assassination of Ngo Dinh Diem. No matter what you think of him—and I thought highly of him—he did give South Vietnam stability, a degree of permanence and an ability to look forward. With his passing, we have had nothing but coup and U.S.-supported client Governments, but in the last analysis we have become a sort of client of South Vietnam. The Government there has, in effect, dictated in large part what we've done.

I think it was a mistake to get involved in Cambodia, to put so much into the Laotian incursion. We have a lot to answer for in the way of damage to a society and a culture: defoliation of land, creation of refugees, inflation of currencies, an increase in drug addiction, a decrease in the morale of our armed services. I think the only way is to get out and start anew.

We have to revive the Army. It is in a low state at the present time—and the Army is necessary. It should be accorded the dignity which it deserves—it must earn it, too. There are a lot of things that we have to do and, in effect, start doing from scratch.

I think that Vietnam is in large part responsible for the difficulties in which we find ourselves at home today.

Q. You have proposed setting a time limit on our withdrawal from Vietnam. Apparently, you don't agree with those who view this as congressional interference with a presidential prerogative—

A. Well, the President was one of those who figured that the Gulf of Tonkin Resolution wasn't necessary for him to carry on his activities in Southeast Asia. He bases his authority now on his position as Commander in Chief. There is a certain amount of validity there, but the Constitution also gives the Congress a certain amount of power in the carrying on of wars, and there's only one weapon left as far as we in Congress are concerned: That is the matter of appropriations.

Now, I can find no legal justification for going into Vietnam. I certainly disagree 100 per cent with what Lyndon Johnson interpreted as a mandate based on the Gulf of Tonkin Resolution. There is no justification whatsoever in that document for interfering in Indo-China. I think that what we're trying to do in Congress is to restore some of the powers which are ours legally under the Constitution but which we've given in a haphazard manner to Presidents, up to but not including Mr. Nixon, since the time of Franklin D. Roosevelt.

Q. Do you think Congress has sufficient information to act wisely on such questions?

A. I think that it needs more. But I have been impressed by the fact that, in many of these executive sessions which I have attended in the Foreign Relations Committee and in the Appropriations Committee, a lot which was supposedly secret wasn't really so secret. I had read it in newspapers—I would say 95 per cent.

There isn't so much secrecy any more in this world because modern communication has done a good deal to make knowledge more available, and the facts more discernible.

"PIQUE" WITH THE WHITE HOUSE

Q. Is there a certain irritation in Congress about executive secrecy that may be reflected in opposition to the President's domestic proposals?

A. No, I don't think so. There is a certain amount of pique and discontent because of the fact, for example, that a man like Henry Kissinger can invoke executive privilege and not come before us, and because, supposedly, there was a five-year plan by the Pentagon which was given publicity but, when we asked for it, executive privilege was invoked and we couldn't get the information.

We in Congress would like to know more. We have a responsibility. We understand that the President's responsibility is far greater than ours singly, but collectively we have a tremendous responsibility as well, and we have to answer to the people.

There are many in the Government who do not have to answer to anyone except perhaps the President or somebody else, and they're protected under executed privilege.

Q. Has the program of Vietnamization reached the point where South Vietnam can be expected to survive when we pull out?

A. Defense Secretary Melvin Laird seems to think so.

Q. Do you agree?

A. No, I don't agree to the extent that he implies, but I think that the South Vietnamese are about as well-prepared as they will ever be. They have an Army of about 1.1 million, and they have local militia forces and the like to fall back on. They are fairly well equipped and fairly well trained. They have been subsidized in large part for the past 17 years. They have suffered tremendous losses.

Vietnamization is something which no outsider could pass a judgment on, because whether it succeeds or fails will depend upon the Vietnamese themselves. It's their country, it's their future, it's their decision.

Q. Senator, how much foreign aid will South Vietnam need after we pull out our troops?

A. It's impossible to put a figure on it, but I think that all that area will need a good deal of assistance which I think should be forthcoming—not for the purpose of maintaining the military establishment, as I see it, but for the purpose of rehabilitating the country which has been destroyed and restoring some of the economy, so that the people who live there can look forward with some degree of assurance to the future.

Q. In the light of the Senate's recent action in rejecting the President's foreign-aid bill, what do you think is going to happen? Do

you expect that foreign aid will be revived and continued pretty much as in the past 20 years?

A. No. I think we ought to return to the old concept of foreign aid, which could best be described, I think, in what used to be known as the Point Four Program—people-to-people assistance rather than Government-to-Government—because, I think, much of the Government assistance stays in the hands of the Government and doesn't get down to the people. Aid in the true sense is worthwhile, but aid the way it's been spread out and misinterpreted and used in late years, I think, has gone contrary to the basic tenets of the Marshall Plan and its immediate successors.

The ill and the hungry and the poor—those people ought to be helped. The underdeveloped countries should be given some assistance, but we have to change our methods and our procedures.

Q. Do you think the U.S. ought to be tougher in dealing with other countries?

A. Let me answer this way: I think we've taken too much for granted. We assumed a leadership mantle which we didn't want, didn't desire, but couldn't avoid. We came to look upon ourselves as the leaders of the free world, and other countries helped us to assume and to continue that image. In doing so, they created a feeling of dependency on us, which cost us a lot of money, a lot of manpower, a lot of responsibility.

I think as these countries came back—I'm thinking specifically of Western Europe, now—they should have assumed more of the burden, more of the responsibility. What the U.S. should have is not a position of leadership but a position of equality among peers.

"FACE UP TO REALITIES" ON AID

Q. Looking ahead a few years, do you foresee foreign aid expanding or contracting?

A. Contracting. And I would hope shifting more to a multilateral basis with an equitable sharing of responsibility. There will have to be some bilateral programs. We have certain obligations which would have to be met to the subsidiary organizations of the United Nations and the like, and certain unanticipated acts which have to be met—such as the Pakistan situation in East Bengal, or Bangla Desh as they call it now. The humanitarian aspects, I think, will continue to be met by this country, but even in doing so we will probably meet with difficulties in the administration of them.

Q. Will this mean underdeveloped countries will get less aid from the outside world, or will some other nations take up the slack when U.S. cuts back?

A. Less foreign aid on our part, more foreign aid on the part of the others. We have a debt which exceeds that of the rest of the nations of the world combined. We had a 23.5-billion-dollar deficit last year. We anticipate a 30-billion-dollar deficit this year, and Wilbur Mills [Democratic Representative from Arkansas and chairman of the House Ways and Means Committee] just lately indicated it could well be 35 billion.

I think we've got to do something about putting our own house in order and recognize that the days when the Lord had his arms around our shoulders all the time are gone. We have to mature and face up to the realities of the present. We are no longer young, we have our problems, and we are certainly not so wealthy as in the past.

Q. Realistically, do you see any prospect in the next couple of years that we will get back to a balanced budget?

A. No. I certainly do not. I don't know when we are going to get one.

Q. What does your mail tell you about the mood of the American people at this time?

A. That the people are very much fed up with foreign aid—at least in its present form, and some of them are fed up with foreign aid *in toto*. Some of them have been fed up with foreign aid from the very beginning. They never had any sympathy for it.

My mail shows a good deal of feeling that we ought to get out of Vietnam. That feeling has been growing for the past several years—changing from a feeling of, "Well, we have to see this through," to "Now, we've got to get out."

There's also a feeling that we ought to reduce our forces in Western Europe, where we've had too many troops for too long. And a feeling that we've got too many bases scattered throughout the world—something on the order of 2,000 I believe—a feeling that they're not needed.

There is a feeling that we Americans are spread too far, too wide, too thin, and that we ought to pay more attention to our difficulties at home and pay a proper amount of attention to our policies abroad.

Q. Do the people seem to be happy about anything?

A. No.

Q. Does your mail reflect strong support for economic controls, Senator?

A. What mail covers that area, yes, but there isn't too much mail on that. I think people are leaving it up to the Administration and the Congress to do what we can to get us out of the woods. People are disturbed about inflation, about high prices and about unemployment.

MOOD OF COUNTRY: "CONFUSED"

Q. How would you describe the mood of the country, generally?

A. It's a cynical, uneasy, confused mood—a mood of what's the use, a mood of apathy, a mood that they can complain or they can petition but they won't be listened to.

Q. Is this different from, say, five years ago?

A. Yes. And I think that it's very marked among the youngsters today. That's one reason why I'm delighted that they have the vote, to give them a piece of the action, as I think they'd say.

You get youth interested and involved in participatory politics—give them some say in the Government—and perhaps they'll change us around a little bit. They are not living in the past, they are not tied to vested policies which were good a decade or two decades ago. They're living today and looking to the future, and they've got lots of questions on their minds. For a fellow like me it's hard to answer some of their questions.

Q. Do you feel this present mood is only cyclical—temporary—or is it going to take something rather dramatic to get the country out of this mood?

A. It's probably a cyclical thing, but if disappointments and apprehensions keep on piling up, it could be something more difficult.

Q. Senator, almost anything you say attracts a lot of public attention because you are the Senate Democratic Leader. To what extent are you speaking for the Democratic Party—and to what extent do you speak only for yourself?

A. Most often I speak just for myself, because before I am the Majority Leader I'm a Senator from the State of Montana. That is my primary job and I've never lost sight of that fact, because if it wasn't for the people out there I wouldn't be back here. As far as the leadership is concerned, that's a job that somebody has to occupy.

We have tried to make the Senate Democratic Policy Committee a true policy committee rather than a rules committee in the sense that the Rules Committee operates in the House. All legislation goes through the Policy Committee before it goes to the floor. But since a Republican Administration came in, we've also been trying to develop segments of policy, subject to the approval of at least two thirds of the Policy Committee and the support of the caucus of all Democratic Senators.

You may recall that one of the first things the Policy Committee did at the beginning of this Congress was to bring forth a resolution, which it presented to the caucus, seeking to bring about a termination of the conflict in Vietnam during the life of this Congress. That was agreed to.

The Policy Committee also unanimously approved the national-commitments resolution several years ago which sought to retrieve a certain amount of power which the Senate had lost under previous Administrations—Democratic, primarily.

We unanimously agreed to a change in the tax structure three years ago which the caucus approved.

We have been interested in campaign reform—contributions and the like. And we have brought those matters up in the Policy Committee—had them agreed to and brought them before the caucus and the Senate. So we are trying to work in the field of national policy, but we are doing it carefully. We are doing it, we hope, constructively. We are not doing it with the idea of politics in mind but to be of assistance to the Administration while at the same time recognizing that we are exercising our responsibilities as well. It's worked out fairly well so far.

Q. What contact do you have in that regard with the Democratic National Committee and the Democratic Policy Council?

A. Hardly any, I meet with them once in a while, as when they call down all the candidates and a declaration is made to save the barbs for the Republicans. We operate in the Senate as an independent, elected unit. Our contacts with the House are not as close by any means as they were when Lyndon Johnson was Senate Majority Leader and Sam Rayburn was Speaker of the House. When the need arises, we do get together with the House; there is nothing continuing about that.

Q. Is the present relationship between the House and Senate leadership better or worse, in your judgment, than that very close relationship that existed in the Johnson-Rayburn era?

A. It's hard to say, because that was a very close relationship—a sort of father-son relationship between the Speaker and Lyndon, going back a long time. Now it's a different relationship—not as close, but good—understanding, and accommodating.

Q. Do things get done as expeditiously under the present system as they did then?

A. I think so. I think that the record of the past 11 years in the Senate will stand up with the record of any other 11 years in history. The Senators are treated more as equals. The low men on the totem pole happen to be Scott [Senate Republican Leader Hugh Scott of Pennsylvania] and Mansfield, because we are the leaders of our parties.

There is so much power in the hands of an individual Senator that any Senator could turn us off any time he really sets out to do so. So far they haven't done that. I think part of the reason lies in the fact that we try to treat other Senators as we would like to be treated. We don't try to step on their prerogatives or interfere with their responsibilities.

When the Senate is acting on a bill, I make way for the chairman of the committee that handled that bill, let him sit in the Leader's chair while I take my place as a Senator.

RATING THE WORK OF CONGRESS

Q. How would you evaluate the record of this session of Congress?

A. Reasonably good. I think we've made good progress in many fields. I would be averse to evaluating the record of the Congress on the basis of one session in two. I would wait until the whole two years of the 92nd Congress was completed in 1972 before rendering a judgment.

Q. As you look back, are there any disappointments—measures that you thought should get through this year that haven't?

A. No. I think we've been pretty lucky this year. Neither the Administration nor the Senate has gotten all that it wanted in all

these bills, but there's enough room for compromise in all those which passed to bring about an accommodation.

Q. Earlier in the year the Administration was pressing very hard for such measures as revenue sharing, Government reorganization, welfare reform, and so on. What has happened on these—are they dead?

A. Well, the Government-reorganization bill, of course, was pie in the sky. I approved what the President advocated, a tremendous overhaul of the Government structure, but it was asking for too much at once. In all these areas you have got to figure the interests behind them and the delaying tactics, the pressures, the postponements that they will be able to put into effect.

As far as welfare reform is concerned, the President is, in part, responsible for the delay, because when he made his speech, on August 15, I believe, announcing a new economic policy, he indicated at that time that revenue sharing and welfare reform could be postponed. Then he caught himself, and came back a couple of weeks later and said, well, he didn't mean they shouldn't be considered this year, but that the committees ought to go ahead. With this new tax package coming in, with the need for prompt action, that was naturally set aside in order to comply with the President's wishes.

In the field of revenue sharing, we have nothing out of the House yet, so the Senate is in no position to act until the House acts—based on the precedents down through the decades.

Welfare reform—it won't be acted on this year by the [Senate Finance] Committee. But I have talked to Senator Russell Long [Democrat, of Louisiana] several times and other members of the Committee. They have assured me that they will get a bill out, hopefully, sometime around the first or the middle of February. Furthermore, the date the President asked for that act to take effect is a long way off—somewhere in 1973.

Q. Do you foresee many of these measures being enacted next year?

A. Yes, I do. I see a welfare-reform act of some kind. Frankly, I have some questions about the payment of $2,400—some of the members want to raise it to $5,500. I am trying to keep an open mind, but it's kind of hard to accommodate to the idea of just giving out that much in cash as a subsistence payment.

Something has to be done in welfare—something will be done. What the final form of the bill will be, I do not know.

Q. What about strike-control legislation?

A. I would say that unless things reach a crisis the chances are not very good for its passage.

SENATE ABSENTEEISM DISTURBS ME

Q. Senator, you've talked about the high rate of absenteeism at Senate meetings during this last session. Won't next year pose an even bigger problem with the primaries, party conventions and general elections? Is there a danger that important legislation may be caught in a logjam, and not much may be accomplished in the next session?

A. Yes, it's a possibility. We'll have to try and get as much of it as we can out of the way as early as we can next year.

As the months disappear, the problem of absenteeism is going to become more difficult. It's a situation which disturbs me because it isn't just the presidential candidates—they have reasonably good attendance records—it's also other Senators who go out and accept engagements.

I have been disturbed at the falloff of Senate attendance at the beginning of the week and at the end of the week. One thing I don't want to see is the Senate turned into a Tuesday-to-Thursday club. We are paid to operate at least five days a week—six when needed—and our primary responsibility, whether we are running for the Presidency or going out to make a speech, is in the Senate, because that's what the people expect of us and that is what we should expect of ourselves.

Q. Is there any way to avoid the election-year conflict of politics and legislation?

A. Senator George Aiken [Republican, of Vermont] and I have introduced a constitutional amendment seeking to establish a one-term, six-year Presidency. We did so with the idea that that would relieve the President of much of the political worries which are inherent in his job at the present time as head of the party, and allow him to spend more of his time in the interest of the nation as a whole, regardless of party.

I'd like to see a close relationship between the Congress and the President. And I would like to see the President, especially if he comes from the Congress as the last three Presidents have, consult more—if not with the appropriate committees, though I think that's necessary, then certainly with old friends—because regardless of politics, the Senate wants a President to succeed. If he is a good President we all benefit, if he turns out poorly we all suffer.

The reason I feel so keenly about this, for example, is that men like Senator John Stennis [Democrat, of Mississippi] and the late Senator Richard Russell [Democrat, of Georgia] warned President Johnson before we got involved in Vietnam and urged him not to get involved there. When they are dealing with a member of Congress, Presidents are dealing with someone who is a lot closer to the people than appointees around a President.

The isolation of a President is understandable. There is a line of differentiation between the executive and legislative branches. The President gets surrounded by people whom he appoints. Kennedy, for example, had McGeorge Bundy, Johnson had Walt Rostow and Nixon has Henry Kissinger. These are all good men. They are devotees of the President, and that's understandable. All have a great amount of influence on the President's thinking because they are at his elbow all the time.

When you look down to the other end of Pennsylvania Avenue, in Congress a President also has old friends in both parties who wish him well, who might be able to give him good advice, who want to be helpful regardless of party.

So I would hope there would be a closer contact between the executive and legislative branches.

Q. Is Mr. Nixon more isolated, do you think, than the Presidents before him?

A. I think so. Nixon is not an extrovert. Quite the opposite—he's a lonely man. He isn't outgoing. He's aware of the tremendous power and responsibility. Maybe at times that makes him insecure, as I think it does most Presidents and the rest of us.

But he does go off by himself. He does take his lawyer's pad with him and writes notes. He does try to arrive at a good conclusion. I really feel sympathetic for any President.

Beyond the Presidency and beyond the Congress are the people. They haven't got anywhere else to turn except to us. I hope we never let them down. I hope we always understand one another—the Congress on the one hand and the President on the other—and that we work more together and less apart.

"ONLY A NIXON" COULD GO TO CHINA

Q. In your talks with Mr. Nixon, have you noted any change in his way of working and thinking since he has become President?

A. Oh, I think he's broadened out considerably from his days in the House and the Senate. He's his own man at last—that's one thing—which he wasn't as Vice President.

I recall my first breakfast with him in February, '69—he had just been inaugurated the month before—and at that time he brought up the question of his interest in China and the Far East. He said he always had a lifelong interest in that part of the world—understandable from a Californian. He outlined what he was going to do: that he was going to lift the primary and secondary boycott, which had been in effect since '51—we were the only nation which enforced the two; that he was going to try to broaden the spectrum of people who could go to China if they could get visas from Peking, and that he was going to try for more talks at Warsaw seeking to bring about a better understanding and accommodation.

Mr. Nixon said: "You can't ignore China, it's too big. It's there. You have to live with it." He said that at the appropriate time he'd see if he couldn't do something about placing China in the same status as other Communist countries in the area of nonstrategic goods. He never said anything about a trip to China, except that he would like to go. But then I dont think he expected to go. So I knew nothing about this until he made that four-minute speech to the nation which I thought was the most information-packed speech any President has ever made in recent times.

I am delighted he's going. As I said before, only a Republican, perhaps only a Nixon, could have made this break and gotten away with it. Even now he's getting some flak from his own people, but it was a move which had to be made.

I wish him well. I don't expect anything very much to come out of it. But the first step is the longest one, and the mere fact that they are getting together bodes better for the future and will perhaps bring about a greater recognition of the difficulties which confront all the peoples of the world.

I would hope that out of these meetings in Peking and Moscow it would be possible at an appropriate time to have some sort of more general disarmament conference or meeting among the five interested powers having to do with nucelar weapons.

NATO IS VITAL

Q. Senator, are you still trying to get a reduction in American troop commitments in Europe?

A. Oh yes, because I think that 305,000 troops—four and one third divisions—and 225,000 dependents in Europe a quarter of a century after the end of the second World War is too much for too long. When they were sent over it was fine because Europe was prostrate. They fitted in nicely after the Marshall Plan. Now Europe is in better shape, economically speaking, than we are, and in a position to resume its proper role in sharing the burdens.

What I would like to see is a graduated reduction over a period of years. Where you have 128 generals and admirals—one for about every 2,500 men—you have a superabundance. When you have headquarters piled one or top of the other as in Germany, you have a superabundance. When you have a naval headquarters in London which is maintained, I think, more for show and prestige purposes, then I think it's time to re-evaluate the situation.

I must make it very plain: I believe in NATO [North Atlantic Treaty Organization], I think it is the vital treaty as far as we're concerned. But I do think there ought to be a reduction of our troop contributions. I do think that a reduced Army with fewer dependents would not only be leaner but more effective and have greater morale, because the same problems that affect us in Vietnam affect us in Germany: racism, drug addiction, low morale, poor quarters and the like. And I want to reiterate: the Army is vital to this nation, to our kind of democracy, and I want to see the Army revived, rebuilt and rejuvenated.

EXECUTIVE SESSION

THE ACTING PRESIDENT pro tem pore. Under the previous order, the Senate will now go into executive session to vote on three treaties.

NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

The ACTING PRESIDENT pro tempore. The clerk will read the resolution of ratification relating to Executive M, (91st Congress, 2d session), the Nice Agreement.

The assistant legislative clerk read the resolution of ratification, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession to the Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M. 91–2).

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the resolution of ratification? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 452 Ex.]

YEAS—75

Aiken	Ervin	Miller
Allen	Fannin	Mondale
Allott	Fulbright	Montoya
Baker	Griffin	Moss
Bayh	Gurney	Nelson
Beall	Hansen	Packwood
Bible	Hart	Pastore
Boggs	Hatfield	Pearson
Buckley	Hollings	Pell
Burdick	Hruska	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Inouye	Schweiker
Cannon	Jackson	Scott
Case	Jordan, N.C.	Sparkman
Chiles	Jordan, Idaho	Spong
Church	Kennedy	Stennis
Cook	Long	Stevens
Cooper	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Taft
Dole	McClellan	Talmadge
Dominick	McGee	Thurmond
Eagleton	McGovern	Tower
Eastland	McIntyre	Williams
Ellender	Metcalf	Young

NAYS—0

NOT VOTING—25

Anderson	Goldwater	Ribicoff
Bellmon	Gravel	Roth
Bennett	Harris	Saxbe
Bentsen	Hartke	Smith
Brock	Humphrey	Stafford
Brooke	Javits	Tunney
Curtis	Mundt	Weicker
Fong	Muskie	
Gambrell	Percy	

The ACTING PRESIDENT pro tempore. On this vote the yeas are 75 and nays are 0. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the direction of the distinguished majority leader, that the time on each of the next two rollcall votes be limited to 10 minutes, rather than the usual 15 minutes, and that the warning bell sound midway.

May I say at this point, before the Chair puts the question, that there will be no more rollcall votes today, following these next two rollcalls.

One further item, Mr. President. The Senate will not convene until 12 o'clock noon on Monday next.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I wonder if, following the next vote, there might be a 2-minute period within which the leadership could give any further advice that they might be able to give us about what might happen on Monday.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to vote on Executive I, 92d Congress, first session, the Locarno Agreement establishing an international classification for industrial designs. The resolution of ratification will be stated.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Locarno Agreement Establishing International Classification for Industrial Designs, signed October 8, 1968 (Ex. I, 92–1).

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 453 Ex.]

YEAS—75

Aiken	Cooper	Hruska
Allen	Cotton	Hughes
Allott	Cranston	Inouye
Baker	Dole	Jackson
Bayh	Dominick	Jordan, N.C.
Beall	Eagleton	Jordan, Idaho
Bible	Eastland	Kennedy
Boggs	Ellender	Long
Buckley	Ervin	Magnuson
Burdick	Fannin	Mansfield
Byrd, Va.	Fulbright	Mathias
Byrd, W. Va.	Griffin	McClellan
Cannon	Gurney	McGee
Case	Hansen	McGovern
Chiles	Hart	McIntyre
Church	Hatfield	Metcalf
Cook	Hollings	Miller

Mondale	Proxmire	Stevenson
Montoya	Randolph	Symington
Moss	Schweiker	Taft
Nelson	Scott	Talmadge
Packwood	Sparkman	Thurmond
Pastore	Spong	Tower
Pearson	Stennis	Williams
Pell	Stevens	Young

NAYS—0

NOT VOTING—25

Anderson	Goldwater	Ribicoff
Bellmon	Gravel	Roth
Bennett	Harris	Saxbe
Bentsen	Hartke	Smith
Brock	Humphrey	Stafford
Brooke	Javits	Tunney
Curtis	Mundt	Weicker
Fong	Muskie	
Gambrell	Percy	

The ACTING PRESIDENT pro tempore. On this vote, there are 75 yeas and no nays. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

PROGRAM

Mr. GRIFFIN. Mr. President, I ask to be recognized for 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I ask the leader what the chances are for adjournment on Monday.

Mr. MANSFIELD. Mr. President, that is a question I cannot answer. All I can do is lay out the schedule.

There will be a conference report on the Federal credit unions and interest rates on insured mortgages. Those are two we thought we would get this afternoon. They will be taken up on Monday. They are ready.

There also will be a conference report, hopefully, on defense appropriations; but the House must act first.

There will be a conference report on District of Columbia appropriations. The conferees are now meeting. The House must act first.

There will be a continuing resolution having to do with foreign aid. The House must act first. We do not know in what form it will be.

There will be a conference report on phase II of the economic proposal, and that should be ready on Monday; but we cannot act until we meet with the House. The Senate conferees have been ready to meet since early yesterday. So it is a difficult schedule. The last order of business will be the continuing resolution. There may be some debate on it because it is debatable and it is amendable.

Mr. SCOTT. Mr. President, if the distinguished majority leader will yield further, as he has noted, we do not yet know the form in which the continuing resolution for foreign aid will reach us from the other body. It is my personal hope that it will be a continuing resolution in the area of extension of $2.67 billion; but whatever it is we would hope that the Senate would accept the resolution that the House sends over, rather than making such drastic changes as would compel loss of the resolution altogether because, in my mind, it is better to have some bill than no bill, yet there would be no bill if we were to embroil ourselves in debate during the Rams-Redskins game on Monday night and thereafter.

Mr. MANSFIELD. I understand that there will be some discussion. There may be some amendments. So far as I am concerned, I want the whole Senate to know, as the joint leadership knows, that it is my intention to vote against the continuing resolution in any way, shape or form.

Mr. AIKEN. Mr. President, may I ask a question of the distinguished minority leader at this time? If there is no continuing resolution and we adjourn sine die, does he think the President would call the Senate back into session?

Mr. SCOTT. It is my judgment, if there is no continuing resolution, that Congress is likely to be called back by the President.

A continuing resolution to do away with pay raises to pay salaries to people to do no work, that, too, I think would be highly objectionable and would put the Senate, I think, in a not responsible position. If we are not going to have any program for them to administer, there is not much point in having——

Mr. PASTORE. Mr. President, I yielded 1 minute, but now this is going too far.

The ACTING PRESIDENT pro tempore. The 1 minute has expired.

Mr. MANSFIELD. Five minutes ago.

Mr. PASTORE. Mr. President, I call for the regular order.

PROTOCOL RELATING TO AN AMENDMENT TO THE INTERNATIONAL CIVIL AVIATION CONVENTION

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order, the next resolution of ratification is in order, which the clerk will state.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Protocol dated at New York, March 12, 1971, relating to an Amendment to the Convention on International Civil Aviation (Ex. K, 92–1).

Mr. MANSFIELD. Mr. President, this will be the last vote of the day.

The PRESIDING OFFICER. The question is: Will the Senate advise and consent to the resolution of ratification on Executive K (92d Cong., first sess.), the protocol relating to an amendment to the International Civil Aviation Convention.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 454 Ex.]

YEAS—75

Aiken	Ervin	Miller
Allen	Fannin	Mondale
Allott	Fulbright	Montoya
Baker	Griffin	Moss
Bayh	Gurney	Nelson
Beall	Hansen	Packwood
Bible	Hart	Pastore
Boggs	Hatfield	Pearson
Buckley	Hollings	Pell
Burdick	Hruska	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Inouye	Schweiker
Cannon	Jackson	Scott
Case	Jordan, N.C.	Sparkman
Chiles	Jordan, Idaho	Spong
Church	Kennedy	Stennis
Cook	Long	Stevens
Cooper	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Taft
Dole	McClellan	Talmadge
Dominick	McGee	Thurmond
Eagleton	McGovern	Tower
Eastland	McIntyre	Williams
Ellender	Metcalf	Young

NAYS—0

NOT VOTING—25

Anderson	Goldwater	Ribicoff
Bellmon	Gravel	Roth
Bennett	Harris	Saxbe
Bentsen	Hartke	Smith
Brock	Humphrey	Stafford
Brooke	Javits	Tunney
Curtis	Mundt	Weicker
Fong	Muskie	
Gambrell	Percy	

The PRESIDING OFFICER (Mr. HUGHES). On this vote the yeas are 75 and nays 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President be notified of the agreement of the Senate to the resolutions of notification.

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask that there again be a period for the transaction of routine morning business, with statements therein limited to 10 minutes.

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

ACUTE FINANCIAL PRESSURE ON MANY SCHOOL DISTRICTS OF THE NATION

Mr. EAGLETON. Mr. President, I would like to bring to the attention of the Senate a bill that has passed the House of Representatives and is now pending before the Committee on Labor and Public Welfare. The bill—H.R. 11809—was introduced by Representative PUCINSKI of Illinois.

The purpose of the bill is to relieve the acute financial pressure affecting a great many school districts throughout the country because of the transfer of property from the General Services Administration to the newly created U.S. Postal Service. As a consequence of this transfer, children who have in the past been considered federally connected for purpose of Public Law 874—the impact aid program—no longer qualify as such and the schools that they attend are no longer eligible to receive Federal funds on their behalf under the impact aid program.

The Pucinski bill would authorize a 2-year grace period for these school districts in order to permit them to receive Federal funds which they already have budgeted for the coming year and to permit 1 additional year for an orderly phaseout of this portion of the impact aid funding.

Mr. President, I call the attention of the Senate to a tabulation I had printed in the CONGRESSIONAL RECORD of November 19, 1971, on pages 42298–42299 where I listed the various school districts of this Nation that are affected financially.

Let me say that the Senator from Illinois (Mr. STEVENSON) and I have talked with the Senator from Rhode Island (Mr. PELL), who is the chairman of the Subcommittee on Education, with the Senator from New Jersey (Mr. WILLIAMS), who is chairman of the full Committee on Labor and Public Welfare, and with the Senator from Colorado (Mr. DOMINICK), the ranking minority member of the Education Subcommittee. I believe all of us are of one mind; namely, that this bill should be given early attention when Congress reconvenes for the second session in the month of January.

The effect of the transfer of property under the GSA on these districts is severe and acute. It is more severe, perhaps, in Illinois than in any other State, although there is urgent need in my State of Missouri and perhaps in all other States as well.

I would hope that together with the Senator from Rhode Island, the Senator from Colorado, the Senator from New Jersey, the Senator from Illinois, and others, we could give attention to this matter when we reconvene for the second session.

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

Mr. EAGLETON. I yield.

Mr. STEVENSON. Mr. President, I commend the Senator from Missouri for introducing this bill and for his recognition of the serious financial difficulties faced by school districts all over the country.

The Senator mentioned Illinois. The Chicago Board of Education is faced with a $100-million deficit which could mean the shortening of the school year or a cutback of adult education services, health services, and a number of other programs for children and adults.

In view of the fact that many of the school districts are now formulating their budgets for 1972, would it not be very helpful to the school districts and school board members across the country if they had some assurance that Congress would act early in the year to make this impact aid money available, as it has been available in the past?

Mr. EAGLETON. The Senator from Illinois is absolutely correct. The school districts in this country are in the process of beginning to plan their next school year budgets, and rapidly the date is coming upon them when they will have to issue contracts to the teachers who are hired and to the other ancillary employees connected with the school system. Unless they work out, with some degree of certainty, how much money they will have available for all of these purposes, how can they say that they can fire the teachers unless they know that money will be forthcoming?

Mr. STEVENSON. Mr. President, two-thirds of all children included in the impact aid formula in the past have been children of Federal employees.

Is it not true also that the funds for impact aid, including in its base the children of Postal Service employees, have already been appropriated by Congress?

Mr. EAGLETON. The Senator is correct. The Senator is making a very important point that I did not make in my initial presentation. We are not talking about new money or a new appropriation or adding any further strain to the Federal budget. We are talking about money that has already been appropriated and earmarked for this purpose. It will not cost the Federal Government an additional penny over and beyond what they initially intended to spend.

Mr. STEVENSON. Mr. President, with the funds already appropriated and the bill passed in the House of Representatives, the only thing that remains is for the Senate to act on the bill introduced by the Senator from Missouri or upon the House bill introduced by Representative PUCINSKI.

I would like to ask the Senator from Rhode Island (Mr. PELL) whether he expects early action on this matter by his Subcommittee on Education and by the full Labor and Public Welfare Committee.

Mr. PELL. Mr. President, I had a chance to examine the bill, and it seems to make sense. I look forward to its being brought up for early consideration in the coming session by the subcommittee. I have had the opportunity to talk with the chairman of the full committee, the Senator from New Jersey (Mr. WILLIAMS).

It would seem, barring some unforeseen problems, that there would be no difficulty about making sure that the authorization would be made available before the session had proceeded too far.

Mr. STEVENSON. Mr. President, I thank the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. EAGLETON). What is the pleasure of the Senate? Is there further morning business? The Senator from Arkansas is recognized.

NO RETREAT ON MANSFIELD AMENDMENT

Mr. FULBRIGHT. Mr. President, I wish to comment very briefly upon an article in the New York Times today which, it seems to me, reflects upon the Senate and, particularly, upon the majority leader. The matter of foreign aid extension has been discussed here at great length, and I think the statement in the article that the Senate has been overridden and, in effect, has been rebuffed—I believe that is the language in the article in the New York Times—is not an accurate statement of fact.

The matter of how to deal with foreign aid legislation is not by any means concluded. It is true there have been extensive negotiations among the leaders of both Houses. The critical question here is the Mansfield amendment.

The article in the New York Times stated that Senator MANSFIELD has yielded all efforts to influence the administration of Vietnam policy. I will read one paragraph:

> In principle, Senator MANSFIELD can renew his fight when the continuing resolution expires in March. But, in the opinion of many in Congress, the bypassing of the Mansfield amendment probably marks the end of a serious Senate challenge to Mr. Nixon's Vietnam policies and at least a temporary retreat in the attempt by the Senate to assert a voice in the formulation of foreign policy.

I do not think that is an accurate statement of the situation. I do not think that Senator MANSFIELD has retreated and I know I am not retreating from any serious effort to influence the policies of this Government in Vietnam and in other areas.

I assume this matter will be brought up on Monday and that will be the proper time to discuss it. I will not delay the Senate this morning.

But I am certainly not satisfied with the procedure described in the article. What it is based upon, I do not know. I did not discuss or have any consultation with the writer of the article with respect to anything at all about it. I do not subscribe to it.

I want to state that I believe it is the responsibility of the Senate still to insist upon authorization legislation. The con-

ference still has not broken up. We have not proceeded to a resolution of differences, but the bill before the conference is a very good bill in this area and I am still very hopeful we can prevail upon the House and the Senate to accept authorizing legislation before a substantial amount of money is made available for the continuation of this program.

I merely wanted to say that because I thought over the weekend there might be misapprehension in the minds of many people as to the status of this particular legislation.

AID TO PORTUGAL

Mr. FULBRIGHT. Mr. President, there is another article in the New York Times today that I wish to comment on. The article states that the United States has promised Portugal $435 million. It is reported that the Senator from New Jersey (Mr. CASE) objected to the procedure that has been followed, that is, the ignoring of the Senate and Congress, as far as I know—but certainly the Senate—in the negotiation of an agreement of this consequence and this size.

I think the administration should have submitted this agreement to the Senate for consideration. This is a very large amount of money and I am bound to say that the negotiation of agreements of this size without consultation with Congress is very disappointing and verges upon irresponsibility.

It seems to me that these people are not aware of the very serious financial conditions in this country. The programs referred to here are the kinds of programs that the people of my State and all the States are interested in, such as schools and hospitals.

The article states:

The American commitment to finance the purchase in the United States of goods and equipment worth up to $400 million for Portugese development projects—ranging from town planning to the building of airports, highways, bridges, hospitals and schools—was described by State Department officials as conditional on the approval of each individual project application by the Export-Import Bank, an independent governmental agency.

Those are the very projects that are being held down, and are without funds in my State and, I believe, in all other States. I want to register my strong objection to the continuation of this program of financing abroad at concessional rates, and there are grants in this program, under the circumstances that exist in this country. We know about the impoundment of funds for highways, for example, and yet we are making money available for highways in Portugal. I cannot understand the continued granting of this kind of financing in the face of our own needs.

It seems to me that what we all know to be a fact with regard to our economy has not come to the attention of the people in the State Department and the executive branch. They must live in some kind of ivory tower that insulates them from the news of what is going on in this country.

I suppose they take the attitude that programs in this country are not their responsibility, but it is the responsibility of the Senate and I shall urge the Senate to try to bring some restrictions on this kind of agreement without consultation with the Senate.

Mr. President, I thought it was fair to say that before we recess for the weekend.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this bill be the final quorum call today.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the two leaders have been recognized on Monday, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

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

ADJOURNMENT TO MONDAY, DECEMBER 13, 1971

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 11 o'clock and 31 minutes a.m.) the Senate adjourned until Monday, December 13, 1971, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 11, 1971:

U.S. DISTRICT COURTS

Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut.

Arnold Bauman, of New York, to be a U.S. district judge for the southern district of New York.

Lee P. Gagliardi, of New York, to be a U.S. district judge for the southern district of New York.

William Terrell Hodges, of Florida, to be a U.S. district judge for the middle district of Florida.

Bruce M. Van Sickle, of North Dakota, to be a U.S. district judge for the district of North Dakota.

EXTENSIONS OF REMARKS

HUNTING ACCIDENTS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Friday, December 10, 1971

Mr. METCALF. Mr. President, Montana Outdoors Editor John Willard of Billings has written another thoughtful piece about hunting accidents. In it he points out that, while a game hunter is in greater danger driving to and from his hunt than when in the field, there is still a job to be done on hunter safety programs.

Mr. Willard also finds "significant the lack of any real mandate to keep out of the field, even temporarily, a person who shoots another in a hunting accident."

I ask unanimous consent that Mr. Willard's article, published in the Billings, Mont., Gazette of December 5, be printed in the RECORD.

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

CAR STILL MORE DANGEROUS THAN GUN

(By John Willard)

Notwithstanding the concern of hunter's wives, the chance of harm coming to her hubby is 67 times greater from wheels than from bullets.

Hunting accidents continue to take their toll, of course, and will as long as people are people. Last week reminded again that a hunting buddy can kill his partner as easily as some total stranger of whose presence he wasn't even aware. Such accidents date back 150 years to the day of Peter Cruzatte shot Captain Meriweather Lewis in a painful but not serious part of his anatomy while elk hunting in the Missouri river bottoms.

The fiddle-playing member of the Lewis and Clark expedition got off very lightly in view of the fact the senior officer spent several very uncomfortable days in the bottom of the boat and no court-martial ever was held on the subject. Today, there is about the same penalty for shooting someone in the field, unless there is proof which justifies action under general laws covering homicide, manslaughter and assault, the shooter faces no difficulty under fish and game statutes.

So, while the hazard in the field may be only about one-sixty-seventh that faced while tooling down the highway coming or going from hunting, there seems still to be some lack of teeth in punishment for carelessness at the butt of a firearm.

Everyone should feel pleased that public firearms fatalities nationally during 1970 dropped 10 per cent from 1969, probably due mostly to good hunter safety programs, enriched somewhat by new money from arms taxes. This record was unmatched in other public accident categories.

Happily, Montana is one of the 16 states requiring safety training prior to first hunting licensing, but even states which have volunteer programs report good attendance in safety training classes. Montana also has a law requiring wearing of safety clothing while hunting, a law which has consistently been strengthened as hunter numbers increase.

What seems most significant is the lack of any real mandate to keep out of the field, even temporarily, a person who shoots an-