

Mr. SISK. Without objection, Mr. Garrett's statement will be received for the record.

(The prepared statement of Mr. Garrett referred to follows:)

STATEMENT OF THE MASTER BUILDERS' ASSOCIATION, INC.

The Master Builders' Association, Inc., which is the District of Columbia Chapter of the Associated General Contractors of America, Inc., and representing about 80% of the commercial builders in the Washington Metropolitan Area, opposes the increase of fine and the removal of discretion from the Office of the Corporation Counsel for the District of Columbia as to forfeiture of collateral provisions in the amendments proposed by H.R. 1264 to Subchapter II of Title 36 of the District of Columbia Code.

First, the fine in the bill is increased by more than 300%, namely, from \$300.00 to \$1,000.00. That does not seem to be in keeping with the modern theory that severer punishment is not a deterrent of offenses generally. Furthermore, the tendency is to ameliorate punishment, to look to underlying causes, and to avoid them by education. The above seems especially to be true in regard to the amendments under the bill.

Regardless of what may be the views of some, contractors are interested in safety as much, if not more so, than anyone else, both from humanitarian and financial standpoints. There really is no financial incentive deliberately or intentionally to increase safety hazards. On the contrary, every pressure is to reduce the hazards of injuries and damages.

A personal injury on a construction work not only increases the cost of workmen's compensation to the employer of the injured person but also suits for damages may result against subcontractors (if the injured employee is employed by the general contractor) or by suits for damages against the contractor and some of its subcontractors (other than the employing subcontractor) if the injured employee is employed by one of the subcontractors. The general liability insurance rate thus goes up for all involved so there is nothing gained by the contractors or subcontractors in slighting safety standards. Thus from such injuries there is only loss, and often delay in construction, which results in more cost and loss to the contractors and subcontractors.

Then, too, it ought to be kept in mind that a misdemeanor is thrust upon the contractor for the acts or omissions of its, their or his employees. The members of the Committee certainly realize that the officers of the corporate contractor do not physically erect or construct the walkways, scaffolding and so forth: nor do the owners of a contracting firm, whether partners or individuals. Thus, fine or imprisonment is imposed upon the contractor vicariously for the negligence of its, their or his employees, or for the negligence of their subcontractors. Holding one liable in crime so to speak for negligence, not personal to the one held is a serious thing and should be approached cautiously.

The provisions of the bill that "In any case involving personal injury, no forfeiture of collateral shall be permitted" seems extreme.

In the first place, it applies "to any case involving personal injury," no matter how slight. Thus, a court trial is mandatory even though collateral might have been as high as \$1,000.00, and maximum fine. Moreover, such trial is required even though the particular safety violation might in a civil suit be held or found not to be the real or actual cause of the personal injury. This seems unduly burdensome where it is remembered that the criminal docket of the District of Columbia Court of General Sessions, the court presently charged with jurisdiction of cases involving safety violations, is already overcrowded and the matter of great public concern. Further, if the constitutional right to a jury trial is invoked, additional delay, time and expense of all persons involved would result.

The legislative interference with the discretion of the prosecuting agency charged with the enforcement of this law seems out of place and not in keeping with the prosecuting function. It is a blanket prohibition, regardless of the facts and circumstances in individual cases, which vary so widely that no one can foresee or envisage them. Hence, we question whether there should be included at all this legislative straight-jacket, which would not authorize forfeiture of collateral even when approved by the court.

Mr. SISK. Since we have some five minutes, Mr. Garrett, if you don't mind if you will have a chair there, you may be heard briefly.