ABUSIVE AND HARASSING TELEPHONE CALLS

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 611, S. 375

BILLS TO AMEND THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO OBSCENE OR HARASSING TELEPHONE CALLS IN INTERSTATE OR FOREIGN COMMERCE

(And Identical Bills)

(II)

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ABUSIVE AND HARASSING TELEPHONE CALLS

TUESDAY, JANUARY 30, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Horace R. Kornegay presiding (Hon. Torbert H. Macdonald, chairman).

Mr. KORNEGAY. The subcommittee will come to order.

We have before us for hearing seven identical bills: H.R. 611, H.R. 1422, H.R. 5867, H.R. 6283, H.R. 7830, H.R. 13323, and S. 375.

Three of these bills have been introduced by our colleagues on the committee, Mr. Van Deerlin, Mr. Cunningham, and Mr. Murphy.

All of these bills would help us to stamp out the cowardly and vicious use of telephones to frighten and vilify innocent persons, many times children.

Equally despicable is the practice of calling families of our servicemen and giving false reports of their deaths, or gloating over their deaths which have in fact occurred.

Since these practices first became a matter of public concern, all the States enacted laws to stamp them out. However, the States have neither the authority nor the facilities to apprehend and punish persons who make such calls from beyond their borders.

This problem is particularly acute in the growing number of large metropolitan areas which straddle State borders. This gap would be filled by the enactment of one of the bills which we have before us here today.

(The bill, H.R. 611, and departmental reports thereon, follow:)

[H.R. 611, 90th Cong., first sess.]

A BILL To amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Communications Act of 1934, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 223. OBSCENE OR HARASSING TELEPHONE CALLS IN THE DISTRICT OF COLUMBIA OR IN INTERSTATE OR FOREIGN COMMERCE.—Whoever by means of telephone communication in the District of Columbia or in interstate or foreign commerce—

"(a) makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent; or

"(b) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

"(c) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(d) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

Whoever knowingly permits any telephone under his control to be used for any purpose prohibited by this section—

"Shall be fined not more than $500 or imprisoned not more than six months, or both."

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., January 30, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 611, a bill "To amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce." This report also represents our views on H.R. 1422, H.R. 5867, H.R. 6283, H.R. 7830, H.R. 13323 and S. 375, bills which are identical to H.R. 611.

H.R. 611 would prohibit the making of obscene, lewd, lascivious, filthy, or indecent telephone calls, or the making of anonymous calls which intend to annoy, abuse, threaten, or harass any person at the called number. In addition, it would prohibit the making of repeated calls to harass a person, either in interstate or foreign commerce or within the District of Columbia. The bill provides for a fine of $500 or imprisonment up to six months, or both, for violations.

While the Bureau favors the objectives of H.R. 611, we believe that the comments and suggestions expressed by the Department of Justice in the report it is making to your Committee merit careful consideration.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., February 9, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Commerce,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: This is in response to your request for the views of the Department of Justice on the several bills (H.R. 611, H.R. 1422, H.R. 5867, H.R. 6283, H.R. 7830, H.R. 13323 and S. 375, which we note passed the Senate on April 24, 1967) to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce or in the District of Columbia.

These bills each would add a new section 223 to make it a misdemeanor punishable by a fine of not more than $500 or imprisonment for not more than six months, or both, for any person by means of an interstate or foreign commerce or District of Columbia telephone communication, (1) to make a comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, (2) to make an anonymous call with intent to annoy, abuse, threaten or harass another, (3) to make repeated calls solely to harass a person, or (4) to permit a telephone under his control to be used for a purpose prohibited by the proposed section.

The Department in its testimony on similar bills has agreed that the "obscene and harassing" phone call should properly be punishable as a criminal offense. It has been our position that enforcement of such a penal provision was primarily a matter of state concern and responsibility. We feel that it is significant for the Committee to note that there are thirty-eight States with statutes punishing such activity and that eleven of the remaining twelve are considering enactment of similar legislation. We have also stated that if a bill of this kind were enacted into law the Federal Bureau of Investigation would be obligated to investigate large numbers of complaints to determine in the first instance whether the offend-

ing call was "inter" or "intra" state in nature. We feel this problem still exists. We are aware that the phone companies have indicated that they now have sophisticated electronic equipment which would identify the source of the call. However, we note that such equipment would only be effective in those situations where the calls are repeated. Further, it is our expectation that when the Federal remedy is available complainants in large numbers will contact the FBI directly. If this expected burden materializes it can only detract from the FBI effectiveness in other areas of higher priority.

While we oppose a Federal law enforcement role in this area, it is clear that such legislation should not pre-empt, or detract from, existing or future state laws. In this regard, it should be noted that the Federal Communications Act sets forth a comprehensive scheme of regulation for wire and radio communication. In so doing it does not set forth any definition of "interstate commerce" for general applicability throughout the Act. In fact, the general purposes of the Act make clear that the Congress intended to exercise its full authority under the Commerce clause. Areas reserved to the states are expressly set forth (for example, see, 47 U.S.C. 221(b) which expressly grants state jurisdiction with respect to charges, classifications, etc., for wire service). To avoid any question of pre-emption we feel the bill must define "interstate commerce" to include generally only those calls which emanate from a state, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States and are received in any place outside thereof which is within the United States and calls wholly within the District of Columbia. Further, even within the class of "interstate" calls which would be of Federal concern there will be instances when the state from which the call originated will be the better agency to handle prosecution (as in the case of juveniles and mental defectives). To preserve this flexibility the bill should expressly allow for concurrent jurisdiction in the state from which the offending call originated (the offending acts having been committed within its boundaries).

"Sec. 223(b)" in all the bills punishes the single anonymous call where the caller's intent is to "annoy, abuse, threaten, or harass." We note that subsections (c) and (d) use only "harass" and not the descriptive series found in subsection (b). Since each of the subsections with the exception of (a) is designed to punish the use of the phone for harassment, we see no clear reason for this lack of continuity.

Although the Department of Justice is sympathetic to the objectives of these bills, we fail to see the need for Federal action in this area. For the reasons given above, we are unable to support enactment of legislation of this type.

The Bureau of the of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 20, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of March 10, 1967, seeking the Commission's comments on H.R. 611, a bill to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce.

On July 27, 1966, the Commission adopted comments on S. 2825, 89th Congress, which, as it passed the Senate on June 29, 1966, is identical to H.R. 611. It is requested that these comments, copies of which are enclosed, be accepted as the Commission's comments on H.R. 611. The Bureau of the Budget has advised that while there is no objection to the presentation of this report from the standpoint of the Administration's program, it believes that the comments and recommendations made by the Department of Justice on S. 2825, 89th Congress, merit careful consideration by your Committee.

Sincerely yours,

ROSEL H. HYDE, *Chairman.*

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 2825 (89TH CONG.), A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO OBSCENE OR HARASSING TELEPHONE CALLS IN INTERSTATE OR FOREIGN COMMERCE

S. 2825 would add a new section 223 to the Communications Act of 1934, to prohibit, in substance, the making of obscene, lewd, lascivious, filthy, or indecent telephone calls or those intended to annoy, abuse, threaten, or harass, either in interstate or foreign commerce or within the District of Columbia.

Obscene and harassing telephone calls have become a matter of serious concern, for the dimensions of the problem are already large and are apparently growing. While the Bell Telephone System, which provides more than 80 percent of the Nation's telephones, have only recently begun to compile statistics concerning the number of calls as to which it receives complaints, it estimates it receives approximately 375,000 complaints a year concerning abusive telephone calls that threaten or harass the recipients. Figures provided the Commission by the Bell System show almost 43,000 abusive calls in April of this year, and about 46,000 in May.

S. 2825 would deal not only with obscene calls, but also the anonymous call made with intent to harass, and repeated calls made solely for the same purpose. The bill thus covers certain types of anonymous calls which have been of increasing concern. The telephone may ring at any hour of the day or night, to produce only a dead line when answered. Sometimes the caller will merely breathe heavily and then hang up. Sometimes he will utter obscenities. Recently a new and most offensive form of harassment has been devised. Families of servicemen are called and given false reports of death or injury, or even, hard as it is to believe, are gloatingly reminded of the death of a son or husband in the service. S. 2825 reaches all of these vicious practices.

Some remedies do exist at the present time. Thirty-eight States have statutes generally prohibiting the making of various types of obscene, harassing, or annoying telephone calls. These laws, many of which are of recent origin, appear to be helping to check intrastate abusive calling. In addition, telephone company tariffs prohibit obscene language over the telephone or the use of telephone service in such a manner as to harass or frighten others.

The Bell Telephone System has developed improved equipment to determine the source of anonymous abusive calls, and has issued instructions to operating companies for close cooperation with subscribers who camplain of obscene or harassing telephone calls. It is to be hoped that telephone company publicity recently given to the problem and the manner in which they will serve customers who receive such calls will have a beneficial effect.

However, no Federal law deals with any part of the problem, except for 18 U.S.C. 875(c), which prohibits interstate communications containing a threat of personal injury. S. 2825 would apply to all interstate calls and those calls made within the District of Columbia. Its enactment would facilitate prosecutions for interstate calls by permitting prosecution where it may be convenient for the witnesses, since section 3237 of Title 18, U.S. Code, permits prosecution of offenses in any district in which the offense is begun, is continued, or is completed.

While enforcement of a federal criminal statute dealing with obscene and harassing calls would appropriately be the responsibility of the Department of Justice, the Commission is fully in accord with the effort to deal with this problem which is embodied in S. 2825, and we support its enactment.

Mr. KORNEGAY. Our first witness this morning will be Congressman Cornelius E. Gallagher, of the State of New Jersey. Mr. Gallagher is the sponsor of H.R. 611, on which we are holding today's hearing. Please proceed Mr. Gallagher.

STATEMENT OF HON. CORNELIUS E. GALLAGHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. GALLAGHER. Mr. Chairman, the abusive, harassing or obscene telephone call looms very large in the life of the single working girl, the housewife, and, the ugliest instance, the wife or mother of a serviceman stationed in Vietnam.

In 1965 I first introduced a bill to raise the penalties for obscene phone calls made in the District of Columbia. There still now exists a wide disparity between the penalties in force in Maryland and Virginia and the usual $10 disorderly conduct fine in Washington. Considering the large number of single women living in the District, these penalties are woefully inadequate. I understand that there were over 14,000 obscene and harassing calls in the Washington metropolitan area in 1967. As you remember, Mr. Chairman, that bill passed the House twice, but died in the Senate. In 1965 I also introduced legislation to stiffen the penalty for harassing calls made to families of servicemen in Vietnam. At the time I introduced that bill there had been a rash of instances of perverted calls to wives and families of servicemen either falsely reporting a man's death or openly gloating over an actual death in Vietnam. We can only imagine the horror of such an experience.

This bill, H.R. 611, which I introduced in the 89th Congress and again last year would raise the penalty for calls made within the District of Columbia and impose a similar penalty of a $500 fine and/or 6 months in jail for interstate calls.

Mr. Chairman, I think we should make it clear in the legislative history that we intend this legislation to cover those harassing calls directed to the families of servicemen, as I mentioned above. I might note here that the Defense Department informed me recently that reports of such instances have decreased during the last year.

I would like to suggest to the committee an amendment to this bill. Although many obscene and harassing calls originate from teenage pranksters, the hardcore obscene telephone callers are victims of perverted, sick minds. They are victims of mental illness. I suggest an amendment to allow the judge to substitute commitment to a mental hospital for treatment in the place of a fine or jail. We must look with compassion on those who cannot help themselves.

Mr. Chairman, one of the leading forces working to protect the citizen from obscene and harassing calls has been the telephone companies. Enforcement of laws dealing with these calls would be impossible without the assistance, time and efforts of the telephone industry.

There is one aspect of the effort to track down these obscene telephone callers which I would like to discuss briefly this morning. As I mentioned, the communications industry has done an excellent job and contributed a great public service by research into new and more efficient ways of tracking down and prosecuting those who abuse the telephone. I have noticed in the testimony of telephone company officials and from various newspaper articles that among the devices used to trace these callers is the pen-register and the use of the central computer to record in a permanent record the caller number, called number, time and date for all calls, regardless of whether they are local or long distance.

The problem that this raises in my mind is one with which I have been concerned since I first came to Congress. My concern is individual privacy.

Whenever the incident of a private conversation is recorded, there is a corresponding duty to protect the confidentiality of the information recorded. Should the practice of recording all calling and called numbers become widespread, these trails of old telephone calls could

easily become another link in the continuous chain of interconnected personal information we leave behind us as we proceed through life. The danger, as I see it, is not the lone notation of telephone calls, but rather the blending of this information with other personal information—birth records, military records, tax records, social security records. There has been a great deal of discussion recently of compilations of this data by private industry, State and local governments, and, perhaps best known, the Federal Government's proposed National Data Bank. My fear is that someday all of this information will become mixed together in a central bank, easily accessible through the magical mystique of the computer.

Mr. Chairman, I am hopeful that use of these telephone number recording devices will be limited and that methods will be employed to protect confidentiality.

Mr. Chairman, obscene and harassing calls can only be stamped out by a concentrated and coordinated campaign by the Federal Government, State law enforcement agencies, the Nation's telephone companies and concerned private citizens. The bill I have offered, H.R. 611, provides for the necessary Federal participation in this nationwide campaign. I am hopeful that this distinguished committee will act favorably and bring this bill with the amendment suggested to the floor at the earliest possible time.

Thank you.

Mr. KORNEGAY. Thank you for your views, Mr. Gallagher. Are there any questions? If not, we shall hear next from our colleague and member of this committee, the Honorable Lionel Van Deerlin. Mr. Van Deerlin has introduced similar legislation in his bill, H.R. 1422. Please proceed, Mr. Van Deerlin.

STATEMENT OF HON. LIONEL VAN DEERLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. VAN DEERLIN. Mr. Chairman, fellow subcommittee members, a Federal law for cracking down on abusive telephone callers should be enacted without delay.

There are few offenses more sinister than the menacing call made from behind a coward's shield of anonymity. Confronted by an unknown and unseen malevolence, the victim may be terrified as she contemplates what might happen next. She can hang up the phone—but the doubts and distress that were prompted by the call cannot be banished so easily. The perpetrator might have no intention of following up his subtle first aggression—but the victim can only guess at his ultimate intentions.

I am told that all 50 States now have statutes of their own covering various types of obscene, harassing, or annoying telephone calls. But I believe that Federal legislation such as the subcommittee is now considering is also needed. At the very least, it would have a deterrent effect on would-be abusive callers. It would also plug a gap in our communications laws, and give the telephone companies a practical legal tool in dealing with the demented individuals who misuse the telephone in this fashion.

I believe that many a potential abusive caller would think twice before dialing if he knew he faced possible penalties. My own bill,

H.R. 1422, would provide fines of up to $500 and a maximum 6-month prison term upon conviction, punishment to fit the crime.

It is my hope that legislation of this sort will be enacted this year, for the problem of menacing phone calls appears to be growing. This unfortunate trend is confirmed by available statistics. Last year, an average of 58,000 abusive calls a month were reported to the Bell System telephone companies, a 13-percent increase over the 1966 average of 51,000.

These figures, while ominous enough, don't begin to tell the full story of just how widespread this vicious practice has become. Telephone company officials believe that at least 10 obscene or threatening calls go unreported for every one that is disclosed, so the true monthly totals could well approach a half million or more.

In any event, the legislative remedies under consideration today are long overdue. A bill for curbing abusive interstate calls was passed without dissent by the Senate last year. I would therefore urge this distinguished subcommittee to move swiftly and positively to permit the House to complete congressional approval of this vital legislation. With the abusive calls rate rising so rapidly, I don't see how we can do less.

Mr. KORNEGAY. Thank you, Mr. Van Deerlin. If there are no questions, we shall hear next from another colleague and member of our full committee, the Honorable John Murphy. Mr. Murphy is the sponsor of H.R. 6283, one of the identical bills under consideration today. Please proceed as you see fit, Mr. Murphy.

STATEMENT OF HON. JOHN M. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. MURPHY. Thank you, Mr. Chairman, for the opportunity to testify this morning in support of S. 375 and related bills to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate and foreign commerce and in the District of Columbia.

As a sponsor of one of these bills, I am delighted that this subcommittee is now conducting hearings on this important legislation.

The need for this legislation is both obvious and urgent. In 1966, at the request of the Federal Communications Commission, the Bell System, which provides more than 80 percent of the Nation's telephones, began to gather statistics on obscene and harassing phone calls. In an 11-month period in 1966 over 568,000 complaints of such calls were reported—an average of more than 51,000 each month. In the first 11 months of 1967 more than 640,000 complaints were reported—an average of more than 58,000 each month.

These abusive calls take many forms: some are obscene, others are merely bothersome or annoying. Recently a new and more serious type of abusive telephone call has been reported; families of servicemen are receiving calls giving false reports of death or injury, and in some cases the families are reminded of the death of a son or husband in the service.

The majority of these calls are intrastate and would not be covered by this legislation. However, all States have laws which prohibit such

telephone calls, and telephone company tariffs prohibit obscene language or harassing or frightening calls.

In 1966 the interstate calls reported to the Bell System as being obscene or harassing totaled 512, and in 1967, 470. In the District of Columbia in 1967 there were over 14,000 such calls reported. These two categories—interstate (and foreign) and District of Columbia—would be covered under this legislation.

With the enactment of this bill, full protection against abusive telephone calls would be provided. Such coverage, of course, is only part of the battle. The real difficulty is in determining the source of the calls. There has been a considerable effort by the Bell System to develop new techniques and equipment to help track down these phone calls, and with the cooperation of an informed and concerned public we may be able to reduce the growing number of these calls.

Mr. Chairman, I urge this subcommittee to take favorable action on this legislation.

Mr. KORNEGAY. Thank you for your presentation, Mr. Murphy. Our next witness is also the sponsor of similar legislation, the Honorable Frank Brasco, of New York. Please proceed Mr. Brasco.

STATEMENT OF HON. FRANK J. BRASCO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BRASCO. It is a pleasure for me to appear before this committee in support of my bill (H.R. 5867) to prohibit obscene and harassing telephone calls in the District of Columbia and in interstate or foreign commerce. Congressional consideration of such legislation dates back to the 89th Congress when a similar measure, S. 2825, was passed by the Senate on June 29, 1966. That bill was introduced by Senator Pastore and was unanimously approved by the Senate Committee on Commerce. However, House action was not completed and the measure was pending when the 89th Congress adjourned.

The purpose of my bill, like that of the Pastore bill, is to provide additional protection for telephone users. The telephone has become a business and family necessity. Without it much of our modern day social intercourse would be lost. But despite its many benefits, it provides a ready cloak of anonymity for the sort of person who derives morbid pleasure from harassing and frightening others.

The dimensions of the problem are large. It has been estimated that some 375,000 complaints about abusive telephone calls are recorded each year. Some steps have already been taken to deter the use of the telephone for abusive purposes. Thirty-eight States have enacted statutes dealing specifically with the problem and general statutes pertaining to breaches of the peace have been used, on occasion, to prosecute such abusive conduct in some of the remaining States. In addition, the telephone companies have taken certain action to deter crank calls. Devices have been developed to trace such calls. In New York City an annoyance call bureau has been set up by the telephone company to shield victims.

While all of such measures have been of great help in the attempt to eliminate harassing calls, they are not fully effective. Additional legislation is needed. The interstate gap needs to be closed and the prohibition needs to be extended to cover the District of Columbia.

Specifically, my bill makes it a Federal offense punishable by a fine

of up to $500 or imprisonment for 6 months or both to make obscene on harrassing telephone calls in interstate commerce or within the District of Columbia. According to witnesses from the telephone company, most of the abusive calls are intrastate or local in nature and thus would come within the prohibition of State or local law. My bill does not replace the action already taken by the several States. However, in those cases where the State cannot act because the call originated in another jurisdiction, enactment of my bill would supplement the State and local law. Thus, under section 3237 of title 18 of the United States Code, prosecution would be permitted where most convenient for the witnesses, either in the district where the call originated, where it continued, or where it was completed.

This legislation is long overdue. In metropolitan areas such as the District of Columbia where a number of jurisdictions are combined in one central telephone system, the local and State statutes are not fully effective. This bill will close that loophole; it will permit prosecution of those individuals who use the telephone in interstate commerce to harrass or frighten others; it will have a deterrent effect on the making of such calls; it will set an example for the States to revise or enact, where needed, State statutes pertaining to such abusive activities; it will extend the prohibition to the District of Columbia; and it will bridge the interstate gap in such matters.

I hope that this committee will quickly approve my bill and that this needed legislation will be enacted at an early date.

Thank you for giving me this opportunity to appear here today in support of this legislation.

Mr. KORNEGAY. Thank you for your testimony, Mr. Brasco.

I take great pleasure in calling as our next witness the Honorable Rosel H. Hyde, Chairman of the Federal Communications Commission.

Mr. Hyde, you are welcome. And you bring with you other members of the Commission?

Mr. HYDE. I have Mr. Henry Geller, the General Counsel of the Commission to my right, and to my left Mr. Kelley E. Griffith, Chief, Domestic Rates Division, Common Carrier Bureau.

Mr. KORNEGAY. It is a pleasure to have you before us this morning, and we welcome you and the members of your staff.

You may proceed in any fashion you want.

STATEMENT OF HON. ROSEL H. HYDE, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION; ACCOMPANIED BY HENRY GELLER, GENERAL COUNSEL; AND KELLEY E. GRIFFITH, CHIEF, DOMESTIC RATES DIVISION

Mr. HYDE. My statement is very brief. I will present it orally, if that is agreeable.

Mr. Chairman, I am Rosel H. Hyde, Chairman of the Federal Communications Commission. I appear here today at the committee's invitation to discuss bills to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce—H.R. 611, H.R. 1422, H.R. 5867, H.R. 6283, H.R. 7830, H.R. 13323, and S. 375. For convenience, I shall refer by number only to S. 375 which passed the Senate on April 24, 1967. However, because all these bills under consideration are identical, my comments are equally applicable to all.

S. 375 would add a new section 223 to the Communications Act to prohibit, in substance, the making of obscene, lewd, lascivious, filthy, or indecent telephone calls or those intended to annoy, abuse, threaten, or harass, either in interstate or foreign commerce or within the District of Columbia. It provides for a fine of not more than $500 or imprisonment for not more than 6 months, or both.

The Federal Communications Commission is fully in accord with the effort to deal with the problem of obscene and harassing telephone calls which is embodied in this bill.

Obscene and harassing telephone calls have become a matter of serious concern. The dimensions of the problem are already large and are apparently growing. At the request of the Commission, the Bell Telephone System, which provides more than 80 percent of the Nation's telephone, began to compile statistics in February 1966 concerning the number of calls as to which it receives complaints.

The Bell System lists as abusive calls those falling under the heading of obscene, harassing, threatening, or interference. The figures show that, for 11 months of 1966, the Bell System received over 568,000 complaints concerning abusive telephone calls that threaten or harass the recipient. This is an average of over 51,000 such complaints each month. In the first 11 months of 1967 more than 640,000 such complaints were reported. This represents an average of over 58,000 complaints each month, an increase of approximately 7,000 monthly over the previous report.

When compilation of complaints began in early 1966 the number of reported abusive calls was between 40,000 and 45,000 per month. The number of such calls increased to between 50,000 and 55,000 per month as of the latter part of 1966. Available 1967 figures show a range of approximately 51,000 to 68,000 such calls per month.

A detailed breakdown of the statistics for the two most recent months available (October and November 1967) is attached to this statement (see p. 11), together with the total monthly figures of the number of abusive calls for each month since the Bell System began compiling such statistics.

It should be noted that only a small portion of the total number of reported abusive calls were interstate in nature. During the 11-month period in 1966 in which the Bell System compiled statistics, 512 complaints of abusive interstate calls were reported. There were 470 such calls in the first 11 months of 1967.

S. 375 would deal not only with obscene calls, but also the anonymous call made with intent to harass, and repeated calls made solely for the same purpose. The bill thus covers certain types of anonymous calls which have been of increasing concern. The telephone may ring at any hour of the day or night, to produce only a dead line when answered. Sometimes the caller will merely breathe heavily and then hang up. Sometimes he will utter obscenities. Recently a new and most offensive form of harassment has been devised. Families of servicemen are called and given false reports of death or injury, or even, hard as it is to believe, are gloatingly reminded of the death of a son or husband in the service. S. 375 reaches all of these vicious practices.

Some remedies do exist at the present time. All States have statutes generally prohibiting the making of various types of obscene, harassing, or annoying telephone calls. These laws, many of which are of recent origin, should assist the efforts to solve the problem of intrastate

abusive calling. In addition, telephone company tariffs prohibit obscene language over the telephone or the use of telephone service in such a manner as to harass or frighten others.

The Bell Telephone System has developed improved equipment to determine the source of anonymous abusive calls, and has issued instructions to operating companies for close cooperation with subscribers who complain of obscene or harassing telephone calls. It is to be hoped that such recent publicity given to this matter by the telephone company and the manner in which they will serve customers who receive such calls will have the beneficial effect of reducing such practices.

Although title 18 U.S.C. 875(c) prohibits interstate communications containing a threat of personal injury, and 18 U.S.C. 837(d) prohibits use of the telephone to make threats of damage to certain property or threats to persons seeking to make specified uses of such property, no Federal law deals with the many aspects of the problem of abusive calls. S. 375 would apply to all interstate calls and those calls made within the District of Coumbia. Its enactment would facilitate prosecutions for interstate calls by permitting prosecution where it may be convenient for the witnesses, since section 3237 of title 18, United States Code, permits prosecution of offenses in any district in which the offense is begun, is continued, or is completed.

Enforcement of a Federal criminal statute dealing with obscene and harassing telephone calls would appropriately be the responsibility of the Department of Justice. From the standpoint of the Federal Communications Commission's general concern in this area, we are fully in accord with the effort to deal with this problem which is embodied in S. 375 and support its enactment.

(Data accompanying Mr. Hyde's statement follow:)

BELL TELEPHONE SYSTEM SUMMARY OF ABUSIVE CALLING[1]

OCTOBER 1967

Classification	*Number*
Abusive	52,334
Commercial solicitation	1,244
Misdirected	2,644
Breakdown of abusive:	
Obscene	11,793
Harassing	35,655
Threatening	2,447
Interference	2,439
Disposition of abusive:	
Closed after initial discussion	28,142
Closed after keeping log	13,670
Number change, no transfer	6,125
Change to nonlisted or nonpublished numbers	4,808
Requests for line identification	4,658
Lines successfully identified	943
Cases referred to security	1,140
Cases requiring disconnection by company	5
Cases resulting in court convictions	78
Cases involving intercity calling	1,189
Cases involving interstate calling	24
Total number closed	50,845
Total number pending	9,733

[1] The figures shown represent actual results for October and November 1967 in all Bell Telephone System companies.

NOVEMBER 1967

Classification	Number
Abusive	51,659
Commercial solicitation	1,195
Misdirected	2,605
Breakdown of abusive:	
Obscene	11,845
Harassing	34,794
Threatening	2,436
Interference	2,584
Disposition of abusive:	
Closed after initial discussion	28,828
Closed after keeping log	12,899
Number change, no transfer	6,236
Change to nonlisted or nonpublished numbers	4,902
Requests for line identification	4,534
Lines successfully identified	877
Cases referred to security	1,098
Cases requiring disconnection by company	4
Cases resulting in court convictions	90
Cases involving intercity calling	1,301
Cases involving interstate calling	27
Total number closed	51,505
Total number pending	9,817

BELL TELEPHONE SYSTEM MONTHLY SUMMARY OF ABUSIVE CALLING, 1966-67

	1966	1967
January	(1)	58,077
February	37,332	60,960
March	46,023	64,906
April	42,940	58,828
May	45,733	56,822
June	54,027	58,151
July	54,366	60,135
August	68,193	68,343
September	56,791	51,606
October	55,134	52,334
November	56,796	51,659
December	51,439	(2)
Total	568,774	641,821

[1] Not compiled.
[2] Not reported.

Mr. HYDE. Mr. Chairman, representatives of the FCC staff have discussed certain minor changes in language in the proposed statute with committee counsel. We find the changes, as suggested by your staff, appropriate and acceptable so far as we are concerned.

That completes my statement.

Mr. KORNEGAY. Thank you very much, Mr. Chairman.

You have no suggestion of changes you want made in the bill, S. 375?

Mr. HYDE. None other than those I have suggested. We have cooperated in the changes of certain language. I think they are technical. We accept them as revised by the staff.

Mr. KORNEGAY. Mr. Broyhill?

Mr. BROYHILL. Thank you.

It is good to see you today, Mr. Chairman. I want to ask you a very short question concerning the equipment which the Bell Telephone System has developed in order to determine the source of these anonymous calls. Is this equipment in general use today?

Mr. HYDE. Is this equipment in use today?

Mr. BROYHILL. General use.

Mr. HYDE. My information on this is very general, I must say. They have been working on this problem ever since it became a matter of public concern, and I know they have made extensive efforts. I believe a representative of the telephone company is here and will be able to give you a more satisfactory answer to your question.

Mr. BROYHILL. Mr. Chairman, one other question: If this bill, S. 375, becomes law, it will be up to the Federal Communications Commission to enforce it. Is that correct?

Mr. HYDE. No, we take the position that it will be the responsibility of the Attorney General to enforce it. However, I would wish you to know that in this area of our regulatory interest, and in which we would claim some expertise, we would certainly cooperate. I think we could be of substantial help in the enforcement of it, but prosecution as such would be the responsibility of the Attorney General.

Mr. BROYHILL. Would the Federal Communications Commission recommend prosecution?

Mr. HYDE. Yes, in instances coming to our attention we certainly would.

Mr. BROYHILL. Would you make investigations?

Mr. HYDE. We would assist in investigations where our expertise would be helpful.

Mr. BROYHILL. I have no further questions.

Mr. KORNEGAY. Mr. Brotzman?

Mr. BROTZMAN. Thank you, Mr. Chairman.

Just one question, really. I think there is a lot to be said for this particular measure. I was wondering about the enforcement, Mr. Chairman. This is a difficult problem, and may be a difficult statute to enforce. I am rereading your fine statement. I was wondering, for example, how you would really catch a person who was breathing into a telephone in an effort to harass somebody.

Mr. HYDE. It would be difficult. We believe that just the existence of a Federal statute would be a deterrent. Also I would add this, that oftentimes there will be a pattern of this type of call, and through the cooperation of the person who is being harassed, the telephone company can get information which, in a number of instances, has led to the apprehension of the person instigating the difficulty. There have been a number of successful prosecutions in State courts.

Mr. BROTZMAN. I was going to ask you that question next. You are quite correct that the States do have laws. Do you have anything in your files relative to successful prosecutions across the country for this type of statute?

Mr. HYDE. I notice in the statement which the representative of the telephone company is going to present to the committee, which they were good enough to bring to our attention, there are some statistics on this.

In 1965, there were convictions in 358 cases.

Mr. BROTZMAN. That was 1965?

Mr. HYDE. Yes, and I believe the telephone company witness will be able to give you a later figure.

Mr. BROTZMAN. Mr. Chairman, I would suggest to our chairman that I think something like that would be valuable in the record. We would like you to supply that to us. I would request that you do so.

Mr. HYDE. Yes.

Since we have had reports pursuant to our request, I should like to give you the reports that came to the attention of the Commission. We can give you figures.

(The following information was subsequently submitted:)

Information supplied by the Bell Telephone System showing number of convictions of abusive callers in areas served by the Bell System:

	Convictions
1965	358
1966	788
1967	1,105

Mr. BROTZMAN. You can do that. Thank you.

I have no further questions, Mr. Chairman.

Mr. KORNEGAY. I note in your statement, Mr. Chairman, that the Commission requests of the Bell Telephone System to compile statistics on the number of calls on which they receive complaints, and you further state that the Bell System totals about 80 percent of the Nation's telephones.

These figures that you give, do they just relate to the Bell System?

Mr. HYDE. That is correct.

Mr. KORNEGAY. You do not have figures on the remaining 20 percent of the Nation's phones insofar as complaints?

Mr. HYDE. No, we do not. The statement that our figures relate to Bell is correct.

Mr. KORNEGAY. As indicated by the testimony and in addition to that, the complaints are growing at a very rapid rate.

Mr. HYDE. Yes, but I think, Mr. Chairman, we should take cognizance of the fact that a lot of attention has been given to the subject and notice that both the telephone company and regulatory agencies are trying to do something about this might have resulted in more people asking for assistance.

I think, too, that we ought to remember that we are dealing here with statistics based on complaints which, of course, will not be a full measure of the extent of this evil.

Mr. KORNEGAY. Of the extensive nature of the evil going on?

Mr. HYDE. That is right.

Mr. KORNEGAY. I interpret your statement to mean that there is a sufficient number of evil calls to justify some action on the part of the Commission, the Attorney General, and the Congress.

Mr. HYDE. Yes, sir; I fully agree with that. It is a very distressing thing. I have had some particular instances come to my attention, and it is something that we should undertake to curtail just as far as possibly can.

Mr. KORNEGAY. I am in complete agreement with your statement, and congratulate you and the Commission for supporting these bills and coming here today and giving very good testimony to indicate that we, the Congress, need to do something about it.

Mr. HYDE. Thank you very much. If we can be of any further assistance, we shall be pleased to do so.

Mr. KORNEGAY. Thank you very much.

Our next witness will be Col. William A. Temple from the Department of Defense. Colonel Temple, would you come around?

If you will have a seat, we will recess the subcommittee hearings for just about 2 minutes.

(Brief recess.)

Mr. KORNEGAY. The subcommittee is now back in session.

Colonel Temple, it is a pleasure to welcome you before the Subcommittee on Communications and Power, and you may at this time proceed in making the statement that you desire.

STATEMENT OF COL. WILLIAM A. TEMPLE, OFFICE OF ASSISTANT SECRETARY OF DEFENSE (MANPOWER AND RESERVE AFFAIRS), DEPARTMENT OF DEFENSE

Colonel TEMPLE. Thank you, Mr. Chairman.

May I say that the statement I have to make to you is that of Brig. Gen. William W. Berg, Deputy Assistant Secretary of Defense for Military Personnel Policy, who regrets he could not appear. I work in his office as an assistant director for personnel management.

I will read this statement and then answer any questions you have.

Mr. KORNEGAY. You may proceed.

Colonel TEMPLE. The Department of Defense appreciates this opportunity to present its views on S. 375, which would make obscene or harassing telephone calls in interstate or foreign commerce a Federal offense.

The Department of Defense is concerned about the adverse effect on the morale and welfare of our servicemen and their families of obscene and harassing communications, particularly as they relate to our military operations in Vietnam and elsewhere. We welcome and support any legislation which promises our servicemen and their families a measure of protection from these vicious and despicable acts.

In the year preceding May of 1966 we had identified some 87 known incidents of harassment of military families related to our military operations overseas, mostly in connection with service in Vietnam. In the period between May of 1966 and February of 1967 we identified an additional 48 such incidents; and in the approximate year that has elapsed since that time we have had reports of approximately 70 additional incidents.

Here I should point out that while the bills under consideration address themselves to telephone communications, the reported incidents that we have of harassment of service families have included harassment by letters, post cards, telegrams and even face-to-face visits.

The nature of these harassments has included everything from false reports of death or injury to threats, demands for money for the Vietcong, and gloating comment on the actual death in combat of servicemen. For example, a bereaved widow of an Army sergeant killed by enemy fire in Vietnam received an anonymous call advising her that her husband had "got what was coming to him. A phone call to the wife of an Air Force sergeant stationed in Vietnam said: "I know your husband is in Vietnam and he deserves everything he gets. Before he can come home you will be a widow."

You will note that the volume of these incidents of harassment is not large and it has tended to drop somewhat since we first became concerned with them. We believe that two factors have contributed to the reduced incidence of harassment of our service families: One is the publicity given to the Nation's outrage at these acts by congressional

consideration of remedial legislation during both the 89th and 90th Congress. The other is the excellent cooperation we have received from the commercial telephone companies in developing joint procedures to protect service families from the perpetrators of this viciousness. The American Telephone & Telegraph Co. has worked with us on behalf of the entire telephone industry in developing and publicizing procedures for assisting service families who are victimized by telephonic harassment.

While we have no way of knowing whether the small scale of the harassment of our service families is permanent or temporary, we do not cite it as evidence that corrective legislation is not needed. The impact of these acts on the morale and well-being of each service member and his family directly affected is obvious, and there is a potential for a detrimental effect for all members of our Armed Forces and their families everywhere.

Recognizing that the overall problem of obscene and harassing communications goes far beyond the matter of harassment of service families, the Department of Defense defers to the wisdom of the Congress on the content of specific legislation and to the views of the Department of Justice and the Federal Communications Commission on the technical merits of particular proposals. For our part, we simply welcome any action which promises a measure of relief.

Mr. Chairman, on behalf of the Department of Defense I thank you and the committee for this opportunity to express our views.

We stand ready to assist in any way we can.

Mr. KORNEGAY. Thank you very much, Colonel Temple. Relay our regrets to General Berg for his inability to be here, and our appreciation for the statement you have presented in such a commendable manner.

Mr. Broyhill.

Mr. BROYHILL. Thank you, Mr. Chairman.

Colonel Temple, as the results of your investigations on these calls, did this result in the prosecution of anyone?

Colonel TEMPLE. To my knowledge, sir, all such calls which gave any promise of prosecution have been turned over either to the telephone companies, or in some cases to the Department of Justice. I cannot state specifically whether any specific incident has resulted in a conviction. I would be happy to recheck the incidents and furnish the information.

Mr. BROYHILL. You have indicated that these known incidents have been investigated. I was curious whether any of the investigations have resulted in prosecution or whether or not you are limited under the laws as they are presently written.

Colonel TEMPLE. I might say, sir; to answer your question in part: With respect to these known incidents, one not involving telephone harassment involved the visit of the alleged sergeant of a dead man's unit, the sergeant representing himself as being from the man's organization. His purpose, apparently, was to bum accommodations from the family, and he did so successfully for a period of about a week. His case was, we discovered, turned over to the Department of Justice, and he was prosecuted under the statutes on the improper wearing of the uniform.

So far as the telephonic incidents are concerned, I am not sure, sir.

(The following information was subsequently submitted by DOD:)

A check of all known incidents of harassment of families of servicemen discloses that in only one case was a suspect apprehended and punished. It did not involve telephonic harassment but was the case referred to above of a man impersonating a sergeant for the purpose of trading on the sympathies of a dead serviceman's family.

Mr. BROYHILL. Thank you.

Mr. KORNEGAY. Mr. Brotzman?

Mr. BROTZMAN. I have no questions of the Colonel. May I direct one question to staff counsel?

Mr. KORNEGAY. Yes.

Mr. BROTZMAN. I notice that everyone has been reflecting that the bill under consideration, S. 375, would apply to calls in, as the colonel just said, interstate or foreign commerce.

Now, my question relates to this. Because of the effect on interstate commerce of this system of communications, would this law apply to an intrastate call of an obscene or harassing nature?

Mr. GUTHRIE. No, sir; it is not intended to. This is intended only to apply to calls within the District of Columbia, or those telephone calls that cross State lines.

Mr. BROTZMAN. That do in fact cross State lines?

Mr. GUTHRIE. Yes, sir. The 50 States have legislation.

Mr. BROTZMAN. Thank you.

Mr. KORNEGAY. To amplify that for the record, counsel, with the enactment of the bills which the subcommittee has before it this morning, the entire scope would be filled so far as protecting persons against telephone calls of an obscene and harassing nature.

Mr. GUTHRIE. Yes, sir.

Mr. KORNEGAY. In other words, all the States have laws, and this bill covers interstate and foreign calls, together with the District of Columbia, and the entire spectrum of conditions would be covered?

Mr. GUTHRIE. Yes.

Mr. KORNEGAY. Thank you.

Mr. BROTZMAN. I have no further questions.

Mr. KORNEGAY. Colonel, I want to thank you again for coming and presenting the position of the Department of Defense.

I know of nothing at the moment more despicable than some act on the part of an individual to harass the widows and relatives of our servicemen, those who have been killed in Vietnam.

We appreciate very much the attention you take.

Colonel TEMPLE. We quite agree, sir. Thank you.

Mr. KORNEGAY. Our next witness is Mr. H. L. Kertz, with the American Telephone & Telegraph Co.

STATEMENT OF HUBERT KERTZ, OPERATING VICE PRESIDENT, AMERICAN TELEPHONE & TELEGRAPH CO., APPEARING ON BEHALF OF BELL TELEPHONE SYSTEM

Mr. KERTZ. Mr. Chairman, my name is Hubert Kertz. I am operating vice president of the American Telephone & Telegraph Co., and I appear on behalf of the Bell Telephone System operating companies.

The Bell System is extremely concerned about the problem of abusive calls and we are doing all we can to stop them. We are pleased,

too, at your committee's interest in the problem, and I appreciate this opportunity to present our views to you. We certainly welcome legislation at the Federal level along the lines proposed in the bills which are the subject of this hearing.

The Bell System policy has always been to insure that customers receive the best possible telephone service. When the telephone becomes an instrument of annoyance or harassment, it is a matter of serious concern. Removing sources of customer irritation is an integral part of providing high-quality telephone service. In our attempt to eliminate this problem we welcome help.

Since early 1966 we have been filing monthly reports with the Federal Communications Commission which indicate the number of customer complaints involving abusive calls received by the Bell System and their disposition.

During March 1966, for example, about 46,000 customer complaints were received. Subsequently, the number of such complaints received per month increased for a while, reaching a high of about 68,000 in August, but declined to about 51,000 in December of 1966. During 1967 the number of complaints again fluctuated monthly, averaging about 58,000 per month. We believe the overall increase in the number of complaints received by the Bell System was due, at least in part, to our pledges of assistance made to the public during 1966 and 1967 rather than solely to an increase in the abusive calling. Of course, the only way we can know about such calls is when they are brought to our attention by our customers.

We consider abusive calling to be a serious problem even though the number of complaints received each month represents only a small fraction of the more than 10 billion calls made monthly by our customers. I shall in this statement attempt to explain the problem and the steps we are taking to remedy it.

We really do not know exactly how much of this abusive calling is interstate or how much is intrastate, but it is our judgment that most of the problem is predominantly local in nature. An interstate call may be a toll call of which there is a record in a form of a toll ticket or the automatically recorded equivalent—or it may be a local call such as one from Arlington, Va., to the District of Columbia. It is only after an investigation of a complaint has been successfully completed that we are able to classify the offending calls as interstate or intrastate.

Of the almost 700,000 complaints received during 1967 only about 500, an average of 40 per month, have so far been classified as involving interstate calling. Although this is a small percentage, we believe Federal legislation will also have a deterring effect on potential offenders in intrastate calling and that such legislation would be of practical advantage to us in attempting to deal with this abusive calling problem.

Existing State and local criminal legislation is of great help to us. In view of the fact that most abusive calling appears to be intrastate and local in nature, we have found that in many cases appropriate remedial action can be promptly and effectively taken by using our procedures and tariffs and by our customers having recourse to State and local criminal prosecutions.

At the time of my initial testimony before the Senate subcommittee

in May 1966, when they were considering this problem, 38 States had statutes specifically outlawing abusive calling. Since that time the remaining 12 States have enacted similar legislation. All in all, in the areas served by the Bell System the courts convicted 358 abusive callers during 1965, 788 abusive callers in 1966, and 1,105 during 1967.

This, I believe, Mr. Chairman, was one of the questions you asked Commissioner Hyde. It was 1,105 court convictions in the year 1967.

It might be appropriate at this time to review with you the procedures the Bell System is following in handling complaints about abusive calls. We are determined to eliminate such abuse, we continue to assume the responsibility for taking action, we are improving our techniques, and we are maining close contact with each victim until the abusive calling problem is solved to his satisfaction.

When a customer informs us that he received a call threatening bodily harm, kidnaping, or damage to property, we develop the pertinent details and immediately refer the matter to a management person in our security organization. He is authorized to take whatever action is necessary to deal with this type of complaint, including steps to identify the telephone line from which the call was made. We also suggest to the customer that he acquaint the local law enforcement authorities with the facts, if he has not already done so.

In cases not involving threats, we take a number of steps to solve the customer's problem. When we receive a complaint, we attempt to bring to the customer's mind any details that might uncover clues as to who might be making the calls. These facts also aid us in determining what further steps are appropriate to solve the customer's problem. They also prove to be helpful in setting up the line identification procedure, if such action turns out to be necessary.

As you can understand, I would rather not discuss in detail here all the techniques we use to identify the telephone lines from which abusive calls originate. Public disclosure of this information might make it easier for annoyance callers to avoid detection.

I would like, Mr. Chairman, if I may, to explain at this time some of the devices and the methods that we use to identify the line originating the offending calls.

Mr. KORNEGAY. We would like very much for you to do that.

Mr. KERTZ. I am going over to the easel, Mr. Chairman, and I want to explain some facts to the committee.

What I have on this chart, if you will, is a symbolic diagram of the telephone switching system, and for purposes of explanation here, down in the lower left-hand corner we have a picture of a telephone that is labeled "Annoying Party." That telephone is connected by wires to our central office, and it goes into the central office to a piece of equipment known as the main frame, where all the wires terminate.

From the main frame it goes through various pieces of switching equipment and we have labels on the chart: line frame, trunk frame, trunk circuits, and so forth, and it shows the path the call would take, until it goes out to another telephone labeled "Annoyed Party."

The annoying party dials the number into this switching equipment here, and the switching equipment, which is labeled in this chart "Control Equipment and Trouble Recorder," directs the call to the other telephone labeled "Annoyed Party."

In order to determine the location of any annoying party, that is, the telephone number of an annoying party, one of the devices that is used by the telephone maintenance men is to put what we call a false trouble indication on the annoyed party's line.

Mr. KORNEGAY. False what?

Mr. KERTZ. Trouble. For instance, we may have a complaint from a customer that says, "Every morning at 2:30 a.m. my phone rings and somebody breathes into the phone." We would put a false trouble indication on that, and then when the call comes through, the control in the central office finds we have a false trouble on that chart, and then it drops out the trouble chart, which we have pasted on the chart. Maybe you would like to see one of these, and I have a few you might like to look at.

Mr. KORNEGAY. It looks like an IBM card.

Mr. KERTZ. Yes, sir; it is a big IBM card. There is a tremendous amount of information on this card, but the part we are interested in here in tracing this call is marked in red.

On the card there, we have marked in red pencil the called number, which is 5652. Now, course the called number is the annoyed party.

Down below that you see some writing that says "calling equipment."

Now, that information that is there allows us to determine the telephone number of the annoying party.

Well, in summary, this is one way of tracing a call and it is done automatically for us. They are not all quite as simple as the way I have outlined it here, but it has been effective, and we have located annoying parties with this method.

Now, we have some other devices that we use to trace these calls, and for purpose of simulation here I have a telephone here which we will call the annoyed party, and Mr. Miller there, who is helping me with this, is going to be the annoying party.

What we do, when we get a complaint from the annoyed party, we place on his premises an electronic device similar to the one you see here on the table.

I am going to ask Mr. Miller as the annoying party to call me on this telephone, and I will then describe what happens next.

Mr. Miller, please. (Phone rings.)

Now, I am connected with Mr. Miller, and he is going to annoy me. In the normal course of events he would hang up, and I don't know who he is, or where he is calling from. But with this electronic device on the customer's premises, there is a key on it, and I will turn the key on and we have simulated here what happens in the central office.

I will shut the key off because it is a little difficult to talk over the alarm.

That alarm tells the central office maintenance men that a call has been made to the complaining party; that is, the annoyed party, and they immediately, with the tools that are at their disposal, trace the call back to the annoying party's line and they have ways of holding onto that connection, so that even if Mr. Miller were to hang up, we would be able to trace the call.

Now, the last part of this procedure of determining the annoying party, of course, has to do with the prosecution and possible court action, and there you are up against the proposition of having to prove

something, to have some facts and figures. What we do to help out the customer is that once we have identified the annoying party's telephone number over there, we place on that telephone this device, similar to this device that you see here on this table, and what this is is a pen register, and what it does is, it records on paper tape the numbers that are dialed by that particular telephone, in this case the annoying party.

The idea behind this is that at 2:30 in the morning when Mr. Miller makes this annoying call to me, when he dials my number it is recorded on this paper tape with the time of day and the date, and we then are able to say that that annoying call came from that telephone at that time.

Now, to demonstrate this to you I am going to ask Mr. Miller to dial me, again at 2:30 in the morning, and we will see if our pen register records the number he dials. [Demonstrating.]

Mr. KERTZ. I take the receiver off the hook and I note the time that I got the call, and then we can take this paper tape and go back and determine what numbers Mr. Miller dialed into the equipment, and, of course, in this particular case it is the number of that telephone.

Later on if you wish, we can come down and demonstrate this to you as to how you count these pulses. They are just pulses on the telephone.

Mr. BROTZMAN. I have a question, Mr. Chairman.

Mr. KORNEGAY. Yes, sir.

Mr. BROTZMAN. Do I understand correctly that you use this for your own detection? And my next question is, Did you use this in any successful prosecutions?

Mr. KERTZ. Yes, sir; absolutely. We have used it in a number of the 1,000 successful court convictions that we got last year.

I have to add, Mr. Chairman, that there are other means we have for detection, but I think these methods give you some idea of the methods we use.

I would like to emphasize at this point there is nothing about these devices or methods that involve any monitoring of conversations of either the calling or the called person's telephone line. There is no attempt whatsoever to listen to conversations. It is simply a matter of identifying the calling line.

Over the years many different techniques have been devised to identify the lines from which anonymous and abusive calls originate. These techniques have grown more sophisticated as our telephone switching systems have become more complex. We are continually working on better and quicker ways of making these line identifications and we are adding special equipment to improve our ability to do so.

We believe that successful identification of the calling line, and the publicity following the conviction of the annoying caller will in the long run substantially deter abusive calling. I might add that local law enforcement authorities have been most cooperative and extremely helpful to our customers in investigating these cases, as evidenced by an increase of more than 100 percent in court convictions in 1966 and a continuing increase in such convictions during 1967.

After there has been a line identification, the case might take either of the following directions:

We normally secure written consent from the customer who is receiving these calls when he asks us to disclose the calling line to a law enforcement agency to which he has reported the facts or with which he plans to file a complaint. In any ensuing prosecution a company representative may be a witness and may be asked to provide a chronological history of the telephone company's role in handling the matter. As I mentioned previously, we attempt to publicize all successful prosecutions since we believe such publicity significantly deters abusive calling.

Where the annoyed customer does not decide to take legal action we still are in a position to take further steps. Bell System tariffs provide for the discontinuance of the telephone service of an offending party in such cases.

In addition to the foregoing courses of action, advertising campaigns were conducted throughout the country on this subject by A.T. & T. and the Bell companies during 1966 and 1967 and they will be continued as necessary. This advertising clearly enunciated our policy, including our pledge of assistance to any member of the general public within our operating areas who is a victim of such calling. Also, Bell System officials discussed this subject on a number of national and local television shows and continue to speak about it before law enforcement and other public groups. The Bell companies have also been conducting an extensive employee information program outlining our policy and procedures.

Let me summarize the Bell System position on the entire matter of abusive calling. We are deeply concerned about this problem. We are doing all in our power to eliminate it. We think there is a need for Federal legislation covering interstate abusive calling, and we endorse S. 375, which was passed by the Senate on April 24, 1967, and its identical counterparts in the House—H.R. 611, H.R. 1422, H.R. 5867, H.R. 6283, H.R. 7830, and H.R. 13323 which we understand are now before you for consideration. We, of course, stand ready to give this committee any assistance it requires.

Thank you, Mr. Chairman. That is the end of my statement.

Mr. KORNEGAY. Thank you, Mr. Kertz, for a very fine statement, and certainly for some very interesting and informative demonstrations.

Mr. Broyhill?

Mr. BROYHILL. No questions, Mr. Chairman.

Mr. KORNEGAY. Mr. Ottinger?

Mr. OTTINGER. What significance do you think the Federal legislation would have? The figures we have from the FCC indicates that there is a very minimal problem with respect to interstate calls. I suppose those interstate calls would be covered by the State law.

Mr. KERTZ. The facts of the matter are, Mr. Congressman, that, while all of the States have laws that make it illegal to do this in intrastate, there is no comparable Federal law. It is true that there are only about 40 calls a month that we have been able to identify as being interstate. Nevertheless, a Federal law would certainly deter this abusive calling. This is why we endorse these bills.

Mr. KORNEGAY. Mr. Brotzman?

Mr. BROTZMAN. No questions, Mr. Chairman.

Mr. KORNEGAY. On these interstate calls that you have been able to identify, how many of them, if you know, originated from pay telephones, as opposed to residential phones?

Mr. KERTZ. Well, very few, but there are interstate abusive calls made from pay telephones, and we have—I am quite sure my memory is correct on this—we have a court conviction in this case. We know that there are a few of them, relatively speaking, that are made from coin telephones, comparing the number of coin telephones to total telephones.

Mr. KORNEGAY. Mr. Rooney, do you have any questions?

Mr. ROONEY. No, I have no questions, Mr. Chairman.

Mr. KORNEGAY. Mr. Kertz, let me again thank you for coming and presenting very interesting and fascinating testimony. You and the company are to be commended for your keen interest in this area, and the cooperation that you have exhibited with all parties interested. Thank you very much.

Mr. KERTZ. Thank you, sir.

Mr. KORNEGAY. The next witness is Mr. Paul Rodgers, of the National Association of Regulatory Utility Commissioners.

Mr. Rodgers, would you come around, please. We welcome you before the committee and you may proceed with your statement in the way you choose.

STATEMENT OF PAUL RODGERS, GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Mr. RODGERS. Mr. Chairman and members of the committee, my name is Paul Rodgers. I am the general counsel for the National Association of Regulatory Utility Commissioners (NARUC), formerly known as the National Association of Railroad and Utilities Commissioners.

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of utilities and carriers. The chief objective of the NARUC is to serve the public interest through the advancement of governmental regulation.

The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on H.R. 611, and similar bills, which propose an amendment to the Communications Act of 1934 to impose criminal penalties on persons making obscene or harassing telephone calls in the District of Columbia or in interstate or foreign commerce.

The NARUC supports the enactment of this proposed law.

We are particularly pleased that the scope of these bills is limited to "telephone communication in the District of Columbia or in interstate or foreign commerce." We believe that this clearcut jurisdictional line shows a wholesome regard for the respective responsibilities of the Federal and State governments in solving this problem.

On February 16th of last year, when we testified before the Subcommittee on Communications of the Senate Commerce Committee on S. 375, one of the bills now under consideration, only 38 of the 50 States had laws imposing penalties on persons making obscene or harassing telephone calls.

The Committee on Communications of this Association on February 28th of last year, after consideration of the abusive calling prob-

lem, adopted a model State harassing telephone call act which closely parallels the language of H.R. 611 and the other bills. A copy of this model act is appended to this statement. (See p. 25.)

Chairman Ben T. Wiggins of the NARUC Committee on Communications promptly transmitted a copy of the model act to each State regulatory commission requesting that it review the existing legislation of that State on this subject, and if found inadequate, to seek enactment of legislation of the nature reflected by the model act.

I now understand that the remaining 12 States have adopted legislation to outlaw abusive calling.

We hope that the success with which all 50 States have responded to this problem was due in part to the national campaign which was launched by this association.

In view of these considerations, we believe that the enactment of this type of legislation is an appropriate means for combating the making of obscene and harassing telephone calls in interstate or foreign commerce, and in addition would complement the comprehensive action which has been taken by the States in combating such calls in intrastate commerce.

In closing, I wish to invite the members of this committee to call upon me or the other members of the staff of the NARUC whenever you need information concerning State regulation.

Thank you for your attention.

Mr. KORNEGAY. Thank you very much, Mr. Rodgers.

Mr. Broyhill?

Mr. Ottinger?

Mr. Brotzman?

Mr. BROTZMAN. No questions.

Mr. KORNEGAY. Mr. Rooney?

Mr. ROONEY. No questions.

Mr. KORNEGAY. Mr. Rodgers, as I read very hastily the Model State Harassing Telephone Call Act, it is almost word for word the bills that we have under consideration. Is that correct?

Mr. RODGERS. Yes.

Mr. KORNEGAY. To your knowledge, have there been any convictions under the Model Act in the States?

Mr. RODGERS. Not to my knowledge. Thirty-eight States had specific bills dealing with this problem, and the remaining 12 States had broader bills, such as those prohibiting disturbances of the peace. In an effort to inspire those 12 States to enact legislation and inspire the remaining 38 to upgrade their legislation we sent this out. We have made no followup, but the 12 States have responded.

Mr. KORNEGAY. Did those 12 States enact statutes similar or identical with the Model Act?

Mr. RODGERS. We did not follow up by writing each State commission. If you would like, we would be happy to undertake a poll of the 50 States to see how many States adopted this act.

Mr. KORNEGAY. Do you know of any agency, public or private, that would have information as to the form of the statute in the several States?

Mr. RODGERS. Not unless the Bell System would. They tell me they do.

Mr. KORNEGAY. The reason I ask that, in my own State of North Carolina, I am not familiar with what the legislature has done in the last 7 or 8 years, but up until 1960 they had a statute that made it a misdemeanor for a male person to call a female person and use obscene and abusive language, but a male person could call another male person and say anything he wanted to on the telephone.

I think those laws have been updated.

I think it would be of interest to the subcommittee if, without a great deal of difficulty, we could get information as to the laws in the several States.

Mr. KERTZ (A.T. & T.). We will provide that for you, Mr. Chairman.

Mr. KORNEGAY. We know every State has a law, but we don't know how much of that law in a particular State would be covered with the same provisions or similar provisions to the Model or Uniform Act, which is the same act that we have considered here.

Mr. KERTZ. I understand. We will provide the information.

(For the information requested, see pp. 26–49.)

Mr. KORNEGAY. Thank you, sir.

Thank you very much, Mr. Rodgers. We appreciate your support in this matter, and we appreciate your coming to testify.

Mr. RODGERS. Thank you.

(The Model Act referred to by Mr. Rodgers follows:)

Model State Harassing Telephone Call Act

An Act to provide criminal penalties with respect to obscene or harassing telephone calls, and for other purposes.

Be it enacted by the legislature of this state:

SECTION 1. Whoever by means of telephone communication in this State—

(a) makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, fifthy, or indecent; or

(b) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

(c) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(d) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

Whoever knowingly permits any telephone under his control to be used for any purpose prohibited by this section shall be fined not more than $500 or imprisoned not more than six months, or both.

SEC. 2. All laws and parts of laws in conflict with this Act are hereby repealed.

(The information requested of the American Telephone & Telegraph Co. follows:)

STATUTES OF THE 50 STATES RELATING TO THE USE OF OBSCENE OR INDECENT LANGUAGE OVER TELEPHONE OR MAKING OF THREATENING OR ANNOYING CALLS

State	Indecent obscene language	Anonymous calls	Calls to females	Annoying or harassing calls	Threatening calls	Prosecute where call placed or received	Printed notice of statute required in directory
Alabama	X			X	X	X	
Alaska	X	X		X			
Arizona [1]	X	X		X	X	X	
Arkansas	X	X		X			
California	X	X		X	X	X	
Colorado [1]	X	X		X	X		
Connecticut	X			X	X	X	
Delaware	X	X		X			
Florida	X						X
Georgia	X		X				X
Hawaii	X						
Idaho	X			X	X	X	
Illinois	X			X			
Indiana	X			X	X	X	
Iowa [1]	X	X		X	X	X	
Kansas	X	X		X	X		X
Kentucky	X			X			X
Louisiana [2]	X	X		X	X		
Maine	X	X		X	X	X	
Maryland	X	X		X	X	X	
Massachusetts	X		X	X			
Michigan	X				X		
Minnesota	X	X		X	X	X	
Mississippi	X				X	X	
Missouri	X	X		X	X	X	
Montana [1]	X	X		X	X	X	
Nebraska [1]	X	X		X	X	X	
Nevada	X	X		X	X	X	
New Hampshire	X	X		X	X	X	
New Jersey	X			X		X	
New Mexico [1]	X	X		X	X	X	
New York	X	X		X	X		
North Carolina [1]	X	X	X	X	X	X	
North Dakota	X			X	X	X	
Ohio	X			X	X	X	X
Oklahoma	X		X				
Oregon	X	X		X	X	X	
Pennsylvania	X			X		X	
Rhode Island	X			X	X	X	
South Carolina	X	X		X	X	X	
South Dakota [1]	X	X		X	X	X	
Tennessee	X			X			
Texas	X			X	X		
Utah	X	X		X	X	X	
Vermont	X	X		X	X	X	
Virginia [3]	X				X	X	X
Washington	X	X		X	X	X	
West Virginia	X	X		X	X	X	
Wisconsin				X			
Wyoming [1]	X	X		X	X	X	

[1] Also prohibit extortion of money or other thing of value.
[2] Public service commission may adopt rules authorizing telephone employees to cooperate with police.
[3] Telephone company may be subpenaed to supply information on above calls.

ALABAMA

CODE OF ALABAMA, 1958, TITLE 48, PUBLIC UTILITIES, OFFENSES CONCERNING TELEGRAPH AND TELEPHONES

§ 417(3) MOLESTING, HARASSING OR THREATENING ANOTHER BY USE OF TELEPHONE; CONVEYING CERTAIN FALSE INFORMATION.—

(1) Whoever telephones another person and addresses to or about such other person any lewd, lascivious or indecent words or language; or whoever telephones another person repeatedly for the purpose of annoying, molesting or harassing such other person, or his or her family, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than $500 and may

also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

(2) Whoever telephones another person and threatens to create an explosion, or falsely informs that some other person threatens or intends to create an explosion in any private or public building, transportation facility or place of accommodation shall be guilty of a felony, and on conviction shall be sentenced to imprisonment for a period of not less than one year and may also be fined not more than $1,000.

(3) Whoever willfully imparts or conveys or causes to be imparted or conveyed any false information by use of a telephone, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to place or cause to be placed any explosive or other destructive substance in or upon any private or public building, transportation facility or place of accommodation, shall be guilty of a felony, and upon conviction shall be imprisoned for a period of not less than one year nor more than five years, and may also be fined not more than $1,000.

(4) Any of the above offenses may be deemed to have been committed at either the place at which the telephone call or calls were made, or at the place where the telephone call or calls were received. (1963, No. 587)

ALASKA

ALASKA STATUTES, TITLE 11, CRIMINAL LAW, CHAPTER 45, OFFENSES AGAINST PUBLIC PEACE

SEC. 11.45.035. ILLEGAL USE OF TELEPHONES.—A person who annonymously telephones another person repeatedly for the purpose of annoying, molesting, abusing, through vile and obscene language, or harassing that person or his family, is guilty of a misdemeanor, and, upon conviction is punishable by imprisonment in jail for not less than three months, nor more than one year, or by a fine of not less than $1,000, or both. (§ 1, ch. 87, SLA 1965).

ARIZONA REGULAR SESSION

CHAPTER 40, LAWS 1966, HOUSE BILL NO. 211

An act relating to crimes; prohibiting the use of the telephone for the purpose of terrifying, intimidating, threatening, harassing, annoying or offending another person, and amending title 13, chapter 3, article 6, Arizona Revised Statutes, by adding section 13–895.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 3, article 6, Arizona Revised Statutes, is amended by adding section 13–895, to read:

13–895. Use of telephone to terrify, intimidate, threaten, harass, annoy or offend; punishment.

A. It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It shall also be unlawful to attempt to extort money or other thing of value from any person, or to otherwise disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

B. The use of obscene, lewd or profane language or the making of a threat or statement as set forth in this section shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

C. Any offense committed by use of a telephone as set forth in this section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

D. Any violation of this section shall be punishable by a fine or not more than five hundred dollars, or by imprisonment in the county jail for not to exceed one

year, or both. If the defendant has previously been convicted of a violation of this section or of an offense under the laws of another state or of the United States which would have been an offense under this section if committed in this state, he shall be punished by a fine of not more than one thousand dollars or by imprisonment in the state prison for not to exceed two years, or both.

Approved, March 29, 1966.

ARKANSAS

ARKANSAS STATUTES 1947, ANNOTATED, CRIMINAL OFFENSES, DISORDERLY CONDUCT

§ 41–1437. ABUSIVE OR OBSCENE TELEPHONE CALLS.—It shall be unlawful for any person to make use of telephone facilities or equipment (1) for an anonymous call or calls if in a manner reasonably to be expected to annoy, abuse, torment, harass or embarrass one or more persons, or (2) for repeated calls, if such calls are not for a lawful business purpose but are made with intent to abuse, torment, harass or embarrass one or more persons, or (3) for any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent. (Acts 1963, No. 107, § 1, p. 305)

§ 41–1438. PENALTY.—Any person violating any of the provisions of Section 1 (41–1437) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than one thousand dollars ($1,000.00), or to imprisonment for not more than one year, or both. (Acts 163, No. 107, § 2, p. 305)

CALIFORNIA

WEST'S ANNOTATED CALIFORNIA CODES, TITLE 15, PENAL CODE, CHAPTER 2 OF OTHER AND MISCELLANEOUS OFFENSES

653 m. TELEPHONE CALLS WITH INTENT TO ANNOY.—(a) Every person who with intent to annoy telephones another and addresses to or about such other person any obscene language or adresses to such other person any threat to inflict injury to the person or property of the person addressed or any member of his family, is guilty of a misdemeanor.

(b) Every person who makes a telephone call with intent to annoy another and without disclosing his true identity to the person answering the telephone is, whether or not conversation ensues from making the telephone call, guilty of a misdemeanor.

(c) Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. (added 1963, c. 801, p. 1832, § 1)

COLORADO

COLORADO REVISED STATUTES 1963, CHAPTER 40, CRIMES AND PUNISHMENTS, ARTICLE 4, OFFENSES AGAINST UTILITIES

40–4–23. DISTURBANCE OF PEACE BY TELEPHONE.—It shall be unlawful for any reason for any person by means or use of the telephone to disturb, or tend to disturb the peace, quiet, or right of privacy of any person or family by repeated and continued anonymous or identified telephone messages intended to harass or disturb the person or family to whom the call is directed; or by a single call or repeated calls to use obscene, profane, indecent, or offensive language or to suggest any lewd or lascivious act over or through a telephone; or to attempt to exort money or other thing of value from any person or family by means or use of the telephone; or to threaten any physical violence or harm to any person or family; or to repeatedly or continuously cause the telephone of any person or family to ring with intent to disturb or harass such person or family; provided, that the normal use of the telephone for the purpose of requesting payment of debts or obligations or for legitimate business purposes shall not constitute a violation hereof. Any violation of this section shall be a misdemeanor and punishable upon conviction by a fine of not more than three hundred dollars or by

imprisonment for not more than ninety days in the county jail, or by both such fine and imprisonment. (Laws 1963, p. 300, § 1)

CONNECTICUT

GENERAL STATUTES OF CONNECTICUT, 1958, CHAPTER 943, OFFENSES AGAINST PUBLIC PEACE AND SAFETY

SEC. 53–174a. INDECENT OR HARASSING TELEPHONE CALLS.—Any person who, by telephone under jurisdiction of the public utilities commission, addresses another in or uses indecent, or obscene language, or who telephones another repeatedly for the purpose of annoying, threatening or harassing him, shall be fined not more than five hundred dollars or imprisoned not more than one year or both. Such offense may be deemed to have been committed either at the place where the telephone call was made or at the place where it was received. The court may order any person convicted under this act to be examined by one or more competent psychiatrists. (1963, P.A. 182)

DELAWARE, REGULAR SESSION

HOUSE BILL NO. 379, 1966 NEW LAWS, P. 13

An Act to amend Section 758, Chapter 3, Title 11, Delaware Code, relating to disturbing privacy by use of telephone facilities or equipment.

Be it enacted by the General Assembly of the State of Delaware: (two-thirds of all the members elected to each House concurring therein)

Section 1: Section 758, Chapter 3, Title 11, Delaware Code, is amended to read as follows:

Section 758. Disturbing privacy by use of telephone facilities or equipment; *jurisdiction.*

(*a*) Whoever makes use of telephone facilities or equipment and therein communicates language, suggestions or proposals which are obscene, profane, vulgar, lewd, lascivious, or indecent in a manner reasonably to be expected to annoy, abuse, torment, or embarrass another, *or whoever anonymously telephones another person repeatedly for the purpose of annoying, molesting or harassing such other person or his or her family,* shall be fined not more than $200 or imprisoned for not more than one year, or both.

(*b*) *Justices of the peace shall have jurisdiction of offenses under this section.*

Approved, February 23, 1966

NOTE.—Italic denotes amendatory language added to Section 758.

FLORIDA

FLORIDA STATUTES ANNOTATED, CHAPTER 365, RAILROADS AND OTHER UTILITIES

§ 365.16 USE OF OBSCENE OR INDECENT LANGUAGE OVER TELEPHONE.—

(1) It shall be unlawful for any person to use any words or language of a lewd, lascivious or indecent character, nature or connotation over any telephone. Any person violating these provisions shall be fined not more than five hundred dollars or imprisoned in the county jail for a period not exceeding six months, or both.

(2) After the ninetieth day following the effective date of this Act, every telephone directory thereafter published for distribution to the members of the general public shall contain a notice which explains this law, such notice to be printed in type which is no smaller than the smallest type on the same page and to be preceded by the word "WARNING". The provisions of this section shall not apply to directories solely for business advertising purposes, commonly known as classified directories. (Laws 1963, C. 63–51, §§ 1, 2)

GEORGIA

CODE OF GEORGIA ANNOTATED, TITLE 26, CRIMES AND PUNISHMENTS

§ 26-6303 (387 P.C.). USING ABUSIVE OR OBSCENE LANGUAGE.—Any person who shall, without provocation, use to or of another, and in his presence, or by telephone, opprobrious words or abusive language, tending to cause a breach of the peace, or who shall, in like manner, use obscene and vulgar or profane language in the presence of, or by telephone to, a female, or any person who shall communicate to any virtuous female within this State by writing or printing any obscene or vulgar language or improper proposals, or by indecent or disorderly conduct in the presence of females on passenger cars, street cars, or other places of like character, shall be guilty of a misdemeanor.

(1) In every telephone directory distributed to the general public in this State after January 1, 1964, in which are listed the call numbers of any telephone located within this State, except such as are distributed solely for business advertising purposes, commonly known as classified telephone directories, there shall be printed in type not smaller than the smallest type appearing on the same page, a notice, preceded by the word "warning" printed in type at least as large as the largest type on the same page, setting forth the substance of said Code Section. (Amended Laws 1963, pp. 455, 456)

HAWAII

REVISED LAWS OF HAWAII 1955, CHAPTER 302

§ 302-2. OBSCENE OR LASCIVIOUS LANGUAGE OVER TELEPHONE; PENALTY.—Any person who uses, utters or speaks any obscene or lascivious language over any telephone line shall be fined not more than $100, or imprisoned not more than three months, or both [L. 1921, c. 80, s. 1; R. L. 1925, s. 4482; R. L., 1935, s. 6141; R. L. 1945, s. 11541.]

IDAHO

IDAHO CODE, TITLE 18, CRIMES AND PUNISHMENTS, CHAPTER 67, TELEGRAPH AND TELEPHONE COMPANIES

§ 18-6710. USE OF TELEPHONE TO ANNOY OR OFFEND BY LEWD OR PROFANE LANGUAGE OR THREATS—PENALTIES.—Every person who with intent to annoy or offend telephones another and addresses to or about such person any obscene, lewd or profane language, or addresses to such other person any threat to inflict injury to the person or property of the person addressed or any member of his family, is guilty of a misdemeanor and upon conviction thereof, shall be sentenced to a term of not to exceed one year in the county jail. Upon a second or subsequent conviction, the defendant shall be deemed guilty of a felony and shall be sentenced to a term of not to exceed three years in the state penitentiary.

The use of obscene, lewd or profane language or the making of a threat shall be prima facie evidence of intent to annoy or offend. (1965, Ch. 298, §1, p. 787)

§ 18-6711. USE OF TELEPHONE TO TERRIFY, INTIMIDATE, HARASS OR ANNOY BY FALSE STATEMENTS—PENALTIES.—Every person who telephones another and knowingly makes any false statements concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family, with intent to terrify, intimidate, harass or annoy the called person, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to a term of not to exceed one year in the county jail. Upon a second or subsequent conviction of the violations of the provisions of this section, the defendant shall be deemed guilty of a felony and upon conviction thereof, shall be sentenced to a term of not to exceed three years in the state penitentiary.

The making of a false statement as herein set out shall be prima facie evidence of intent to terrify, intimidate, harrass or annoy. (1965, Ch. 298, § 2, p. 787)

§ 18-6712. PLACE OF OFFENSE.—Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. (Laws 1965, Ch. 298, § 3, p. 787)

ILLINOIS

SMITH-HURD ILLINOIS STATUTES ANNOTATED, CRIMINAL CODE OF 1961, ARTICLE 26, DISORDERLY CONDUCT

§ 26–1. ELEMENTS OF THE OFFENSE.—

(a) A Person commits disorderly conduct when he knowingly—

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2) With intent to annoy another, makes a telephone call, whether or not conversation thereby ensues; or

(3) Transmits in any manner to the fire department of any city, town or village a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fires exists; or

(4) Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such a bomb or explosive is concealed in such place; or

(5) Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.

(b) Penalty. A person convicted of a violation of Subsection 26–1 (a) (1) or (a) (2) shall be fined not to exceed $500. A person convicted of a violation of Subsection 26–1 (a) (3), (a) (4) or (a) (5) shall be fined not to exceed $500 or imprisoned in a penal institution other than the penitentiary not to exceed 6 months, or both, (1961, July 28, Laws 1961, p. 1983, 1963, Aug. 2, Laws 1963, p. 2166, § 1, p. 2170, § 1)

SMITH-HURD ILLINOIS STATUTES ANNOTATED (1964 CUM. SUPP.), CHAPTER 134—TELEGRAPH AND TELEPHONE COMPANIES

§ 16.4 TRANSMISSION OF OBSCENE MESSAGES PROHIBITED.—Any person in this State who sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or wires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois is guilty of a misdemeanor. The use of language or terms which are obscene, lewd or immoral is prima facie evidence of the intent to offend, 1957, May 29, Laws 1957, p. 304, § 1.

§ 16.5 PENALTIES.—Any person who violates any of the provisions of this Act shall, upon conviction, be punished by a fine of not more than $300 or confinement in the county jail for a period not to exceed 6 months or both. 1957, May 29, Laws 1957, p. 304, § 2.

INDIANA

BURNS INDIANA STATUTES ANNOTATED (1961 CUM. SUPP.), CHAPTER 49, MISCELLANEOUS OFFENSES

10–4944. ANNOYING, MOLESTING OR HARASSING ANOTHER OR INDECENT LANGUAGE BY TELEPHONE CALLS.—Whoever telephones another person and addresses to or about such other person any lewd, lascivious or indecent words or language; or whoever telephones another person repeatedly for the purpose of annoying, molesting or harassing such other person, or his or her family, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars [$500.00], to which may be added imprisonment in the county jail not exceeding six [6] months: Provided, That any offenses committed by the use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made, or at the place where the telephone call or calls were received.

10–4945. MAKING OF THREAT OF EXPLOSION IN PRIVATE OR PUBLIC BUILDING OR PLACE OF ACCOMMODATION BY TELEPHONE CALLS—PENALTY.—Whoever telephones another person and threatens to create an explosion, or falsely informs

that some other person threatens or intends to create an explosion, in any private or public building, transportation facility or place of accommodation shall be guilty of a felony, and on conviction shall be sentenced to imprisonment in the state prison for a period of not less than one [1] year nor more than five [5] years to which may be added a fine not exceeding one thousand dollars [$1,000.00]: Provided, That any offenses committed by the use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made, or at the place where the telephone call or calls were received.

10–4946. IMPARTING FALSE INFORMATION CONCERNING PLACING OF EXPLOSIVE IN PRIVATE OR PUBLIC BUILDING OR PLACE OF ACCOMMODATION BY TELEPHONE CALLS—PENALTY.—Whoever willfully imparts or conveys or causes to be imparted or conveyed any false information by use of a telephone, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to place or cause to be placed any explosive or other destructive substance in or upon any private or public building, transportation facility or place of accommodation, shall be guilty of a felony, and, upon conviction, shall be imprisoned for a period of not less than one [1] year nor more than five [5] years, to which may be added a fine of not to exceed one thousand dollars [$1,000]; Provided, That any such offense may be deemed to have been committed at either the place where the telephone call or calls were made, or at the place where the telephone call or calls were received. [L. 1961, c. 249, eff. 7–6–61. Leg. hist. repeals Acts 1957, c. 61, § 1.]

IOWA

(1967 NEW LAWS, REGULAR SESSION, P. 165), APPROVED MAY 26, 1967

An act relating to the use of the telephone for the purpose of terrifying, intimidating, threatening, harassing, annoying or offending another person, and providing a punishment therefor.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It shall also be unlawful to attempt to extort money or other things of value from any person, or to otherwise disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

SEC. 2. The use of obscene, lewd or profane language or the making of a threat or statement as set forth in this Act shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

SEC. 3. Any offense committed by use of a telephone as set forth herein shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

SEC. 4. Any violation of this Act shall be punishable by a fine of not more than five hundred (500) dollars, or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and imprisonment.

KANSAS

1967 NEW LAWS, REGULAR SESSION, PAGE 241, APPROVED APRIL 12, 1967

An act prohibiting the use of vulgar, profane, obscene, or indecent language and harassment or intimidation over a telephone, or permitting the use of a telephone for such purpose, or the playing of recordings without the identification thereof, and providing penalties for the violation thereof and also requiring the publication of this act in telephone directories.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Every person who shall, except for a lawful business purpose, by means of telephone communication—

(a) make any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent; or

(b) make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

(c) make or cause the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(d) make repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

(e) play any recording on a telephone when such number is dialed unless the group or individual shall identify itself or himself and state that it is a recording;

and every person who shall knowingly permit any telephone under his control to be used for any such purpose, shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for not more than twelve months in the county jail, or by both such fine and imprisonment.

SEC. 2. After the effective date of this Act, every telephone directory published for distribution to the members of the general public shall contain a notice setting forth the provisions of this Act. Such notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word, "Warning."

SEC. 3. This Act shall take effect and be in force from and after its publication in the statute book.

KENTUCKY

REGULAR SESSION, HOUSE BILL NO. 342

An Act relating to lewd, lascivious, indecent or obscene language, suggestion or proposals over the telephone.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. It shall be unlawful for any person to make use of telephone facilities or equipment for the purpose of communicating language, suggestions or proposals which are obscene, profane, lewd, lascivious or indecent in a manner reasonably to be expected to annoy, abuse, harass, torment or embarrass another.

SEC. 2. Any person violating any of the provisions of Section 1 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than $50.00 nor more than $1,000, or to imprisonment for not more than one year or both.

SEC. 3. After the ninetieth day following the effective date of this Act, every telephone directory thereafter published for distribution to members of the general public shall contain a notice which explains this law, such notice to be printed in type which is no smaller than the smallest type on the same page, and to be preceded by the word "Warning". The provisions of this section shall not apply to directories solely for business advertising purposes, commonly known as classified directories.

Approved, March 24, 1966.

LOUISIANA

ACT 304, LAWS 1966 (APPROVED JULY 15, 1966) [1966 NEW LAWS, REGULAR SESSION, PAGE 895]

An act to amend and re-enact Section 285 of Title 14 of the Louisiana Revised Statutes of 1950, relative to the use of the telephone to prohibit obscene, threatening, harassing and like calls, whether or not conversation ensues, to prohibit intentionally interfering with the service of others, to knowingly permit any such use, to provide for venue and a penalty for violation.

Be it enacted by the Legislature of Louisiana:

SECTION 1. Section 285 of Title 14 of the Louisiana Revised Statutes of 1950 is hereby amended and re-enacted to read as follows:

SEC. 285. Use of obscene, indecent or threatening language in telephone conversation; penalty—

A. No person shall—

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, anonymously or otherwise, and

therein use obscene, profane, vulgar, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass another person; or

(2) Make repeated telephone communications anonymously or otherwise, in a manner reasonably expected to annoy, abuse, torment, harass, embarrass or offend another, whether or not conversation ensues; or

(3) Make a telephone call and intentionally fail to hang up or disengage the connection; or

(4) Knowingly permit any telephone under his control to be used for any purpose prohibited by this Section.

B. Any offense committed by use of a telephone as set forth in this Section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

C. Whoever violates the provisions of this Act shall be fined not more than $5,000.00, or be imprisoned for not more than two years, or both.

SEC. 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provision, item or application, and to this end the provisions of this Act are hereby declared severable.

SEC. 3. All laws or parts of laws in conflict herewith are hereby repealed.

WEST'S LOUISIANA STATUTES ANNOTATED, TITLE 45, PUBLIC UTILITIES & CARRIERS, PART V, PUBLIC SERVICE COMMISSION

SEC. 1166. TELEGRAPHS AND TELEPHONES; SERVICE; POWERS OF COMMISSION.—

* * * * * * *

B. The commission may promulgate such rules as are necessary to authorize all persons engaged in doing a telephone business to cooperate with police in the interception of indecent telephone calls and the apprehension of those persons making them. The commission shall not make any rules or regulations under the provisions of this subsection which conflict with the federal wire tapping laws or with federal regulations made under such laws. [Added Acts 1962, No. 314, § 1.]

MAINE

REVISED STATUTES ANNOTATED 1964, TITLE 17, CRIMES, CHAPTER 121, THREATS AND EXTORTION

§ 3703. MALICIOUS VEXATION BY PERSONS OVER 16.—Whoever having attained his 16th birthday willfully and wantonly or maliciously vexes, irritates, harasses or torments any person in any way, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace, and whoever without reasonable cause or provocation willfully and wantonly or maliciously vexes, irritates, harasses or torments any person by communications to or conversation with such person over or by means of any telephone, when such offense is of a high and aggravated nature, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine or not more than $500 or by imprisonment for not more than 2 years; but when such offense is not of a high and aggravated nature, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $100 or by imprisonment for not more than 11 month. (R. S. 1954 c. 130, § 29; 1963, c. 331 § 5).

CHAPTER 176, PUBLIC LAWS 1967 (1967 NEW LAWS, REGULAR SESSION, P. 221) APPROVED APRIL 11, 1967

An Act prohibiting annoying telephone calls.

Be it enacted by the People of the State of Maine, as follows:

Revised Statutes, Title 17, Section 3704, additional. Title 17 of the Revised Statutes is amended by adding a new section 3704, to read as follows:

SEC. 3704. ANNOYING TELEPHONE CALLS PROHIBITED.—Whoever willfully and

wantonly or maliciously uses a telephone facility to transmit to another any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent; any threat to injure the person or property of any person; or repeated anonymous telephone calls, whether or not conversation ensues, which disturb the peace, quiet or right of privacy of any person, shall be punished by a fine of not more more than $500 or by imprisonment for not more than 11 months, or by both.

Use of a telephone facility under this section shall include all use made of such a facility between the points or origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place or origin or the place of reception.

MARYLAND

MARYLAND CODE ANNOTATED (1967), ARTICLE 27. CRIMES AND PUNISHMENTS

§ 151A. A person is guilty of a misdemeanor if, knowing the statement or rumor to be false, he circulates or transmits to another or others, with intent that it be acted upon, a statement or rumor, written, printed, or by word of mouth, concerning the location or possible detonation of a bomb or other explosive. An offense under this section committed by the use of a telephone may be deemed to have been committed either at the place at which the telephone call or calls were made or at the place at which the telephone call or calls were received.

A person convicted of violating this section is subject to a fine not exceeding one thousand dollars ($1,000.) or to imprisonment for not exceeding one year, or to both such fine and imprisonment in the discretion of the Court. This section does not apply to any statement or rumor made or circulated by an officer, employee, or agent of a bona fide civilian defense organization or agency, if made in the regular course of his duties with that organization or agency. L. 1963, c. 395.

ANNOTATED CODE OF MARYLAND (CUM. SUPP. 1961) ART. 27. CRIMES AND PUNISHMENTS, TELEPHONE MISUSE

§ 555A. UNLAWFUL USE OF TELEPHONE.—It is unlawful for any person to make use of telephone facilities or equipment (1) for an anonymous call or calls if in a manner reasonably to be expected to annoy, abuse, torment, harass, or embarrass one or more persons; (2) for repeated calls, if with intent to annoy, abuse, torment, harass, or embarrass one or more persons; or (3) for any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent. Any person violating any one of the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than $500.00 or to imprisonment for not more than twelve months, or both, in the discretion of the court. [L. 1961, c. 165, eff. 6–1–61.]

MASSACHUSETTS

MASSACHUSETTS GENERAL LAWS ANNOTATED, CHAPTER 269, CRIMES AGAINST PUBLIC PEACE

§ 14A. ANNOYING TELEPHONE CALLS.—Whoever telephones another person, or causes any person to be telephoned to, repeatedly, for the sole purpose of harassing, annoying or molesting such person or his family, whether or not conversation ensues, or whoever telephones a person of the female sex, or repeatedly telephones a person of the male sex, and uses indecent or obscene language to such person, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three months, or both. (Stat. 1964, c. 668; 1965 S.B. 1013)

MICHIGAN

MICHIGAN STATUTES ANNOTATED, TITLE 28, CRIMES, CHAPTER 28, DISORDERLY PERSONS

§ 28.364. DEFINITION; SECOND OFFENDERS.—

SEC. 167. Any person of sufficient ability, who shall refuse or neglect to support his family; any common prostitute; any window peeper; any person who engages in an illegal occupation or business; any person who shall be drunk or intoxicated or engaged in any indecent or obscene conduct in any public place; any vagrant; any person found begging in a public place; any person found loitering in a house of ill-fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed; any person who shall knowingly loiter in or about any place where an illegal occupation or business is being conducted; any person who shall loiter in or about any police station, police headquarters building, county jail, hospital, court building or any other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances; any person who shall be found jostling or roughly crowding people unnecessarily in a public place; *any person who telephones any other person or causes any other person to be telephoned and uses any vulgar, indecent, obscene, threatening or offensive language, or suggesting any lewd or lascivious act over any telephone, shall be deemed a disorderly person.* When any person, who has been convicted of refusing or neglecting to support his family under the provisions of this section, is then charged with subsequent violations within a period of 2 years, such person shall be prosecuted as a second offender or third and subsequent offender as provided in section 168 of this act, if the family of such person is then receiving any form of public relief or support. (Laws 1964, S.B. 1313, P.A. 144)

MINNESOTA

MINNESOTA STATUTES ANNOTATED, CHAPTER 609, CRIMINAL CODE OF 1963, CRIMES RELATING TO COMMUNICATION

609.79 MAKING ANONYMOUS TELEPHONE CALL.—

Subdivision 1. Whoever, without disclosing his identity and with intent to alarm or annoy another, makes a telephone call, whether or not conversation ensues, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $100.

Subdivision 2. The offense may be prosecuted either at the place where the call is made or where it is received. (Laws 1961, c. 240, Laws 1963, c. 753)

MISSISSIPPI

MISSISSIPPI CODE 1942 ANNOTATED, CRIMES AND MISDEMEANORS

§ 2291.5. PROFANE AND INDECENT LANGUAGE OVER TELEPHONE.—It shall be unlawful for any person or persons to use any profane, vulgar, indecent, threatening, obscene or insulting language over any telephone. Any person who shall be convicted of the violation of this law shall be fined not more than Five Hundred Dollars ($500.00) or imprisoned in the county jail not more than six (6) months, or both such fine and imprisonment, or imprisoned in the State Penitentiary for not more than two (2) years. Any person violating this law may be prosecuted in the county where such conversation or language originates in case such conversation originates in the State of Mississippi. In case it originates outside of the State of Mississippi then such person shall be prosecuted in the county to which it is transmitted. (Amended Laws 1964, c. 351)

MISSOURI

1967 NEW LAWS, REGULAR SESSIONS, PAGE 479, APPROVED AUGUST 1, 1967

An act relating to malicious telephone calls, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. 1. It shall be unlawful for any person to—

(1) make a telephone call during which he makes any comment, request, suggestion, or proposal that is lewd and lascivious; or

(2) make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

(3) make or cause the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(4) individually or in conspiracy or concerted action with other persons make repeated telephone calls, during which a conversation ensues, solely to harass any person at the called number.

2. It shall be unlawful for any person to knowingly permit any telephone under his control to be used for any purpose prohibited by this Section.

3. Any person who violates the provisions of this Act is guilty of a misdemeanor and shall, upon conviction, be punished by confinement in the county jail for not more than one year or by fine not exceeding one thousand dollars, or both such fine and confinement.

SEC. 2. Any offense committed by use of a telephone as set forth in the foregoing Section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

MONTANA

[1967 NEW LAWS, REGULAR SESSION, PAGE 75] (HOUSE BILL NO. 188) (APPROVED FEBRUARY 11, 1967)

An Act making it a criminal offense to use a telephone either to terrify, intimidate, threaten, harass, annoy or offend another by the use of obscene, lewd or profane language or the suggestion of a lewd or lascivious act or by threat of injury to person or property, or to attempt to extort money or property from another, or to disturb another by repeated anonymous calls, and providing penalties therefor; providing for prosecution of such offenses at either the place where the telephone call or calls originated or where they were received; and repealing all acts and parts of acts in conflict therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

SECTION 1. (1) It is unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It is also unlawful to use a telephone to attempt to extort money or other thing of value from any person, or to disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

(2) The use of obscene, lewd or profane language or the making of a threat or lewd or lascivious suggestion shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

(3) Any offense committed by use of a telephone in the manner set forth in this section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received, and when an offense under this section is committed by making a telephone call or calls in one county which is or are received in another county, the jurisdiction is in either county.

(4) Any violation of this section shall be punishable by a fine not exceeding five hundred dollars ($500.00) or by imprisonment in the county jail not exceeding six (6) months, or by imprisonment in the state prison not exceeding five (5) years.

SEC. 2. Every person who telephones another and knowingly makes any false statements concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family with intent to terrify, intimidate, harass or annoy the called person is guilty of a misdemeanor. Any offense by use of a telephone is herein set out may be deemed to have been committed at the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed.

NEBRASKA

1967 NEW LAWS, REGULAR SESSION, PAGE 855, APPROVED JUNE 6, 1967

An Act relating to crimes and punishments; to make certain acts with a telephone unlawful as prescribed; and to provide penalties

Be it enacted by the People of the State of Nebraska:

SECTION 1. Any person who, with intent to terrify, intimidate, threaten, harass, annoy or offend, (1) telephones another anonymously, whether or not conversation ensues, and disturbs the peace, quiet and right of privacy of any person at the place where the calls are received, (2) telephones another and uses indecent, lewd, lascivious, or obscene language or suggests any indecent, lewd, or lascivious act, (3) telephones another and threatens to inflict injury to any person or the property of any person, (4) intentionally fails to disengage the connection, or (5) telephones another and attempts to extort money or other thing of value from any person, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

The use of indecent, lewd or obscene language or the making of a threat or lewd suggestion shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

The offense shall be deemed to have been committed either at the place where the call was made or where it was received.

NEVADA

[1967 NEW LAWS, REGULAR SESSION, PAGE 53] CHAPTER 49, LAWS 1967 (ASSEMBLY BILL NO. 92) APPROVED FEBRUARY 22, 1967

An Act to amend chapter 201 of NRS, relating to crimes against decency and morals, by adding a new section providing a penalty for the making of anonymous obscene, threatening or annoying telephone calls and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 201 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Any person who willfully makes a telephone call without disclosing his true identity and addresses any obscene language, representation or suggestion to or about any person receiving such call or addresses to such other person any threat to inflict injury to the person or property of the person addressed or any member of his family is guilty of a misdemeanor.

2. Every person who makes a telephone call with intent to annoy another and without disclosing his true identity to the person answering the telephone is, whether or not conversation ensues from making the telephone call, guilty of a misdemeanor.

3. Any violation of subsections 1 and is committed at the place at which the telephone call or calls were made and at the place where the telephone call or calls were received, and may be prosecuted at either place.

SEC. 2. This act shall become effective upon passage and approval.

NEW HAMPSHIRE

[1967 NEW LAWS, REGULAR SESSION, PAGE 85] CHAPTER 104, LAWS 1967, APPROVED MAY 11, 1967, EFFECTIVE JULY 10, 1967

An Act to make it unlawful to use telephone facilities to abuse or annoy others.

Be it enacted by the Senate and House of Representatives in General Court convened:

1. MALICIOUS INJURY.—Amend RSA 572 by inserting after section 38-a (supp)

as inserted by 1955, 235:1 and amended by 1957, 31:1, the following new section:

572:38–b *Abusing or Obscene Telephone Calls.*

I. It is unlawful for any person to make use of telephone equipment—

(a) For an anonymous call if in a manner reasonably to be expected to annoy, abuse, harass, disturb the peace or right of privacy of, or embarrass another person, whether or not conversation follows; or

(b) For repeated calls, if made with the intent to annoy, abuse, torment, harass, disturb the peace or right of privacy of, or embarrass another person, whether or not conversation follows; or

(c) To make any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, or indecent to another person;

(d) To threaten to inflict injury or physical harm to the person or property of another; or

(e) With the intent to terrify or intimidate or threaten another person.

II. Any offense committed by the use of a telephone as set forth in this section may be deemed to have been committed either at the place where telephone call originated or at the place where the telephone call was received.

III. The use of obscene, lewd, lascivious, or indecent language as made unlawful by Paragraph I of this section is prima facie evidence of intent to annoy, abuse, torment, harass, disturb the peace or right of privacy of, or to embarrass, or to terrify, or intimidate or threaten another person.

IV. Any person violating any of the provisions of this section is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than two hundred dollars or to imprisonment for not more than six months, or both, in the discretion of the court, provided that if the telephone that is receiving the call is used as an emergency telephone to receive calls for police, medical or ambulance aid, for giving or receiving a fire alarm, or for civil defense use, the person found guilty may be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

2. Effective Date.—This act shall take effect sixty days after its passage.

New Jersey

NEW JERSEY STATUTES ANNOTATED, TITLE 2A, ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE, CHAPTER 170, DISORDERLY PERSONS GENERALLY

2A:170–29. Offensive Language; Molesting or Interfering With Person—

1. Any person who utters loud and offensive or profane or indecent language in any public street or other public place, public conveyance, or place to which the public is invited; or

2. Any person who in any place, public or private—

a. Addresses or makes audible and offensive remarks to or concerning any passing person; or

b. Obstructs, molests or interferes with any person lawfully therein; or

3. Any person who telephones another and addresses to such person any profane, lewd, lascivious, indecent or disgusting remarks; or

4. Any person who repeatedly telephones another for the purpose of annoying or molesting such person—

Is a disorderly person.

Any offense committed under paragraphs 3 or 4 of this section may be deemed to have taken place at either the place at which the telephone call was made or the place at which the telephone call was received. As amended L. 1965, c. 172, § 1.

New Mexico

[1967 NEW LAWS, REGULAR SESSION, PAGE 743] CHAPTER 120, LAWS 1967 (APPROVED MARCH 24, 1967)

An act relating to crimes; prohibiting the use of the telephone to extort, threaten, harass or offend; prescribing penalties and venue; amending section

40A–20–1 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1963, Chapter 303, Section 20–1); and enacting a new section 40A–20–8 New Mexico Statutes Annotated, 1953 Compilation.

Be it enacted by the Legislature of the State of New Mexico:

SECTION 1. [Statutory provisions relating to the crime of disorderly conduct were amended].

SECTION 2. A new Section 40A–20–8 New Mexico Statutes Annotated, 1953 Compilation, is enacted to read:

T40A–20–8. USE OF TELEPHONE TO TERRIFY, INTIMIDATE, THREATEN, HARASS, ANNOY, OR OFFEND—PENALTY.—

A. It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to telephone another and use any obscene, lawd or profane language or suggest any lewd, criminal or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It shall also be unlawful for any person to attempt by telephone to extort money or other thing of value from any other person, or to otherwise disturb by repeated annonymous telephone calls the peace, quiet or right of privacy of any other person at the place where the telephone call or calls were received, or to maliciously make a telephone call, whether or not conversation ensues, with intent to annoy or disturb another, or to disrupt the telecommunications of another.

B. The use of obscene, lewd or profane language or the making of a threat or statement as set forth in Subsection A shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

C. Any offense committed by use of a telephone as set forth in this section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

NEW YORK

M'KINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED, REVISED PENAL LAW, EFFECTIVE SEPTEMBER 1, 1967

TITLE N—OFFENSES AGAINST PUBLIC ORDER, PUBLIC SENSIBILITIES, AND THE RIGHT TO PRIVACY

ARTICLE 240—OFFENSES AGAINST PUBLIC ORDER

§ 240.30. AGGRAVATED HARASSMENT—

A person is guilty of aggravated harassment when, with intent to harass, annoy or alarm another person, he:

1. Communicates with a person, anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication, in a manner likely to cause annoyance or alarm; or

2. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

Aggravated harassment is a class A misdemeanor.

§ 240.50 FALSELY REPORTING AN INCIDENT—

A person is guilty of falsely reporting an incident when, knowing the information reported, conveyed or circulated to be false or baseless—

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result; or

2. Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion or other catastrophe or emergency which did not in fact occur or does not in fact exist; or

3. Gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur; or (b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or (c) false information relating to an actual offense or incident or to the alleged implication of some person therein.

Falsely reporting an incident is a class B misdemeanor.

§ 70.15 SENTENCES OF IMRISONMENT FOR MISDEMEANORS AND VIOLATION—

1. Class A misdemeanor.—A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year.

2. Class B misdemeanor.—A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.

NORTH CAROLINA

(1967 NEW LAWS, REGULAR SESSION, P. 649)

CHAPTER 833, LAWS 1967

RATIFIED JUNE 20, 1967

AN ACT To rewrite G.S. 14–196, relating to the use of profane, indecent or threatening language over the telephone and annoying another by repeated telephoning or making false statements over the telephone.

The General Assembly of North Carolina do enact:

SECTION 1. G.S. 14–196, is hereby rewritten to read as follows:

SECTION 14–196. *Using profane, indecent or threatening language to any person over the telephone; annoying or harassing by repeated telephoning or making false statements over the telephone.*—(a) It shall be unlawful for any person—

(1) To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent character, nature or connotation;

(2) To use in telephonic communications any words or language threatening to inflict bodily harm to any person or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;

(3) To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing any person at the called number;

(4) To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of another;

(5) To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct or criminal conduct of the person telephoned or of any member of his family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass;

(6) To knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

(b) Any of the above offenses may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

(c) Anyone violating the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both, in the discretion of the court.

SEC. 2. If any provision or item of this Act or the application thereof is invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provision, item or application, and to this end the provisions of this Act are hereby declared severable.

SEC. 3. G. S. 14–196, 1, G. S. 14–196.2 and all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. This Act shall be in force and effect from and after its ratification.

NORTH DAKOTA

[1967 NEW LAWS, REGULAR SESSION, P. 127] (SENATE BILL NO. 128), APPROVED FEBRUARY 28, 1967

An act to create and enact section 8–10–07.1 of the North Dakota Century Code, relating to harassing telephone calls.

Be it enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. Section 8–10–07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

8–10–07.1 TELEPHONE CALLS WITH INTENT TO ANNOY—MISDEMEANOR.—Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone calls were received, and any person shall be guilty of a misdemeanor who—

1. With intent to annoy, harass, terrify, intimidate, or offend, telephones another and addresses to such other person any threat to inflict injury to any person or property of any person shall be guilty of a misdemeanor; or
2. Makes a telephone call with intent to annoy another or without disclosing his true identity to the person answering the telephone, whether or not conversation ensues from making the telephone call, is guilty of a misdemeanor.

OHIO

PAGE'S OHIO REVISED CODE (1959 SUPP.) TITLE 49

§ 4931.31 THREAT OR HARASSMENT IN TELEPHONE COMMUNICATION PROHIBITED; DIRECTORY NOTICE.—

No person shall, while communicating with any other person over a telephone, threaten to do bodily harm or use or address to such other person any words or language of a lewd, lascivious, or indecent character, nature, or connotation for the sole purpose of annoying such other person; nor shall any person telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting such other person or his family.

Any use, communication, or act prohibited by this section may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received.

Every telephone directory distributed to the general public in this state which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offenses provided for in this section, such notice to be printed in type which is not smaller than the general body of the other type on the same page and to be preceded by the word "warning" printed in type with at least equal prominence as the headings of other regulations or information on the same page; provided, that the provisions of this section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory distributed or for which copy has been sent to the printer or is in the process of printing or distribution to the general public prior to the effective date of this section.

Any person, firm, or corporation providing telephone service which distributes or causes to be distributed in this state one or more copies of a telephone directory which is subject to the provisions of this section and which willfully omits the notice herein provided for shall be deemed guilty of a violation of this section.

§ 4931.99 PENALTIES.—

* * * * * * *

(H) Whoever violates section 4931.31 of the Revised Code shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

OKLAHOMA

OKLAHOMA STATUTES 1961, TITLE 21, CRIMES AND PUNISHMENTS

§ 1021. INDECENT EXPOSURE—INDECENT EXHIBITION—OBSCENE OR INDECENT WRITINGS, PICTURES, ETC.—Every person who willfully and lewdly either—

* * * * * * *

(4) makes, prepares, cuts, sells, gives, loans, distributes, or keeps for sale, or exhibits any disc record, metal, plastic or wax, wire or tape recordings or any other kind of sound recording of any obscene or indecent language, poetry, songs or speaks any words by means of a telephone to any female person which would

be offensive to decency or is calculated to excite to vicious or lewd thoughts or acts, or any other communicable words, such as is offensive to decency, or is adapted, to excite to vicious or lewd thoughts or acts, is guilty of a felony and upon conviction therefor shall be punished by the imposition of a fine of not less than Ten Dollars ($10.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or both such fine and imprisonment. (Laws 1961, p. 230 § 1)

OREGON

CHAPTER 109, LAWS 1967 (1967 NEW LAWS, REGULAR SESSION, P. 103) APPROVED APRIL 3, 1967

An Act Relating to obscene, harassing and other prohibited telephone calls; and providing penalties.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Any person who by means of telephone communication—

(a) Makes any comment, request, suggestion or proposal which is obscene or lewd or lascivious and with intent to annoy, abuse, threaten or harass any person at the called number; or

(b) Makes a telephone call whether or not conversation ensues, with or without disclosing his identity and with intent to annoy, abuse threaten or harass any person at the called number; or

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to annoy or harass any person at the called number; or

(d) Makes repeated telephone calls during which conversation ensues, solely to annoy or harass any person at the called number;

shall be fined not more than $500 or imprisoned not more than one year in the county jail or penitentiary, or both.

(2) Whoever knowingly permits any telephone under his control to be used for any purpose prohibited by subsection (1) of this section shall be fined not more than $500 or imprisoned not more than six months, or both.

SEC. 2. Any offense committed by use of the telephone as herein set out may be deemed to be committed either at the place from which the telephone call was made or at the place where the telephone call was received.

PENNSYLVANIA

PURDON'S PENNA. STATUTES ANNOTATED, TITLE 18, CRIMES AND OFFENSES

§ 4414.1 MALICIOUS USE OF TELEPHONES.—Whoever telephones another person and addresses to or about such other person any lewd, lascivious or indecent words, language, suggestion or proposal, or solicitation to engage in fornication or any other immoral act, or whoever telephones another person repeatedly for the purpose of annoying, molesting or harassing such other person or his or her family, is guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars ($500), or undergo imprisonment for not more than one (1) year, or both: Provided, That any offense committed by the use of a telephone, as herein set out, may be deemed to have committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. (1939, P.L. 872; 1959 § 414.1, 1965 H.B. 1018)

RHODE ISLAND

GENERAL LAWS OF RHODE ISLAND—1956, TITLE II, CRIMINAL OFFENSES, CHAPTER 35, PUBLIC UTILITIES

§ 11-35-17. CRANK, OBSCENE TELEPHONE CALLS; PUNISHMENT.—Whoever shall telephone any person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing, annoying, or molesting such other person or his family, whether or not conversation ensues; or whoever shall telephone any person for the purpose of using any threatening, vulgar, indecent, obscene or immoral language over the telephone, shall be guilty of a misdemeanor and shall

be punished by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than one (1) year or both.

§ 11–35–18. EXPLOSIVES OR OTHER DANGEROUS SUBSTANCE OR CONTRIVANCE; FALSE REPORTS AS TO LOCATION; PUNISHMENT.—Whoever, knowing the same to be false, transmits or causes to be transmitted to any person by telephone or other means a communication falsely reporting the location of any explosive or other dangerous substance or contrivance thereby causing anxiety, unrest, fear, or personal discomfort to any person or group of persons, shall be guilty of a felony and shall be punished by imprisonment at the adult correctional institution for not more than ten (10) years or by a fine of not more than one thousand dollars ($1,000) or by both such fine and imprisonment.

§ 11–35–19. PROSECUTION.—The crimes described in sections 11–35–17 and 11–35–18 may be prosecuted and punished in the territorial jurisdiction in which the communication originates or is received. (Added Laws 1965, S.B. 92)

SOUTH CAROLINA

1967 NEW LAWS, REGULAR SESSION, PAGE 361, RATIFICATION NO. 602, LAWS 1967, APPROVED JUNE 28, 1967

An Act to amend sections 16–552 and 16–552.1, Code of Laws of South Carolina, 1962, relating to the sending of obscene messages to a woman and to using indecent language over the telephone, so as to further provide therefor.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16–552, Code of Laws of South Carolina, 1962, is amended on line three by inserting ", except by telephone," between "soever" and "communicate". The Section when amended shall read as follows:

SEC. 16–552. Any person who shall anonymously write, print or by any other manner or means whatsoever, except by telephone, communicate, send or deliver to any woman or woman child within this State any obscene, profane, indecent, vulgar, suggestive or immoral message shall be guilty of a misdemeanor and, upon conviction, shall be punished in the discretion of the court.

SEC. 2. Section 16–552.1, Code of Laws of South Carolina, 1962, relating to using indecent language over the telephone, is amended by striking it in its entirety and inserting in lieu thereof the following so as to make it unlawful to use profane language over the telephone, to telephone repeatedly, and to fail to hang up a telephone:

SEC. 16–552.1. It shall be unlawful for any person anonymously or otherwise: (1) to use in a telephonic communication any words or language of a profane, vulgar, lewd, lascivious, or an indecent nature, or to threaten in a telephonic communication any unlawful act with the intent to coerce, intimidate, or harass another person, or to communicate or convey by telephone an obscene, vulgar, indecent, profane, suggestive, or immoral message to another person; (2) to telephone another repeatedly, whether or not conversation ensues, for the purpose of annoying or harassing another person or his family; (3) to make a telephone call and intentionally fail to hang up or disengage the connection, for the purpose of interfering with the telephone service of another; (4) to telephone another and make any false statements concerning either the death or injury of any member of the family of the person who is telephoned, with the intent to annoy, frighten or terrify that person; or (5) knowingly to permit any telephone under his control to be used for any purpose prohibited by this Section.

Any person violating either items (1), (2) or (4) shall be guilty of a misdemeanor and, upon conviction, shall be punished in the discretion of the court; and any person violating either items (3) or (5) shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

SEC. 3. If any portion of this Act is declared to be unconstitutional or is found to be in conflict with any other provision of law, such determination shall not affect any remaining portions.

SEC. 4. All provisions of Sections 16–552 and 16–552.1, Code of Laws of South Carolina, 1962, shall remain in full force and effect insofar as they apply to and support prosecution for any violation thereof occurring prior to the effective date of this Act.

SEC. 5. This Act shall take effect upon approval by the Governor.

§ 16–552. VENUE FOR PROSECUTION UNDER § 16–552.1.—Venue for prosecution pursuant to the provisions of this act shall be either in the county wherein the

telephonic communication originated or the county where it was received. (1961 (52) 451)

SOUTH DAKOTA

[1967 NEW LAWS, REGULAR SESSION, P. 81] (SENATE BILL NO. 97) APPROVED MARCH 6, 1967

An act making it unlawful to use a telephone for purposes of terrorizing, threatening, harassing, or annoying another person or for the purpose of extorting money or other things of value from any person, or knowingly permit the use of a telephone for any of such purposes.

Be it enacted by the Legislature of the State of South Dakota:

SECTION 1. It shall be unlawful for any person to use a telephone for any of the following purposes:

(a) To call another person with intent to terrorize, intimidate, threaten, harass, or annoy such person by using any obscene or lewd language or by suggesting any lewd or lascivious act.

(b) To call another person with intent to threaten to inflict physical harm or injury to any person or property.

(c) To call another person with intent to extort money or other things of value.

(d) To call another person with intent to disturb any person by repeated anonymous telephone calls or intentionally failing to replace the receiver or disengage the telephone connection.

It shall be unlawful for any person to knowingly permit any telephone under his control to be used for any purposes prohibited by this Act.

SEC. 2. The use of obscene or lewd language or the making of a threat or lewd suggestion or the failure to replace the telephone receiver as set forth in this Act shall be prima facie evidence of the intent to terrorize, intimidate, threaten, harass, annoy or disturb another person.

SEC. 3. Any offense committed by use of a telephone as set forth in this Act shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

SEC. 4. Any violation of this Act shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail not to exceed one year or by both such fine and imprisonment.

SEC. 5. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected hereby, and to this end, the provisions of this Act are hereby declared severable.

SEC. 6. Whereas, this Act is necessary for the immediate support of the state government and its existing institutions, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval.

TENNESSEE

TENNESSEE CODE ANNOTATED (1959 CUM. SUPP.)

39–3002. TELEPHONE CONVERSATION—LEWD, OBSCENE OR LASCIVIOUS REMARKS—PENALTY.—It shall be unlawful for any person or persons to communicate to another within this state by means of telephonic conversation, any lewd, obscene or lascivious remarks, suggestions or proposals manifestly intended to embarrass, disturb or annoy the person to whom the said remarks, suggestions or proposals are made.

Any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof be fined not more than one thousand dollars ($1,000) and in the discretion of the court shall be confined in the county jail or workhouse for some period of time less than one (1) year. [Acts 1957, ch. 360, §§ 1, 2.]

TEXAS

VERNON'S PENAL CODE OF THE STATE OF TEXAS ANNOTATED

Article 476. PROFANE LANGUAGE OVER TELEPHONE.—Whoever uses any vulgar, profane, obscene, or indecent language over or through any telephone or whoever uses any telephone in any manner with intent to harass, annoy, torment, abuse, threaten or intimidate another, except if such call be for a lawful business purpose, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment. (Acts 1909, p. 87, Laws 1965, H.B. 391)

UTAH

[1967 NEW LAWS, REGULAR SESSION, PAGE 19.] (HOUSE BILL NO. 10) (APPROVED FEBRUARY 16, 1967)

An Act relating to crimes; prohibiting the use of the telephone for the purpose of terrifying, intimidating, harassing, or offending another person.

Be it enacted by the Legislature of the State of Utah:

SECTION 1. It shall be unlawful for any person with intent to threaten, frighten, annoy or offend another to anonymously telephone another and (1) address to or about such person any obscene, lewd or profane language or to suggest any lewd or lascivious act or to address to such other person any threat to inflict injury or physical harm to the person or property of the person addressed or any member of his family, or (2) to disturb the peace, quiet or right of privacy of any person at the place where the telephone call or calls are received by repeated anonymous or unidentified calls whether or not conversation ensues.

The use of obscene, lewd or profane language or the making of a threat shall be prima facie evidence of intent to annoy or offend.

SEC. 2. It shall be unlawful for any person to anonymously telephone another and knowingly make any false statement concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family with intent to terrify, intimidate, harass or annoy.

The making of a false statement as herein set out shall be prima facie evidence of intent to terrify, intimidate, harass or annoy.

SEC. 3. Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

SEC. 4. Any person who violates any provision of this Act shall on first conviction be fined not more than $299.00 or be imprisoned in the county jail for not more than six months, or both, and upon a subsequent conviction for violation of this Act, the offender shall be fined not more than $1,000.00 or be imprisoned in the state prison for not more than three years, or both.

SEC. 5. The provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, sentences, clauses, phrases or parts are adjudged by a court of competent jurisdiction to be unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent, now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

VERMONT

(1967 NEW LAWS, REGULAR SESSION, PAGE 239) APPROVED APRIL 15, 1967

An Act to prohibit use of telephones to terrify, intimidate, threaten, harass or annoy.

It is hereby enacted by the General Assembly of the State of Vermont:

Section 1. Section 1027 is added to 13 V.S.A. to read:

SECTION 1027. DISTURBING PEACE BY USE OF TELEPHONE.—(a) A person who, with intent to terrify, intimidate, threatent, harass or annoy, telephones another and (i) makes any request, suggestion or proposal which is obscene, lewd,

lascivious or indecent; (ii) threatens to inflict injury or physical harm to the person or property of any person; (iii) disturbs, or attempts to disturb, by repeated anonymous telephone calls, whether or not conversation ensues, the peace, quiet or right of privacy of any person at the place where the telephone call or calls are received shall be fined not more than $250.00 or be imprisoned not more than three months or both. If the defendant has previously been convicted of a violation of this act or of an offense under the laws of another state or of the United States which would have been an offense under this act if committed in this state, he shall be fined not more than $500.00 or imprisoned for not more than six months, or both.

(b) An intent to terrify, threaten, harass or annoy may be inferred by the trier of fact from the use of obscene, lewd, lascivious or indecent language or the making of a threat or statement or repeated anonymous telephone calls as set forth in this act and any trial court may in its discretion include a statement to this effect in its jury charge.

(c) An offense committed by use of a telephone as set forth in this act shall be considered to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

SECTION 2. SEVERABILITY.—The provisions of this act are hereby declared to be severable. If any of its sections, provisions, sentences, clauses, phrases or parts are adjudged by a court of competent jurisdiction to be unconstitutional or void, the remainder of this act shall continue in full force and effect, it being the legislative intent that this act would have been adopted even if the unconstitutional or void matter had not been included therein.

VIRGINIA

CODE OF VIRGINIA, 1950, TITLE 18. CRIMES AND OFFENSES GENERALLY, ARTICLE 4. MISCELLANEOUS OFFENSES

§ 18.1–238. USE OF PROFANE, THREATENING OR INDECENT LANGUAGE OVER TELEPHONE; DUTY OF TELEPHONE COMPANIES.—If any person shall curse or abuse anyone, or use vulgar, profane, threatening or indecent language over any telephone in this State, he shall be guilty of a misdemeanor and may be prosecuted either in the county or city from which he called or in the county or city in which the call is received. It shall be the duty of each telephone company in this State to furnish immediately in response to a subpoena issued by a court of record such information as it, its officers and employees, may possess which, in the opinion of the court, may aid in the apprehension of persons suspected of violating the provisions of this section. Any telephone company or any officer or employee thereof who shall fail to refuse to furnish such information when so requested, may be fined not more than one hundred dollars. (Code 1950, § 18–115; 1960, c. 358; 1964, c. 577.)

§ 18.1–238.1. GIVING CERTAIN FALSE INFORMATION TO ANOTHER BY TELEPHONE.—If any person maliciously advised or informs another over any telephone in this State of the death of, accident to, injury to, illness of, or disappearance of some third party, knowing the same to be false, he shall be guilty of a misdemeanor. (1962, c. 225.)

§ 18.1–238.2 CAUSING TELEPHONE TO RING WITH INTENT TO ANNOY; PUBLICATION OF SECTION IN TELEPHONE DIRECTORIES REQUIRED.—Any person who, without intent to converse but with intent to annoy any other person, causes any telephone not of his own to ring shall be guilty of a misdemeanor. Any person who permits or condones the use of any telephone under his control for such purpose also shall be guilty of a misdemeanor. Every such company shall print this section in its telephone directories hereafter issued. (1962, c. 495.)

STATE OF WASHINGTON

[1967 NEW LAWS, REGULAR SESSION, P. 23] (CHAPTER 16, LAWS 1967) (SENATE BILL NO. 77) APPROVED MARCH 7, 1967

An act relating to telephone calls; and prescribing a penalty for making calls of an obscene, threatening or harassing nature.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Every person who, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person—

(1) Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

(2) anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

(3) threatening to inflict injury on the person or property of the person called or any member of his family; or

(4) without purpose of legitimate communication; shall be guilty of a misdemeanor.

SEC. 2. Any person who knowingly permits any telephone under his control to be used for any purpose prohibited by section 1 shall be guilty of a misdemeanor.

SEC. 3. Any offense committed by use of a telephone as set forth in section 1 of this act may be deemed to have been committed either at the place from which the telephone call or calls were made or at the place where the telephone call or calls were received.

SEC. 4. If any portion of this act is held to be unconstitutional or void, such decision shall not affect his validity of the remaining parts of this act.

WEST VIRGINIA

1967 NEW LAWS, REGULAR SESSION, PAGE 239 (HOUSE BILL NO. 540) [APPROVED MARCH 17, 1967, TO TAKE EFFECT 90 DAYS FROM PASSAGE ON MARCH 10, 1967]

An act to amend and re-enact section sixteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the penalty for profanity, obscene, indecent or vulgar language, annoying, abusive, tormenting, harassing or embarrassing call or calls or threats over the telephone.

Be it enacted by the Legislature of West Virginia, That section sixteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted to read as follows:

ART. 8. Crimes Against Chastity, Morality and Decency.

SEC. 61–8–16. Profanity, obscene, indecent, or vulgar language, annoying, abusive, tormenting, harassing, or embarrassing call or calls, or threats over telephone; penalty.

If any person shall make use of any telephone facility or equipment for, (1) placing any anonymous call or calls in a manner which could reasonably be expected to annoy, abuse, torment, harass or embarrass any person, (2) profanely cursing, swearing at or abusing another, or using profane, obscene, indecent or vulgar language, or (3) threatening to commit a crime against any person, he shall be guilty of a misdemeanor.

Any offense committed under this section may be deemed to have taken place at the place at which the telephone call was made or placed, or the place at which the telephone call was received.

Any person convicted of an offense hereunder, shall be punished by a fine or not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

WISCONSIN

WISCONSIN STATUTES, CHAPTER 947

947.01. DISORDERLY CONDUCT.—Whoever does any of the following may be fined not more than $100 or imprisoned not more than 30 days:

* * * * * * *

(2) With intent to annoy another, makes a telephone call, whether or not conversation ensues.

WYOMING

[1967 NEW LAWS, REGULAR SESSION, PAGE 95] CHAPTER 98, LAWS 1967 (HOUSE BILL NO. 5), APPROVED FEBRUARY 16, 1967

An Act relating to the use of telephone equipment and making it unlawful and a misdemeanor to use such equipment for certain purposes, and providing a penalty for violations and providing for an effective date.

Be it enacted by the legislature of the State of Wyoming:

SECTION 1. It shall be unlawful for any person using a fictitious name, name of another or anonymously with intent to terrify, intimidate, threaten, harass, annoy or offend to telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict injury or physical harm to the person or property of any person. It shall also be unlawful to attempt to extort money or other thing of value from any person, or to otherwise disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

SEC. 2. Any offense committed by use of a telephone as set forth in this section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

SEC. 3. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.

SEC. 4. This act shall be in force and effect from and after its passage.

Mr. KORNEGAY. Is there anybody else in the hearing room who desires to be heard on the bills that the subcommittee has under consideration?

If nobody else wishes to be heard, do any of the members of the subcommittee have any statements they desire to make at this time?

With that, the subcommittee stands adjourned.

(The following material was submitted for the record:)

STATEMENT OF JAMES R. WILSON, JR., DIRECTOR, NATIONAL SECURITY DIVISION, THE AMERICAN LEGION

Chairman Macdonald, gentlemen of this important Subcommittee. The American Legion welcomes this opportunity to support S. 375. As an organization comprised exclusively of men and women who fought to preserve this nation in time of war, we are concerned with this legislation which would serve to curb practices alien to our way of life.

In 1965, based on complaints from many sections of the United States, representatives of The American Legion testified in suport of Senate bill 2351. We, and others who were repelled by these vile practices, had high hopes this legislation would be swifty approved. Unfortunately, such was not the case. We appeared again last year before the Senate subcommittee in favor of S. 375.

The testimony I offer today is based on a mandate adopted by our National Convention, Resolution 311, unanimously adopted by delegates representing the more than 2½ million members of The American Legion. The full text of the resolution reads:

"Whereas there has been an outbreak of vicious, outrageous telephone calls harassing and threatening widows and relatives of servicemen killed in Viet Nam; and

"Whereas The American Legion is an organization comprised exclusively of veterans who served during wartime and therefore have a deep understanding of the effect of harassment on the families of servicemen; and

"Whereas The American Legion wholeheartedly supports the American position in Viet Nam to curtail the spread of communism throughout the "Free World;" and

"Whereas there is presently a bill before the Congress designed to protect the morale and efficiency of members of the Armed Forces by making it a federal offense for anyone to make threats or harass members of the Armed Forces, their wives, widows or families: Now, therefore, be it

"Resolved by The American Legion in National Convention assembled in Washington, D.C., August 30, 31, September 1, 1966, That we support such legislation and urge its immediate passage by the Congress."

In cases falling within the purview of this proposed legislation, we are dealing with sick, deranged or depraved individuals *in most instances.* However, as the number of American servicemen fighting in Viet Nam grows, so grows the extent of harassment of their families which leads to the inevitable conclusion that mental cruelty to the dependents of members of our Armed Forces is as much a part of war as guns, bullets and bombs. It also follows that among the sick, the nuts and the pacifists, there are dedicated communists as well.

Psychological warfare against troops is not new. During World War II, it was used by the Germans and Japanese. But the harassment of the wives, children, mothers and fathers of soldiers, sailors, marines and airmen sets a new low in cruelty and barbarism. As you might presume, our primary interest in S. 375 is the protection of the families of servicemen, particularly those defending freedom in Viet Nam.

I cannot emphasize too strongly how important The American Legion feels this legislation is. May I assure you that it has the unequivocal support of our organization. If any changes were to be made, my recommendation would be that the penalties be made more severe.

I thank you.

U.S. INDEPENDENT TELEPHONE ASSOCIATION,
Washington, D.C., February 6, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN STAGGERS: For the record, the U.S. Independent Telephone Association (USITA) encourages the passage of legislation providing for punishment of those who make obscene or harassing telephone calls. Your Committee has under consideration S. 375, H.R. 611 and similar bills which would prohibit such calls in interstate commerce. On these bills your Committee received testimony last week from Vice President Kertz of the American Telephone and Telegraph Company and officials of government.

The USITA represents the Independent, non-Bell, segment of the telephone industry. Although about one fifth the size of the Bell System in numbers of telephones, the Independents serve more than half the geographical area of the nation. There are Independent telephones in 48 of the 50 states, including Hawaii and Alaska which are totally Independent.

Representative Kornegay in his questioning of Mr. Hubert Kertz of the AT&T Company developed that the testimony then being given concerned only 80 percent of the country's total telephones. There was the implied question as to the attitude of the other 20 percent, the Independents. We would like to answer that question.

When S. 375 was before the Subcommittee on Communications of the Senate Commerce Committee, I testified (February 16, 1967) as to the position of the USITA. I said: "Our Association fully supports the endeavors of this Committee in attempting to obtain federal legislation to make it a crime to originate obscene or harassing telephone calls." I added, "Like all trade associations we operate by policy declaration of our Board of Directors." Our directive is as follows:

"The USITA supports the concept that federal and state legislation should provide penalties for the origination of obscene or harassing telephone calls both in interstate and intrastate commerce. Since there is no federal legislation on the subject and since not all states have such legislation, the Association urges legislative action by the federal and appropriate state governments."

Today I am happy to note that state legislation has been enacted in the 12 States that were without legislation at the beginning of 1967. We now need legislation only for interstate calls (and for the District of Columbia which is served exclusively by a Bell System affiliate). Enactment of S. 375 will close the last loophole.

Like the Bell System, our companies use devices or methods to apprehend the originator of obscene or abusive telephone calls. These techniques do not involve monitoring of conversations but are aimed at the identification of the calling number. Prosecution is the responsibility of law enforcement authorities to whom we provide the details of our investigations.

Complaints of abusive calling are of considerable concern to our companies. This is because our customers view such calling with great alarm. Discouragement of anonymous calling requires prompt and effective action in order that the telephone remain an instrument of great utility and not a tool for anonymous abuse of persons.

You now may be sure that the entire telephone industry, Independent and Bell, encourages the enactment of S. 375 at an early date. If we can be of any assistance to the Committee please do not hesitate to contact us.

Sincerely,

WILLIAM C. MOTT, *Executive Vice President.*

(Whereupon, at 11:05 a.m., the subcommittee was adjourned.)

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REGULATION OF DEVICES CAPABLE OF CAUSING RADIO INTERFERENCE

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 14910, H.R. 9665

BILLS TO AMEND THE COMMUNICATIONS ACT OF 1934, AS AMENDED, TO GIVE THE FEDERAL COMMUNICATIONS COMMISSION AUTHORITY TO PRESCRIBE REGULATIONS FOR THE MANUFACTURE, IMPORT, SALE, SHIPMENT, OR USE OF DEVICES WHICH CAUSE HARMFUL INTERFERENCE TO RADIO RECEPTION

FEBRUARY 6, 1968

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REGULATION OF DEVICES CAPABLE OF CAUSING RADIO INTERFERENCE

TUESDAY, FEBRUARY 6, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Torbert H. Macdonald (chairman of the subcommittee) presiding.

Mr. MACDONALD. The hearing will come to order.

We have before us for hearing today H.R. 14910, introduced by Mr. Staggers, chairman of the Interstate and Foreign Commerce Committee, and a related bill.

These bills would give the Federal Communications Commission authority to prescribe regulations with respect to devices capable of emitting radio energy which would interfere with radio communications; included would be such devices as diathermy machines, electronic garage-door openers, electronic heaters, and certain welding machines.

The regulations would apply to the manufacture, importation, sale, shipment, or use of these devices. Specific exemptions from the legislation are made for devices intended solely for export, for devices constructed by electric utilities for their own use, and for devices for the use of the Federal Government.

(The bill, H.R. 14910, and departmental reports follow:)

[H.R. 14910, 90th Cong., second sess.]

A BILL To amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Communications Act of 1934, as amended, is further amended by adding thereto a new section 302 to read as follows:

"DEVICES WHICH INTERFERE WITH RADIO RECEPTION

"SEC. 302. (a) The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications. Such regulations shall be applicable to the manufacture, import, sale, offer for sale, shipment or use of such devices.

"(b) No person shall manufacture, import, sell, offer for sale, ship, or use devices which fail to comply with regulations promulgated pursuant to this section.

"(c) The provisions of this section shall not be applicable to carriers transporting such devices without trading in them, to devices manufactured solely for export, to the manufacture, assembly, or installation of devices for its own use by a public utility engaged in providing electric service, or to devices for use by the Government of the United States or any agency thereof. Devices for use by the

Government of the United States or any agency thereof shall be developed, procured, or otherwise acquired, including offshore procurement, under United States Government criteria, standards, or specifications designed to achieve the common objective of reducing interference to radio reception, taking into account the unique needs of national defense and security."

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., February 6, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 14910, "To amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception."

The proposed legislation would give the Federal Communications Commission authority to make regulations governing the interference potential of any devices capable of emitting radio frequency energy. It would prohibit the manufacture, import, sale, offer for sale, shipment, or use of devices which fail to comply with the proposed regulations. These prohibitions and any regulations promulgated under the authority of the bill, however, would not apply to devices to be used by any agency of the Government of the United States.

The Department supports the enactment of the proposed legislation. We believe that all users of the radio frequency spectrum would benefit from the establishment of minimum standards for the manufacture of equipment capable of causing interference to radio reception. The several operating bureaus of the Treasury Department, which make extensive use of radio equipment, have experienced an increasing number of cases of radio interference caused by environmental conditions. Enforcement of standards for equipment manufacture should reduce this interference from electrical and electronic devices and assist in the overall national program of electromagnetic compatibility.

Since the Treasury Department would be responsible for administering the ban on imports, it is assumed that the regulations would be proposed with the concurrence of the Secretary of the Treasury; that procedures designed under such regulations would limit the customs function to making a determination whether a particular importation described on an invoice had been certified by the Federal Communications Commission to conform with its regulatory standards; and that no responsibility would be imposed on customs personnel to make an actual determination on such conformity. Under these circumstances the Department anticipates no unusual administrative difficulty in carrying out its responsibility under the proposed legislation.

The Department was advised by the Bureau of the Budget that there was no objection from the standpoint of the Administration's program to the submission of an identical report to your Committee on H.R. 9665, an identical bill.

Sincerely yours,

FRED B. SMITH,
General Counsel.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., February 9, 1968.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning H.R. 14910, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

This Department by letter dated November 16, 1967, submitted to your Committee its report on H.R. 9665 (copy enclosed (see p. 9)), a bill identical to H.R. 14910. Please consider the views expressed therein as also representing the views of this Department concerning H.R. 14910.

Sincerely,

PEDRO R. VAZQUEZ
(For General Counsel.)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 10, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the request for the views of the Bureau of the Budget on H.R. 9665, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

This bill would give the Federal Communications Commission additional authority to deal with radio communications interference problems caused by electrical and electronic devices. Under present law, the Commission may only control interference from such devices after they are installed. H.R. 9665 would give it authority to ensure that equipment capable of causing radio interference is properly designed before it reaches the market.

The Bureau of the Budget recommends enactment of H.R. 9665.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., May 26, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your recent letter requesting the Commission's comments on H.R. 9665, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

This bill was part of the Commission's legislative program for the 90th Congress, 1st session, and as such was sent to the Bureau of the Budget on March 23, 1967. Enclosed is a copy of the justification the Commission adopted on March 22, 1967 in connection with our proposal. Inasmuch as there are no differences between H.R. 9665 and our proposal, we recommend its adoption. While we have not as yet received advice from the Bureau of the Budget that enactment of our proposal for the 90th Congress will be in accord with the President's program, we anticipate such advice will be received very shortly.

A bill similar to the one introduced by Mr. Dingell was passed by the Senate in the 89th Congress (S. 1015) but due to the pressure of other business, the House Commerce Committee was unable to reach it for consideration before adjournment of that Congress.

We thoroughly support the favorable consideration of this bill by your committee and urge its early enactment. You will note from the attached copy of the Senate Hearings and Senate Report that other government agencies are also interested in this bill and supported enactment of S. 1015, 89th Congress.

Sincerely yours,

ROSEL H. HYDE,
Chairman.

EXPLANATION OF PROPOSED AMENDMENT TO PRESCRIBE REGULATIONS FOR THE MANUFACTURE, IMPORT, SALE, AND SHIPMENT OF DEVICES WHICH CAUSE HARMFUL INTERFERENCE TO RADIO RECEPTION

The Federal Communications Commission recommends that Congress enact legislation amending the Communications Act of 1934, as amended, by adding a new section thereto, proposed Section 302. Under this new section the, Commission would obtain authority to prescribe regulations for the manufacture, sale, shipment, and import of devices which cause harmful interference to radio communications and thus interfere with radio reception.

The chief purpose of this legislation is to give the Commission adequate authority to deal with increasingly acute interference problems arising from expanded usage of electrical and electronic devices which cause, or are capable of causing, harmful interference to radio reception. This would be accomplished by empowering the Commission to deal with the interference problem at its root source—the sale by some manufacturers of equipment and apparatus which do not comply with the Commission's rules. This new authority to require that equipment be properly designed to reduce radiation to specified and acceptable limits, and, where necessary, to specify operating frequencies before it is sold to the customer, is not only necessary and in the public interest, but also, will provide a more reasonable basis for dealing with interference problems than is now possible under the present scheme of regulation provided for in the Communications Act.

Presently, the Communications Act of 1934, as amended, particularly Section 301 thereof, prohibits the use of equipment or apparatus which causes interference to radio communications, while Section 303(f) empowers the Commission to prescribe regulations ". . . to prevent interference between stations." However, the Commission has no specific rulemaking authority under the Act to require that before equipment or apparatus which radiates electromagnetic energy is put on the market, it must be properly designed to prevent harmful interference to radio reception. The defects of this scheme of regulation become more obvious with each passing year. Since the prohibition falls on the use of offending equipment, it means that the Commission, in trying to control interference, is confined in large measure to apprehending the users of equipment which interferes with radio communications, even though in most instances such users have purchased equipment on the assumption its operation would be legal without further suppression of spurious radiation. It also means that the Commission is reduced to an "after-the-fact" approach to preventing interference, for obviously, until the Commission has discovered interference (either through its Field Engineering Bureau or on the complaint of some user of radio equipment), there is no basis for proceeding against the offender.

When the Communications Act was adopted, interference problems were relatively small, both in number and complexity. But especially since World War II, with the explosively rapid growth experienced in the communications industry, there has been a corresponding increase both in the development of new uses for radio and in the number and type of devices capable of causing harmful interference. In many instances, those radiating devices lie outside the area conventionally associated with radio transmission and reception. They include such devices as electronic garage door openers and certain electronic toys, which, because of poor design or for other reasons, radiate radio frequency energy beyond that needed for their functions. They also include other devices, such as high-powered electronic heaters, diathermy machines, welders, and radio and television receivers, which radiate energy, either purposely or incidental to carrying out their primary functions.

The cumulative effect of all this excessive radiation (or "spectrum pollution," as one writer has put it) is most apparent in large metropolitan areas. Especially in peak periods of operation of radiating devices, such areas are blanketed by a "radiation smog" which makes it increasingly difficult for many users of radio communications to obtain interference-free reception. To radio listeners and television viewers, this means the reception of distorted and garbled signals, or fluttering images, of a technical quality less than that possible when interference is under effective control. To those who use radio for industrial communications purposes, the cumulative effect of excessive radiation means increased disruption of communications services. In the really vital areas where radio is used for safety purposes, such as in air navigation control, this radiation problem becomes most acute. Here, it poses a genuine threat to safety of life. An important example of interference to radio communications occurred in December 1965 at the time of the Gemini 7 space flight. The U.S. Government went into court and obtained a temporary restraining order against a manufacturing company in Corpus Christi, Texas, on the grounds that certain equipment at the plant, including the ignition system of a winch truck used for lifting steel, was interfering with communications between a tracking station at Corpus Christi and the Gemini spacecraft. And finally to those users of radio whose operations must be conducted under conditions of relatively low background interference (such as the Commission's radio monitoring activities, the operation of military communications systems, or radio astronomy observations), high levels of excessive radiation constantly force such users to seek out new areas of low interference or to require that all devices used in a given area (such as a military post) be properly suppressed against radiation before use. Both of these latter-mentioned alternatives impose additional costs of operation on the Government itself.

In our view, the only lasting solution to these interference problems is to require that before a device capable of causing interference leaves the manufacturer, it be properly designed so as to limit its radiation to acceptable values. Under the present scheme of the Communications Act, compliance by manufacturers with our rules and regulations is on a purely voluntary basis. Of course, many manufacturers have voluntarily complied with our radiation requirements and are to be commended for their cooperation. But at the same time, many others have refused to do so, citing in justification of such refusal our lack of legal authority to control the manufacture of such devices under the present provisions of the Communications Act. Quite often, this refusal stems from the fact that compliance would entail additional manufacturing costs.

Nevertheless, the effects of this refusal to comply with our radiation requirements are clear. In terms of fair competition between manufacturers, it penalizes the responsible manufacturer who wishes to hold down excessive radiation by placing him at a competitive disadvantage vis-a-vis the marginal manufacturer who prefers to ignore our rules. In terms of the consumer, who generally is unaware that an inadequately suppressed device will cause interference and who purchases the device in good faith, it forces on him the cost of bringing his equipment into compliance. Obviously, it is unfair that the buying public should bear the brunt and embarrassment of our enforcement procedure, but under the present terms of the Act, the Commission has no alternative. Our proposed legislation has been drafted with a view to these problems.

The proposal consists of three subsections. Basically, subsection 302(a) describes the radiating devices which would be subject to our authority as those ". . . which in their operation are capable of emitting radio frequency energy by radiation, conduction or other means in sufficient degree to produce harmful interference to radio communications." In the case of such devices, the Commission would have authority to prescribe rules applicable to the "manufacture, import, sale, offer for sale, shipment or use of such devices" and would prescribe the permissible degree of emission of radio frequency energy of such devices. Subsection 302(b) prohibits the use, import, shipment, manufacture, sale or offering for sale of devices which fail to comply with radiation limits duly promulgated by the Commission under the authority of Section 302. Subsection 302(c) sets out four exceptions. The proposed legislation would not apply to (a) carriers transporting interfering devices without trading in them, (b) the manufacture of devices which are intended soley for export, (c) the manufacture, assembly, or installation of devices for its own use by a public utility engaged in providing electric service, or (d) devices which are used by the United States Government or any agency thereof.

Several observations regarding this proposal are in order. Perhaps most important of these is that while this legislation may at first seem novel, the United States is perhaps the only major industrial nation in the world which does not approach the interference problem by prescribing permissible radiation limits at the manufacturing level. Over the years there has been a progressive abandonment by other countries of the "user regulation" approach sull followed under the Communications Act, in favor of controlling interference by requiring that radiation be held to acceptable limits *before* equipment is put in the hands of consumers.

This latter approach, which is reflected in our proposed legislation, has much to recommend it. It constitutes a direct approach to interference control, thus meeting the problem at its source by the application of preventive techniques. Further, it recognizes that from every viewpoint, the ideal time to prevent excessive radiation is before radiating equipment is sold. By so doing, it will bring substantial benefits to both the Government and the public.

From the standpoint of the Commission, rulemaking authority to prescribe permissible radiation limits at the time of manufacture will go far toward reducing the enforcement problems the Commission presently faces. It will avoid the piecemeal, "after-the-fact" approach the Commission must now follow in order to apprehend the users of equipment which causes harmful interference. Of course, this enforcement problem varies with the type of equipment involved. Where relatively few units of a large piece of equipment, such as multi-kilowatt industrial heaters, have been sold, tracing the owners of this equipment is not too difficult. But where a large number of radiation devices, such as garage door openers, toys, or improperly designed radio or television receivers, have been placed in the hands of the public, the enforcement problem becomes exceedingly difficult, if not indeed impossible. In the fiscal year 1966, for example, in excess of 150,000 man hours were devoted to tracing and eliminating interference of all types. This figure does not take into account the large number of interference problems

which are never brought to the Commission's attention. Thus, granting the Commission authority to approve radiating equipment before it is sold would, by reducing our enforcement problem, permit more effective utilization of our manpower resources than is now possible.

A further benefit to the Government from a general reduction of levels of excessive radiation (the "radiation smog" over metropolitan areas earlier referred to) is that Government radio services whose operations must be conducted in areas of relatively low radiation limits would, to a great extent, be relieved of the need for relocating to escape high radiation areas. The need for the Commission to relocate its monitoring installations as increasing urbanization brings about higher levels of radiation has already been mentioned. It is also our understanding that the interference problem has become so acute in areas of military installations that military purchase specifications for radiating devices now are written to require that such devices be suppressed or otherwise designed to prevent interference. Finally, from the Government's viewpoint, the Government, as well as the public, would be benefited by enactment of this legislation through the additional protection against interference which would be afforded to those services, such as air navigation control, where the safety of life depends on purity of reception.

The public would also benefit from this legislation because a reduction in the present levels of excessive radiation would permit reception of a better quality than is now possible. Here it might be noted that the public has become so accustomed to a degraded quality of service under present conditions that unless radio reception is seriously interfered with, the public will not complain. The public would also gain reassurance that, except perhaps under extraordinary circumstances, equipment it bought would not need further modification as a condition to its legal operation.

There remains to be considered the problem of additional costs to manufacturers which might be necessary under this legislation. We recognize, of course, that properly designed equipment may cost more than improperly designed equipment. But, generally speaking, in most instances, the additional costs to manufacturers stemming from this legislation would be small. Even now, when the Commission orders a user to shield or otherwise adjust his equipment to prevent excessive radiation, this can be accomplished generally at a relatively low cost. If this were done at the time of manufacture, costs could further be minimized by the economies possible under proper design and mass production techniques.

But, in any event, the consumer must now pay the cost of eliminating excessive radiation, as well as the cost of administrative proceedings brought against him. In light of this, we think it preferable that members of the public who buy devices that may radiate should have assurance that such devices are properly designed at the time of manufacture, rather than having purchasers discover non-compliance with our radiation requirements after the sale. By requiring that *all* manufacturers hold radiation down to acceptable limits, not only does the public gain this "warranty" that equipment purchased is fit for legal operation, but those manufacturers who now voluntarily comply with our radiation rules would be relieved of the competitive disadvantages under which they now operate.

Several remaining aspects of our proposal deserve mention. First, it should be noted that this new section is not intended to supplant our authority under Section 301, but rather, to supplement it. While the new section will go far to reducing levels of excessive radiation, there will be instances where properly designed equipment becomes faulty or is improperly used, thus calling for application of Section 301.

Further, implementation of our authority would necessarily be on a gradual basis. Before promulgating new standards, the Commission would give public notice of rulemaking proceedings, and any person or segment of the industry affected by a particular set of regulations would have ample opportunity in subsequent rulemaking proceedings to comment on the proposed regulations. Thus, the Commission would be in a position to assess the impact of its proposed regulations on those affected, and where appropriate, could minimize the effect of new standards on the industry. In short, if the Commission obtains this legislation, it would proceed to implement it gradually, and only after a thorough study of all the problems involved.

Finally, there are the four exceptions to this proposed legislation contained in proposed subsection 302(c). The first exception is designed to exempt carriers which merely transport interfering devices without trading in them. The second exception relates to the manufacture, sale, etc., of devices which are intended solely for export. Even though a device might interfere with radio reception under the standards to be promulgated pursuant to this legislation, its use in some other country may still be lawful. By permitting the export of devices to such foreign countries, American manufacturers will not be placed under any competitive disadvantage. The third exception assures that the provisions of the bill are not applicable to the electric utility industry insofar as an electric utility undertakes to assemble a power system from component parts or to assemble any of the component parts for its own use. This exception does not, however, alter any existing authority of the Commission under section 301 of the Communications Act, or the authority granted under this proposal to proceed against the user of equipment causing interference to radio communications. The final exception involves the use of electronic devices by agencies of the Government. Under Section 305 of the Communications Act, the Commission does not have regulatory jurisdiction over stations owned and operated by the United States. This same theory is carried forward into the final exception of proposed subsection 302(c), in order to avoid any jurisdictional confusion which might arise under the new legislation. In many respects, the needs of the Government, in terms of procurement, the development of new electronic devices, security considerations, etc., are unique. Beyond this, the Government agencies are fully aware of the need for suppressing objectionable interference, and in many cases the standards adopted by individual agencies are more stringent than those which the Commission would impose. In light of these considerations, it is considered desirable to except from the operation of this legislation devices used by the United States Government or its agencies, leaving it to the agencies to cooperate through the Office of the Director of Telecommunications Management to achieve acceptable limitations of radiation.

In conclusion, the direct approach to control of interference inherent in our proposal is, we think, the most logical solution to the problems of excessive radiation, problems which become increasingly acute with the ever-expanding use of radio. What the Commission seeks here is a more rational scheme of regulation which will be possible by shifting the emphasis from the present cumbersome technique of "user regulation" to the preventive techniques of dealing with interference control at the source of the apparatus. The benefits to be derived from reducing spectrum pollution far outweigh any inconvenience to those manufacturers who now place inadequately designed devices on the market, on the assumption that if such devices cause harmful interference to radio reception, the buyer can undertake the necessary equipment modifications.

Adopted March 22, 1967, Commissioner Wadsworth absent.

DEPARTMENT OF STATE,
Washington, D.C., July 17, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have your communication of May 5, 1967 requesting a report on H.R. 9665 a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

I am pleased to inform you that the Department foresees no difficulty with the proposed legislation from the standpoint of foreign policy interests and, therefore, offers no objection to its passage.

The Bureau of the Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 25, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 9665, a bill "To amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception."

Section 301 of the Federal Communications Act (47 U.S.C. 301) states the intention to maintain control by the United States over interstate and foreign radio transmission. Section 301 authorizes the Commission to prohibit the use of equipment or apparatus which causes interference to radio communications, and under Section 303(f) regulations may be promulgated to prevent interference between stations. Pursuant to this authority, the Commission has established technical standards with respect to the use of various radio-emitting devices. However, the Commission presently has no authority to control the manufacture or sale of such devices.

The proposed bill would authorize the Commission to issue regulations covering devices which are capable of emitting sufficient radio frequency energy to cause harmful interference to radio communications. The bill goes beyond the present Act, which deals only with the use of interfering devices, by making the Commission's regulations applicable to the manufacture, import, sale, offer for sale, shipment, or use of devices which fail to comply with such regulations. The proposed authority would not extend to devices solely for export, devices for use by an agency of the Government of the United States, or to carriers merely transporting devices covered by the measure.

Whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Federal Communications Commission.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., October 26, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 9665, "To amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception."

The proposed legislation would give the Federal Communications Commission authority to make regulations governing the interference potential of any devices capable of emitting radio frequency energy. It would prohibit the manufacture, import, sale, offer for sale, shipment, or use of devices which fail to comply with the proposed regulations. These prohibitions and any regulations promulgated under the authority of the bill, however, would not apply to devices to be used by any agency of the Government of the United States.

The Department supports the enactment of the proposed legislation. We believe that all users of the radio frequency spectrum would benefit from the establishment of minimum standards for the manufacture of equipment capable of causing interference to radio reception. The several operating bureaus of the Treasury Department, which make extensive use of radio equipment, have experienced an increasing number of cases of radio interference caused by environmental conditions. Enforcement of standards for equipment manufacture should reduce this interference from electrical and electronic devices and assist in the overall national program of electromagnetic compatibility.

Since the Treasury Department would be responsible for administering the ban on imports, it is assumed that the regulations would be proposed with the concurrence of the Secretary of the Treasury; that procedures designed under such regulations would limit the customs function to making a determination whether

a particular importation described on an invoice had been certified by the Federal Communications Commission to conform with its regulatory standards; and that no responsibility would be imposed on customs personnel to make an actual determination on such conformity. Under these circumstances, the Department anticipates no unusual administrative difficulty in carrying out its responsibility under the proposed legislation.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

FRED B. SMITH,
General Counsel.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., November 16, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department with respect to H.R. 9665, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

This bill would authorize the Federal Communications Commission to make reasonable regulations governing the interference potential to radio communications of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction or other means, The regulations would apply to the manufacture, import, sale, shipment, or use of the devices. The bill would exempt carriers which are not trading in the devices; devices manufactured solely for export; the manufacture, assembly, or installation of devices for its own use by a public utility engaged in providing electric service; and devices for use by a Federal agency. However, the bill would require Federal agencies procuring such devices to utilize criteria, standards, or specifications designed to reduce interference to radio reception, while taking into account national defense and security needs.

This Department recommends the enactment of H.R. 9665.

Numerous electronic and electrical devices, because of improper design, radiate radio frequency energy beyond that needed for their proper functioning. This radiation may seriously interfere with radio reception. Some examples of such devices are garage door openers, electronic keys, high-powered industrial heaters, improperly designed radio and television receivers, diathermy machines, and certain kinds of household appliances.

Radiation from such devices not only interferes with television and radio programs but also results in disrupting industrial communication services. A business which depends on clear radio reception often finds interference harmful and costly. For example, the radio dispatched taxicab which does not receive clear reception of instructions may offer less efficient and convenient service to passengers. High levels of excessive radiation may force users of radios whose operations must be conducted under conditions of relatively low background interference to move from large metropolitan areas to new locations in areas of low interference. When radio is used for safety purposes, such as air traffic control, radio frequency interference may jeopardize the lives of airline passengers.

At present, the Communications Act of 1934, particularly Section 301, prohibits use of equipment which causes interference with radio communications, and empowers the Commission to prescribe regulations to prevent interference between stations. The Commission cannot proceed against an offender until the interference has been discovered. Tracing the location and the owner of the interference device after it is purchased is usually difficult even with modern detection equipment If the offending equipment is located, the Commission must institute proceedings against the user of the devices which cause the radio frequency interference, and then require him to eliminate the excessive radiation from a device which he may have purchased under the belief that its use was legal. Moreover, the user must bear the cost of administrative proceedings brought against him.

The proposed new Section 302 would afford an additional and more satisfactory basis for dealing with interference to radio communications by approaching the problem directly at the source and apply preventive measures before radiation

equipment is sold to the user. The United States is perhaps the only major industrial country which under existing law still can not approach the interference problem in this way. Moreover, manufacturers who now voluntarily comply with Commission regulations are placed at a competitive disadvantage by the small number of firms which manufacture their products without proper controls to limit harmful radiation. From this point of view, the bill would also be advantageous to responsible manufacturers.

The Commission has assured the industry that it would implement this legislation gradually and only after public hearings and thorough study of all the problems involved. One of such potential problems, to which we specifically invite attention, relates to the limitations on the ability of presently available instruments to measure radio frequency interference with reasonable assurance of accuracy. Commercially available instruments for measuring radiation give widely varying results and even the measurement capability of the National Bureau of Standards in this respect is quite limited in accuracy. The National Bureau of Standards and the Institute for Telecommunication Science and Aeronomy of the Environmental Science Services Administration have under way the principal and most advanced technical programs in the United States to improve the significance, methods, and accuracy of measurement of electrical noise, to determine the sources, level and extent of man-made electrical interference, and to determine its effects on telecommunication services. These organizations are uniquely capable and stand ready to provide the needed technical assistance to the Commission in the establishment of criteria and standards. The International Radio Consultative Committee (CCIR) of the International Telecommunication Union has adopted a relevant Question, No. 227, on Limitation of Radiation from Industrial, Scientific, and Medical Installations and other kinds of Electrical Equipment, and Study Program No. 227A, on Limitation of Unwanted Radiation from Industrial Installations. These provide an international framework for studies of the technical questions underlying standards. Notwithstanding this measurement problem, which may limit somewhat the ultimate effectiveness of regulations to reduce radiation interference by electronic and electrical devices at the source, we feel that under authority of the bill the Commission, with the assistance of the National Bureau of Standards and the Institute of Telecommunication Science and Aeronomy, in cooperation with industry and affected agencies of the Government, should be able to devise regulations which will result in increased usefulness of the radio spectrum to all users: private industry, scientific research organizations, Government agencies, and the general public.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report from the standpoint of the Administration's program.

Sincerely,

JOSEPH W. BARTLETT,
General Counsel.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., October 27, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 9665, 90th Congress, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception. The Department of the Air Force has been designated to express the views of the Department of Defense.

The purpose of the proposed legislation is as indicated in the above stated title.

Under existing provisions of the Communications Act of 1934, as amended, the authority of the Federal Communications Commission is limited to prohibiting the use of offending equipment. The Federal Communications Commission, therefore, in attempting to control interference, is confined to apprehending the users of equipment which interferes with radio communications. In most cases, these users have purchased equipment on the assumption that it could be legally operated without further modification to suppress spurious radiation. The proposed legislation would give the Federal Communications Commission the authority to control the interference potential of such equipment by requiring that it be designed by the manufacturer to limit its radiation to what the Federal Communications Com-

mission considers to be acceptable values. The proposed legislation would reduce the present enforcement problems faced by the Federal Communications Commission and assure the public of a better quality of reception than is now possible. The legislation would further insure that such radiating equipment is developed to operate in what the Federal Communications Commission considers to be appropriate portions of the radio frequency spectrum.

The Department of Defense would benefit from the legislation inasmuch as there have been many instances of harmful interference to essential air traffic control services caused by commercially developed equipment and devices which radiate energy in unauthorized portions of the radio frequency spectrum. The Department of Defense would also benefit from the exclusion clause contained in Section 302(c) of the legislation. The clause protects the interests of the U.S. Government and in particular all the military departments which have active programs for the research, development and use of electronic countermeasure equipment. Such equipment is specifically designed to interfere with the use of the radio frequency spectrum. In the case of contracts with manufacturers for equipment not intended for deliberate interference, the military departments incorporate military standards which are considered to be adequately stringent to prevent interference.

In view of the above, the Department of Defense supports enactment of H.R. 9665.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

ROBERT H. CHARLES,
Assistant Secretary.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., May 17, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Administrator Webb has asked me to reply to your letter of May 5, 1967, in which you request comments from the National Aeronautics and Space Administration on H.R. 9665, a bill to amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception.

The legislation would authorize the Federal Communications Commission to promulgate regulations with respect to the manufacture, import, sale and shipment of devices capable of interfering with radio communications and would prohibit the manufacture, sale or shipment of devices which did not comply with regulations so promulgated. The statute would not be applicable to carriers simply for transporting the devices without trading in them to the manufacture, assembly or installation of devices for its own use by a public utility providing electric service, or to the devices for the use of the Government of the United States or to devices manufactured solely for export purposes.

In its essence, the legislation is designed to permit the control, at the source, of devices such as electronic toys, electric garage door mechanisms, etc., which through faulty design interfere with communications activities. Attempts to control such devices at the user level have been extremely difficult.

There have been numerous discussions in the Interdepartment Radio Advisory Committee meetings as to a means which might be used to control interfering emissions. The National Aeronautics and Space Administration appreciates the need for such regulations. As an agency which requires high level of reliability in its communications devices, it would benefit substantially from enactment and enforcement of the proposed legislation.

The National Aeronautics and Space Administration recommends its enactment by the Congress.

This report has been submitted to the Bureau of the Budget which has advised that, from the standpoint of the Administration's program, there is no objection to its submission to the Congress.

Sincerely yours,

RICHARD L. CALLAGHAN,
Assistant Administrator for Legislative Affairs.

Mr. MACDONALD. We are happy to have as our first witness today Mr. Robert E. Lee, member of the Federal Communications Commission.

STATEMENT OF HON. ROBERT E. LEE, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; ACCOMPANIED BY JULIAN T. DIXON, ASSISTANT CHIEF ENGINEER, OFFICE OF CHIEF ENGINEER

Mr. LEE. Thank you very much, Mr. Chairman. I have about a 15-minute statement. If you don't mind, I will read it or shorten it, as you wish.

Mr. MACDONALD. All right.

Mr. LEE. I am Robert E. Lee, a member of the Federal Communications Commission. Mr. Chairman, the Commission appreciates very much your kindness in holding hearings this morning on these bills and I appreciate this opportunity to present the Commission's views.

H.R. 14910 was introduced by the chairman of your parent committee at the Commission's request, and H.R. 9665 was introduced by Mr. Dingell, a member of the full committee. These bills, which are identical to S. 1015, 89th Congress, as passed by the Senate on June 2, 1966, represent the most important proposal on the Commission's legislative program for the 90th Congress. Their enactment would contribute most significantly to our efforts to deal with a substantial element of "spectrum pollution."

These bills, with a few exceptions which I will mention later, would give the Commission authority to prescribe regulations for the manufacture, import, sale, offer for sale, shipment, or use of devices which cause harmful interference to radio communications or are capable of causing harmful interference to radio communications, or are capable of causing harmful interference to radio reception. The bills also prohibit the manufacture and other specified dealings in devices which fail to comply with the regulations promulgated by the Commission.

The purpose of this legislation is to give the Commission adequate authority to deal with increasingly acute interference problems arising from the expanding usage of electrical and electronic devices which cause, or are capable of causing, harmful interference to radio reception. This would be accomplished by authorizing the Commission to deal with the interference problem at its root source—the sale by some manufacturers of equipment and apparatus which do not comply with the Commission's rules. It would require that equipment be properly designed to reduce radiation to specified and acceptable limits and, where necessary, permit the Commission to specify to the manufacturer operating frequencies before the equipment is sold to the consumer.

In recent years there has been a marked increase in the number and type of devices capable of causing harmful interference to radio reception. In many instances, radiating devices lie outside the area conventionally associated with radio transmission and reception. They include such devices as high-powered electronic heaters, diathermy machines, and welding devices which radiate energy either purposely or incidentally to carrying out their primary functions.

They also include low-power devices such as electronic garage-door openers, some of which, because of poor design or otherwise, emit radiofrequency energy beyond that needed for their functions.

The cumulative effect of all this undesired radiation is most apparent in large metropolitan areas. Especially in peak periods of operation of radiating devices, such areas are blanketed by a "radiation smog" which makes it increasingly difficult for many users of radio communications to obtain interference-free reception.

This radiation problem is most serious in vital areas where radio is used for safety purposes, such as in air navigation control. In a number of instances, the Federal Aviation Agency has issued notices informing pilots that certain radio navigation devices are not usable in particular quadrants because the interference caused by industrial equipment makes these navigation aids unreliable. Problems in this areas can pose a genuine threat to safety of life and, as the volume of air traffic increases, this threat becomes more acute.

This legislation will help police and fire departments and others using radio for public safety purposes, where interference would cause errors or delays affecting the preservation of life and property.

It will help radio listeners and television viewers, because such excessive radiation also means the reception of distorted and garbled signals, or fluttering images, or pictures of a technical quality less than that possible when interference is under effective control.

It will help those who use radio for industrial communications services, where the cumulative effect of undesired radiation means increased disruption of communications services.

And, finally, it will help those users of radio whose operations must be conducted under conditions of relatively low background interference. Examples of this are the Commission's monitoring activities, the operation of military communications systems, and radio astronomy observations. High levels of undesired radiation in some of these activities have forced the abandonment of geographic areas of high interference, or required special efforts to detect radiating devices which are causing harmful interference, both of which solutions import additional costs of operation on the Government.

The Commission presently has authority under section 301 of the Communications Act to prohibit the use of equipment or apparatus which causes interference to radio communications and, under section 303(f), to prescribe regulations to prevent interference between stations. However, it has no specific rulemaking authority under the act to require that, before equipment or apparatus having an interference potential be put on the market, it meet the Commission's required technical standards which are designed to assure that the electromagnetic energy emitted by these devices does not cause harmful interference to radio reception.

This hiatus in the Commission's authority has undesirable results. Since the prohibition presently falls only on the use of offending equipment, the Commission, in trying to eliminate interference, is confined largely to measures applying to the use of equipment which interferes with radio communications. In most instances the users have purchased the equipment on the assumption that its operation would be legal. Thus, the Commission is frequently confronted by the question: "If I can't use this equipment, why was he permitted to sell it to me?" The Commission is also reduced to an after-the-fact approach

to controlling interference. There is no basis for proceeding against an offender until the Commission has discovered the interference, either through its Field Engineering Bureau or on the complaint of some user of radio equipment.

We received approximately 40,000 interferences complaints during fiscal year 1967. Several thousand of these complaints were attributable to the types of radiation devices we have been discussing; that is, high-powered electronic heaters, diathermy machines, welders, electronic garage-door openers, and low-powered walkie-talkies. Investigation, detection, and suppression of these devices has been accomplished at the expense of other important enforcement duties, and, if recent trends continue, the cost of detection and enforcement in this area is expected to exceed that of last year. Passage of the legislation will enable us to utilize our personnel more efficiently and will tend to minimize what would otherwise be an urgent need for increased manpower for their purposes.

New kinds of radio devices are continually being invented and we are presently requested to make special provisions in our rules to permit the use of such new devices. We are concerned about the widespread distribution of these devices, which may number in the thousands or millions, to the general public. In the absence of authority to make the manufacturer responsible for compliance with our interference specifications, we are reluctant to sanction the use of such devices due to the difficulty of tracking down individual users of noncomplying devices. Given the authority under this legislation, we would be able to provide for greater use of radio with assurance as to adequate control of interference potential.

Many manufacturers have cooperated generously in assuming responsibility to minimize interference problems. This cooperation is purely voluntary and has been most helpful. However, the responsible manufacturer who cooperates in holding down excessive radiation is at a competitive disadvantage vis-a-vis the marginal manufacturer who cuts corners to save a few dollars in this vital area. Legislation such as that before us today appears necessary to solve the problem effectively.

We recognize, of course, that equipment designed to prevent radiation costs more than improperly designed equipment. But in most instances, we believe that the additional costs to manufacturers stemming from this legislation would be small, in view of mass production techniques. Moreover, the proposed legislation would avoid subsequent and far greater additional expense to users in those instances where it is even possible to modify the device to bring it into compliance with the rules.

Let me now turn to a brief analysis of the details of these bills. Each consists of three subsections in a new section 302. Subsection 302(a) describes the radiating devices which would be subject to our authority as those "* * * which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to produce harmful interference to radio communications."

The Commission would have authority under this subsection to prescribe rules for such devices applicable to their "manufacture, import, sale, offer for sale, shipment, or use." Subsection 302(b) prohibits the use, import, shipment, manufacture, sale, or offering for

sale of devices which fail to comply with the regulations duly promulgated by the Commission under the authority of section 302.

Subsection 302(c) provides three exceptions. The first is for carriers which merely transport interfering devices without trading in them. The second exception relates to the manufacture, sale, and so forth, of devices which are intended solely for export.

The final exception involves the use of devices by agencies of the Government. Under section 305 of the Communications Act, the Commission has no regulatory jurisdiction over stations owned and operated by the United States. The proposed subsection 302(c) recognizes this exemption from the Commission's jurisdiction. It provides, however, that such devices shall be developed or procured by the Government under standards or specifications designed to achieve the common objective of reducing interference to radio reception, taking into account the unique needs of national defense and security.

The various Government agencies are fully aware of the need for suppressing objectionable interference and, in many cases, the standards adopted by individual agencies are more stringent than those which the Commission would impose. In light of these considerations, it was considered appropriate to except from the operation of this legislation devices used by the U.S. Government or its agencies, leaving it to the agencies to cooperate in achieving acceptable levels of radiation. The Director of Telecommunications Management has assured us of his cooperation in this respect.

In addition, there is language to clarify that the provisions are not applicable to the electric utility industry insofar as an electric utility undertakes to assemble a power system from component parts or to assemble any of the component parts for its own use. This does not, however, alter any existing authority of the Commission under section 301 of the Communications Act, or the authority granted under the legislation to proceed against the user of equipment causing interference to radio communications.

The Commission has established technical standards applicable to the use of various radiation devices. This legislation is not designed to result in the promulgation of stricter technical standards. We have adequate authority at present to adopt stricter technical standards whenever we find that the public interest requires such action with respect to the use of radiation devices. In many cases, our existing technical standards would simply be made applicable at the manufacturing level. In those few cases where we would implement this authority with new or additional technical standards, the Commission would be dealing with devices recognized to be serious sources of interference; and the standards to be specified would be developed with the same close cooperation that we have heretofore received from industry.

As an example of the way we would proceed under any new authority given the Commission under this legislation, I would cite our method of implementing the all-channel TV receiver law (Public Law 87–259, 87th Cong., 76 Stat. 150). As in that case, we would contemplate holding a series of industry meetings, in order to discuss informally such matters as appropriate new standards and changeover periods. As in the case of the all-channel receiver regulations, our efforts would be to achieve a satisfactory consensus consistent with the aims of the proposed legislation.

Further, before promulgating any new standards, the Commission would give public notice of rulemaking proceedings, and interested persons, including all segments of the industry affected by a particular set of regulations, would have ample opportunity to comment on the proposed regulations. In short, if the Commission obtains this authority, it would proceed to implement it only after a thorough study of all the problems involved, and in such a way as to take appropriate account of the effect of new standards on the industry.

Moreover, we do not envision prescribing technical standards for all radiation devices. Rather, we contemplate prescribing standards for those devices which, in fact, cause harmful interference to radio reception. We would begin with those presenting the most serious problems. Thus, it is expected that equipment, the use of which is now regulated by the Commission, such as industrial heaters, low-power walkie-talkies, wireless microphones, and receivers for garage-door-opener controls, would be the first to receive our attention.

In summary, we expect that if H.R. 14910 or H.R. 9665 is enacted the technical quality of radio and television reception will improve, especially in those metropolitan areas where there is now excessive radiation. The efficiency of communications service in the industrial radio band will be enhanced. And, most important, some potentially serious threats to safe air navigation and control will be alleviated. Finally, the Commission's efforts in detecting and eliminating harmful interference will be made more efficient.

All this will benefit the public, the users of devices which radiate electromagnetic energy, the great majority of manufacturers who presently attempt to avoid harmful interference problems, and the users of radio communications in general.

That completes my statement, Mr. Chairman.

Mr. MACDONALD. Thank you very much, Commissioner Lee.

Are there any questions?

Mr. ROONEY. How did the Commission isolate this problem?

Mr. LEE. Well, I think primarily from complaints of interference to air navigation. In the last 16 months we have investigated some 600 complaints. This requires the use of men and equipment to find the device that is causing the problem.

Mr. ROONEY. How about the existing devices; would they be covered under this act?

Mr. LEE. Existing devices, in effect, Congressman Rooney; all devices are already covered in that we do have the authority to proceed against the user, the guy who bought it, and what this legislation does it moves that authority. It does not remove it, but it adds authority to the fellow who makes it. If you had a garage-door opener and there was interference we would have authority to stop you from using it, but instead of bothering you and finding you in the first instance, we want to go to the fellow who makes them and say: "These are the standards you have to use."

So, in effect, this takes a burden off of the consumer as well as the Government.

Mr. ROONEY. No further questions.

Mr. MACDONALD. Mr. Brown, any questions?

Mr. BROWN. Yes.

Mr. Commissioner, I am interested in this area because I would like to find out what our future technology is going to present to us

in the way of problems or what this legislation may be doing to hold back the development of future technology in other areas besides private broadcast radio-television communications.

It seems to me that this measure is just another patch in the Communications Act of 1934 and that we ought to be looking more broadly into this whole problem.

What specific attention is going to be given or has been given to, for instance, the problem of citizen-band radio, or does this include the little $15 walkie-talkie that my wife bought my son for Christmas?

Mr. LEE. It could. With respect to furthering the development of the art, we think that this legislation will help.

Mr. BROWN. Which part?

Mr. LEE. Insofar as we have to approve, for example, the use of new devices, some chap may come in with a proposal to manufacture a new device. We do have to approve that, and we think that if we can prescribe the right kind of radiation limits on the manufacturers we perhaps can be a little more tolerant in approving these new uses, knowing that we will be able to control the radiation at the source.

Mr. BROWN. Let me ask specifically about the garage-door opener. Is this to be included in that?

Mr. LEE. Yes, sir; the garage-door opener has been really a prime offender on aviation interference.

Mr. BROWN. I don't think any of us want to have a DC–9 landing in our garage, especially if we have a one-car garage. How do you determine the order of precedence of priority as to whether the development of a new electronic device which could have vast ramifications in consumer and public usage or even Government usage is less important than something that we are now doing in the communications field?

Mr. LEE. With respect to the relative merits of the devices I am not so sure we could make that determination if they interferred with an existing device. As a practical matter, what happens with the garage-door opener is that we will receive a complaint from the FAA on an active route from spot A to B. They warn the pilots there is something interfering and that this affects navigational aids. Our people then have to find the source of that interference. This very often requires putting a man on the plane for a few days, working in conjunction with mobile units, and then we find Mr. Citizen.

We will still have that authority under this bill; we still may occasionally have to do it, but then we can go to the manufacturer and say, "You have a bad line; something went wrong; you better fix it."

Mr. BROWN. In other words, it isn't your ambition to terminate the development of the technology, but rather to see that it develops without interference with existing technology.

Mr. LEE. Right.

Mr. BROWN. Does that mean that the guy that got there first necessarily has priority?

Mr. LEE. No. They will all operate under the same standards and you will find in industries various degrees of compliance. You see, we have rules now. This I have to make clear. We do not intend to tighten these technical standards; these rules apply to this device. The only difference is that we cannot move against the chap who makes it. We must move against the guy who buys it, and actually we think it will help, much as the all-channel television receiver.

The industry, of course, was most concerned about this. They were talking about what comes next—the ice box and so on? I have this type of concern, too, and I have sponsored this legislation at the Commission, only because I could see no other way out of it, but we can work with the manufacturers and we have, and they are now, as I understand it, supporting this.

Mr. BROWN. Again, my basic question is: Are we assured by technical people, the people who are on the fringe of these scientific developments in the area of communications, that this bill will not give the FCC authority to hold back technical progress in some areas because of the state of the art in technical progress in existing areas?

Mr. LEE. You are getting a little technical for me. Let me field that to Mr. Dixon of our chief engineer's office.

Mr. DIXON. My work at the Commission puts me on the fringe of technical developments and it is our purpose to encourage technical developments and our concern about the present situation is that technical developments which result in a multitude of new devices, at least by the thousands or millions for the public use, those are people who have no idea of their interference potential, and yet our present rules apply to each individual and not to the producer of the devices.

So, if we were assured of adequate control at the source of manufacture, then we could, with greater assurance, give permission for new devices. It would make this possible. As it stands, our control over these mass-produced interfering devices is not very good because of the individual approach we have to make.

Mr. LEE. I would think, Congressman Brown, under these standards that we have, that the sale, for example, of garage-door openers, I would expect it to greatly increase. There must be numbers of people who do not want to have them because they have heard about these problems that they have, and whenever one is under the same set of ground rules, knowing that they can buy a piece of equipment that will work and will not interfere, I think it should help.

Mr. BROWN. Well, with the chairman's permission, just one other question. And I want you to understand that I am still not sure you have zeroed in on my concern. When you talk about garage-door openers, you talk about perhaps an unnecessary, luxury item that doesn't have much public sympathy, versus transportation or communication in the air transportation field, but let's think for a minute about the possibility of reducing this walkie-talkie down to the Dick Tracy type, which is a radio that would allow all of us to have our individual telephone numbers and be able to be contacted any place in the world at any time from any other place, or about some of the other fringe areas of scientific developments.

I don't mind controlling garage-door openers so that they don't cause airplanes to crash, but I am a little concerned about the possibility that we might be holding back some technical development in the field of communications or health or something else, because of a rather parochial interest of a radio or television broadcaster or some other existing type of communications. And that's why I'm concerned that this may be just a piece of patchwork on the 1934 Communications Act, because I for one do not feel competent in the field of technical development and would like to hear a lot more testimony on where technical development might be taking us in the future with reference to all kinds of communications.

Now, do you understand my area of concern, the discomfort I have with this piece of legislation?

Mr. LEE. Yes, I think perhaps you might have a feeling that in order to protect one piece of equipment we might inhibit the development of some other piece of equipment.

Mr. BROWN. Simply because piece of equipment A is on the market first?

Mr. LEE. Well, I can certainly say that is not our intention and I don't see that this legislation would have that inhibition.

If, for example, we found a new development that was, we will use the term mutually exclusive, with an existing development or in compatible with it, I suppose we would have to make a choice.

Mr. BROWN. Do you have the technical competence to make that choice within the FCC? Do you have the staff and the people who can determine what the scientific possibilities are in one area versus another area and make a value judgment on which is preferable in the public interest?

Mr. LEE. I think it is generally conceded that in this area the FCC has the real expertise. That does not include me. We have the finest engineers in the Government in the electronic field.

Mr. BROWN. It seems to me that there are social ramifications here as well as economic and technical ramifications, and I don't know whether I should argue the point that you have the staff and people available to make decisions in the communications field or not, but I would like maybe to get into some further testimony with regard to this point.

Mr. LEE. I believe the electronics industry people—I don't know whether they are testifying, but they are writing letters supporting this. They originally opposed it until they looked into it very carefully.

Mr. BROWN. Just one question on that——

Mr. MACDONALD. Your time has expired.

I just have two questions.

How does the Commission define "radiation"? It's sort of a word that has a bit of——

Mr. LEE. Well, I think that, No. 1, we have to make sure we are talking about electromagnetic radiation. We do not have before us this problem of X-ray radiation; that is, physiological harm that we are hearing about from some other committee. What we are concerned about here is really electromagnetic radiation, and we receive, generally, a complaint from a source that in an area something is interfering with something important.

We have to send out these trucks, mobile equipment. We put fixes; you find where the lines intersect and you have to get into that neighborhood and area until you fix precisely at a site. It is a very laborious thing, and this legislation will remove a great deal of this burden.

Mr. MACDONALD. I am not sure that is a direct answer to my question.

Mr. LEE. How do you find——

Mr. MACDONALD. Yes; how does the Commission officially define "radiation"?

Mr. LEE. I would turn that over to Mr. Dixon. I thought you said "find" rather than "define"?

Mr. DIXON. Radiation is a generic term and we have, I believe, no explicit definition. We have a definition of harmful interference caused by emission of radiofrequency energy and it is this type of radiation that we are concerned with, only radio radiation which causes interference to communications, or broadcasting.

Mr. LEE. I think the Congressman is concerned about—I suppose everything interferes to a degree with everything else—I think he is concerned about at what point are we concerned.

Mr. DIXON. That is exactly correct.

Mr. LEE. Did you have a figure in decibels or whatever you have?

Mr. DIXON. The level of radiation is specified in various terms depending on the kind of device to which it refers.

Mr. MACDONALD. For example, my watch gives off radiation, is that correct?

Mr. DIXON. I understand if it has radioactive substance, yes. But this type of radiation——

Mr. MACDONALD. In your statement, is all I'm getting at. In your statement I was trying to find out what you were talking about when you keep talking about radiation.

Mr. DIXON. Oh, we mean——

Mr. MACDONALD. How it is going to be affected in this bill?

Mr. DIXON. We mean radiation in the radio frequency spectrum used for communications and broadcast. We do not mean "light radiation," radiation or atomic radiation or anything of that type. I can give you specific frequencies.

Mr. MACDONALD. For example, if you live in a neighborhood that I do, that has a ham operator, he certainly interferes. You have to make some adjustment on your TV. He was driving everyone in my house nuts with it. Every time he went on the air, the signal got fouled up.

Now, that, of course, do you define that as radiation?

Mr. DIXON. Yes, that would be interference caused by radio frequency.

Mr. MACDONALD. That is already in under whatever section you say in the present act.

Mr. DIXON. Yes.

Mr. MACDONALD. So when you are talking about radiation that this new bill, if passed, would regulate, what are you talking about? That is my simple question.

Mr. DIXON. Yes, sir; we are talking about radiation of the same kind, but perhaps a nonlicensed station, for instance, or a nonlicensed device such as a garage-door opener, the person operating it has no license. The amateur station does have a license and he is subject to some very specific rules and we know exactly where he is. But we have no license with regard to many devices.

Mr. LEE. In the example you gave, Mr. Chairman, as I understand it, we would find this amateur. He is causing interference. We have the authority now that he must do something about it, and in this particular field they have a voluntary organization and they do cooperate and they do something about it, as you have probably found out. If we found that that transmitter that he had was not within our specifications, we could go to the fellow who manufactured it under this bill. Now we go no further than the man who owns it.

We could tell the manufacturer: "Maybe you have made a mistake here, maybe you have hundreds of others. You better cooperate and find them or stop your line and fix it." It's a transfer of responsibility.

Mr. MACDONALD. In other words, shifting the burden to the manufacturer?

Mr. LEE. Right.

Mr. MACDONALD. But isn't it quite true, and I have no strong feelings about this. I don't know why I got into it actually, but isn't it a fact that the manufacturer can put out a perfectly fine piece of equipment and then have it misused in such a way that radiation, the definition that you have just given, results?

Mr. LEE. If he would misuse it technically, he would have to make some modification of it. This he could do if he was qualified. The misuse that we generally find is in the broadcasting on the transmitter rather than in the technical ability of the transmitter to cause interference. He could fool with it and make some adjustments; that's right.

We still have authority to go to him, but this would be a very minuscule.

Mr. MACDONALD. Thank you.

Mr. Brown?

Mr. BROWN. It occurs to me that you now have authority to get into the citizen-band radio field in order to control faulty equipment in the citizen-band radio area or the misuse of it, and the FCC has been relatively powerless to straighten out this situation, because it is growing so fast because the technology and ability to produce this inexpensive equipment which anybody can buy and operate has gone past FCC's power to control. Not the authority to control but the power to control because of the economics of the situation.

Mr. LEE. If we find technical problems with the citizens-band transmission, we can go to the manufacturer under this bill and say: "Fix it." Now we have to find——

Mr. BROWN. Even after he has fiddled with it?

Mr. LEE. If he fiddled with it, we cannot control it. We would still have authority over this kid, whoever he might be. I am the first to say this is a real major problem for us and we have been really unable to cope with it.

Mr. BROWN. I would submit this has become a major problem in just this one field in citizen-band radio, walkie-talkie, and so forth, when you get into the technical development of type acceptance. I gather this is really what you have in mind is a type acceptance of a product.

Mr. LEE. There would be more of that than there is now; yes, sir.

Mr. BROWN. When it is manufactured, but when the guy takes it home and installs it and tightens bolt A or adjusts Y or C, you may have a product as a result of this that isn't really beneficial in its operation.

Mr. LEE. Our major problem in the citizen-band field is not a technical one. It is that these kids are using it for purposes other than their license calls for.

Mr. BROWN. I would submit they are not all kids. I think a lot of them are adults and they are licensed and you do have the right to go in and lift a license or correct this problem, but in fact you are not able to do this because of the economics of the operation of the FCC.

If I may, on a point that you raised, Mr. Chairman, there are all kinds of radiation as I understand it. You have maser and laser radiation and ultrasonic radiation and so forth. To me the term here is a little vague as to just what you have in mind. Are you going to control lasers as a result of this legislation?

Mr. LEE. Under the bill there is a section 302 that defines devices and says, "The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in such degree to cause harmful interference to radio communications."

Now, under that definition I say, "Yes" we would have the authority to go to the manufacturer of a laser device. In the development of the laser, presumably at a point in time, we will control them by other means in that area because we will assign them frequencies and perhaps license them, but this bill would let us go to the fellow who makes a device that utilizes the laser.

Mr. BROWN. In effect, this is any device which could interfere with communications, can be controlled on a type-acceptance basis by the Federal Communications Commission; is that correct?

Mr. LEE. That's right.

This bill does not contemplate that we would change our technical standards. We already have technical standards for a number of devices, such as the garage-door opener and industrial heater that we have approved for manufacture.

The same standards would apply, as far as we know at the moment, to these devices; again, the only change would be that instead of going to the consumer, we would go to the manufacturer.

Mr. BROWN. If I am a manufacturer in a field in which you are holding back a matter of technical progress because you feel that it interferes with some type of existing, historically prior communications, what recourse do I have?

Mr. LEE. Of course, you could always petition the Commission. As far as we have gone so far in the development of new technology, we have always worked cooperatively with the industry. They come to you and say, "Look, we would like to do this." We say, "Well, go ahead and try it, with these standards."

Mr. BROWN. Again, with the chairman's patience. You are talking about people already in the field. I am talking about another field. Maybe ultrasonics, maybe they are getting a development automatically or, by the way they have developed it that interferes with existing radio communications, does my only recourse lie in asking for a hearing before the Communications Commission which takes—how long? How far are we behind in hearings?

Mr. LEE. Any hearing will take a considerable period of time; that's right. We have not had that experience in these new fields.

Mr. DIXON. We have usually two or three people visit our office each month with proposals for new-type devices, usually on a nonlicensed basis so they can be mass produced and sold over the counter, and so forth, for which there are no provisions in our present rules. It is possible now for us to make additional provisions for new devices, but as Commissioner Lee pointed out in his prepared statement just read, the degree of control we can exercise is very limited since we have to go out and locate each one if it's causing trouble.

However, under the bill this would be the additional legal responsibility by the manufacturer who is the one who comes in and asks us or petitions us to make additional provisions in the rules for some new device, and this would give him legal responsibility for the device which he is asking us to provide for.

Mr. MACDONALD. Thank you very much.

Mr. LEE. Thank you very much, Mr. Chairman.

Mr. MACDONALD. The next witness will be Mr. A. B. Winick, Chief, Navigation Development Division, FAA, now part of the Department of Transportation.

STATEMENT OF ALEXANDER B. WINICK, CHIEF, NAVIGATION DEVELOPMENT DIVISION, FEDERAL AVIATION ADMINISTRATION

Mr. WINICK. Mr. Chairman, members of the committee, I am Alexander B. Winick, Chief, Navigation Development Division, Federal Aviation Administration. On behalf of the Administrator and myself I want to thank you for inviting us to discuss with you the important legislation you are considering today, H.R. 14910 and H.R. 9665.

These bills, as you have heard, authorize the Federal Communications Commission to prescribe regulations for the manufacture, sale, and shipment of devices which cause harmful interference to radio communications and thus interfere with the reception of aids used in the air traffic control and navigation system.

I would like to describe how radiofrequency interference can affect aircraft navigation and communications, and the resultant unfavorable impact on air safety.

There are different types of electronic devices located all over the United States emitting signals which, when received in an aircraft, provide vital information to the pilot. These are known as radio aids to air navigation, or more commonly, "navaids." The pilot relies on these aids to navigate his aircraft safely from one point to another, and to land his aircraft when weather conditions are such that he could not land without the help of such signals.

An example of a "navaid" that is affected by interference is a device known as a VOR, the VHF omnidirectional range. Each VOR emits signals outward in all directions. The transmitted radio beams are detected by the airborne receiver and direction from the station is indicated by degrees from or to the station and shown on a cockpit instrument.

These degree lines are called radials. Radials project precise pathways through the sky. A pilot can find any radial by tuning his receiver to the published frequency of the VOR, determining the radial he is on, then navigate to and then along any preselected radial. In the continental United States alone there are 841 VOR facilities operated by FAA. Together they form a vast and intricate network of simulated highways vital to the safe navigation of aircraft.

It sometimes happens that radiofrequency interference near a VOR will require us to discontinue the use of the radials in the sector where the interference is located. This means that some of our aerial highways are rendered useless, including some intersections important in the efficient movement of air traffic.

Another area of air navigation where radiofrequency interference becomes most critical is in the instrument landing system, or ILS.

The ILS is used for landing in adverse weather conditions. One of the components of the ILS is the localizer. The localizer emits a signal that is used by the pilot for precise azimuth or centerline guidance to the runway. Radiofrequency interference can cause the localizer to be rendered useless altogether or it can cause to be displayed to the pilot erroneous centerline guidance information.

Incidentally, there are approximately 240 instrument landing systems in the United States operated by the FAA. The FAA operates numerous other types of air navigation facilities which are susceptible to radiofrequency interference. They include short-range and long-range radar, distance-measuring equipment, TACAN bearing and distance equipment, and direction-finding equipment.

Radiofrequency interference can also create problems in communication between air traffic controllers and pilots. There is a considerable amount of air-ground voice communication in providing separation between aircraft during departure, en route to destination, and landing.

When frequencies used in these voice communications are cluttered or made unusable by interference, difficulties are created that add to the burden of the controller and the pilot. When interference on an air traffic control frequency becomes so great as to make the frequency unusable, the controller must find and switch to another frequency. This involves calling each aircraft under his control to inform the aircraft of his new frequency. This process diverts the controller's attention from his main task of controlling the aircraft.

Radiofrequency interference, besides causing delay and inconvenience, can create situations which could result in disaster. Where voice communications between controller and aircraft pilot are distorted or blanked out, vital communications at a critical stage in the flight may be lost, perhaps even a warning of impending collision with another aircraft. Interference may prevent the pilot from identifying the station he may be attempting to navigate by. Or interference from a garage-door opener, an example we have been hearing considerably of today, could cause a pilot to deviate from his intended course and thus fly into an area where he should not be. Any of these situations could cause or contribute to an aircraft accident.

Let me describe how one segment of the aviation radio spectrum is affected by an unregulated radio device, such as the garage-door opener.

Each authorized user in this band needs only a small portion of the spectrum to operate on. The garage-door opener radiates energy over a large portion of the band, thus, in a sense, contaminates the spectrum.

At present, where radiofrequency interference affects navaid performance or voice communications, the source of the interference must be located through aerial inspection and use of radio vans on the ground. When the source is located, action must be taken against the operator of the interfering device to shut down the device or have it modified to eliminate the interference.

Some time ago, in the Los Alamitos area of California, a serious amount of interference was noted on 243 megacycles, the frequency used for emergency communications, and on 282 megacycles, the homer frequency for the Los Alamitos Naval Air Station.

A task force consisting of Navy, FAA, and FCC personnel, undertook to locate the offending devices and take action to eliminate their effects. This team, using ground vans, automobiles, and a helicopter, located 58 garage-door openers emitting interfering signals.

Those 58 devices were only a small percentage of the total offenders and it took a week to locate that number. The cost of this operation to the Government was about $100 per garage-door opener closed down.

This example illustrates the cumbersome, costly, and only partially effective measures that must be utilized to get at and to eliminate interfering devices under current law. If either H.R. 14910 or H.R. 9665 were enacted, however, a much more effective and much less expensive means of eliminating interference would be available; namely, regulation of the manufacture of such devices. We therefore strongly urge enactment of this legislation.

Thank you, Mr. Chairman.

Mr. MACDONALD. Thank you, sir.

As you see the measure then, the bill as introduced is merely a safety measure to help airlines and private aircraft, and so forth; is that correct?

Mr. WINICK. Yes, sir; Mr. Chairman, from the point of view of the FAA we are interested in the integrity of the navigation signals which we radiate and are responsible for. Our experience has been that the interference that we have been hearing about has caused the degradation of these signals in space.

Fortunately we were able to find these through, in many cases, routine periodic flight inspection. However, as the number of devices increases and the level of integrity which we wish to place on our navigation system, particularly instrument landing systems, as we permit lower minimums operation leading toward the goal of all-weather operations, we must, we feel, achieve a higher level of integrity of these signals than we are currently getting.

Mr. MACDONALD. My last question, do you think if the people who manufacture automobile automatic garage door openers, change the manufacture, that will eliminate the signals?

Mr. WINICK. Yes, sir; Mr. Chairman, I think I know the cause of the problem. I think that——

Mr. MACDONALD. I don't think anyone on the committee does. It might be helpful if you told us.

Mr. WINICK. Well, the receiver used in garage-door openers, the example we have been hearing about all morning, is called a super-regenerative receiver. It is an oscillator, transmitter, in fact, and it is attached to an antenna which is attached to the outside of the garage door.

This radiates a signal of sometimes many thousand microvolts which you must compare to the fact that systems used in air navigation are designed to operate on as low a signal as 10 or 15 microvolts. We have a condition here where these devices are putting out strong signals compared to the desired signals that are used in air navigation.

Now, by proper design of the devices, that radiation can be controlled considerably, and I personally feel with not very much of an economic penalty.

Mr. MACDONALD. Are there any questions?

Mr. VAN DEERLIN. Interestingly enough, this works both ways, doesn't it? In Minneapolis a few years back, I recall that garage doors were flying up as planes were coming in to Wold-Chamberlain Field.

Mr. WINICK. Very often, as an aircraft does land, a lot of garage doors do open, unwantedly.

Mr. VAN DEERLIN. Has the FCC no regulation over this garage door opening device?

Mr. WINICK. I would leave it to them to answer that, sir. I am not an expert on the provisions of their current regulations under the 1934 act. I believe they do, under their part 15 as explained earlier. They have set a standard and have the right, but it is a question again, as we have heard over and over, of the ability to take an action which can only come after the user has the device on the air.

Now, just one point if I may, Mr. Chairman, on that. When I speak of the need for higher integrity of air navigation signals, we are talking about the fact that we don't like to feel that there could be even a transient occurrence of interference at any time because we do have lots of examples, recorded examples in an aircraft, of perturbations to the desired guidance signal on an instrument landing system which have essentially been unexplained.

Mr. VAN DEERLIN. Do you have any evidence of instances in which this interference, as you have described it, has actually contributed to a plane crash?

Mr. WINICK. No, sir; I don't believe that I can definitely say that we have proof of that. We have unexplained incidences that have caused missed approaches and we feel that some of them, without having the capability of pinning it down exactly, could have been caused by what are sometimes called "rogue" transmissions from unidentified sources. These can cause a deflection of an indicator, a flag to show in the aircraft, and the pilot may then execute a missed approach.

Mr. VAN DEERLIN. This would come under FAA's supervision, of course, but is it possible that similar devices used in war areas might put a pilot off course so that a bomb load that is to be dropped 10 miles miles short of the Chinese border might be dropped 10 miles on the other side of the border?

Mr. WINICK. Of course, those rules are much more stringent than anything the FCC has in mind.

Mr. MACDONALD. Thank you, any other questions?

Mr. BROWN. I have one question.

I seem to recall that at one time there was a problem of aircraft homing in on the tailpipes of some kind of an automobile or truck. Is there radiation interference from automobile or truck engines?

Mr. WINICK. There is ignition interference, sir. I haven't heard of anyone homing in on such signals. I know that infrared devices may home in on the exhaust of engines.

Mr. BROWN. Maybe that's what I was thinking of.

Mr. WINICK. These would be military infrared homing devices that work on the heat output of the engine exhaust.

Mr. BROWN. These are not aircraft; these are missiles so that you might have a missile home in on our automobile tailpipe?

Mr. WINICK. If it was up in the air, but, Mr. Brown——

Mr. BROWN. I'm glad that isn't an airplane.

Mr. WINICK. But Mr. Brown, there are interference sources in ignition systems of large industrial engines. This is true, this is one of the known sources of radiofrequency interference.

Mr. BROWN. But this is a communications problem under this legislation. Then if you had an automobile engine that might get a missile system fouled it would be up to the Federal Communications to control I think it is a valid question.

Mr. WINICK. I think it is a valid question. We don't have anything to do with missiles nor does the FCC that they know of. They have enough problems. I never heard of any missile homing in on any automobile. I think that would be a headline.

Mr. BROWN. If the chairman will let me finish the nature of my question. It is a communications system, is it not, the missile control system?

Mr. WINICK. Mr. Brown, I can go into this at length if you like. There are different kinds of guidance systems used in missiles, some of them are inertial which do not radiate any sort of electromagnetic energy. Of course, there are a lot of advantages to that kind of system and that's the way military developments are going, but some do use radio control, that's right, for the guidance systems.

Mr. BROWN. Let me ask the question. Is this also covered by this legislation, the possibility that you windup controlling the manufacture of automobile engines through this?

Mr. WINICK. I personally doubt it, Mr. Brown, because I think that the limitations, and I am perhaps out of my area, and this is an FCC matter, over which they intend to exercise their authority are limited to the known and assigned bands for radio communication and navigation.

These are assigned frequency bands and I don't assume that they would go out of these, whether it be atomic radiation or any other area.

Mr. BROWN. I don't feel that this legislation says that. I may be wrong, but I don't think that "known and assigned bands" for communications is clarified in the legislation. Maybe that is a point that ought to be considered with reference to drawing of this legislation.

That's the reason for the question; even though it may seem facetious, it is perfectly serious. Would you care to comment on that?

Mr. WINICK. May I, Mr. Chairman? I have been reminded that one of the phrases in the bill does talk of reducing interference to radio reception and I think that term, it perhaps is not limiting enough to use here, but I think it is meant to indicate the limiting type of authority that I was referring to.

Mr. BROWN. Certainly I don't want to prolong the question. I'm not going to, but in your statement I think either I misheard it or it ought to be cleared up on the record. You said that the landing system methods only put out 10——

Mr. WINICK. Microvolts?

Mr. Chairman, I was referring to the fact that in the use of an instrument landing system the airplane receiver is designed to work in some cases on very low signal strengths put out by——

Mr. MACDONALD. The way I am trying to clear up the record, then, you then said that the garage-door opener used up to a thousand?

Mr. WINICK. May radiate as much as a thousand microvolts per meter is the term used, much greater signal strength.

Mr. MACDONALD. Why is this? Why is that necessary?

Mr. WINICK. Well, Mr. Chairman, I don't believe it is necessary. In a way the more that is radiated, I presume, the less expensive you can make the device in the automobile itself to operate these things.

Mr. MACDONALD. Any further questions?

Thank you very much, sir.

Is there a witness here for the Edison Electric Institute or is a statement going to be included in the record?

Mr. WILLIAMSON (clerk of the committee). Yes, sir; we have the statement for the record.

Mr. MACDONALD. With that we have exhausted the list of witnesses and I declare the hearings closed.

Thank you all very much.

(The following material was submitted for the record:)

EDISON ELECTRIC INSTITUTE,
New York, N.Y., February 5, 1968.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. STAGGERS: It has been reported to us that hearings have been called before your Subcommittee on Communications and Power on Tuesday morning, February 6, on the bills H.R. 14910, which was introduced by youself, and H.R. 9665, which was introduced by Mr. Dingell of Michigan. We understand that the bills are identical and that their stated purpose is: "To amend the Communications Act of 1934, as amended, to give the Federal Communications Commission authority to prescribe regulations for the manufacture, import, sale, shipment, or use of devices which cause harmful interference to radio reception."

We believe you are generally familiar with the concern of the Edison Electric Institute in matters affecting electric power systems. The Institute includes among its members 180 operating electric power companies serving over 51 million customers. This is over 97 percent of all the customers of the investor-owned electric power supply industry and some 76 percent of our nation's users of electricity.

The operating companies regularly cooperate on a voluntary basis with the Commission in the investigation and elimination of sources of radio frequency noise that result in interference to radio reception. The Edison Electric Institute through its technical committees has provided for exchange of information, among its members on this as well as other subjects important to their operations.

We appreciate the regulatory problems of the FCC in controlling radio frequency noise that originates outside the family of radio equipment and we share its desire to correct and avoid interference to radio reception.

Perhaps it will assist your full consideration of the proposed legislation if we now restate the objection to it which we expressed in our letter to you dated July 15, 1966.

We believe that the broad language of the proposed legislation could be construed to give the Commission power over manufacturing not only to stop the production of offending devices but to specify the details of design and production of such devices insofar as radio interference might be involved.

The Commission has given repeated assurances that it would not interpret the bill so broadly and that its intention is to permit the manufacturers of equipment as much flexibility for exercise of ingenuity in equipment design as possible while achieving the performance objective.

It therefore seems to us that it would be appropriate to make a simple amendment to the bill to provide more specifically the authority the Commission has said it needs without also conveying authority which it has indicated it will not use.

To this end it is suggested that the wording of proposed Section 302(a) be amended by insertion of the phrase "establishing performance criteria" to make the first sentence of that section read as follows: "The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations establishing performance criteria governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications."

We can readily understand why in July 1966 after the Senate had passed its bill, the Commission would oppose the idea of any further change in the bill. This situation does not exist now.

It is requested that this letter be made a part of the record of the February 6 hearing on H.R. 14910 and H.R. 9665.

Respectfully submitted.

EDWIN VENNARD,
Managing Director.

CLEVELAND TELEVISION INTERFERENCE COMMITTEE,
Cleveland, Ohio, February 1, 1968.

Mr. W. E. WILLIAMSON,
Clerk, Committee on Interstate and Foreign Commerce.

DEAR MR. WILLIAMSON: First allow me to introduce myself, I am the present chairman of a group of radio amateurs, who have banded together to help rectify television and radio interference caused by the amateurs and on many occasions, helped out with problems not of our making. The roster of this group now numbers forty-one.

We, of this committee strongly urge the passage of the new bills, H.R. 14910 and H.R. 9665 amending the Communications Act. We believe this both helps us and relieves the listening public. We have repeatedly asked the F.C.C. for some ruling or information on the subjects these bills pertain to, and have been told that until these bills pass, they have no jurisdiction on these rulings.

Thanking You,

SANFORD DAVIS, *Chairman.*

CUYAHOGA COUNTY TELEVISION INTERFERENCE COMMITTEE,
Cleveland Heights, Ohio, February 1, 1968.

Re H.R. 14910, H.R. 9665.

W. E. WILLIAMSON,
Clerk, Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR SIR: I am Public Relations Officer for Cuyahoga County's Television Interference Committee. Newspaper, Radio, and Television personnel advise all complainants to reach me with their "interference" problems. My daily such complaints have reached mountainous proportions!

It is with fervent plea I voice the responses of greater Clevelanders—when I express the best interests of citizens who have their innocent rights to "listen"—without the frustrating and nerve-racking accompaniment of interference. Because of manufacturers—who don't care.

I would beseech all gentlemen attending the public hearings, on February 6th, to unanimously pass these bills, to amend the Communications Act of 1934—as amended, to give the FCC authority—etc., etc.

Would that I could appear, to have my voice heard! Were everyone in that Room 2123 to hear the pleas of 2,000,000 plus unhappy consumers in our area—they would assuredly hurry such passages! Please allow this letter to be read by our honorable Representatives Staggers and Dingell!

I thank you for fulfilling the pledge of notifying me each time word of these vital bills comes to life. May I depend upon a continuation of this practice, please!

Very truly yours,

EUNICE G. BERNON,
Public Relations Officer.

(Whereupon, at 11:15 a.m., the subcommittee adjourned.)

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