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CIVIL DISTURBANCES IN WASHINGTON

HEARINGS BEFORE THE COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

INVESTIGATING THE APRIL 1968 RIOTING, LOOTING,
DAMAGES AND LOSSES, AND POLICE ACTIONS

AND

H.R. 16941 and H.R. 16948

REQUIRING BONDS FOR PARADES AND GOVERNMENT
REMOVAL OF DESTROYED OR DAMAGED BUILDINGS

AND

**H.R. 18541, H.R. 17647, H.R. 17607, and
H.R. 18149**

DEALING WITH INSURANCE AGAINST RIOT LOSSES

MAY AND JULY, 1968

Printed for the use of the Committee on the District of Columbia



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CIVIL DISTURBANCES IN WASHINGTON

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SECOND SESSION

ON

THE EXTENT OF THE DAMAGES AND LOSSES RESULTING
FROM THE RIOTING, LOOTING AND OTHER CIVIL DISTURB-
ANCES IN WASHINGTON IN APRIL 1968, AND THE ACTIONS OF
THE DIRECTOR OF PUBLIC SAFETY, THE POLICE, AND OTHER
DULY CONSTITUTED LAW ENFORCEMENT AND GOVERNMEN-
TAL AGENCIES WITH RESPECT THERETO

MAY 15 AND 16, 1968

Printed for the use of the Committee on the District of Columbia



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CIVIL DISTURBANCES IN WASHINGTON

WEDNESDAY, MAY 15, 1968

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Full Committee met, pursuant to recess, at 10:40 a.m., in Room 1310, Longworth House Office Building, Honorable John L. McMillan, Chairman, presiding.

Present: Representatives McMillan (presiding), Abernethy, Dowdy, Whitener, Sisk, Diggs, Fuqua, Fraser, Adams, Jacobs, Walker, Kyros, Nelsen, O'Konski, Harsha, Mathias, Horton, Broyhill, Winn, Gude, Zwach, and Steiger.

Also present: James T. Clark, Clerk; Sara Watson, Assistant Counsel; Donald Tubridy, Minority Clerk; and Leonard D. Hilder, Investigator.

The CHAIRMAN. The Full Committee will come to order.

Mr. Murphy, will you come to the table, and Chief Layton, Chief Galotta, and the Under Secretary of the Army, and any other people that are around here.

Mr. MURPHY. Mr. Chairman, this is Mr. Bress, United States Attorney, who was good enough to come in accordance with your invitation.

The CHAIRMAN. We will be happy to have him sit at the table with you.

Mr. Murphy, I want to thank you and the other gentlemen for taking time to appear before our Committee this morning. We hope that we will be able to bring to light some of the rumors that have been flying around ever since you arrived; as to what the police were doing on the first day and night of the April civil disturbances; and a number of other accusations that have been made, and the reason for not stopping some of the looting that appeared here in the Nation's Capital on these days.

You might make a little statement first as to the type of orders that were given by you or whoever gave out the orders.

I would also like to have the orders given the troops by the Under Secretary, please. I would like to know if you were given authority to use force in handling these people, and whether they were permitted to walk in and take anything they wanted, as those are the rumors that have been flying around.

STATEMENT OF PATRICK V. MURPHY, DIRECTOR, OFFICE OF PUBLIC SAFETY, DISTRICT OF COLUMBIA GOVERNMENT, ACCOMPANIED BY JOHN B. LAYTON, CHIEF, METROPOLITAN POLICE DEPARTMENT; HENRY A. GALOTTA, CHIEF, FIRE DEPARTMENT; DAVID G. BRESS, ESQUIRE, U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA; AND HON. DAVID E. MCGIFFERT, UNDER SECRETARY OF THE ARMY, DEPARTMENT OF DEFENSE

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

I appreciate your having me here at this meeting of the Committee, to give us this opportunity, and I am sure that I speak for Chief Layton and the Command of the Police Department and Mr. McGiffert, and the Department of Justice, in expressing that appreciation.

I have not prepared a formal statement, Mr. Chairman, but I would like to point out that shortly after my appointment to the new position of Director of Public Safety, I went down with Chief Layton and his staff and we reviewed the plans that had been made by the Department; and the Department has done a considerable amount of planning in the past for the handling of crowds, demonstrations, and disorders.

As a result of my review of what the Department had been doing, and my agreement with the policies which Chief Layton had established previously, we simply increased our training and planning back in February sometime. Captain Sanders was assigned full time to the function of the planning and training for disorder prevention and control.

Many meetings were held within the Department and plans were refined. When we had our unfortunate experiences in early April, those plans, in my view, were very effective. The members of the Department, in my view, responded marvelously, not only to the recalls to come back to duty, where the response was so prompt and so complete, but in the good judgment that a policeman used in dealing with an extremely difficult situation.

As I said earlier, Mr. Chairman, I appreciate this opportunity to clarify some of the rumors, and what I honestly think is some of the misunderstanding about the kind of problem we face and the manner in which we dealt with it. This city, like every large city in the United States, is policed by relatively few policemen.

We have an authorized strength of 3100 officers, but we have been somewhat short of personnel. We have had vacancies.

As to police, a population of 800,000 people and a large number of people who reside outside of the District but come here to work and do business every day, and a very large visitor population each year.

So we police this city, as I believe, as other large cities, on the principle that the people support the police; and frankly, if the people do not support the police, it is impossible to have law and order. So, this Department has done a great deal of work and obviously has had tremendous community support.

People report crimes to our police officers. They give information to our policemen. They have come to the assistance of our police officers frequently. They willingly come to court and testify as wit-

nesses. Now, I don't speak for the entire population because we all know that not every citizen cooperates to this extent with the police.

The point I wish to make is that because of the relatively small number of police officers that this and every other city has, and when we divide the department down into its specialized branches and the tours of duty and the fact that police officers work a 40-hour week and we have leave time and sick time and court time, that at any particular moment we would have on the streets of the city, in uniform, no more than a few hundred police officers.

When the tragic occurrence that took place on April 5th, it developed in the way it did, the police, unfortunately, can find themselves just tremendously overwhelmed. When that occurs, I know of no other solution to the problem than masses, numbers of people, and that means the National Guard and Military.

During the early hours of such a situation, the police are limited in what they can do.

Now, I am familiar with the policy that Chief Layton had laid down, and which he had again reinforced to his staff and the Department last year, which was this policy:

That in the event of disorder and the police being overwhelmed by large numbers of people violating the law, either as looters or window-breakers, or starting fires—whatever the case may be—that although it might be impossible for the police officer to arrest every law violator under the circumstances, he should make whatever arrests are humanly possible for him to make.

I take great pride, and I know Chief Layton does, because we have discussed it so many times since the disorder—we take great pride in the fact that the men of this Police Department, from the very first moment, made as many arrests as they could, considering all of the circumstances.

Now, I think I should make another point at this juncture. Many people have referred to newspaper and television photographs that create the impression that police officers were standing by while people looted without control.

I would like to say, Mr. Chairman, that publicly as well as privately, Chief Layton and I have made perfectly clear that we would like to know about any situation in which a police officer failed to do his duty.

But we point out that because of the rapidly developing situation that a police commander faces at a time like this, it may be more important for him at some point to station a police officer in an intersection to prevent the flow of either vehicular or pedestrian traffic as they attempt to isolate a street.

A newspaper photograph taken from a particular angle could create the impression that the officer was standing there and permitting looting. That is never the case as far as we know. He may have had a more important assignment at that particular moment, which was to assist in controlling a particular street or section.

As I indicated from the very first moment of the disorder, our police officers made arrests, and during the days of the problem, our officers made close to 8,000 arrests. As far as I know, more arrests than were made in any other city, even cities which suffered greater damage and greater loss of life.

In addition to having made this tremendous number of arrests, I must point out the wonderful assistance that we received from the Army when they were in here helping us. So many of these arrests were made as a result of the detentions that Military, detentions which were then turned over to the police officers for the arrest process.

During all of this time, the plans that had been well laid by Chief Layton were implemented with the result that we feel we have done a reasonably good job in the paper processing of these arrests and complaints.

With the assistance of Mr. Bress—and I cannot praise too highly both the United States Attorney's Office and the Corporation Counsel's Office in working with Police Department staff.

We feel that we can be optimistic and that we are going to have a significant number of prosecutions and, hopefully, convictions in many of these cases. We think that is terribly important as a deterrent, lest any citizen feels that there is any policy of leniency or of permitting disorder, or whatever misimpressions may exist; that the vigor with which these cases will be pursued and prosecuted—and I might add, Mr. Chairman, that we will even be able to use a section under the D.C. Crime Bill, which was strongly supported by this Committee—we will be able to use a section of that bill to use an additional charge relating to riotous situations.

So, Mr. Chairman, I think that we certainly responded well. The Police Department and the Fire Department and the Federal Government were most cooperative in giving us the assistance we needed.

We have learned things, and not everything was done perfectly, obviously. It is awfully difficult to be able to say anything optimistic or good about such a tragic situation. It certainly is disturbing and heartbreaking to all of us, and especially to those of us who were so close to what was going on during those troubled days.

I feel it was a heartbreaking experience to witness this kind of tragedy in a nation's capital.

I wish, sir, only to assure you that it is my conviction that the people in the Police Department and the Fire Department, the Office of Civil Defense, were a great credit to this city and to this nation in the manner in which they responded to a terrible tragedy.

It may be, Mr. Chairman, that Mr. McGiffert would like to say something about the Army.

The CHAIRMAN. Mr. McGiffert.

FEDERAL TROOPS

Mr. MCGIFFERT. Mr. Chairman, I don't have any preliminary remarks. I would be very happy to answer any questions any members of the Committee might ask.

The CHAIRMAN. There is one question I would like to ask, for clarification, what kind of orders were given the troops? Were they ordered not to touch any of these people who were looting stores and throwing Molotov cocktails in these stores? Could the troops touch those people?

Mr. MCGIFFERT. Mr. Chairman, the Federal Troops in Washington were commanded by General Haynes, who received his instructions from the Chief of Staff of the Army. Fundamentally, their instructions were to assist the civilian law enforcement authorities to restore law

and order, and in accomplishing that mission, to do so with the use of minimum force.

The individual soldier on the street carried a card giving him instructions. Among those instructions were two that are perhaps pertinent to your question: one was that the soldier could not load or fire his weapon without the permission of an officer, or in order to save his life.

The other one was that he had the authority to detain and then to turn over to the police for arrest individuals who were breaking the law.

The CHAIRMAN. I had one complaint that I recall from a friend of mine. This man is the owner of one of the most popular restaurants in the City of Washington. He tells me that he was driving his car, going to the bank, and three or four men held him up, threw brickbats through the glasses of the car, and pulled him out and beat him up to such extent that he had to go to the hospital. He said that there were four or five troopers from the Army standing by and didn't touch them. I am wondering if the troops had orders to not participate in incidents of that nature.

Mr. MCGIFFERT. Mr. Chairman, I am not familiar with that particular incident. I do know there were occasions when some of the soldiers were faced with the same problem which Mr. Murphy referred to in the case of police officers, namely, the soldier or soldiers had been given an assignment to guard, let's say, a store or something of that kind and could not, without violating his orders, move away from his post in order to accomplish some other mission.

The CHAIRMAN. Mr. Murphy, during the past three weeks I have a group of people, tax payers and property owners, who have been trying to get me to permit them to testify. Each one of these property owners states that a policeman was stationed outside their doors and they asked them to help and they weren't permitted to touch the looters or the people setting fires.

What answer do you have for that?

POLICY IN EFFECT

Mr. MURPHY. Well, Mr. Chairman, those instructions would not be in accordance with the policy of the Department. I was hoping, Mr. Chairman, that after Mr. McGiffert and Chief Layton had an opportunity to express some of the thoughts he has about the problem, he has been closer than I have to the police side of the problem because I have had the Fire Department as a responsibility and the Office of Civil Defense, as well; but I can say to you, Mr. Chairman, that there is no policy in the Police Department, and there was not during the disorder any policy, about not interfering with looting.

There was no policy of leniency. There was no policy of permitting this thing to blow itself out for a few hours. That was not the policy, sir. The policy very clearly was that all arrests that were humanly possible to be made would be made.

I think the tremendous number of arrests is some evidence of that.

Now, this policy was a policy developed by Chief Layton, and I would like, with your indulgence, Mr. Chairman, to give him an opportunity to explain what instructions had been given to his staff and personnel, even before my coming into the present position.

Mr. ABERNETHY. Mr. Murphy, before you call on the Chief to make a statement about a question that the Chairman asked you, isn't it a fact that either you or someone above you, or both of you, made the policy, and the Chief didn't have anything to do with it?

Mr. MURPHY. That is incorrect, sir.

Mr. ABERNETHY. Who made the policy?

Mr. MURPHY. Which policy?

Mr. ABERNETHY. That which you just referred to.

Mr. MURPHY. This policy about arresting the looters, sir?

Mr. ABERNETHY. About the handling of the situation in the District, the looters, the shooters, the window-breakers, the robbers, thieves, arsonists, and so on. Who made it?

Mr. MURPHY. Who made the policy?

Mr. ABERNETHY. Yes, sir.

Mr. MURPHY. Mr. Congressman, there was at the time of my taking this position a policy in the Department which I reviewed and I found very satisfactory.

Mr. ABERNETHY. In other words, this policy has some prior date before either you or Chief Layton came in?

Mr. MURPHY. I don't know about before Chief Layton. Chief Layton has been in office for—

Mr. ABERNETHY. It was before you came?

Mr. MURPHY. Yes, sir.

Mr. ABERNETHY. It was a policy that directed the police on the streets to stand by and watch the people break these windows and march out of those stores with the merchandise; is that it?

Mr. MURPHY. No, sir; that is not the policy.

Mr. ABERNETHY. That is what happened.

Mr. MURPHY. Sir, if I may explain the situation—

Mr. ABERNETHY. You were asked to explain it; no one asked the Chief to explain it.

Mr. MURPHY. I will be happy to explain that policy.

Mr. Congressman, as I attempted to make clear earlier, at any particular time there will be on the streets of the city a limited number of police officers; and when suddenly large numbers of people violate the law, somewhat spontaneously, without adequate warning to the police, it is a human impossibility for that police officer to arrest everybody who is violating the law at that particular time.

He is just overwhelmed. It is a numbers problem, sir. What a police officer must do in a situation like that is to exercise extremely good judgment, as a police officer must exercise extremely good judgment day after day in dealing with the difficult problems of human behavior.

Mr. ABERNETHY. May I interrupt you there?

Mr. MURPHY. Yes, sir.

Mr. ABERNETHY. These are dangerous people, aren't they? Or they wouldn't do these things?

Mr. MURPHY. Anyone, sir, who would break a window or loot is dangerous.

Mr. ABERNETHY. Or violate the law, throw rocks, or burn; they are dangerous people?

Mr. MURPHY. Yes, sir.

Mr. ABERNETHY. Don't they think they should be treated as dangerous people?

Mr. MURPHY. Well, sir, I think any violation of the law is a dangerous situation because—

Mr. ABERNETHY. Well, a trespass is an offense. We are not just speaking of any violation. We are talking of arson, looters, rock throwers and thieves.

Mr. O'KONSKI. And snipers.

Mr. ABERNETHY. And snipers.

Mr. MURPHY. Well, in law enforcement, I am happy to say, Mr. Congressman, that sniping was not a problem here of any significance. We have been unable to confirm an actual sniping incident in accordance with the definition of sniping.

Mr. ABERNETHY. Well, your position on that is a rather soft one, isn't it?

Mr. MURPHY. No, sir.

Mr. ABERNETHY. Haven't you stated that before these people would be directed or authorized, or before you would direct or authorize an end to this sort of thing by shooting, that you will resign your office?

Mr. MURPHY. No, sir. I did not say that. I would like to explain my position.

Mr. ABERNETHY, the law of lawful use of force by a police officer is not a simple law. It is one of the most difficult subjects we have to teach police officers.

Mr. ABERNETHY. Well, they are familiar with the law. We are all familiar with that. We are familiar with it. What was your policy and what did you say?

Mr. MURPHY. My policy was a confirmation of Chief Layton's policy. The law and the policy of the Metropolitan Police Department on lawful use of force has been well established, has been in writing at least since 1954. I have reviewed that policy, Mr. Abernethy, and it is a sound policy it seems to me. It corresponds very closely with the policy of the Federal Bureau of Investigation.

I think it provides for our police officers the kind of guidelines that can be of most assistance to them in a difficult situation, for use of force, of deadly force; and in those situations, I must make clear, Mr. Abernethy, that we cannot remove the discretion of the police officer.

It is important that we create policy and give him guidelines, but the ultimate decision to take a human life is that police officer's.

Mr. ABERNETHY. Now, I want to ask you this question: do you think that all that was done—you are listening to me, aren't you?

Mr. MURPHY. Yes, sir.

Mr. ABERNETHY. Do you think that all that was done was all that could have been done and should have been done during the recent troublesome riots and burning they had in this town?

Mr. MURPHY. Some mistakes were made, but I am generally satisfied—

Mr. ABERNETHY. You are satisfied?

Mr. MURPHY. That the response of the Police Department in those difficult circumstances was a good response.

Mr. ABERNETHY. So you are satisfied with the horror left in this city and the loss all of the merchandise that was carried off and the destruction? You are satisfied with the way it was all handled?

Mr. MURPHY. No, sir. I am terribly dissatisfied with the destruction.

Mr. ABERNETHY. Well, you are satisfied with the general outcome of it?

Mr. MURPHY. I am satisfied with the police response, sir.

Mr. ABERNETHY. With the police response?

Mr. MURPHY. Yes, sir.

Mr. ABERNETHY. Were the policemen given any directions not to go armed? Were they armed or unarmed?

Mr. MURPHY. Yes, sir. Policemen were armed on and off duty.

Mr. ABERNETHY. Were they given any directions about the use of the arms during the riots, from you?

Mr. MURPHY. No, sir; none, specifically.

Mr. ABERNETHY. None at all? You had no meetings with anyone?

Mr. MURPHY. No, sir. The policy of the Department—

Mr. ABERNETHY. You said, none, specific. What do you mean by "specific"?

Mr. MURPHY. As I said earlier, Congressman, I reviewed the policy of the Department, the plans of the Department, found them excellent and supported them.

Mr. ABERNETHY. Do you disapprove of the policy that has been enunciated by the Chief of Police and city officials in Miami, Fla.

Mr. MURPHY. I am not certain what specific policy you refer to.

Mr. ABERNETHY. You don't know anything about it?

Mr. MURPHY. I know considerable about the City of Miami and the Chief of Police of Miami.

Mr. ABERNETHY. Well, are you familiar with the policy?

Mr. MURPHY. I disagree with parts of it.

Mr. ABERNETHY. What parts do you disagree with?

Mr. MURPHY. I disagree with some statements about use of force, which publicly reported statements of the Chief, which sounded inflammatory to me. I disagree with some of the actions taken by members of that Police Department which have resulted in prosecution.

Mr. ABERNETHY. You say it sounded inflammatory. Has anything inflammatory grown out of that policy since it was enunciated? On the contrary, hasn't it been pretty quiet and respectable down there?

Mr. MURPHY. I don't know that to be a fact, sir.

Mr. ABERNETHY. You don't? You haven't seen any news reports in the papers about it?

Mr. MURPHY. As I stated previously, frequently newspapers do not give an accurate picture of the crime problem.

Mr. ABERNETHY. You are not basing your opinion of the situation there on what you have seen in the newspapers or on television. You are basing it on something else?

Mr. MURPHY. No, sir.

Mr. ABERNETHY. You don't disagree with what you saw in the papers about Miami, do you?

Mr. MURPHY. I am not certain, Congressman, that I understand.

Mr. ABERNETHY. Did you see anything in the papers about the situation in Miami and how it had been quieted, and cleared up?

Mr. MURPHY. I have read some stories to that effect, but I don't accept that at face value, Congressman.

Mr. ABERNETHY. You don't know whether it is quiet down there or not?

Mr. MURPHY. I have heard conflicting reports, sir.

Mr. ABERNETHY. I see.

I think it ought to be put on the record that this town is in one heck of a shape. People are not coming to this town. Restaurants are suffering for a lack of business. Hotels are suffering. This town is in trouble, and it is in trouble because of what took place here a few weeks ago and what may very probably take place again.

That concerns you, doesn't it?

Mr. MURPHY. Yes, sir; very much.

FUTURE PROTECTION

Mr. ABERNETHY. All right. Now, you in the District Government are now asking for more taxes. What are you going to give these people for the additional taxes that they pay in the way of protection of their property?

What are you going to give them?

Mr. MURPHY. We are going to give them improved police services, sir.

Mr. ABERNETHY. In what respect?

Mr. MURPHY. Well, this Police Department, like most police departments in the United States, is undersupported. It does not have adequate scientific and technological capabilities.

Mr. ABERNETHY. Does it take anything scientific to enable one to go out and arrest a man who is throwing a brick through a window and walking off with the merchandise? What science do you need, except somebody willing to pick him up and put him in jail?

Mr. MURPHY. What you would probably need, sir, is good communication and lack of response.

Mr. ABERNETHY. The only communication he needs is, "Buddy, you are under arrest." Isn't that all he needs?

Mr. MURPHY. When it occurs in the presence of the officer, sir.

Mr. ABERNETHY. When not in his presence?

Mr. MURPHY. Then, as far as I would know, sir, he would need communication and mobility to respond. The police officer would need these things.

Mr. ABERNETHY. Do you anticipate any trouble any time soon? Are you anticipating trouble?

Mr. MURPHY. I can't say that I anticipate it, but we are prepared and we have planned as thoroughly as we know how to be ready night and day—to be ready for any eventuality.

Mr. ABERNETHY. But you don't generally prepare unless you anticipate, do you?

Mr. MURPHY. I think wisdom dictates that we should prepare. This whole nation is troubled today.

Mr. ABERNETHY. Do you know of anyone who is going to be completely and absolutely protected, besides those at the Capitol and at the White House and Federal buildings?

Mr. MURPHY. Completely and absolutely protected, sir?

Mr. ABERNETHY. Yes?

Mr. MURPHY. Do you mean with 15,000 troops?

Mr. ABERNETHY. I don't know what with. I am just asking if the people of this community could be assured that their property and their lives and limbs will be satisfactorily protected as are the Capitol and the White House grounds.

Mr. MURPHY. I am sorry, Mr. Congressman, but I wouldn't know how to estimate how many troops would be required for that.

Mr. ABERNETHY. You are against discrimination. You would protect John Doe over on 14th Street just as quickly and readily as you would Capitol Hill and the White House?

Mr. MURPHY. I would like, sir, to be able to protect all citizens, but the White House and the Congress are special places.

Mr. ABERNETHY. I don't know that they are any more special than anybody else. When you were speaking of the papers a while ago, some of the things I read in the papers, I have my doubts about that.

That is all.

Mr. FRASER. Mr. Chairman, I notice that there are a number of members here, and the time has been going. I wonder if we might, from now on, be able to have the five-minute ruling for us?

The CHAIRMAN. All right. I would like to ask Mr. Murphy: what are the policemen doing about all these telephone calls which people who are in business in the District of Columbia have been receiving, telling them that they will be next on the list to be burned out? Are you doing anything to stop this harrassment?

Mr. MURPHY. Yes, Mr. Chairman. We have taken several special steps. During the disorder, we established an arson squad in the Department, and that has been working specifically on this problem. Chief Layton has increased the use of patrol manpower by approximately 20 percent and the precinct captains have been directed to give very special attention to this problem.

We have been meeting with many of the businessmen. We have communicated through some of the groups of businessmen and otherwise, including the press, the fact that calls, even to our Headquarters or directly to the precinct captains, will be responded to promptly, Mr. Chairman. We have been doing that.

The CHAIRMAN. Don't you think it would be much better to have these policemen guarding some of these establishments where real threats are being made rather than handing out parking tickets? I understand there were several hundred thousand parking tickets given out during the riot. That takes an awful lot of time. These boys ought to be protecting the people's establishments, it seems to me.

Mr. MURPHY. I know Chief Layton has stepped up the patrol activity and surveillance activity at specific locations, Mr. Chairman. Maybe Chief Layton could respond to that.

The CHAIRMAN. The only other question I want to ask at this time is: I wonder why you were so late to call on the White House, or whoever you called on, for assistance. The troops didn't arrive until late Friday. Wasn't that after the city burned up, before you called on the Army for assistance?

Mr. MURPHY. No, sir. No, sir; I went to the Pentagon at 3:00 o'clock Friday morning and attended a lengthy conference with high-level officials of the Defense Department and the Department of Army. I went again to the Pentagon shortly after noon on Friday.

The response that we received from the Federal Government was as complete as I know that it could be. Unfortunately, there just is a very large problem involved in the movement of troops. We were in very close communication with the Department of Defense officials throughout the problem; and I found them to be responsive to every bit of information we gave them about how the situation was.

The CHAIRMAN. Thank you.
Mr. Nelson?

POLICE PRECINCTS

Mr. NELSEN. Mr. Murphy, it seems to me that you suggested a consolidation of police precincts sometime back. What has happened to the consolidation?

Mr. MURPHY. Yes, Mr. Nelsen.

At the time that I took this position, Chief Layton had proposed a consolidation of precincts. We are all strongly in support of it in the Police Department, and myself. The matter did come up before the City Council, and some citizens appeared at a public hearing and raised objections to this.

My own view continues to be a very strong view that we should move ahead with the consolidation of precincts as rapidly as possible, because it would provide us a large number of additional police officers on the streets. Now, Chief Layton has assigned one of his inspectors to discuss with community groups and citizen groups the problems and the merits of this proposal.

Chief Layton advised me only yesterday that he has had some success in winning more support for this. I hope, Mr. Congressman, this being a very strong hope, that we could begin promptly.

Mr. NELSEN. It is my understanding that the City Council vetoed the idea?

Mr. MURPHY. No, sir. They still have it under consideration, and Mr. Hechinger, the Chairman, is now considering what action to take about it.

Mr. NELSEN. One more question.

It is reported that Mr. Carmichael brandished a gun on the Thursday nite of the riot and advised his friends to go home and get a gun and come back. Now, what happened to the investigation of Mr. Carmichael, and who is handling the investigation?

Mr. MURPHY. Mr. Nelsen, our Department, the Police Department, and the Federal Bureau of Investigation have worked together on this matter. The investigation is still in progress. I would prefer not to disclose all of the developments.

Mr. NELSEN. To be brandishing a gun is a violation of the law, is it not?

Mr. MURPHY. Well, Congressman, yes. I am not sure that the evidence concerning that fact is clear evidence. There may be conflicting evidence about that.

Mr. NELSEN. Are we assured that the investigation will continue and that action will be taken if a case is made on Mr. Carmichael?

Mr. MURPHY. It is still a very active investigation.

POLICY IN EFFECT

Mr. NELSEN. One more question.

Dealing with the flexible response policy—isn't it true that this became a policy of the Police Department before your time, but it originated in the Justice Department?

Mr. MURPHY. Congressman, we have dealt—I have dealt since shortly after taking this position, very closely with Military authorities. The Attorney General has been assigned some responsibility in

the decision-making process. Mr. McGiffert will understand that more clearly than I do.

We communicated our reports, our situation reports, directly to Military authorities. How the Attorney General came into the picture is something I am not thoroughly clear on. I am sorry, I can't help you with that.

Mr. NELSEN. Now, the theory behind the flexible response is that it would save lives; property would be secondary. But isn't it also true that the flexible response policy may be directly responsible for the crime and arson that has followed in the wake of the riots? I understand we have had many incidents of arson, extortion and thievery almost every day and every night since the riots.

So perhaps the flexible response policy seems to have accelerated the loss of life and limb more than it has prevented it. I think this should be taken into account. I might mention the Army. When troops are carrying guns, and not even loaded guns—it seems to me this is rather a joke. Why have a gun at all? This I can't understand.

Why send them down there with an empty gun? It seems to me this is rather amusing.

Mr. MCGIFFERT. They carry ammunition, Mr. Nelsen, and they can load and fire on the instructions of an officer.

Mr. NELSEN. No more questions.

The CHAIRMAN. Mr. Dowdy.

Mr. DOWDY. Mr. Murphy, I am curious about just what your views are. From what you said here this morning, you are apparently laying the blame on Chief Layton for everything that has happened around here, and you had nothing to do with it.

Just exactly what are your views?

Mr. MURPHY. Sir, as Director of Public Safety, I am responsible for the direction and control of Police Department, Fire Department, and Office of Civil Defense.

Mr. DOWDY. Chief Layton is responsible for all of this stuff. Why haven't you done something about it instead of sitting there telling us he is to blame for it?

Mr. MURPHY. I certainly never intended to imply that, Congressman. I have the highest regard for Chief Layton. I have stated publicly many times, and it is my conviction, that Chief Layton is one of the finest police administrators in this nation.

I tell you, sir, that I would not have accepted this position with Chief Layton as the incumbent Chief of Police if I did not have this great respect for him and this fine Police Department, which he deserves much of the credit for developing in the past few years.

Mr. DOWDY. Now, you state here, contrary to what has been in the newspapers, radio, and television at the time, that the police were not instructed not to arrest these looters. In other words, reporters tell me that you are giving this "the light touch," and that was while the looting was going on.

Mr. MURPHY. I am not familiar with that quotation, sir.

Mr. DOWDY. Were you misquoted?

Mr. MURPHY. I am not familiar with the quotation.

Mr. DOWDY. Were you misquoted?

Mr. MURPHY. I can't say, sir. If I could see the whole article—

Mr. Dowdy. On the Thursday night that this stuff started, at about 9:30 p.m. it stated that Murphy finished his 16th news briefing by Lieutenant Fry—then it goes on down here and it says: "Murphy tells a reporter, We are giving it the light touch. There are no great numbers of men visible and he drives off in an unmarked Ford."

Now, did you tell the reporter that, "we are giving it the light touch"?

Mr. MURPHY. I have no recollection of making that statement, sir.

Mr. Dowdy. Was that your attitude that night?

Mr. MURPHY. No, sir. I don't believe in a light touch in police work. Police work is a very serious business and light touches do not accomplish submission.

Mr. Dowdy. Now, you came here in December, 1967, I believe.

Mr. MURPHY. Yes, sir.

Mr. Dowdy. You said that you checked over the provisions that were made for emergencies?

Mr. MURPHY. Yes, sir.

Mr. Dowdy. Did you find them to be adequate?

Mr. MURPHY. Yes, sir. We made some minor revisions and we intensified training, and we made some revisions in planning; but basically, they are adequate. All the time, they were building in, and Chief Layton had been building into his planning, knowledge gained from other cities and their experiences.

Mr. Dowdy. I won't attempt to ask you to do it now, but I want you to make a list for the record of the changes you made in the existing provisions and orders and improvements you made in them.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
June 27, 1968.

Mr. JAMES CLARK,
Clerk, House District Committee, U.S. House of Representatives,
Longworth Office Building, Washington, D.C.

DEAR MR. CLARK: This is to acknowledge your recent letter requesting me to enumerate any specific orders I issued or policies I established regarding the handling of civil disorders.

Following my appointment as Director of Public Safety I reviewed all existing policies and memoranda of the Department pertaining to the prevention and control of civil disorders and my overall reaction to these materials was one of approval and praise.

During the months preceding the disturbances in early April I attended many meetings with Chief Layton and other officials of the Department and participated in the planning discussions. My best recollection is that all the suggestions and comments were in the nature of minor refinements upon the existing plans and I in no way substantially modified any major policy decision.

Please accept my apologies for the delay in responding to your inquiry.

Sincerely,

PATRICK V. MURPHY.

ARRESTS

Mr. Dowdy. Now, somebody was responsible for these policemen being ordered not to make arrests. Do you have any idea who it was?

Mr. MURPHY. No, sir. As I stated earlier, our police officers made a very large number of arrests.

Mr. Dowdy. While this looting was going on, this first night?

Mr. MURPHY. Yes, sir. We made arrests.

Mr. Dowdy. Now, maybe you don't keep up with things very well. I have here a report of the arrests that were made all during the month of April.

Mr. MURPHY. Yes, sir.

Mr. DOWDY. By day.

Mr. MURPHY. Yes, sir.

Mr. DOWDY. And this looting occurred on the evening of April 4. On that day, the whole day, there were only 13 people arrested for housebreaking, and only six for larceny. That was less than was arrested the day before.

Mr. MURPHY. Sir?

Mr. DOWDY. It was demonstrated on television. People, hordes of people, were looting, housebreaking, stealing, and there were only 13 arrests.

Mr. MURPHY. Sir, there were other arrests that were made as well. If we could clarify some of that for you.

Mr. DOWDY. All right. There were 131 arrests made that whole day, for everything. On the day before, April the third, 154 arrests were made. Now, this day, April 4th, the day the trouble broke out, there were less arrests than there had been the day before, and for any day during the month.

Mr. MURPHY. I don't have those statistics in front of me, Congressman.

Mr. DOWDY. Well, we have them here from the Police Department, as well as report from the Fire Department.

(See tabulations below.)

ARRESTS BY THE METROPOLITAN POLICE DEPARTMENT, GOVERNMENT OF THE DISTRICT OF COLUMBIA

By Day, March 30 through April 14, 1968

	March		April													
	30	31	1	2	3	4 ¹	5	6	7	8	9	10	11	12	13	14
Criminal homicide.....	1	1	1	1	1	1	1	1	1	1	1	2	2	1	1	1
Rape.....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Robbery.....	9	13	6	3	6	5	8	2	3	6	5	2	3	4	2	2
Aggravated assault.....	5	4	11	11	3	3	3	6	3	5	3	2	3	2	4	3
Housebreaking.....	4	13	12	5	16	13	460	276	86	24	14	25	30	31	13	22
Larceny.....	14	3	21	14	22	6	15	6	1	2	2	7	9	7	1	3
Auto theft.....	3	5	1	2	1	6	3	6	3	4	3	3	8	7	1	1
Arson.....							3		1			1				1
Curfew violation.....							253	1,116	1,024	781	470	165	164	76		
Other felonies and misdemeanors.....	214	143	133	133	106	98	429	340	302	131	105	186	174	142	181	141
Total.....	250	187	185	175	154	131	1,172	1,753	1,421	953	603	391	396	262	202	174

¹ The riots and looting started during the evening of Thursday, April 4, 1968.

DISTRICT OF COLUMBIA FIRE DEPARTMENT

Total number of fires between March 30, 1968 and April 14, 1968, both dates inclusive..... 1,180

Number of BUILDING fires between March 30, 1968 and April 14, 1968, both dates inclusive..... 668

BUILDING FIRES

	1967	1968
January.....	289	294
February.....	311	329
March.....	320	339
April.....	295	880
Total.....	1,215	1,842

False alarms

March:		
30	-----	37
31	-----	29
April:		
1	-----	23
2	-----	17
3	-----	18
4	-----	31
5	-----	13
6	-----	12
7	-----	16
8	-----	27
9	-----	20
10	-----	29
11	-----	28
12	-----	33
13	-----	31
14	-----	27
Total	-----	391

DISTRICT OF COLUMBIA FIRE DEPARTMENT
BUILDING FIRES—MARCH 30, 1968 THRU APRIL 14, 1968

March:		
30	-----	18
31	-----	12
April:		
1	-----	10
2	-----	15
3	-----	8
4	-----	13
5, 6, 7	-----	488
8	-----	9
9	-----	4
10	-----	19
11	-----	23
12	-----	16
13	-----	13
14	-----	20
Total	-----	668

MR. FRASER. Mr. Chairman, would the gentleman yield? The disturbances of the fourth of April started at 8:30 in the evening, or actually, at 9:30 was the first report. So those arrests occurred in 2½ hours, Mr. Chairman.

MR. DOWDY. This was the time to start making arrests, right then.

MR. FRASER. They did make arrests, as shown in the Commissioner's report on the civil disturbances, which indicates the first arrest was made at 11:44 on April 4th for looting, less than an hour and a half after the first report came in.

MR. MURPHY. Congressman, if I may explain. The booking process, taking persons arrested to a precinct and processing them and then booking, could have resulted very well in many of these cases being booked after midnight; because our people were so overwhelmed with the problem.

There was a considerable time lag in the booking process.

MR. DOWDY. The booking shows the hour they were arrested. Some of you may be satisfied. Some of the members of this Committee may

be satisfied with what happened on that day and the whole thing, but I am not.

Mr. JACOBS. Mr. Chairman, would the gentleman yield? Will you specify which member of the Committee is satisfied with these riots?

Mr. DOWDY. I said maybe, I don't know.

Mr. JACOBS. I know of no member of this Committee that is satisfied.

Mr. DOWDY. Well, I am not.

Mr. ADAMS. And neither am I.

POLICY IN EFFECT

Mr. DOWDY. There is one other thing. You said that you disagree with the action taken by the Miami Police Chief in ordering them to get tough down there. You don't know what the results of it were.

Mr. MURPHY. I am not sure, Congressman, that I said that, that I disagreed with "get tough." I think I said that I disagree with some of the policies that I have heard reported in the press.

Mr. DOWDY. The Chief there said, when the looting starts, he wanted the shooting to start. How do you feel about that—when looting starts, the shooting starts?

Mr. MURPHY. Well, I think I come back again to the policy of lawful use of force, especially deadly force. I think it is awfully difficult to attempt to simplify that extremely difficult situation that every police officer dreads having to use extreme and deadly force.

Mr. DOWDY. Certainly, we all regret it. It becomes necessary that we are going to have to have some force used to enforce the law. People have a right of self defense, to protect their lives and their property.

Mr. MURPHY. Yes, sir.

Mr. DOWDY. Now, the Government supposedly has assumed that duty, and having assumed that duty, don't you think that the officers should pursue it and protect people and their lives and their property?

Mr. MURPHY. Yes, sir. Defending property or defending lives is something I think policemen are all in agreement on. There are some extremely difficult problems about fleeing, especially juveniles or women, and depending upon the value of the property and the number of innocent bystanders who may be in the vicinity; police weapons can travel—the bullets from a police revolver can travel a terrible distance.

I recall when I was in New York City a few years ago, a police officer had the misfortune at firing a shot at 34th Street and Seventh Avenue, and an innocent bystander was killed. So, realizing the difficulty and the inaccuracy of the police weapons, Congressman, police officers exercise that judgment most judiciously.

Unfortunately, we just don't have other means. We look forward to the day when we will have nonlethal weapons, and we will be able to bring people down without killing them. Unfortunately, we don't have them yet.

Mr. DOWDY. Now this police chief down there said that he was taking these actions in behalf of the law-abiding majority of Miami's Negro citizens, where they were having a tremendous upsurge in crime. The figures are in on the result of that first five months of that "get tough" policy that they had down there; and they show that crimes in that predominantly Negro neighborhood are down nearly two-thirds after he announced a "get tough" policy.

Mr. MURPHY. Well, sir—

Mr. DOWDY. The law-abiding Negroes and white folks both appreciated his policy. Now, I understand that the Democratic Committee that decides where the nominating conventions are going to be—since they have settled things down in Miami—are thinking about reconsidering Chicago and carrying the Democratic Nominating Convention to Miami because they have got officials down there with courage enough to keep the peace.

Mr. MURPHY. Well, sir, I would only say that the reporting of crime is not an accurate science, and until those figures on reduction of crime are carefully reviewed, I would say we would have to withhold judgment on that. I certainly am for any policy, sir, and we are open to any suggestion about any method that will help us with the difficult problem we face.

Mr. DOWDY. The statistics are not accurate? Are you saying that your statistics are not accurate either?

Mr. MURPHY. They are not totally—as accurate as we can make them—but crime reporting is far from a science. Much of what we read about crime increases has to be understood in the context of the reporter system. As the National Crime Commission pointed out, there is a great weakness in this area. Here in the District, we are going to do something about it.

Mr. DOWDY. I think we are getting away from the question. I have just one other thing I would like to know.

I think, of course, we should find out from some of these officers on the streets what their orders were and if what you say is true, that they were not ordered not to arrest anybody, then, there are a lot of policemen that ought to be put off the force for not having done their duty that night.

Mr. MURPHY. I heard Chief Layton say on Saturday, sir, that if we have the evidence against any police officer who failed in his duty, he will be disciplined.

Mr. DOWDY. I know, but if he disobeyed orders and arrested somebody that he had orders not to arrest, it would be a different situation.

Mr. MURPHY. Any official who issued such an order would, himself, have been in violation and he would be held to account, sir.

Mr. DOWDY. Does that include you?

Mr. MURPHY. Yes, sir.

Mr. DOWDY. All right. I just want to be sure.

Mr. BROYHILL. I realize I am sitting out of line here, but I would appreciate it, Mr. Chairman, if I could ask a question at this time.

Mr. Murphy, I appreciate your sincerity in doing all you can to restore law and order in Washington, even though I may disagree with some of your methods. How many actual deaths occurred as a result of the civil disorders we had in the month of April?

Mr. MURPHY. I believe nine of them were attributable to the disorders, sir.

Mr. BROYHILL. You don't include the deaths that have occurred since the riots, such as the murder of a storekeeper that occurred yesterday? This morning's paper called attention to the fact that this is the fourth such slaying or murder within the last 15 days. You don't consider that as a result of the upheaval that is existing here in Washington?

Mr. MURPHY. Sir, the three deaths in the city and the one in Prince Georges County within the past two weeks may, in some sense, be

attributable. I understood your question to relate to the disorder period earlier in the month. It is awfully difficult to attribute cause. We are all disturbed about some crime patterns that have developed since the disorder. It is difficult to attribute the cause.

We have a terribly serious crime problem in the city for the past several years. How much of the crime has occurred since the disorder falls into the old pattern—

MR. BROYHILL. The reason why I am trying to get into my question is because, when we consider the nine or ten deaths that occurred right at the time and the deaths which have occurred since then, and then the loss of business, not just the destruction of property itself (over 900 buildings, we are informed) and the looting of property itself, but the loss of business since then all over Washington—as Congressman Abernethy brought up about the tourists being elected to come to Washington and the people being elected to come to Washington to shop and eat—really, tens of millions of dollars that is lost in revenue, can we actually consider what we referred to as exercise of restraint during that period of time? How can we consider it a success? I know that has been stated on numerous occasions, that it was a success. The Police Department has been commended for the way they performed their duties under restraint, and I join with the others in commending the Police Department for that; but how can we really say that it was a success in any way when we are having a continued loss of business and a continued loss of life, even though the nine or ten lives—it is certainly not an insignificant loss of life. In what way could it have been much worse than what it has been—just more lives lost immediately at the time?

MR. MURPHY. As I attempted to say earlier, Congressman, it is extremely difficult for me to say anything about success, or anything being good after this gross tragedy that has occurred in our Nation's Capital. It has been such a tragic experience that we found difficulty in commending our officers—our command officers—during the disorder and since. So many of them have said to me, "But I can't feel good about it." None of us can, Congressman.

It has been a terrible tragedy. The loss to date has been great, and we are all disturbed about the losses we foresee in the days ahead.

MR. BROYHILL. I know you don't feel good about it, Mr. Murphy. I didn't mean to imply that.

MR. MURPHY. I am sure you didn't.

MR. BROYHILL. I am referring to the phrase "restraint". The word "restraint" is used as if the method employed were a successful one.

MR. Chairman, I am watching the clock. I know there is a five-minute rule. I have just one more question.

I may be late on this point, Mr. Murphy, but I think this is really the thrust of the problems we have here. You have already used the phrase on other occasions, and perhaps that is exactly what I am doing here at the moment.

How would a policeman go about stopping a person who is engaged in committing an act of arson, or who is about to commit an act of arson? How would he go about stopping him? If he asked him to stop, or told him to stop, and he refused to stop—

MR. MURPHY. Shoot him, sir. Shoot him.

MR. BROYHILL. Shoot him?

MR. MURPHY. Yes, sir.

Mr. BROYHILL. Well now, in a case of looting—

Mr. MURPHY. If that were the only way to stop him, the ultimate force would certainly be warranted.

Mr. BROYHILL. You would shoot him.

Now, I am glad you said that, because recently when other public officials make reference to the fact that it may be necessary to shoot a person who takes the law into his own hands, he is promptly charged by the bleeding hearts of this nation with being callous and reckless insofar as human life is concerned. I don't think we have to choose sides here among civilized people in the matter of regard for human life. But some of us feel, Mr. Murphy—getting back to this word "restraint"—that in regard to persons committing or about to commit an act of arson, looting, or the destruction of property—and I agree with you that this is a rather sensitive area as far as the judgment of the policeman at that particular time is concerned—if that person knew that there was a pretty good chance of being shot on the spot, it seems to me that that would go further in the exercise of "restraint" on the part of such people than would any other type of scientific approach we could use.

Mr. MURPHY. Well, the Police Department here used a great deal of force during the disorder, Congressman. They used tear gas most effectively. Many arrests were able to be made as a result of that tactic. The men had gone through a considerable amount of training with the use of it, and they used it most effectively.

I agree with you that we cannot, we just cannot permit the impression to get about that there is leniency or that any of these things are condoned. That is the reason why I referred earlier to the fact that we are pleased that we made so many arrests and that it is with Mr. Bress' cooperation that we are going to get convictions.

Mr. BROYHILL. Mr. Murphy, I hope that the press will let it be known that you, as the Commissioner of Public Safety, have stated to this Committee this morning that in the event a person is in the act of committing or about to commit an act of arson, looting, or stealing, and is ordered by an officer to cease at the moment, he can and probably will be shot if he does not comply.

I think that if they know this could happen, it might go a long way toward making some of these people behave.

Mr. ABERNETHY. He hadn't said he would so instruct them.

Mr. BROYHILL. That is the reason I am repeating the statement. I don't want to draw an inference, but he told me that if a person is about to commit an act of arson, or is in the process of committing such an act, and ignores an officer's command to stop, the officer could shoot him. The same thing would apply to an act of looting or any action of destruction of property.

Mr. MURPHY. Well, again, the judgment of the officer would have to come to bear on these facts, Mr. Congressman. Arson is a vicious crime. We lost lives of innocent people who lived above stores in this city because a vicious arsonist had thrown a fire bomb into a store. Whatever his motive may have been, if only to loot, still elderly people lived in apartments above those stores.

I am sure no policeman—I wouldn't have to give any credit or instructions—I am sure that no policeman would hesitate if an arsonist stood in front of a store with an apartment over it and a fire bomb poised in his hand, and that officer said, "Drop it," and the officer was

20 feet from him and he refused to drop it—I am sure that officer would shoot him. That is what he should have done.

Mr. BROXHILL. I am afraid the violators have gotten another impression. Certainly, in view of the statements made by the Attorney General in response to what Mayor Daley said, I think the American people just misunderstand how firm the policeman here in Washington can be, and probably would be in an instance such as I have mentioned.

Mr. MURPHY. Yes, sir.

Mr. BROXHILL. Do we need more policemen, Mr. Murphy?

Mr. MURPHY. Congressman, we were short about 385 officers at the time I took this position; and I am happy to report to you that with your cooperation and other cooperation, we have been able to reduce that to 164 men at last count.

So we have only 164 vacancies now, and hope to reduce it further—all the way, sir.

Mr. MATHIAS. Mr. Chairman, I would like to address a question to the Chair.

Mr. BROXHILL. I will yield the floor if that is what you are getting at.

Mr. MATHIAS. I am just wondering—obviously, the five-minute rule isn't going to work for us here. There are 15 minutes left and I am sure more than three members want to address some questions to Mr. Murphy.

The CHAIRMAN. We will go as long as we can, until we have a quorum call, and if we can't get through, we will just have to come back another day.

Mr. Whitener.

Mr. WHITENER. Mr. Murphy, would you, as an individual, shoot a burglar who is breaking through the windows of your home or an arsonist who is engaged in the act of setting fire to your place of business?

Mr. MURPHY. Yes, sir; if I were protecting my home or if I were a businessman and protecting my place of business, I would have no hesitation about using ultimate force. As I say, if that were the only way in which I could make the arrest. I would use all means short of the ultimate force, but if there were no other possibility of making that arrest, but to use ultimate force, I would not hesitate to use it.

Mr. WHITENER. But you have intimated that this would require the exercise of a great deal of discretion on the part of the police officer when he was protecting your house or your place of business.

Now, that officer, in protecting the community, why could he not, without any hesitancy, exercise the same legal rights that you would exercise in the protection of your own life and property?

Mr. MURPHY. Well, sir, perhaps I should explain further. Even if my own home were being attacked and my wife and eight children were in that home, I would be gravely concerned about the line of fire of my shots, because I live in the neighborhood where homes are close together.

I would be gravely concerned about all of the circumstances and whether or not I could not arrest that individual without resorting to ultimate force. I wouldn't hesitate to draw my gun. I know this is a problem that so many of our good citizens have difficulty with. But, sir, I must make clear that we impose upon our police officers a tremendous responsibility.

I indict the society for not supporting our police officers on whom we impose this responsibility. I know of no way, I know of no law enforcement leader, including Mr. Hoover, who has ever pointed out to us how we can eliminate this area of discretion of the individual officer.

I say to you that he has a more difficult decision to make than any professional and he must make a judgment in those difficult circumstances.

Mr. WHITENER. I suppose you saw an ad which appeared in the various Washington papers entitled, "Ben Brown is Dead"?

Mr. MURPHY. Yes, sir; and it troubled me.

Mr. WHITENER. Would you agree with the statement contained in that ad as follows: "Who is at fault? Certainly, not the majority of citizens, white or Negro, certainly not the majority of the poor, Negro or white, certainly not the policeman on the beat who must obey orders."

Now, is that an accurate appraisal of this community?

Mr. MURPHY. I don't know any of us who can shift the blame from ourselves. I think Government at every level——

Mr. WHITENER. I am not shifting blame. I am just asking you if you agree that this condition was not the fault of the majority of the citizens, white and Negro, or the majority of the poor, white or Negro, and not the policeman on the beat?

Mr. MURPHY. I am not sure what condition this is referring to, sir.

Mr. WHITENER. You read this ad, didn't you?

Mr. MURPHY. Yes, sir; but I don't recall it word for word.

Mr. WHITENER. Well, I don't believe I will take the time to read it, but they ask you the question: "Where is the safety, Mr. Murphy? Where is the protection, Mr. Murphy? Where will tragedy strike next?"

I believe that the average man who had a charge like this or a question like this propounded to him after nine or ten people had been killed, that this would burn in his mind pretty deeply.

Mr. MURPHY. It does burn in my mind.

Mr. WHITENER. All right. You said you didn't remember.

Mr. MURPHY. I don't know the condition that is being referred to that the blame is asked to be put upon.

Mr. WHITENER. All right. Did you issue any statement in response to it?

Mr. MURPHY. No, sir. I met with representatives of the Liquor Dealers' Association both before and since the disorder and this tragedy and expressed our concern, and realized that it is a high hazard industry, and we will do and have done all in our power to give protection to the small businessman.

Mr. WHITENER. Well, I wonder, since you came from New York, if you are familiar with the recent Act of the Legislature there in enacting the law which is commonly referred to as the "Shoot to kill" law?

Mr. MURPHY. I know that the law was changed last year, Mr. Congressman. The circumstances under which a policeman——

Mr. WHITENER. Has it changed this year?

Mr. MURPHY. Yes, sir. It has changed back partially to where it was previously. New York, last year under its new Constitution, had developed a policy which was more restrictive. I think it would be

fair to describe it that way—more restrictive upon the police than the law in most States and perhaps all other States. And there was a negative reaction to that change.

That law has now moved back somewhat to where it was previously.

Mr. WHITENER. Which gives the citizen a greater right to protect his property and himself without accountability to the criminal courts, doesn't it?

Mr. MURPHY. Yes.

Mr. WHITENER. Well, I have a copy of that law in my office. If you haven't seen it, I would be glad for you to have a copy of it.

Let me ask you this question: what would be your comment about this statement, which I will read to you?

Contemporariness says that police leniency during mass riots and destruction in the city saves lives and keeps communication open between authority and protestors. History says ponder this carefully, because if the leniency leads to even greater riots, far more lives will be lost in the end, the communication will cease altogether, and authority will be forced to use the iron hand. History is pretty certain that any given community will prefer tyranny to anarchy if it comes to that choice, because in a state of anarchy, everyone is helpless.

What would be your comment on that thesis?

Mr. MURPHY. I really would like to take more time to think about it, Congressman.

Mr. WHITENER. Well, he is saying that if you enforce the law laxly at the outset of the disturbances that you are likely to have more disturbances and more lives lost in the end, and that the public may well be forced to decide between tyranny and anarchy, and they will always go to the side of tyranny because in anarchy everybody is helpless.

Mr. MURPHY. I would like to say this: I am opposed to laxity in the enforcement of law, and disorders otherwise.

Mr. WHITENER. Well, was the statement in the Washington Post of Friday, April 5th, an accurate statement when it said this:

"Police initially stayed clear of the immediate area, following Public Safety Director Patrick V. Murphy's 'on the street' order, 'Keep cool and pull away from any imminent confrontation.'"

Mr. MURPHY. That's not accurate. For a period of a very few minutes I personally directed officers to leave one intersection, but I am happy to report, Congressman, that within a very short period of time—14th and U, sir—

Mr. WHITENER. What was going on at the time?

Mr. MURPHY. The policeman by radio reported to me, I was a block away, that rocks and bottles were being thrown at them and hundreds of people were in the street behaving violently. I directed them to meet me one block away, and within a very short period of time, sir, we were able to muster sufficient strength to move properly into that area again.

Mr. WHITENER. Well, at any time during your radio communication, did one of the police officers ask you to please get off the air so he could get a message through?

Mr. MURPHY. No, sir. I never heard such a message, sir.

Mr. WHITENER. But now, Mr. Murphy, you testified here on February 21, and you said, "We have been working very hard day and night on this problem, not only aids under me, but the National Guard, the Department of Justice, and the Military. We are prepared to handle it. I think that is what our responsibility is, to be prepared. We are confident. We are stepping up our planning and training to be prepared for whatever may come. But we are working as hard as we know how in preventing any kind of disorder."

Mr. MURPHY. Yes, sir.

Mr. WHITENER. Well, you said that to this Committee.

Mr. MURPHY. Yes, sir, I said that.

Mr. WHITENER. So your planning has completely failed, hasn't it?

Mr. MURPHY. Well, as with the Military, sir, when overwhelmed, we may not be able to accomplish what we would like to. I am still delighted that we did all the planning we did to be prepared, even for this terribly violent outburst.

TROOPS

Mr. WHITENER. Let me ask, Mr. McGiffert, since you represent the Military—were all the troops sent in here volunteers for this duty, or were some of them Selective Service men?

Mr. MCGIFFERT. They were units from various bases—

Mr. WHITENER. Brought in, regardless of whether they were Regular Army or Selective Service?

Mr. MCGIFFERT. That's right. They were brought in on the basis of whether they were in the unit or not which was earmarked for this purpose.

Mr. WHITENER. You sent young men in here who were involuntarily brought into the Military Service and told them they could not protect themselves from injury, but must limit the exercise of force to the protection of themselves from being killed?

Mr. MCGIFFERT. No. I think I said quite clearly, Mr. Whitener—

Mr. WHITENER. I thought your testimony earlier was that they were given orders not to load the guns without the consent first of a commissioned officer, or secondly, in the defense of their life.

Mr. MCGIFFERT. That's correct.

Mr. WHITENER. Life but not limb?

Mr. MCGIFFERT. Well, I think limb is included in that.

Mr. WHITENER. Well, you didn't say that. Now, what would a young man have done, a Selective Service boy from my District, who had been ordered into here, if there was no commissioned officer within a block of him?

Mr. MCGIFFERT. They are in radio communication, Mr. Whitener.

Mr. WHITENER. Every man had a radio?

Mr. MCGIFFERT. Every man did not have a radio, but the way the Military Organization operates, there is communications down to the small unit level; and those communications work very well, as a matter of fact.

Mr. WHITENER. Well, was this same order applied uniformly in the entire city?

Mr. MCGIFFERT. Yes.

Mr. WHITENER. On Capitol Hill?

Mr. McGIFFERT. Well, it applied to every member of the Military Forces.

Mr. WHITENER. Well, I am told on reliable authority that the Military personnel on Capitol Hill had their guns loaded and had instructions not to tolerate any foolishness. Now, is that contrary to your understanding?

Mr. McGIFFERT. I don't know whether they did or not, Mr. Whitener.

Mr. WHITENER. Well, you wouldn't deny that this was the situation?

Mr. McGIFFERT. No, for all I know, they were given permission to do so by an officer.

Mr. WHITENER. Under these orders, I take it that a soldier, seeing someone throw a Molotov cocktail into an occupied apartment house, would have no authority to fire upon that individual unless some commissioned officer gave him a direct command?

Mr. McGIFFERT. That's correct.

Mr. WHITENER. Who protected the people in the apartments who were living over the stores?

Mr. McGIFFERT. I think the principal way in which you bring situations like this under control is the introduction of massive numbers of people—law enforcement people, whether they be soldiers or policemen or both.

Mr. WHITENER. Well, I was told by people in authority that the Military personnel were booed as they walked up and down the street. So apparently this massive force didn't deter those. Did you get any reports to that effect?

Mr. McGIFFERT. No, I didn't. I think that it is quite clear from the record of the disturbance that once large numbers of personnel were on the streets, the incidents fell off very rapidly.

Mr. WHITENER. Well, may I ask you one other question. Who, in authority, has the responsibility for the direction of the troops not to load their guns until authorized by a commissioned officer and not to fire in defense of their lives? What individual made that order?

Mr. McGIFFERT. Well, this is part of the Army policy, Mr. Whitener.

Mr. WHITENER. I know, but you said you gave each soldier a card.

Mr. McGIFFERT. That's right.

Mr. WHITENER. This was an official order, so it had to have some authority.

Mr. McGIFFERT. That's right.

Mr. WHITENER. Who signed that order?

Mr. McGIFFERT. I don't know if there is a signature on the order or not.

Mr. WHITENER. Do you have one of the cards?

Mr. McGIFFERT. No, I do not.

Mr. WHITENER. Could you get one?

Mr. McGIFFERT. I certainly can.

(The card referred to follows:)

(Copy of Card Carried by Army Troops in Washington during April 1968 Civil Disorders)

UNITED STATES OF AMERICA

(SEAL)

WAR OFFICE

GTA 21-2-7, February 1968.

(Supersedes GTA 21-2-7, October 1967)

I AM A MEMBER OF THE ARMED FORCES. I WILL CARRY OUT THE ORDERS OF MY COMMANDER AND THE SPECIAL ORDERS CONTAINED HEREIN. I WILL CARRY THIS CARD WITH ME AT ALL TIMES WHILE ON THIS MISSION.

SPECIAL ORDERS FOR MEMBERS OF THE ARMY ENGAGED IN CIVIL DISTURBANCE OPERATIONS

1. I will always PRESENT a NEAT military APPEARANCE. I will CONDUCT MYSELF IN a SOLDIERLY MANNER at all times and I will do all I can to BRING CREDIT UPON MYSELF, my UNIT, and the MILITARY SERVICE.
2. I will BE COURTEOUS in all dealings WITH CIVILIANS to the maximum EXTENT POSSIBLE UNDER EXISTING CIRCUMSTANCES.

3. I will NOT LOAD OR FIRE my weapon EXCEPT WHEN AUTHORIZED by an OFFICER IN PERSON, when authorized IN ADVANCE BY AN OFFICER under certain specific conditions, or WHEN REQUIRED TO SAVE MY LIFE.

4. I will NOT INTENTIONALLY INJURE OR MISTREAT CIVILIANS, including those I am controlling, or those in my custody NOR will I WITHHOLD MEDICAL ATTENTION from anyone who requires it.

5. I will NOT DISCUSS OR PASS on RUMORS ABOUT this OPERATION.

6. I will IF POSSIBLE LET CIVILIAN POLICE MAKE ARRESTS, but I CAN IF NECESSARY TAKE into TEMPORARY CUSTODY rioters, looters, or others committing serious crimes. I will TAKE such PERSONS TO the POLICE OR designated MILITARY AUTHORITIES as SOON AS POSSIBLE. It is my duty to DELIVER EVIDENCE and to COMPLETE EVIDENCE TAGS and detainee FORMS IN ACCORDANCE WITH MY INSTRUCTIONS.

7. I will ALLOW properly IDENTIFIED REPORTERS and RADIO and TELEVISION PERSONNEL FREEDOM OF MOVEMENT, unless they INTERFERE WITH the MISSION of my unit.

8. I will AVOID DAMAGE TO PROPERTY AS FAR AS POSSIBLE.

GPO 1968 O-291-687

(Executive communications dealing with the April civil disturbances, calling out 14,000 troops, etc., as submitted to the committee, are set forth in the Appendix, pp. 95-103:)

(For costs of federalizing the National Guard and bringing in the Army troops, see Appendix, p. 92.)

Mr. McMILLAN. Mr. O'Konski.

Mr. O'Konski. I will make my remarks very short.

Were you consulted about a permit for the building of Insurrection City in the heart of the Nation's Capital?

Mr. MURPHY. No, sir. I was not consulted about any permit.

Mr. O'Konski. I will not embarrass you by asking you what your answer would be if you were consulted.

I heard you say a little while ago that you are 160 policemen short?

Mr. MURPHY. Yes, sir.

Mr. O'KONSKI. Have you gone down to Insurrection City—they have some marshals there—to see if they are really interested in jobs? That is what they are here for. They said, they can't get any jobs!

Mr. MURPHY. I don't know, sir, if our recruitment units have gone down.

Mr. O'KONSKI. Well, there are 160 jobs open——

Mr. MURPHY. Sir?

Mr. O'KONSKI. So they could have them. I notice that we took in something like \$50,000 on fines and forfeitures during the last insurrection we had in our city, from 8,000 arrests—that comes to about \$6,000—\$6 per arrest that we have taken in. From now on, when I can't find any parking space, I think I am going to go burn down a block and make myself a parking space. It will be cheaper than paying a fine for parking.

I just want to say this: I have been in Congress—this is my 26th year—our Nation's Capital had, I think, the greatest and the finest police force of any city in the United States. I have nothing but admiration for them. I feel very strongly for your people. Very frankly, I don't see why anybody in the United States of America today would want to be a policeman with their hands tied the way they are.

We have the most excellent police force in the Nation's Capital of any city in the United States. In the Congress, I can truthfully say that. It was not until the politicians above started to give the orders—when we got this that we call “measured response” theory.

I thought the purpose of a police force was to prevent crime, not measure it!

Mr. MURPHY. That is right.

Mr. O'KONSKI. Now, you have measured response, a genesis handed down by the Justice Department to all of the police forces all over the United States. Well, the Justice Department can't even catch the murderer of Martin Luther King. Yet they are trying to tell you people how to preserve law and order in the Nation's Capital.

I, for the life of me, can't understand why anybody wants to be a policeman today. In Milwaukee we had riots. Last year, after due warning, a 21-year-old looter was shot by a policeman. 2,500 people attended the funeral of the looter—made a martyr out of him; as to the policeman who was shot by a sniper—apparently, 150 came to his funeral.

When you have a mayor of a town, on Loyalty Day in one of our major cities, and they have two parades at that time—one to preserve law and order, commending the United States, protect your policeman, and the mayor had a hard time figuring out which parade he was going to go to; and you have another one the same day with draft card burners and looters and rioters, and the mayor of the town went over to the looters and the rioters and not to the Loyalty Parade. When you get that kind of support from mayors and politicians, for the life of me, I can't understand it.

The tragedy of it is that here we are, putting you people on the spot, who are risking your lives, when you really don't have the final say on how you should enforce the law. You get orders from politicians.

In my judgement, we have got the wrong people here to interrogate. The people that we should have over here, and interrogate them, are the people who laid down these silly rules that tie your hands where

you risk your lives, where nobody in the United States of America wants to be a policeman any more.

That is all I have. God blesss you. You have a job to do, you are doing it the best you can. It is on top we should be concerned about, not with you people. That is all I have to say.

The CHAIRMAN. Mr. Sisk.

Mr. SISK. Just quickly—one of the things, Mr. Murphy, that I think has troubled a great many people here with reference to the recent problems had to do with the criticism that went to what seemed to be a long delay in recognizing a problem existed. I think it is probably rightly so. That is where my criticism lies.

I think that almost anyone should have known Thursday night pretty well what was going to happen, I would like, quickly, if someone can—either you or the gentleman here from the Department of the Army—to give me the sequence of events as to exactly when help was requested above and beyond the police.

Now, I recognize that the police—apparently, at a certain time, you called in all your reserve. At what point did that occur, Chief Layton?

Chief LAYTON. We called in—put the order out to call in all reserves after sometime between 11:00 and 12:00 o'clock Thursday night. Earlier, Mr. Sisk, we had made a decision that we needed the first call for the tour of duty coming on at midnight to report earlier, and I don't have the time.

Mr. SISK. Do you have the time on that?

Chief LAYTON. That order to bring the midnight tour of duty in early was at 10:10 p.m., on the fourth.

Mr. SISK. That was at 10:10?

Chief LAYTON. Yes, sir.

Mr. SISK. On Thursday night?

Chief LAYTON. Yes, sir. We decided about that same time to hold until further notice all of the men working 4:00 o'clock p.m. to 12:00 midnight. Then it was a little after midnight that the order actually went out to call in all of the off-duty men, the day section included.

Mr. SISK. All right. Let's say, then, by 1:00 o'clock a.m., on Friday morning, or one hour after midnight Thursday night, the police had called up all the forces it had.

Whose authority, Mr. Murphy, was it to make a request for additional help, for the National Guard and the Military? Who had the authority under the program you had set up before to make that decision, as to what point at which to request additional aid?

Mr. MURPHY. Well, the arrangement was that our Commissioner Washington would make the request, but Commissioner Washington and Chief Layton and I conferred shortly after midnight and we had been in telephonic communication with some people at the Pentagon, and it was decided that I should go to the Pentagon at 3:00 a.m.

I arrived there about 3:00 o'clock, after the meeting had been set up, and explained the situation we had had, the present condition in the city, our concern about the next evening, and we began at that time to—

Mr. SISK. At what hour, and minute, was a specific request made for Military aid in the situation?

Mr. MURPHY. At that conference, sir, we requested that the National Guard be on the street before dark Friday evening.

Mr. SISK. Why the delay there? Was it going to take from 3:00 o'clock in the morning until that night to get the Guard on the street?

Mr. MURPHY. By 3:00 a.m., Friday morning, sir, the situation was under relatively good control.

Mr. SISK. Did you have anything, though, to lead you to believe it would stay under control?

Mr. MURPHY. We had no good evidence to indicate either way, sir.

Mr. SISK. You see, I happen to agree, Mr. Murphy, with you to some extent with reference to hesitancy in using the ultimate force—of going out and mowing people down with machine guns. Frankly, I know a lot of other people who were very upset because that had not been done. I agree with you that is not the way. But it seems to me that the only way, then, you can offset that is through a show of force—with what the Secretary called a massive force.

Mr. MURPHY. Yes, sir.

Mr. SISK. So I think to someone there is justifiable criticism, why a decision wasn't immediately made to have on the streets those troops Friday morning. This, to me, is a real criticism. I am trying to get the exact time the request was made for the first troops, Guard or otherwise?

Mr. MURPHY. Well, sir, that request for the Guard, a preliminary request for the Guard, was made at that time to be confirmed Friday a.m. The situation in the city at that particular time had been pretty much limited to one street, a section of 14th Street, and both the looting and the window-breaking and the larceny and the fires were under good control by 3:00 a.m.

As a matter of fact, by between 4:00 a.m. and 11:00 a.m., activities in the city were close to normal and that schools opened, people came to work. We had many additional police officers on duty. We did not assume—far from it—we did not assume that we were back to a totally normal situation. But we were hopeful that perhaps this outbreak on Thursday night would subside, and as soon as we had sufficient officers in that it might not flare up again.

Mr. SISK. Actually, then, as I understand what you are saying, really, there was no request made for troops on the street to be available before late Friday afternoon or Friday night? Well, we all agree, then, a substantial error in judgment was made here?

Mr. MURPHY. From the present position, knowing what did happen—of course, if we had known that—that there would have been another outbreak—

Mr. SISK. This is hindsight, and it is always better than foresight. But, as I say, there was an error in judgment. Of course, this goes to the matter of intelligence. I would assume certainly you do have in so-called trouble spots in Washington some type of intelligence, that is in the way of information.

Mr. MURPHY. Yes, sir.

Mr. SISK. What I am trying to say is, people who feed information in, and apparently, there was a failure or breakdown, if you did have such a force.

Mr. MURPHY. Well, I might point out, Congressman, that when I went to the Pentagon—I am not familiar with everything that happened, but I know that alert systems were escalating within the Military. I know the difficult situation that existed in the Pentagon dur-

ing those hours when there were outbreaks in so many cities across the nation.

Yet, there was never any hesitation about giving us what we wanted after we saw the need for it. At the first sign of any outbreak again, Chief Layton communicated with me at the Pentagon; we immediately presented the facts, and the wheels began turning quickly.

Mr. SISK. Just quickly, and I am already overtime—I hate to impose on others.

FUTURE PROTECTION

Looking to the future what kind of plans do you suggest in the event that a situation begins to develop again? How long are we going to wait to call in troops? Do you have any definite plans? What protection, in other words, can we assure to the citizens and business people of the District?

Mr. MURPHY. Well, Congressman, we have refined our alert system, I believe. I have attended many, many conferences with the Department of Defense people and National Guard people and we are in even closer communication with them and are exchanging information with them on a continuous basis so that we are all observing all of the indicators that we can get.

Intelligence is coming in from the city from several sources, a number of police calls per hour, number of arrests per hour, formation of crowds, movement of crowds, the whole attitude that we are able to evaluate in the community, number of fire calls, number of fires—just any number of indicators that we are observing more closely than ever, Congressman, with the Military at our sides, ready to respond.

Mr. SISK. Are you satisfied with the present intelligence setup that you have to stay on top of such situations and get forewarning?

Mr. MURPHY. We have done some things very recently that I would prefer not to disclose publicly.

Mr. SISK. I don't want you to disclose them. I am concerned about what seems to me to be a failure in intelligence in the last fiasco. I am not blaming anyone, necessarily, for that. Intelligence can be terribly important in being able to have the forewarning.

Mr. Chairman, I have a number of other things, but I will yield.

Mr. WHITENER. Mr. Chairman, may I ask if we can have in the record a copy of the statute or regulations, or whatever, which determines whether the Commissioner of the District of Columbia has the same right that the Governor of a State has to call out the local National Guard.

The CHAIRMAN. I will have it checked on, and get something into the record.

(Subsequently, the following excerpt from the District of Columbia Code was submitted for the record:)

SUPPRESSION OF RIOTS

(District of Columbia Code, Title 39, Sec. 603)

When there is in the District of Columbia a tumult, riot, mob, or a body of men acting together by force with attempt to commit a felony or to offer violence to persons or property, or by force or violence to break and resist the laws, or when such tumult, riot, or mob is threatened, it shall be lawful for the Commissioners of the District of Columbia, or for the United States marshal for the District of Columbia, to call on the commander-in-chief to aid

them in suppressing such violence and enforcing the laws; the commander-in-chief shall thereupon order out so much and such portion of the militia as he may deem necessary to suppress the same, and no member thereof who shall be thus ordered out by proper authority for any such duty shall be liable to civil or criminal prosecution for any act done in the discharge of his military duty. (Mar. 1, 1889, 25 Stat. 778, ch. 328 § 45; Feb. 18, 1909, 35 Stat. 634, ch. 146, § 48.) (See also United States Code, Title 32.)

The CHAIRMAN. Mr. Harsha.

ARRESTS

Mr. HARSHA. Mr. Murphy, you seem to take great stock in the fact that 8,000 arrests were made over a 10- or 11-day period. I am not going to debate that issue with you. Some of us think maybe 18,000 arrests should have been made, but I just want to point out that from April 4 through April 12, you made 3,155 arrests, which were for curfew violations, and only 40 arrests for larceny. (See tabulation, p. 14.)

Mr. MURPHY. Might I check that figure, please? What period, sir?

Mr. HARSHA. April 4 through April 12.

Mr. MURPHY. Well, larceny arrests—but there were many house-breaking arrests.

Mr. HARSHA. I am getting to that next. And less than 1,000 for housebreaking. But I would hazard a guess that I personally saw 48 instances of larceny on TV, and in newspaper pictures. So I don't think you had such an outstanding record in that particular field.

In this 8,000, how many traffic violations have you brought in—parking tickets?

Mr. MURPHY. We are not including traffic violations.

Mr. HARSHA. You are not excluding or including?

Mr. MURPHY. No. We are not including traffic violations, sir. These are all felonies, misdemeanors, curfew violations.

Mr. HARSHA. The great bulk of your arrests were curfew violations?

Mr. MURPHY. Yes, sir.

Mr. HARSHA. Now, did you have any indication at all that this riot was going to transpire?

Mr. MURPHY. This riot?

Mr. HARSHA. Yes.

Mr. MURPHY. No, sir.

Mr. HARSHA. No advance notice of any kind?

Mr. MURPHY. The death of Dr. King, of course, alerted us to the possibility of a problem. We had no advance notice prior to that time.

Mr. HARSHA. You assured this Committee sometime earlier this year that the city was prepared for any eventuality.

Mr. MURPHY. Yes, sir. I hope that I did not create the impression that I was assuring this Committee or anybody that there would be no riot. Sir, I cannot assure you whether you will be protected as you leave this room.

Mr. HARSHA. Well, I understand that. But the point is this: you assured this Committee that the City was prepared for any eventuality; and I am just wondering if there was a large number in the Police Department off-duty when the rioting commenced—or recommenced—on Friday?

Mr. MURPHY. The number of officers on duty Thursday night, as far as I know, Congressman, was the normal number we would have on

duty on that night. We went to an alert after Dr. King's death. As Chief Layton described, by about 1:00 o'clock Friday morning we had 2500—in the very early hours of Friday morning, we had close to 2500 officers on duty, which is the kind of response, Congressman, that presents a very different situation.

It gives us perhaps four or five times as many officers on the street as we would normally have.

CIVIL DISTURBANCE UNIT

Mr. HARSHA. Regarding the Civil Disturbance Unit of 280 men—why weren't they called to duty before 1:00 o'clock on Friday? Surely, you had forewarning.

Mr. MURPHY. The Civil Disturbance Unit, the nucleus of the Civil Disturbance Unit, is the Special Operations Division. The Special Operations Division was on duty Thursday evening, sir. If I may explain that, Congressman, the members of the Civil Disturbance Unit are officers assigned to our Special Operations Division, plus officers assigned in precincts all over the city.

In the event of an emergency, these officers who have had the special training are drawn from their precincts to supplement our Special Operations Division under Chief Pyles, and they constitute the Civil Disturbance Unit.

Mr. HARSHA. Why were they not called before 1:00 o'clock Friday morning?

Mr. MURPHY. At 10:12 p.m., April 4th, all Civil Disturbance Unit officers were on duty at 10:00, according to the report I have.

Mr. HARSHA. Well, the report I have here was they were called to duty at 12:55 or 12:50 a.m., Friday, several hours after the rioting began. Maybe I have the wrong information.

Mr. MURPHY. Well, I will be happy to clarify that for you, Congressman. Maybe Chief Wilson or Chief Layton could explain that. But the report I have before me indicates that all CDU officers were on duty, were assembled, which means that those CDU officers—we would have those officers on duty with all of the various sections of the Department, all those, on duty at precincts throughout the city at that time—at that time, they had been assembled.

Mr. HARSHA. Why wasn't everybody in that unit assembled?

Mr. MURPHY. At the same time, we were calling back platoons, Congressman, and as they would come back, then they would be assembled.

NATIONAL GUARD

Mr. HARSHA. I got the impression from your colloquy with Mr. Sisk that after you went to the Pentagon at 3:00 a.m., Friday morning, to see about calling out the National Guard, that things were pretty well under control at that time?

Mr. MURPHY. Yes, sir. The Police Department had control over 14th Street, which was the principal street on which the trouble had occurred.

Mr. HARSHA. Then, what was the point in calling the National Guard?

Mr. MURPHY. We were concerned about the next evening. The second night flaring up, experienced by some cities. My own experience in

New York City had led me to the belief that the second night in these matters is frequently the most difficult. We wanted to be ready.

Mr. HARSHA. What did you think the National Guard would accomplish?

Mr. MURPHY. It would have given us more people on the streets. We could assign them along the streets that we were concerned about—the business streets in the low-income neighborhoods. They would have supplemented us, Congressman.

Mr. HARSHA. Would their presence have been a deterrent?

Mr. MURPHY. Yes, sir. I think the presence of police officers, National Guardsmen or Military, is a very effective deterrent; depending upon the order of magnitude of the disturbance, it can be controlled.

If every Friday and Saturday night a policeman controlled disturbances, they would prevent minor disturbances from flaring up—the prompt response of sufficient officers suppresses what could easily develop into a more serious disorder. It is a numbers thing—getting enough people there.

Practically, during the early days of April here, many hundreds, and even thousands of citizens violated the law. Some of them were people who never before violated it.

Mr. HARSHA. Well, their presence wasn't very much of a deterrent, then, was it?

Mr. MURPHY. Oh, as soon as we had sufficient strength—well, what happened, Congressman, was that before we had the National Guard on duty in the city, the disorder had flared up again through the afternoon;

Friday afternoon, sir.

Mr. HARSHA. Then, didn't you encounter considerable delay in getting the troops across the bridge?

Mr. MURPHY. No, sir. I don't know that we have any confirmed information about traffic delay in moving troops—but minor delays perhaps—but our motorcycle officers escorted many of those columns.

Mr. HARSHA. Why were the school children released at 1:30 p.m.? Wouldn't it have been better to keep them in school rather than to add to the confusion on the streets?

Mr. MURPHY. I was consulted briefly about that decision, Mr. Congressman, but it was made with the school authorities and Commissioner Washington. I don't have a clear recollection. Do you recall, Chief Layton, what the authority was?

I should point out, Congressman, that some students left school without being dismissed.

Mr. HARSHA. The majority of them did not do that, did they?

Mr. MURPHY. I don't have a figure. It may be that the lunch hour was cancelled, but I prefer not to say. I am not clear on the reason for that decision, but I am sure the Commissioner or the school authorities would know better than I.

Mr. HARSHA. I would like to review your comments, in view of your appearance at this Committee, that you were prepared for any eventuality.

The police on the scene at first seemed confused as to what action they were expected to take, and I understand this call came over the police radio, "Won't someone please tell us what to do?"

Was any such communication carried over the police radios?

Mr. MURPHY. The message that I participated in, Congressman, was something like this, as best I recall it, where at 14th and U—we were having rocks and bottles thrown at us, and there were hundreds of people in the streets, and windows are breaking, what should we do?

My best recollection of my response was, "If your safety is in danger, leave there."

And then I sent a message to rendezvous with me a block away. I don't recall ever hearing the language you quote.

Mr. HARSHA. Well, let me quote: "Surrounded by mob of about 50 people, what do we do? They are rioting. Do we arrest them or leave?"

Mr. MURPHY. I do not recall hearing that transmission, sir.

Mr. HARSHA. In substance, it is about what you heard, though, isn't it?

Mr. MURPHY. Well, the officer sought direction about whether to try to hold that corner or leave it and regroup, and I directed, in effect, to regroup and come out.

Mr. HARSHA. My point is this: The police officers were not prepared for any eventuality. They were not instructed as to what to do in a situation of that kind, were they?

Mr. MURPHY. I think, sir, the officers in this Department are well instructed. Some of the situations that develop are extremely difficult and the decisions that an officer had to make are extremely difficult ones. He is overwhelmed by numbers. It is awfully difficult to predict how human beings will react.

Mr. HARSHA. I understand that. But the fact is that you assured this Committee that you were prepared for any eventuality. Those are your words. And you just assured us now that you are ready for any eventuality in the future. That is a broad statement to make, and it is quite possible that you still aren't prepared for any eventuality.

Mr. MURPHY. Well, they have received much instruction, sir. That was a poor statement. I should have qualified that by adding, "within our resources and within the limitations of the judgment and discipline and control of our officers," all of which are factors that are not easy factors.

Mr. HARSHA. Well, I couldn't agree with you there. I just have one other question.

I believe you said that you were disturbed about the recent riots?

Mr. MURPHY. Yes, sir.

Mr. HARSHA. You also made the statement, I believe, that you were disturbed about the losses you foresee in the days ahead?

Mr. MURPHY. I don't foresee losses. I said I am disturbed about the possibility. I am concerned about the possibility of the problems that face us in the days ahead.

Mr. HARSHA. What are these possibilities that you foresee?

Mr. MURPHY. Well, the Department could possibly be very much taxed in the next few weeks in policing demonstrations or marchers. A group in the city has announced it will be visiting Government office buildings and possibly to Congress. It will require the assignment of large numbers of police officers at the same time that we have a difficult crime problem.

So we are concerned because the Department is taxed these days with some very serious problems.

Mr. HARSHA. What have you done to alleviate the situation?

Mr. MURPHY. Well, we have increased overtime duty. Chief Layton has increased patrols and assignments in areas where the crime incidence is high. We have formed a new unit in the Department, an arson squad, which is concentrating on the crime problems flowing directly from these disorders.

We have had to assign people to planning and training for the handling of large crowds, including possibly large numbers of arrests. We have had to work with the United States Attorney's office and the Department of Justice and other agencies concerning the processing of prisoners. We have just done an awful lot of things.

The CHAIRMAN. Would it be agreeable to come back tomorrow morning?

Mr. MATHIAS. I think it is important.

Mr. FRASER. Yes, Mr. Chairman, I think we have not had an opportunity, many of us, to explore some other aspects of this.

The CHAIRMAN. Can you make yourself available tomorrow morning, Mr. Murphy?

Mr. MURPHY. Yes, I will certainly be available.

The CHAIRMAN. Thank you for coming down.

(Whereupon, at 12:30 p.m., the full committee adjourned, to reconvene on Thursday, May 16, 1968.)

CIVIL DISTURBANCES IN WASHINGTON

THURSDAY, MAY 16, 1968

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Full Committee met, pursuant to recess, at 11:10 a.m., in Room 1310, Longworth House Office Building, Honorable John Dowdy, presiding.

Present: Representatives Dowdy (presiding), Abernethy, Whitener, Sisk, Diggs, Adams, Jacobs, Walker, Mathias of Maryland, Horton, Broyhill, Winn, Gude, Zwach, and Steiger.

Also present: James T. Clark, Clerk; Sara Watson, Assistant Counsel; Donald Tubridy, Minority Clerk; and Leonard D. Hilder, Investigator.

Mr. Dowdy. The meeting will come to order.

We are having this meeting this morning to continue hearing Mr. Murphy. If you would come around, Mr. Murphy.

Mr. MURPHY. Thank you.

STATEMENT OF PATRICK V. MURPHY, OFFICE OF PUBLIC SAFETY, DISTRICT OF COLUMBIA GOVERNMENT, ACCOMPANIED BY JOHN B. LAYTON, CHIEF, METROPOLITAN POLICE DEPARTMENT; DAVID G. BRESS, ESQUIRE, U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA; AND HON. DAVID E. McGIFFERT, UNDER SECRETARY OF THE ARMY, DEPARTMENT OF DEFENSE—Resumed

Mr. Dowdy. Do you want to begin, Mr. Diggs?

Mr. Diggs. Thank you, Mr. Chairman.

The report of the City Council's public hearings on the Rebuilding and Recovery of Washington from the civil disturbances of April, 1968, on page 2 says:

Citizens can be grateful for the rapid, courageous, and sympathetic response of the Police, Fire Departments, Armed Services, Health and Welfare workers, the Urban Coalition, Sanitation and Inspection crews, and many other private groups and individuals.

I just wanted to underscore that the Police Department and the Fire Department, both agencies under the jurisdiction of our witness, have been the recipient of this compliment from the members of the City Council of the District of Columbia which, I think, needs to be underscored because one might get the impression from certain criticisms that the activities of those Departments during that disturbance was not properly appreciated.

I would like to concur in that accolade, because as one who has actually lived through this kind of disturbance in Detroit and not from underneath a bed, but actually being right out there in the street in the middle of it, almost from its inception, and having also been in Newark the night that Dr. Martin Luther King was assassinated, as a principal speaker for a testimonial for one of the public officials of that community. The mayor was there.

Of course, the program was immediately curtailed, and I went with the mayor, a former Member of Congress, Mayor Addonizio, into the streets of Newark in an effort to keep reactions from getting overheated.

I was also in Atlanta that next day until after the funeral. There were reactions down there that produced some of the incidents that were experienced here in Washington. I was in the streets of Atlanta, so that I say I can speak from some measure of experience in these matters, which undergirds my appreciation for a very difficult situation that the police have encountered.

I think that people need to understand this. I think that we need also to put in the proper context the fact that this situation is not peculiar to the District of Columbia; that this protest technique is a phenomenon of the 1960's, the late 1960's; that the protest which produces this kind of destruction has been evidenced not only in the larger cities of this nation of ours, but in Warsaw, in Paris, and just two days ago in Panama, where most of the people in the audience, I am sure, witnessed on television cars being overturned and burned, and people being chased, and so on.

It does indicate that in crises, spontaneous situations of this nature, our Police departments are actually undermanned for this purpose.

So I am always curious about criticisms that are directed at our Police Department about their alleged inadequacies in moments of this type.

I am also mindful, having been in many Police State communities—in Latin-America, where you may see a policeman on every corner, where you will witness dips in the street at almost every intersection—that that is something that we could get into if we concur in some of the implications that have been made in and out of press with respect to the police situation.

If we want a Police State in this country, if we feel that Police are the answer and the only answer to the situation, then we are talking about a policeman on every corner and dips in the intersections.

We are not talking about the United States of America. I don't believe that anyone would want this kind of Police State to exist in our country.

So, therefore, I think we ought to put this thing in proper context. There were some references made to the kind of people who were engaged in this activity. I think the word "dangerous" people was used. There was an attempt to get some kind of response that would indicate that all of the people who were engaged in these kinds of activities were dangerous people—were criminals of some type; whereas, I do not condone any of this activity, the fact of the matter is that a profile of the average looter does not turn up a criminal kind of person.

I was in the middle of the greatest experience of this type in Detroit, and opportunity targets presented themselves and encouraged people to become looters. I saw mothers with small children going in places

that were open. I happen to be in the mortuary business. I buried most of the people who were killed in the City of Detroit in this conflagration.

I went into their homes, and I note that the kind of homes that I went into involving these looters were not the homes of criminals. So I think we ought to put that in proper context and, I think, related to any suggestion that we should go in indiscriminately, using excessive amounts of force, including gunfire, in order to exercise some kind of control over this situation—I repeat, I am not a supporter of this kind of activity.

I am also curious about reference to the tourist trade being down here in the City of Washington, and relating it to the riot situation, because there has been some encouragement of this kind of reaction from some quarters right here on the Hill through newsletters and responses to requests for servicing groups that propose to come here, that they have actually been discouraged, that there are quarters on the Hill who have not stood up for this community, who have painted a situation here in Washington which has discouraged people, and they have made their contribution to the reduction in tourism in the City of Washington; and then, they have turned around and tried to attribute this to the disturbances which have taken place.

I think that we have a community here that we ought to stand up for. We ought to stand up for our Police Department and its policies. Obviously, there are instances in a situation like this where excessive amounts of force may have created a problem.

I think that those situations ought to be handled on an individual basis as these complaints come up.

I am curious—and I am now getting to the question—I am curious, Mr. Commissioner, as to why or if you plan on asking for more police. We passed an authorization for a minimum of 2500 policemen in the District of Columbia in 1956; and in 1961, we increased it to an authorization of no less than 3,000, and it has stood at that minimum figure for seven years.

There have been some very dramatic changes, not in the population necessarily, but there have been changes in protest techniques; there have been changes in the very character of this community and of this nation and of the issues that have been involved.

I am curious as to whether or not you contemplate petitioning the Appropriations Committee for an increase in appropriations so that you can raise the minimum number of police that would be required during these occasions?

I don't think we are going to go back. I think we have reached a new plateau that ought to be considered in this connection.

Collaterally, may I say, my experience in connection with calling out the National Guard and the Federal Troops has been that they have been called too late. I am certainly hopeful that you will take these matters into consideration and also the curfew techniques, that the time limits of imposing a curfew and calling out the National Guard is something that needs improvement, not only here, but across the country.

I know that there are some political implications involved in calling out the National Guard. This was our trouble in Detroit—when we needed troops, where the troops had to be requested by the Governor,

and the request was made by the Governor—and the troops were not sent in immediately because of certain political implications. The same may be true in connection with the National Guard situation here in our own community.

So the timeliness is a matter—the timeliness of calling out these supplemental enforcement agencies is extremely important; and I would like to get some comment from you with respect to some improvement in that decision-making process, and also of the curfew, and also with respect to the authority for more police, not—when I say more police, I don't mean a policeman on every corner, but certainly more than the authorization under which you are presently operating.

POLICE VACANCIES

Mr. MURPHY. Congressman, at the time that Mayor Washington took office and at the time of my appointment to this position, there were approximately 385 vacancies for police officers in the city. Even before my appointment, the Mayor had, through the assistance of the President and the Department of Defense, developed a recruitment program in cooperation with the Military that provided for early discharge of servicemen who would accept the appointment to Police departments.

Between that program and our own recruitment program, which has been intensified, we have been able since December to reduce the number of vacancies from about 385 to 164 at last count. This is a significant recruitment accomplishment, and I think an indication of high morale in the Police Department and the willingness and desire of many young men to become policemen today, even though it is becoming a more difficult job every day.

We are hopeful, Congressman, that we can close that gap completely within the next few months; and although we have not finalized our thinking on requesting additional positions, we are certainly giving much consideration to that. But we see our first step as that of filling existing vacancies before requesting additional positions.

TROOPS

Concerning the time limits of a call for assistance from the National Guard and the Military—all of my experience through our troubled days indicated to me that we were receiving very prompt response to our request, as I described yesterday.

The decision, the tentative decision, which just had to be finalized Friday a.m., was made very early Friday morning to have the National Guard on duty Friday evening, April 5th. In our discussions with the Military, all that I know about it, suggests to me that the gearing up, the turning of the wheels, was begun immediately upon our indication of our concern that we needed help sooner.

I think Mr. McGiffert may have described yesterday, and he may wish to speak to this question, but it is simply a fact that the movement of troops does take some period of time. But I am satisfied that even the well-laid plans that existed before April 4th have been further refined to provide us with an even more rapid response if we should require it again in the future.

The curfew was certainly a very valuable tool to us because the curfew provides the police and the Military, if they are on duty, the provision that is needed to get people off the streets. Of course, in a large city, with many hundreds of thousands of people who live in it and are in it every day working or as visitors, without some kind of control over the movement of people on the streets, it is very difficult, especially at night, to prevent all looting, even with thousands of troops and National Guardsmen supplementing the regular Police force.

Like you, Congressman, I agree that we have to think awfully long and hard about just how far we want to go with increasing our Police force and what kind of additional talent, if any, we might want to give to our Police Department; because in my view, the manner in which the people in our kind of society police themselves—and really, that is very much what the system—it is a system of policing by the people themselves, using the Police as their tool, I think to the extent that we accept that system, which I think is a fine system—we do begin to move toward the kind of Government control and even the Police State that has never been a part of our tradition in this nation.

Mr. Diggs. Thank you, Mr. Chairman.

Mr. Dowdy. I might comment that I have heard very few complaints about the Police. The complaints I have heard have not been about the actions of the Police, but have been of the undue restraints that were put upon the Police in their attempts to enforce the law and preserve order.

Where have we got to?

Mr. Horton.

Mr. HORTON. Mr. Commissioner, yesterday you spoke at length in regard to the several disturbances, and I had the impression that Chief Layton was prepared to make some comments. At this point, at least, I haven't heard any comments from him.

I would like to ask Chief Layton if you have anything you would like to add to the testimony which was given yesterday with regard to the disturbances of early April?

Chief LAYTON. Mr. Horton, as the disturbance developed on the evening of April 4, it first began with some group at around 14th and U Streets. The violence that attended this didn't begin until later in the evening, first, with a window-breaking at one of a couple of places.

We had, at the first news of Dr. King's shooting and then his death, had sent out messages by Teletype to the Force to be alert for any developments on the streets. Then the group at around 14th and U was the first indication.

We did, at one of the decisive points that was available, there on the street in No. 13 Precinct—we had a detail of 100 officers who were sent from the location of the detail at the Washington Hilton Hotel—were sent to the area that was concerned after the crowd began building up.

So that we had 100 additional officers who were sent there.

Mr. HORTON. Did you participate in the decisions with regard to the mobilization of the Force, or was this something done by the Commissioner without your knowledge, or with your knowledge—how was it handled?

Chief LAYTON. I participated in the decisions that were made, Mr. Horton. The early decision to send the 100 men there—I wasn't imme-

diately available at that time. I was at a location nearby and I was reached by telephone when the numbers of people began developing, and so the first decision to move the 100 officers there was not mine, but I would have agreed with it.

Later decisions, I did participate in.

The next decision that was made was to assemble our Civil Disturbance Unit. We have members of the Civil Disturbance Unit assigned to the various units so that they are on duty three tours of duty.

These Civil Disturbance Unit men, then, were drawn from the units in which they are ordinarily assigned and assembled to be deployed in that area that is affected. About the same time, a directive was issued to all the precincts, not to release any of the men working at 4:00 p.m. to midnight tour of duty until further orders were given.

Very shortly thereafter, a directive went out to recall, or have the midnight section, the section working midnight to 8:00 a.m., report in as soon as possible.

In the early stages, there was not the kind of widespread looting that we had on Friday afternoon and evening, but it was a matter of window-breaking and some stealing of merchandise and running, before Police officers could be deployed on the scene.

In any event, the effort was to build up the Force along 14th Street and to bring back into control.

TROOPS

Mr. HORTON. Did there come a time during the evening of April 4 that you made any recommendations to the Commissioner, one way or the other, with regard to the mobilization or the calling in of National Guard or Army Forces?

Chief LAYTON. I would say not, during—my recollection is that we didn't discuss that specifically during the evening, late hours of April 4th, but the early hours of April 5 we had some discussion of it.

Following that discussion, Mr. Murphy went to a meeting at the Pentagon about 3:00 o'clock.

Mr. HORTON. Three a.m.?

Chief LAYTON. Three a.m., yes, sir.

Mr. HORTON. Was that in accordance with your recommendations? Had you agreed with him in regard to calling at that point for Federal Forces?

Chief LAYTON. This wasn't a specific recommendation, Mr. Horton, that National Guard troops be requested at that time. This was—and it wasn't a specific recommendation of mine—this was a matter of discussion, as we had about a number of things, a number of tactics, that it was one that the purpose of Mr. Murphy's going to the Pentagon then was to report the situation as we saw it and to refine the procedures for calling out troops if that was necessary.

Actually, by 3:00 o'clock in the morning, by that time we had called back all of our off-duty personnel. We had better than 2500 men reporting back. So that by 3:00 in the morning, the number of cases that were being reported was declining, and it continued to decline with that large force that we had available at that time—declined until about 7:00 o'clock. It was back to a normal rate of incidents reported to the Police.

It remained at a normal level compared with the same day a month previously, stayed at that level until about 1:00 o'clock in the afternoon. Prior to that, about the late hours of Friday morning, 11:00, 12:00 o'clock, we began getting reports of further window-breaking and other things of the same character, but the frequency did not go above the normal level for a month previous until about 1:00 o'clock.

POLICY IN EFFECT

Mr. HORTON. Now, Chief, it has been alleged that there were orders that the Police should not use any force and instead give it the "light touch."

Did you have any such orders, or did you have any instructions which were different from the instructions of the Public Safety Director?

You heard his testimony yesterday.

Chief LAYTON. No, sir. There were no instructions given to the Force to fail to arrest looters. Actually, it is our policy, which as other cities have been hit by riots and disturbances, we have attempted to gain experience from discussing this kind of problem with officials in other cities and with seminars and meetings, and various kinds of other police officials in preparation for this.

I, myself, said, in briefing my staff, my top level staff, early last year, that it was our policy to positively arrest looters to the extent that it is humanly possible to do, recognizing that in a situation of this kind where there are large numbers of people involved and serious law violations, that it is more than officers can cope with.

But I had said to our officials that I expected them to arrest looters if we should be unfortunate here in the District—so unfortunate as to have something of this kind happen. I wanted ever officer to make arrests to the fullest extent that it was possible for him to do.

So that our policy is one of positively making arrests in this kind of situation.

Mr. HORTON. Were there any special instructions to any of the officers under your command, either by you or the Public Safety Director, that they should play it with a "light touch", or that they should or should not arrest violators?

Chief LAYTON. There was positively no directive or order, or in any way, to members of the Force not to arrest looters. I have no knowledge of any statement being made as you inquire, "Give it a light touch." There was a period of time during the evening on April 4 where we were assembling forces there to move up 14th Street to disperse the crowds when there were more people there than the men readily available could handle effectively.

But we assembled the officers and vehicles and transported them to that scene. When there was a sufficient number of officers there, they did move forward. The specific orders that were given to those officers were to arrest, to make arrests. This was the assembling of our Civil Disturbance Unit, which the order went out a little after 10:00 o'clock.

As I say, they were placed in the vehicles and went to the scene. They were given specific instructions that they were to follow our instructions of making arrests.

Mr. HORTON. Now, you heard yesterday that the Commissioner testified that the policy that was in effect at the time of the disturbances was the policy which you had announced and which you were following.

Chief LAYTON. Yes, sir.

Mr. HORTON. Do you have any comment to make with regard to the policy, or whether or not there was any change in the policy prior to the disturbances—after the Safety Director came to Washington?

Chief LAYTON. No, sir. I have not been given any directives to change that policy, as I have stated here.

Mr. HORTON. Yesterday there was reference here to the Police Chief of Miami and his policies. Do you have any comment with regard to the seeming difference between handling disorders in Miami and the handling of the disorders that occurred here in Washington?

Chief LAYTON. Well, frankly, I only know, Mr. Horton, about the comments that were attributed to Chief Hedley in the newspaper.

As to shootings—it has been stated to our officers also that the policy that we follow in the Metropolitan Police Department is that which is set out in the law. The lawful authority is that a police officer is granted to use his service revolver, has been the same for many years, and continues to be the same.

So that during the period of the disturbance, our officers had the same legal authority that was not infringed upon in any respect. They had the same legal authority to use their revolvers in a situation that called for it, and which was justified, as they have always had.

PROSECUTION OF OFFENDERS

Mr. HORTON. One further question that has to do with the follow-up on those who were arrested. In many of the civil disturbances elsewhere there has been a delay in bringing people to justice. What is the status of the people who were arrested here, following the arrest?

Chief LAYTON. Well, I think, Mr. Horton, this is one of the areas particularly where we gain from the experience in some other city as to the numbers that frequently are necessary to handle in a situation of this kind, the tremendous numbers of defendants.

We have made plans ahead of time in cooperation with the Justice Department, the United States Attorney's office, the courts, and our own Department of Corrections. A number of meetings have been held and plans have been developed that made it possible for us to handle large numbers of arrests a good deal more expeditiously than I think was true in any other city of which I am aware.

Mr. HORTON. I would like to ask the U.S. Attorney, Mr. Bress, what has been done subsequent to the disturbances in regard to bringing those arrested to justice, and how it is determined one way or the other? Some 8,000 were arrested.

Mr. BRESS. There were approximately 1,000 felony charges of the 8,000 you referred to, Mr. Horton. I understand that about 4,000 were curfew arrests, and those persons were taken to Ocoquan and released the following day with citations. But on the felony arrests, there were approximately 1,000.

I can give you figures as of the moment, as to the status of those cases. There are approximately 440 cases remaining for preliminary

hearings in the General Sessions Court. That is, hearing on the felony cases that is frequently held by a Committee Magistrate.

None of these cases went to the Commission. Of the remaining cases that have gone to the United States District Court after preliminary hearing in which defendants were held for action of a Grand Jury, we have already presented approximately 200 cases to the Grand Jury and there are a number of cases in the District Court now awaiting Grand Jury action.

When the riotous condition ended on April 8th, I made the request to the Court of April 10th for a special Grand Jury to be convened for the purpose of hearing the great number of felony cases that we had then in jail or on bail. That Grand Jury was convened and started holding hearings on April 23rd and has been hearing approximately 20 to 25 cases daily since that time.

I have special assistants assigned solely to the hearing of the cases arising out of the disturbance.

Mr. Dowdy. Have there been any indictments returned as a result of this?

Mr. Bress. No indictment has yet been returned. The first batch of indictments will be returned on this coming Monday or Tuesday, and weekly thereafter, or twice weekly thereafter, indictments as a result of this incident, will be coming forward.

Mr. Horton. I have nothing further.

Mr. Dowdy. Before we get to another Committee member—I assume that the Police Department has been advised of the demands that started yesterday on stores, that they close up on Monday, May 20, to honor the birthday of Malcolm X. You all are acquainted with that, I assume?

Mr. Murphy. I am aware that there are flyers in the community and a group has announced that they will attempt—they will request stores and schools to close, yes, sir.

Mr. Dowdy. Under demand. Demanding that they close or probably get burned out if they don't. Are you all doing anything about that?

Mr. Murphy. Yes, sir.

Mr. Dowdy. Are you going to take steps to prevent rioting on Monday if those people don't close, or are you going to let them start before you do anything about it, as was done here a few weeks ago?

Mr. Murphy. No, sir.

Mr. Dowdy. You are not going to do anything about it?

Mr. Murphy. We are. We are not going to fail to do anything about it. As with any information we get, Mr. Chairman, about any anticipated trouble or problem, many precautionary steps are taken by the Department. Special efforts are made to learn about the plans, the size of the group, if there would be a demonstration.

We have people already assigned investigating any of this activity.

Mr. Dowdy. Do you have enough people assigned to it to prevent an outbreak on Monday?

Mr. Murphy. We feel that we are well prepared, Congressman. Frequently, groups—

Mr. Dowdy. Are you as well prepared as you were for this other recent outbreak?

Mr. Murphy. As well prepared?

Mr. Dowdy. As you were for the outbreak two or three weeks ago?

Mr. MURPHY. I think we are as well prepared as we were well prepared for the previous action.

Mr. DOWDY. In other words, you know that the death rate there won't be any more than—there won't be any more than six or eight blocks burned up this time?

Mr. MURPHY. I don't anticipate that. Frequently, such a group talks about having large numbers of people and accomplishing very large objectives which they don't have the potential to accomplish.

Mr. DOWDY. Let me ask this question: Do you have enough protection that people will be safe in opening their stores if they want to on Monday?

Mr. MURPHY. Yes, sir. I believe that from all that we can foresee of what will be occurring on Monday, we now believe that we are adequately prepared.

EXTORTION THREATS TO BUSINESS

Mr. DOWDY. Now, are you aware—and I suppose you are—I know the people would be in fear of the levies that are being placed upon merchants here in the District of Columbia to support this army of people coming in here from all over the country.

Are you aware of that?

Mr. MURPHY. I am not sure that I understand your question. Levies are being placed upon people for those who are visiting the city?

Mr. DOWDY. That is right. For instance, there is a produce dealer here in town; it has been demanded that he furnish two truckloads of food each week to this group. If he doesn't, they are going to put him out of business.

Mr. MURPHY. Well, sir, we have made special efforts with the businessmen urging them to report to us any kind of threat or attempted extortion, and we have made at least some small number of arrests in these cases.

Mr. DOWDY. Has anybody reported these things?

Mr. MURPHY. We have received some reports, sir.

Mr. DOWDY. Have you made any arrests as a result of it?

Mr. MURPHY. Yes, sir, we have.

Mr. DOWDY. What kind of complaints are they?

Mr. MURPHY. I am sorry that I don't have the specific charge before me, in one case that I am aware of. We have received a warrant for threats.

Mr. DOWDY. For extortion?

Mr. MURPHY. For threats, sir. I don't have the—

Mr. DOWDY. You don't have the specific charge. Do you feel that the merchants here in town and the ones that these threats are being made against would feel safe in coming here? Do they feel that you would protect them from the violence that they are threatened with?

Mr. MURPHY. Well, sir, we have had several meetings with such groups, including a meeting in Mayor Washington's office last week, attended by Chief Layton and myself. I know that I was encouraged. I think Mayor Washington and Chief Layton were also encouraged that the businessmen indicated that they would be more responsive and that they would come forward with information.

We have explained to groups of businessmen, Mr. Chairman, that we think it would be a very dangerous course for them to permit

themselves to be threatened, or to subject themselves to extortion and not call these matters to the attention of the Police out of fear. If this kind of fear escalates in the community, then I think we will have an extremely dangerous situation.

I am confident now that many businessmen, who, two or three weeks ago were hesitant to come to the Police Department with information and complaints, have since come forward and given us the kind of information without which we cannot conduct a very effective investigation.

Mr. DOWDY. We have got to have some confidence, of course, that we will get some protection from the law. We have got a situation here much like an invading army placing levies on the businessman, telling them they have to feed them or they are going to destroy them.

Mr. MURPHY. Mr. Chairman, Mr. Bress tells me he has some information he would like to present.

Mr. BRESS. With respect to the subject of extortion of local business, Mr. Chairman, I think it would be well for the Committee to know that beginning early in April there were some such reports. The matter has been investigated. It has not yet been presented to the Grand Jury.

My office is keeping in daily contact with the squad of the Police Department who are engaging in developing the investigation along the lines that we have suggested.

Mr. DOWDY. Mr. Adams?

CITATIONS AND ARRESTS

Mr. ADAMS. First, Mr. Bress, I would like to follow through with the comments that were being made by Mr. Horton. A number of us offered amendments which were finally adopted by the Congress in the ominous anti-crime bill for the use of citations as a method of handling large numbers of people with certain types of misdemeanors.

According to the Report on Civil Disturbances in Washington, Title VII of the anti-crime bill was used quite extensively in this last riot situation. Did it, in your opinion, prove to be effective?

Do you think it should be changed in any way?

Mr. BRESS. The citation procedure as spelled out in the D.C. Crime Reduction Act, I think, is desirable and under normal peaceful conditions in the community, it can be effective.

Mr. ADAMS. I also understand that you used it after these people were in jail for curfew violations. In other words, the Police had to clear the streets in order to get at the actual perpetrators of the crime, so they picked everybody up. I understand this system was a method whereby the people that were picked up for curfew violations could be moved out of the city rapidly so that you could get at the remaining felonies and other misdemeanors.

Mr. BRESS. That is precisely what did happen. It was too much of a burden on the limited facilities of the courts to bring 8,000 people in within three or four days, so that the citation procedure was very helpful in curfew violation cases where a curfew violator was kept overnight, not released back into violations.

Mr. ADAMS. Right. In other words, held out of the area.

Now, Mr. Murphy, I think we should put into perspective what happened in this city, because I think it is very bad if we preach fear

all the time. I think your police response in this case was based on accurate planning.

But in this case, this was a spontaneous, as opposed to an expected or pre-planned type riot, because of the death of Dr. King, was it not?

Mr. MURPHY. Yes, Congressman. We had no advance information.

Mr. ADAMS. Obviously not. You didn't know this was going to happen then. I understand this happened at 8:26 on Thursday night. It is my understanding that by 12:00 o'clock that night you had the better part of 2,000 officers on the street, which is less than 2½ hours; isn't that correct?

Mr. MURPHY. By shortly after 12:00, we had about 2,000. As Chief Layton explained earlier, we were up to 2500 officers by 2:00 or 3:00 a.m.

Mr. ADAMS. It is also my information now that by the middle of the afternoon on Sunday you had made over 4200 arrests. That information is in the Report on Civil Disturbances. Now, I understand that of these, over 900 were for looting and 700 for disorderly conduct and other offenses; is that correct?

Mr. MURPHY. Yes, sir; as Mr. Bress pointed out, about 1,000 felony arrests, which were the lootings—

Mr. ADAMS. It is also my understanding that the Police Department; and Chief Layton, you can correct me on this if I am wrong, used tear gas?

Chief LAYTON. Yes, sir, we did.

Mr. ADAMS. You used massive amounts of force going down the streets, officers linked arm in arm to clear the streets; is that correct?

Chief LAYTON. We used a large number of officers, not necessarily linked.

Mr. ADAMS. Down the streets to clear them?

Chief LAYTON. Down the streets to clear them—14th Street, particularly.

Mr. ADAMS. I was pleased to hear the report that you are down to only 164 vacancies, because a number of us since we arrived on this Committee, when there were 400 vacancies have been very concerned with the recruitment problem. This indicates that you are getting the men in.

POLICE FORCE REQUIRED

I would like your opinion on this, Mr. Murphy, and yours, too, Chief Layton, if you would like to comment on it. In the central cities, when handling riots where you are involved with large numbers of people, do you think an authorized force of 3,100 is adequate and if not, what is your feeling as to what we should be considering?

Mr. MURPHY. Well, Congressman, we have not reached a final decision. We hope to fill the remaining 164 vacancies very shortly, and we are considering whether a request should be made. Obviously, more officers can provide more protection. We are trying to take steps to get more officers on the street. That is why we would like this precinct consolidation program to go through.

It would give us perhaps a couple hundred more officers on the street. As crime has increased, I think it is an obvious fact that the number of police officers per hundred or per thousand crimes is diminishing.

Mr. ADAMS. What is your feeling now in terms of the necessity for a readily available reserve force; and I want to emphasize in this that

you are dealing with a different type situation, a spontaneous large number of people appearing on the street, with certain of them committing various type felonies, and a lot of others on the streets.

I am not advocating what you have now, or something else. I want to know your feeling as to how best, in a metropolitan city like this, you can escalate your manpower for emergency situations on a short-term basis.

Mr. MURPHY. Well, Mr. Congressman, one of the most important things is a prompt response. Police officers certainly every Friday and Saturday night deal with situations involving disorder in a bar or a fight on the street where we have to get officers in in a hurry. If we couldn't get 10 or 20 officers into a street quickly, something could escalate very suddenly out of control.

In a disorder of the magnitude of the one that existed on Thursday night, April 4th, it is terribly important to have a rapid mobilization plan of officers on duty, and then a rapid recall of off-duty officers. Again, the Department has had a good program.

Mr. ADAMS. I think you got your men on the streets as rapidly as could be done. In other words, if you had 2,000 men on the streets in less than three hours, you are cranking up at a pretty good rate.

Now, what I am asking you is this: You are apparently going to need a back-up force if this kind of thing should occur again. Do you think this should be created as a type of police reserve? Do you want to use a National Guard operation?

In other words, the problem with Federal troops is the time factor—and I think, incidentally, in this case they cranked up in a hurry—they were on the streets by the next afternoon, which is moving pretty fast to bring people in. Do you visualize a National Guard operation, or do you visualize a police reserve operation, or what, to provide you with that pool of manpower to put, say, another three or four thousand people on the streets in a four or five-hour period?

Mr. MURPHY. Well, Mr. Adams, we have a unique situation in the District, which is one of the things that has given us considerable concern, and we have discussed this matter to some extent.

In other cities, there is the opportunity to be supplemented by a State Police or a Highway Patrol. As a matter of fact, a very interesting presentation was recently made at a law-enforcement meeting in Chicago that would involve the increasing in size of State Police agencies for this very purpose—a rapid response.

Our situation in the District is unique. The possibility of mutual aid from an adjoining Police Department in Maryland or Virginia is something that has been considered, but a mutual aid arrangement may not be entirely dependable because surrounding communities become concerned themselves if there would be a disorder in a central city.

We must think through this problem and either increase the size of the D.C. Department itself or make a mutual aid arrangement that would give us a more rapid response. Then, I think, too, we must continue this close liaison with the National Guard and the Military that gives us much reassurance, Congressman.

We will working through that and we will hopefully develop something that we can submit to the Committee.

Mr. ADAMS. I won't take any more time because I want to observe the five-minute rule. I do want to say in closing that I think the police

response in this area within the limits of the number of men that you have and your movement in the city was excellent.

I think it does show pre-planning. The indications that I have here are that you had your complete operation on the street the same night that a spontaneous riot occurred. We are all concerned over the situation throughout America and the response of Metropolitan Departments to do what, in effect, is an entirely changed situation on a street.

I agree with your decision of starting with massive force in the area. I agree with your conclusion to pull the officers out of 14th and U when there were 50 to 100 people and there were only two officers, until you could mobilize your strength. I think that if you don't have overwhelming strength in an area, then you must rely on ultimate force.

Ultimate force in a crowded metropolitan area, when the shooting starts, cannot help but lead to extremely heavy casualties among the innocent.

I am concerned as to whether or not your present plans envision a group of people to move in and assist you on a rapid basis to get that build-up of force sooner than you had this last time. I am not critical of your last operation.

Finally, I would just like to say that I think this Police Department made more arrests than any other city in America. I think they responded very well. I know there have been some people who said that they didn't, but I, for one, want to compliment you, Chief Layton, and you, Commissioner, for the operation that took place.

You were there on the streets. You were there that night. You were out in your car there and I think that is very good. I am glad to have you in Washington.

Mr. Dowdy. Mr. Mathias.

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

Mr. Adams has given me a preface for what I would like to say, Mr. Chairman, because I was on the streets in Washington on two of the nights of the disorders.

May I direct my remarks to Chief Layton, Secretary McGiffert, and Mr. Murphy.

I think all of us owe a considerable debt of gratitude to the Military, the Police Department, the Fire Department, and Mr. Murphy. The remarkable individual efforts that I saw made during the disorders by various members of these units was of the highest order.

It seemed to me to exhibit an extraordinary amount of discipline, training, judgment and restraint.

I saw the Police disarm a group of men who had machetes; and it was done in a very professional manner, and yet it was done with restraint and with full observance of the proper police procedures.

I happened to be on upper 14th Street when a man rushed up and he cried, "My woman is in that building," and the building was just a mass of flame. Without any question, without any hesitation—the fire ladder went right up against the building. The firemen made an effort to find out if the woman was actually in the building.

Out on Benning Road troops were controlling that area and using some stores there as a command post. It was a unit of paratroopers—and I have never seen a more disciplined performance on the part of Military units.

The sergeant who was in command happened to be a constituent of Mr. Ashmore's from South Carolina. I think we owe a personal debt to the troops for their excellent attention to duty. This series of disorders was, after all, not unprecedented in the history of Washington, but unprecedented in our lifetime in Washington.

So I think these brave men deserve credit. I think the community can feel a considerable degree of confidence, and this Committee can demonstrate such confidence by very properly seeking to investigate weaknesses that need to be strengthened. But I don't think these hearings here should engender a feeling of lack of confidence in the forces that must be going to maintain law and order.

We have got to maintain law and order. There is no doubt about it. The question is, how do we proceed so that we can maintain law and order in the right way.

FUTURE PROTECTION

Now, I would like to ask Mr. Murphy this question: are you satisfied with the arrangements that now exist to maintain civil order in Washington in the forthcoming months? Do you feel perfectly satisfied in your own mind, barring totally unforeseeable situations, that the City is under control?

MR. MURPHY. Mr. Mathias, I am satisfied that as a result of the plans that have been laid for some period of time and the refinements that have occurred in recent weeks, in which all of us have had an opportunity to participate, not only Chief Layton and Assistant Chief Wilson, but many of the people in other units, lower ranking people in the Department, that we are well prepared, that we have an improved alert system, that our intelligence efforts are better than they have ever been before, and that we have a good meeting of the minds on the necessity for supplementing our own forces.

First of all, bringing our own forces up to greater strength, should that become necessary, by extending the workday from eight to 12 hours, and cancelling days off, if necessary, and putting the National Guard on a militia status.

Then beyond that, the potential for having Military units very close by, and even pre-positioned if it becomes necessary for us to handle very large crowds, or if it is necessary for us to make many arrests.

So that we are considering, Mr. Mathias, not only a response to any disorder or violence, but all of the preventative steps that could be taken by our own Department and the National Guard and the Military, so we can be in the best possible posture for any eventuality.

MR. DOWDY. There was a quorum call on. I will be willing to come back tomorrow.

MR. MATHIAS. Mr. Chairman, I can conclude in about 60 seconds.

MR. MURPHY, now, I direct this equally to Chief Layton: is there any request that you have to make of this Committee? Is there anything which we, as Members of the Congress, Members of the House District Committee, could do to promote a more efficient and better job?

MR. MURPHY. One piece of legislation currently pending that we support is the bill concerning our police reserve. The police reserve officers volunteered their services; however, they must purchase their own uniforms and they are not protected by insurance of any kind. We think that would be of assistance to us.

It would strengthen our community support and participation. We would be happy, Mr. Congressman, to submit any further thoughts that could be developed in our discussions.

Mr. MATHIAS. Chief, do you have anything?

Chief LAYTON. No, sir, I don't right at the moment. I think a good deal of our planning—some requests that we feel we should make—go to the appropriations Committee, of course. We have made some of those desires known in the area of legislation.

Mr. MATHIAS. Maybe we can help you indirectly with the Appropriations Committee. Secretary McGiffert, are you satisfied as far as liaison with the Military?

Mr. MCGIFFERT. Yes, I am.

Mr. MATHIAS. Do you have any request that you make of this Committee?

Mr. MCGIFFERT. No, not at the moment, although we may in due course have a request that concerns improving the laws which provide protection for National Guard personnel.

Mr. MATHIAS. Mr. Bress, is there any action this Committee ought to take which would promote more prompt administration of justice in the District, which would be helpful? I will ask Mr. Whitener to join with me in putting on his other hat has as a member of the Judiciary Committee.

Mr. BRESS. There is some legislation pending now which I think would be helpful to law enforcement if some of its were adopted.

Mr. MATHIAS. Would you give us a memorandum of that so we can put it in the record?

I think it would be helpful if we could have that so that we can make your request part of this record. (See p. 86.)

Mr. WHITENER. I would just like to make this observation in view of what Mr. Murphy has said that some of us here on this Committee two or three years ago, as I am sure Chief Layton will remember, undertook to enact legislation which would create a reserve police force, which would give those reserve officers when on active duty the right to carry a gun and other necessary weapons, and which would have provided for some sort of workmen's compensation-type of coverage in the event of injury.

We met nothing but resistance from the District Building on that proposal at the time. I am not talking about from the Police Department, but I am talking about those in charge of the Department. Now, it comes as quite a surprise to me that you gentlemen are recommending, as I understood what you just said, that we do exactly that, that they be called into duty when they are needed, and that they have this insurance protection.

The Corporation Counsel and the then District Commission seemed to think it was not the thing to do. So perhaps some of us have been ahead of some of the folks down there.

I might say that we had members of the reserve or auxiliary police who were most interested in the legislation and who were utterly shocked at the opposition.

Mr. DOWDY. I was, too.

We will come back again. Some haven't had a chance to ask questions.

I will come back tomorrow afternoon if any of you wish to do so. We are trying to adjourn this hearing.

Mr. ABERNETHY. Mr. Chairman, I know there are other Members who have questions they want to ask. I suggest that we start another day next week. I can come tomorrow if it suits the Members, but I understand we have another hearing scheduled tomorrow.

Mr. DOWDY. I mean tomorrow afternoon.

Mr. WHITENER. Why don't we come back at 2:00 o'clock today?

Mr. JACOBS. If I may make a suggestion, I had a few questions that I wanted to ask. But if the other members who are pending would agree with me, I think that there has been a lot of talk about tying the hands of the police.

I would be very happy to yield my prerogative to ask questions so we can stop tying the hands of the police by pulling them off their jobs.

Mr. DOWDY. We are trying to untie the hands of the police. They have been tied for too long, and that is one of the purposes for this hearing. We will adjourn, subject to call.

Numerous newspaper clippings, letters, and editorials will be inserted in the record.

(The material referred to follows:)

RESOLUTION OF FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA, FEBRUARY 8, 1968

WHEREAS: A Director of Public Safety of the District of Columbia has recently been appointed, having, among other duties, supervision over the Metropolitan Police Department, and

WHEREAS: Wholesale changes in practices and administrative personnel have been made, and further changes have been announced, and

WHEREAS: Announcement of these changes has been accompanied by public criticism of methods, practices and personnel of a Police Department which has been generally recognized as one of the best in the Country, and

WHEREAS: The *methods* used in announcing these changes have unnecessarily and brutally embarrassed present officers of the Department, and

WHEREAS: These actions have had a devastating effect on the morale of members of the Police Department and have aroused unprecedented indignation on the part of responsible citizens and organizations in our community, tending to destroy confidence in the integrity of the top leadership of the Department, and this at a time when a further build up in tensions is a possibility this spring,

NOW THEREFORE BE IT RESOLVED: By the Federation of Citizens Associations of the District of Columbia in meeting assembled this eighth day of February, 1968, that it deplores most strongly the unwise, capricious and arbitrary methods used to date in effecting changes in the Metropolitan Police Department, and

FURTHER BE IT RESOLVED: That copies of this resolution be sent Police Chief John B. Layton, the Chairmen of House and Senate District Committees, the President of the United States, the Commissioner of the District, the Attorney General of the United States, and the Washington Daily Newspapers and the Director of Public Safety.

Mrs. ERNEST W. HOWARD,
*Chairman, Police and Fire Committee,
Federation of Citizens Associations of the District of Columbia.*

CAPITOL HILL SOUTHEAST CITIZENS ASSOCIATION, INC.

RESOLUTION AND RECOMMENDATIONS REGARDING PUBLIC INFORMATION ON CRIME IN THE DISTRICT OF COLUMBIA

Whereas, the Capitol Hill Southeast Citizens Association for a long time has believed that one of the major reasons for the continuing increase in crime in the District of Columbia is that the criminal and the would-be criminal have been convinced that the police would not be solidly backed up in a strict per-

formance of their duties; and that this belief has come about largely because they have seen, as practically everyone else has, the many other considerations that have been given precedence over a strong emphasis on law enforcement itself as the primary and essential necessity in effective crime control; and

Whereas, although the central importance of an all-the-way back-up of policemen in the full performance of their duties has now been clarified and placed in proper perspective by Director of Public Safety Patrick V. Murphy in a statement to the House of Representatives District Committee that (as quoted from the January 24 Washington Star) "no police department can be effective unless the officers know they are backed up firmly from top to bottom" and in promising "to do just this" Mr. Murphy has also said "I took this position to stand behind every policeman who does his job", the out-of-hand crime climb has again been underscored in a later Department of Public Safety release reporting (as quoted from the January 30 Washington Daily News) "a 3.6 percent increase in crime last month (December) over November and a 32 percent increase over December 1966," although this figure was attributed to some degree to the fact that "the increase in part came from more accurate record keeping in a few precincts;" and

Whereas, while such statements and statistics may provide some further awareness of the steps that are being taken to combat crime and the increasing extent of the crime situation itself, they still leave the public completely in the dark as to what the "case-load" in criminal activities is in actual fact, and it is felt that no real and permanent improvement can be expected until individual criminal acts are publicly pinpointed to neighborhoods so that residents can more realistically understand the dangers that confront them and can perhaps do more to cooperate with the crime program as we are constantly being implored to do; and until, as well, the criminal finally begins to realize that no compromises of any kind will be entertained in obtaining the widest extension possible of strict law enforcement operations; and until, also, far more is publicly known than is known now about the way the courts are functioning in carrying out their part of the responsibilities all public agencies have that are in any way involved in the total process of controlling crime;

Be It Therefore Resolved, That the Capitol Hill Southeast Citizens Association requests that, toward these ends, the Department of Public Safety develop more detailed public informational releases to be available to the newspapers, citizens groups and any one concerned individually, which will:

1. Indicate where and how the policy of back-up is being implemented in practice.

2. Supplement currently supplied mass statistics by a listing of individual crimes committed—as well as call-ins on threats of crime—as these show up on a consolidated day-by-day police blotter for the city as a whole, with some indication of immediate police action on the case. The Association believes that this would be a far more responsible and revealing reporting to the public of what the crime load in individual cases actually is and what the major areas are—block by block—where the residents are being hardest hit, for which purpose mass percentage figures are absolutely useless.

3. Provide, as a clear accounting to the public on crimes solved or disposed of by law, reviews of court decisions in analyses of court actions completed on cases where criminals previously apprehended have been tried or where the cases are being closed.

Passed by unanimous vote at the monthly meeting of the Association, February 1, 1968.

WASHINGTON, D.C., February 19, 1968.

HON. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In recent weeks there has been considerable public comment regarding the administration of the Metropolitan Police Department much of which has centered on the authority and responsibility of Chief John B. Layton.

Since the Reorganization of the District Government, and especially since the appointment of Mr. Patrick V. Murphy as Director of Public Safety, the relationship of the Office of the Chief of Police to the citizens of the District of Columbia has become increasingly blurred to the point that it is uncertain who is the Chief of Police.

Mr. Murphy during his tenure has made various statements which are indeed questionable. Obviously he is lacking in knowledge of the structure and administration of the Metropolitan Police Department. A department head vested with leadership responsibilities would rarely conduct himself as he has. It takes ability and leadership coupled with years of progressively responsible experience to administer our Police Department with all of the special and peculiar problems that exist here in the Nation's Capital.

On February 8th the Washington Evening Star carried an editorial "Police Trouble Ahead?" and the Washington Daily News "Mr. Murphy and Chief Layton" each of which express concerns about the Public Safety Director. Should these concerns materialize then only this community as such, and Washington as the Nation's Capital, will be the loser.

Chief Layton and the officers of the Metropolitan Police stand as a blue line of protection. They must stand firm and tall, and must do so in the knowledge that there is Departmental support as well as public understanding and appreciation of their difficult role and mission of service. We simply cannot afford the luxury of dispensing with the services of Chief Layton as surely as some of our "leaders" seem so anxious to cause.

I am certain that you, the Committee and many Members of the Congress are aware of the fine police service we have in Washington. We must all—citizens, community organizations and the Congress—do what we can to maintain and improve the leadership, morale and opportunities for our police. To do less will certainly sow the seeds of disaster—something the Nation's Capital cannot afford.

I call to your attention that Chief Layton is a police officer who throughout an exemplary career has earned the respect of the concerned citizenry as well as the men under his command. His attainments and record speak highly of his leadership, tact and diplomacy, and this should not be marred.

These are times when it is popular and sophisticated to demean those who are engaged in public protection. There has been all too much of this, especially by people who know better.

As a citizen who has resided in Washington many years and with many years of civic enterprise activity which have brought me in contact with the Police in service to the community. I wish to commend to you the accomplishments of Chief Layton for he has by his leadership brought public credit to the Metropolitan Police Department. This must continue—let's keep Chief Layton in full command of our police.

Sincerely yours,

WILLIAM H. WATERS, JR.

FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA,

WASHINGTON, D.C., February 20, 1968.

Hon. JOHN L. McMILLAN,
Chairman, District Committee, U.S. House of Representatives,
Washington, D.C.

DEAR MR. McMILLAN: It has been reported that some of our Police Department officials are to appear before you tomorrow, February 21.

I am enclosing a copy of a letter that I wrote on February 8 to the chairman of the D.C. City Council, the Honorable John Hechinger, which expresses my views on the matter of consolidation of police precincts.

The Glover Park Citizens Association, of which I am immediate past president, strongly opposed any consolidation, as did the Federation of Citizens Associations of which I have been secretary since 1950. Likewise, the #7 Precinct Advisory Council opposed consolidation, especially #7 with any other.

It would seem, however, that despite citizen opposition, the powers-that-be—Mr. Murphy in particular—plan to go right ahead and do as they please. Hearings are held nowadays to give lip service to the idea that citizens are taken into account in decision making; before Mr. Kennedy became president, hearings were held to ascertain citizen views and decisions clearly reflected those views. I know—I participated in many hearings in those days as representative of the citizens associations of which I was at times president (two in Southeast, at various times), and the Commissioners did not in those days express an opinion and then hold a hearing where the outcome was a foregone conclusion.

After all these years in the District—since 1936—and after active participation in civic work for most of that time, I am thoroughly discouraged and willing to move out if we can find a suitable house. I have, in fact, been looking, and feel that I can move without regrets although I should never have thought that

possible before 1960. We are wasting our time trying to have any influence on the policies of the local government; everything is cut and dried before it even receives publicity, through dictation from "above."

I hope that you will be able to stop the merciless embarrassing of our top police officials; I do not believe that any newcomer can learn so much in so short a time that he can overturn procedures built up over many years. The police try to do a good job, but when they are harassed by unfounded charges of "police brutality" and when Courts turn criminals loose to commit more crimes, the police are obviously hard put to be properly effective. Their morale must be at an all time low at this time, and I am delighted to see them fighting back as they have been—when they were represented at the City Council hearing on consolidation and as they have been reported to be in newspaper articles since that date. I believe that top officials of the Police Department dare not express their own views; they feel bound to yield to what they are "expected" to say, for their own security.

Not on this subject, but equally outrageous, is the idea that "task forces" made up of outsiders can come into this city and, *in four days*, plan a complete reorganization. Obviously they were not here long enough to find out how the city operates; they had some grandiose ideas on how a city should be organized and applied them to the District. The "four days" was obtained from the newspaper on the Sunday on which the entire "Reorganization" was released.

Now legislation has been introduced in the Senate to permit 25 additional high paying, executive level super-grade jobs for the District to carry out these plans. No public hearing has been held. The legislation, bypassing the District Committees, does not specify the nature of any of the positions. It simply gives blanket authority for such hiring, bearing out what citizens said about the proposed Reorganization Plan under which the present D.C. government came into being, that we would have a much more expensive local government and it would provide for positions under political patronage. Taxes will go up and up, obviously, with all the grandiose, ridiculous ideas being put forth without any effort to obtain the views of those who have lived here for many years and will be the victims of implementation of these ideas.

If your Committee can do anything to stop this runaway program, I surely hope you will do it! Discrimination is rife everywhere—in the ignoring of the citizens in all this, in hiring on a racial, color-conscious basis rather than on the basis of who is best qualified for jobs without regard to race, with preference given to those residing in the District, in bringing in outsiders for top-level jobs instead of promoting career employees (as in Licenses and Inspections), in bringing in outsiders to supersede those previously at the top echelon (as in the Police Department), etc. All power to you!

Very sincerely yours,

MRS. EDWARD B. MORRIS, *Secretary.*

WASHINGTON, D.C., *February 8, 1968.*

HON. JOHN HECHINGER,
Chairman, D.C. City Council,
District Building, Washington, D.C.

DEAR MR. HECHINGER: I attended last Tuesday morning's session of your Council as a representative of the Glover Park Citizens Association which had also sent in a letter strongly opposing consolidation of police precincts, especially No. 7 with any other. I feel compelled to add this letter to your record on the subject; I hope that each member of the Council takes time to read correspondence before coming to conclusions on controversial matters.

As a teacher, I am in agreement with the D.C. Policemen's Association which avers that, with the merging of precincts, commanders would not be able to have as personal contact with their men. I know the advantage of reasonably small classes to permit personal contact with the students and a knowledge of some of their problems. Personal interest serves as a morale builder for employees whether they be in private corporations or in public office, and a breakdown in communication between a commander and his men because of sheer numbers should be a compelling reason to retain the precinct structure as it now exists.

Having for years been a resident of the area east of the Anacostia river I can speak in opposition to Mr. Murphy who alleged that more precincts were a relic of the "horse and buggy" days. Originally that entire area was covered by No. 11 precinct—this in the days of telephone and automobiles, I assure you. As the area built up in the Far Northeast and Far Southeast, it became too unwieldy for No. 11. True, there were not as many scout cars at that time, but neither was there as

much crime. Finally, after repeated requests from citizens, No. 14 was set up for the area north of Pennsylvania Avenue, and both have seemed to have all they could handle.

Mr. Murphy also alleged that it would be better for police precincts to have "a broader base." Again I disagree! When citizens associations have merged so that one association covered the area formerly covered by two, apathy has resulted. Different neighborhoods have different problems, and those from one have little interest in the problems of one some distance from them. There are closer personal relations in organizations where interests and problems are mutual.

While merging of precincts might effect some economies, it should be possible to put more men on the streets and effect economies by using civilians for some of the routine station work, with police supervision.

As to Mr. Murphy's feeling that he should "reorganize" police precinct advisory councils, I think he has been in this city far too short a time to know his way around, to know its organization and the civic interest shown here which is far greater than that in places where residents have the vote. Mr. Murphy is not endearing himself to the citizens; whether he wants to consider their wishes or not is, of course, not yet clear, but at this time it would seem not—since he walked out of your Tuesday morning meeting when citizens were given a chance to be heard.

Mr. Murphy has probably never been anywhere that had citizens associations, civic associations, Neighbors, and other such groups representing each and every neighborhood—always one group, sometimes all three in a single area. These groups as you know, are made up of dedicated people giving their time as volunteers because of their interest in making this city the best possible place in which to live. In years past, their views have been given serious consideration by governing officials and their letters have received sympathetic attention.

Only after President Kennedy named a Special Assistant for District Affairs who began to dictate to the Commissioners from the White House did response to citizen opinion begin to be less sure. Public hearings were held but often only after minds had been made up in advance as could be ascertained by official statements. I have been here since 1936, have served as president of three citizens associations—two in Southeast and one in Northwest—and as secretary to the Federation of Citizens Associations since 1950. I am also secretary to #7 Police Precinct Advisory Council and served for seven years as a member of the Public Health Advisory Council. I have been around long enough, and active long enough, to know how relations between the citizens and their governing officials here deteriorated just during the last six years or so, due to White House dictation—which we resent.

If Mr. Murphy thinks these precinct councils are not sufficiently representative, it would be interesting to know from what groups he would like to draw other members. Picking out an individual here and there, an individual who represents no one but himself, who has no group to which he would convey information, would help neither the police nor the community. Certainly the #7 Council has endeavored to get a representative group from the community; it has members from all the citizens associations within its boundaries, service clubs such as Kiwanis and Lions, clergy, students from Gordon Junior High and Western High Schools (presidents of their Student Councils, etc.), Georgetown University students and faculty, the D.C. Recreation Department, the Frank R. Jelleff Boys Club, etc.

I hope that, before your Council makes any firm decisions, it will hold a well advertised public hearing on the matter of precinct consolidation. The hearing on Tuesday had far too short notice.

Very sincerely yours,

Mrs. EDWARD B. MORRIS.

WASHINGTON, D.C., April 9, 1968.

Representative JOHN L. McMILLAN,
Chairman, House District Committee,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE McMILLAN: How is it possible for the Mayor, the City Council, the Police Department, and others to pat themselves on the back for doing a good job in connection with the violence in our city the past few days?

As a member of this community, and a very proud one, I cannot, for the life of me, see how any of us can take pride in the way we handle violence of this nature without feeling a great sense of guilt for not being able to use the same organization and togetherness of our city officials, community leaders, and resources in constructive ways toward preventing such violence.

What has happened to our society when we can only prepare and plan to deal with violence rather than deal with the causes and make sincere and constructive efforts toward the elimination of violence? What has happened to the old saying, "An ounce of prevention is worth a pound of cure"?

We look to our city officials and community leaders to use initiative, foresight, and just plain common sense in understanding that a man who can feed his family, give it decent housing, and have respect in the community, regardless of his job, will not take part in violence because he feels that he is a part of the community.

It is my sincere wish that, at this time, the officials of the District Government and the community leaders do not slip back into their complacent ways, but realize that what has happened in the past few days could only be a preview to the violence that could erupt because of inaction on the part of those in the City Government and responsible community leaders to make radical and constructive changes that could improve the plight and the despair of many of our poor and underprivileged citizens.

Respectfully,

ROBERT S. MOORE.

WASHINGTON, D.C., April 17, 1968.

HON. WALTER E. WASHINGTON,
*Mayor of the City of Washington,
District of Columbia.*

MY DEAR MAYOR WASHINGTON: Since your appointment as Mayor of the City of Washington, you have had a most favorable press. Indeed the public image you have projected has been exceptional. Many of us Washingtonians have observed this with great satisfaction. All of us like to see our government capably administered, and we have thought that your appointment would work both to shut off criticism by dissident Negroes, and to encourage better relations between the white and colored people of our population.

Apparently, it hasn't.

There have been many favorable comments about your handling of the recent riots. It isn't fair to second guess, and of course I do not have available to me as much information as you had. I can't know what the various actions taken were based on. What I have read and observed convinces me that the problem was not well handled at all.

Television reports showed you saying you were going "back out onto the streets" on Thursday. Later, TV movies showed looters walking past policemen with their arms full of stolen goods, with no action being taken by police who were standing by. The reasons for the lack of police action were explained as lack of manpower to make necessary arrests, but if this decision had to be made, it is clear that the riots were already out of hand. If you were there, it should have been obvious to you also. Condoning such illegal acts as burning and looting, and even beatings and shootings, only encourages wrong doers to step up their unlawful acts.

The attitudes displayed by the rioters plainly were not related to Dr. King's shameful murder. Rather, the looters displayed a carnival mood.

It should not be necessary to point out to an administration the simple, cardinal principles of the application of a force capability. Mr. Eisenhower understood it well. So have others in similar situations. When force is required, it should be applied promptly, and in overpowering strength. Such a display brings order quickly, and in the long run saves both lives and property. Whether orders to policemen to shoot rioters would have prevented the growth of the riots is moot, but I think that there is a fair chance that, had the orders been in effect in Washington that Drew Pearson credits with forestalling trouble in Philadelphia and in Atlanta, and if these orders were publicly known, we may very well have had fewer deaths than the 11 attributed to the three day riots.

The greatest danger of all is that otherwise moderate and law abiding citizens will come to believe it is necessary to take the law into their own hands in order to protect their property and their families. For such a situation to develop in Washington it would almost unquestionably lead to greater bloodshed and property loss.

Governor Agnew of Maryland has put his finger squarely on one big, important aspect of this problem. That is the failure of the Negro leadership to speak up in disavowal of the claims of the firebrands. Those of us in the white community have been remiss, too, in that we have not voiced our determination to

protect ourselves and our property. Nor have we insisted strongly enough that the officials in charge of our government, whose responsibility it is to provide safety for ourselves and our families and to protect our properties, carry out those responsibilities effectively and promptly.

Troops should have been brought into Washington Thursday night to forestall the immense damage inflicted on this city during Friday and Saturday.

It is difficult to phrase a written letter in such a way as to carry the precise meaning intended. This letter is intended to be more sympathetic than antagonistic. At the same time, I too have a claim on the forces of law and order. I expect equal consideration by the law. I expect the officials of my city government to discharge their responsibilities to all citizens promptly and effectively, to prevent any recurrence of the disgraceful acts of last Thursday, Friday, and Saturday. Many like me are disturbed and concerned that this situation was ever permitted to get out of hand in the city where so much has been done for the colored population. Admittedly, there is still much discrimination, and this probably will continue for some time. But, there has been discrimination against many peoples in America, the Irish, the Italians, the Jews, the Orientals, and others. As these people demonstrated their willingness to study, to work, to accept responsibility, and to become respected members of the community, discrimination has faded out. Now it is up to the Negro segment to make its own place. Those who would proceed in a lawless manner must be made to understand both their opportunities and their responsibilities. Above all, it is up to you and your staff to make it clear that lawlessness will not be tolerated, from any racial segment.

Yours respectfully,

LEONARD SMITH.

[Telegram]

WASHINGTON, D.C., April 24, 1968.

Representative JOHN McMILLAN,
Chairman, House District Committee,
House Buildings, Washington, D.C.:

Urge you to use your influence to see that curfew on teenagers be reimposed and also that permanent ban on sale of gasoline and ammunition in the District of Columbia be imposed by executive order or act of Congress.

A. J. HACKL.

FEDERATION OF CITIZENS ASSOCIATIONS OF DISTRICT OF COLUMBIA

BILL OF PARTICULARS RELATIVE TO THE DISTRICT OF COLUMBIA RIOTS OF APRIL 1968

A tense racial situation was in existence in the District of Columbia on April 4, 1968.

The murder of Dr. King indicated the need for immediate action to preserve order and avoid potential violence.

The Federal and District officials were criminally slow to act in providing armed assistance for a numerically inadequate police force.

Events and developments thereafter were as follows, resulting in the Washington insurrection:

9 p.m. Thursday, April 4. Rioting and looting started.

9 a.m. Friday, April 5. Arson and looting started up again. Only the regular 8 a.m. shift of police was on duty—500 out of 2,800 men. Police officials had not expected trouble.

12 noon Friday, April 5. Police began to radio for help. Mayor Washington considered but rejected a call for Army troops. National guard were called for drill. Police were being overrun and retreating.

3 p.m. Friday, April 5. Police retreated as mobs became overwhelming.

4 p.m. Friday, April 5. Mayor Washington telephoned President Johnson for Federal troops. Army and Air National Guard units were mobilized.

6 p.m. Friday, April 5. Regular Army troops began to arrive, 21 hours after the first mobs formed.

7:40 p.m. Friday, April 5. Regular Army troops fanned through the streets. Their orders were to ignore looters.

Unreasonable curbs and restraints were placed on soldiers and police which not only failed to curb but encouraged looting and arson.

A regular Washington policeman said, "I think we could have stopped this thing if they hadn't put us under wraps so. Looters would break a window, then stand

aside to watch our reaction. When we did nothing, the mob would move in and ransack the place. We just had to stand there."

A French newspaperman remarked: "What you need here are a couple of squads of Parisian gendarmes. They move in, swinging their lead-weighted capes, and wielding their clubs. They go right after the ringleaders and smash the hell out of them. And I'll tell you this: That discourages a mob very fast."

One reported watched looters trying to load a 5-foot recordplayer console into a small foreign car. The job was impossible, but they worked at it for many minutes before giving up. Finally the police, who had been watching the whole performance, arrested them.

15,000 regular troops and National Guardsmen were told to keep their rifles unloaded. Often, in the early hours, outnumbered police simply stood by—under orders—watched the arson and pillage.

Trying the hands of our armed forces and law enforcement officials was an invitation to crime, created disrespect for law enforcement and lent encouragement to the philosophy that riot and destruction is the most certain method of enforcing demands.

As reported in the news media District Court officials are considering imposing mild, if any, penalties on looters, curfew violators and arsonists.

Government Departments, except those three required by law to take no-pay action, are "giving consideration" to what action to take against their employees convicted of major riot offenses.

The Department of Justice, through its Attorney General, is dilly, dally, and delaying and "making studies" of statements inciting to riot and threatening destruction of our city and our government on the part of a certain radical, militant leader instead of taking positive action authorized under existing law.

The claim by certain civil rights advocates that this country is stingy in aiding the poor is not borne out by the facts. Public relief now exceeds nine billion dollars annually to 9.7 million persons, 90% of them Negroes.

With ample advance evidence of the potentialities for disorder and violence in our city, is it unreasonable to have expected, when the tragedy occurred, that more prompt and effective action would have been taken to protect the lives and property of the citizens of the District of Columbia?

At the regular meeting of the Federation of Citizens Associations the following resolution was adopted:

Whereas the news media gives altogether too much publicity to statements of politicians, which while purporting to sympathize with the poor and uneducated; with references to expected riots in the streets, bloodshed in the streets, long hot summers, etc., only encourages the law-breakers, arsonists, looters, etc. to disregard the laws of this land under the guise of "permitted civil disobedience";

Whereas too much publicity is given to the statements and actions of such militants as Stokely Carmichael, Rap Brown, etc., thereby building such persons up in the minds of the easily influenced.

Whereas actions and statements of responsible civic leaders of both the Negro and white race are either totally disregarded, minimized or misquoted.

Whereas too little emphasis is placed on what has been done and is being done to improve relationships between the races; what is being done to improve education for all; housing for all; welfare for the needy, medical care for aged and needy, etc.: Now therefore, be it

Resolved By the Federation of Citizens Association in meeting assembled April 25th 1968, that the press, radio and television be requested to discontinue their present policy of sensationalism, which undermines the efforts of law-abiding citizens, and rather put emphasis on what the Government, both Federal and local; what Churches, Foundations and Organizations are doing to promote the welfare of all citizens.

FEDERATION OF CITIZENS' ASSOCIATIONS OF THE DISTRICT OF COLUMBIA, APRIL 25, 1968

Resolved: By the Federation of Citizens' Association in meeting assembled April 25, 1968 that it support and recommend passage of H.R. 16512. This bill would provide that "An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if convicted in a court of competent jurisdiction of murder, homicide, felonious assault, rioting, inciting to riot, looting, robbery, or arson during a period of emergency declared by competent authority due to civil disorder. An individual so convicted shall not be eligible for appointment to, or reinstatement in, any civilian

position in the Government of the United States or the government of the District of Columbia for the period of three years immediately following the date of his conviction," and be it further

Resolved, That copies of this resolution be sent to the Chairman of the House and Senate District Committees, the Mayor-Commissioner, the Chief of Metropolitan Police and the President of the United States.

MAY 2, 1968.

GENTLEMEN: The recent action arbitrarily cancelling the law of this country by responsible (?) officials in Washington, D.C., "in order to save lives" is an astounding thing! Arson, looting, violence took place with police told not to interfere. \$100 million was lost in that riot (per Mr. Talcott, U.S. Representative).

Hitler showed what appeasement means when Chamberlain rejoiced in "saving lives." He was encouraged as these criminals are encouraged when not confronted and stopped and punished swiftly and sternly.

But the worst criminals are those officials who did not enforce our laws. The arsonists, looters, and violence makers are not elected or appointed to uphold law and enforce it. They did not violate a sacred trust, in some cases solemnly sworn to. They are just savages operating on their own level.

The "poor people's" march needs law enforcement for the rights of the citizens who work and obey the law for the good of all.

The capital is our city—unique in this country. No mob of hoodlums under whatever sanctimonious banner can invade it. This mob must pay their expenses or get out! They must act in an ordinarily, sensible, orderly, financially responsible way or get out! Just as we have to do.

Sincerely,

VIRGINIA P. RAISBECK.

FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA

RESOLUTION

Whereas, there is a complete lack of confidence in Safety Director Patrick V. Murphy to maintain law and order in the District of Columbia: Therefore, be it

Resolved, By the Federation of Citizens Associations in regular meeting assembled the 9th day of May, 1968, we urgently request that the position of "The Director of Public Safety for the District of Columbia" be abolished forthwith.

FEDERATION OF CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA

Whereas the Poor Peoples' March on Washington has a potential for rioting, looting and burning as recently witnessed here and as frequently accompanies demonstrations of this nature, and

Whereas it is generally recognized that a most effective deterrent to situations of this nature is the knowledge on the part of the participants that adequate forces are available to maintain and enforce law and order, and

Whereas our Armed Forces are available for such duty and have proved in the past to be a most effective supplement to our police forces: Now, therefore, be it

Resolved, The Federation of Citizens' Associations in meeting assembled this 9th day of May 1968, calls on the Mayor-Commissioner of the District of Columbia to secure the services of a sufficient number of our Armed Forces to patrol the streets of Washington and give visual evidence to all that adequate forces are available and ready to maintain law and order: And further be it

Resolved, That copies of this resolution be sent the President of the United States, the Chairmen of the House and Senate District Committees, the Mayor-Commissioner of the District of Columbia, the Director of Public Safety and the Chief of Metropolitan Police.

[Reprint from The Sunday Star, May 26, 1968]

A BUSINESSMAN VOICES HIS FAITH IN THE CAPITAL CITY

A majority of Washington business leaders have faith in the future of the National Capital and believe it will grow and prosper and provide a quality of life

for its citizens unmatched elsewhere in the world, declared Robert C. Baker, president of American Security and Trust Co., here last night.

Baker issued a statement to the press yesterday along with announcement of plans for opening two new branches of his bank, the first one tomorrow at 120 C St. NW and the second on June 17 at L'Enfant Plaza. It came at a time of some anxiety accompanying recent civil disorders, current demonstrations and a rising toll of robberies involving financial institutions.

He conceded there is much cause for concern about certain conditions within the community, but cautioned against overemphasis of influences that are basically short-term and correctible.

Citing steady population growth, expansion in retail trade, housing, banking volume and employment, Baker emphasized that Washington is one of the Nation's top growth cities.

"As bankers we must watch those financial developments that indicate the condition of a community's economic health," he declared. "The trends that we watch in our day-to-day business show that this is a city of financial viability with a positive outlook for long-term financial growth."

The text of Baker's statement follows:

"I am grateful for this opportunity to speak on the subject that is uppermost in the minds of many Washington businessmen. I speak both as a businessman and as an individual who is a long-time resident in this city and who loves it dearly. I am confident that I accurately represent the viewpoint of the vast majority of business leaders in this community when I say that we have confidence in the future of Washington and that we believe this is a great, growing and viable metropolis that is enjoying an era of growth and prosperity.

"There is undeniable cause for concern over certain conditions within our community, but we should not allow these influences, which are basically short-term and correctable, to be over-emphasized in measuring the economic health of the city. When judged on any long-term rationale, Washington emerges as a city in the midst of an era of un-precedented business prosperity, with great potential for the future.

"There are a number of business and economic guide lines to support my conviction that Washington is one of America's leading growth cities with opportunities for business and employment scarcely to be matched by any other community.

"In retail sales, for example, the District showed an increase of more than \$289,000,000 in five years. Total employment in the District by private business increased to 310,000 in 1966 and while we do not yet have final figures for 1967, indications are that another substantial increase was registered. I should like to stress that there is no valid reason why this important figure, representing as it does, the total of those employed in the private sector of business should not continue to increase in the coming years.

"The strength of the Washington economy was shown dramatically in the first quarter of this year by the increase of new housing permits in the District of more than 50 percent over the comparable 1967 quarter. This reversed a general downward trend throughout the nation including Washington in recent years.

"Another example of the strength of the capital city is the fact that, while few eastern cities are growing in population due to a general movement toward the suburbs, the District has experienced a small but steady increase in the number of its inhabitants. The Washington metropolitan area continues to be one of the fastest growing areas of the nation with its population estimated at 2,700,000, up almost 700,000 from 1960.

"As bankers, we must watch those key financial developments that indicate the condition of a community's economic health. The trends we watch in our day to day business show that this is a city of financial viability with a positive outlook for long term financial growth. Time deposits rose by 13 percent in 1967 to \$987 million. This continued a growth pattern which saw total bank deposits in Washington increase by more than \$800,000,000 in a five year period.

"During the same period total loans have increased by more than one half billion dollars and demand continues at an unprecedented high rate within the District.

"A key indicator of our city's vitality is the attraction it has for visitors from all over our nation and, indeed, from all over the world. Tourism is Washington's largest profit industry. It ranks second only to the federal government as an economic factor for the District. Last year a record 16.8 million tourists visited Washington spending \$531,000,000 here. In the last 10 years, tourism in Washington has increased by 46 percent. It is estimated that by 1977, our annual influx of

tourists will reach 29 million and that they will spend more than a billion dollars here.

"Supported by such stimulating business and economic indications, it is hardly possible to view this city's future except with optimism and confidence. The business community, of course, cannot overlook conditions and circumstances that are having a temporarily depressing influence on the city. It would be wrong, however, to allow these conditions, which are transitory and should have no permanent effect on the general health of the community, providing sound, corrective measures are taken, to obscure the generally positive long-range outlook for the city. So long as we maintain our faith in the future of this great city, it will grow and prosper and provide a quality of life for its citizens unmatched in any other city in the world."

MISCELLANEOUS NEWS ITEMS

[From the Washington Star, Mar. 17, 1968]

'DAY AND NIGHT' EFFORT—MURPHY BELIEVES D.C. WILL ESCAPE DISORDER

District Safety Director Patrick C. Murphy is confident the city will be able to prevent serious disorders this summer.

With Dr. Martin Luther King bringing his Poor People's Campaign to Washington next month, and with the possibility of disturbances this summer, the city is working "day and night" to improve community relations, he says, adding:

"Frankly, I am completely confident we are going to be able to prevent . . . any serious disorder in this city this summer."

Murphy, who was appointed nearly four months ago to head the city's police and fire departments as well as civil defense, makes his comments in a WMAL-TV interview to be telecast on Close Up at 1 p.m. today.

On other topics, the former New York City police official said he believes that use of the chemical spray as a police weapon has been greatly misunderstood. The spray renders its victim helpless in what Murphy believes is a more humane way than a nightstick or revolver.

When asked about Chief John B. Layton's decision not to include "boy" in a list of banned trigger words last year—an omission that angered segments of the Negro community—Murphy said the entire list is under review.

Murphy said he is not bothered by assertions that recent court decisions have made police work difficult.

The police side has not been "as well advocated as it might have been, he said. But for a long period some police were "tramping" on the rights of people, he added.

[From the Washington Post, Mar. 17, 1968]

NO SERIOUS DISORDER EXPECTED BY MURPHY

Patrick V. Murphy, Washington's Public Safety Director, is predicting an orderly spring and summer here.

"I am completely confident we will be able to prevent any disorder, or shall we say serious disorder in this city," Murphy says, in an interview to be telecast at 1 p.m. today on WMAL-TV, Channel 7.

The Police Department's chief policy-maker attributed his confidence to intensified training efforts now in progress to prepare the police force for preventive action in potentially tense situations.

With an accent on improving community relations, Murphy said the Police Department is "working day and night to reduce any tension or hostility that may exist in any part of our city."

Murphy also urged citizens to assess reports on the crime rise here with an understanding that terms such as "crime-infested" are more scary than accurate. "There are safe streets in this city, you can be sure," he said.

Observing that crime has become a "very emotional issue" with "more heat on it than there is light," the Director said statistics reflect improved reporting systems and an increase rate is troubling most large cities.

Murphy's optimistic report included his view that morale in the Department is generally high and patrols of the city are good.

Recruitment remains a Department problem, he said, with a need to attract more Negroes to the force.

Murphy also confirmed earlier statements by Assistant Chief Jerry V. Wilson that the Department has found the use of chemical sprays a humane way to subdue unruly persons.

[From the Washington Star, Apr. 26, 1968]

TREATS OF PAY-OR-BURN POSE PROBLEM TO POLICE

(By Donald Smith)

District police are worried that recent attempts to solicit money from white merchants, sometimes under threats of burning down their stores if the money is not paid, may be growing.

"I'm afraid that if this trend develops further we're liable to have a Mafia type of extortion operation," Inspector Thomas I. Herlihy, head of the police Intelligence Division, said today.

The division has had numerous complaints from businessmen who report being contacted in person and by telephone by solicitors.

STORE OWNER WAVES GUN

In cases of solicitations being backed by threats of arson, Herlihy said, "Obviously there have been some who have paid off and not reported it."

A store owner in the 1800 block of 7th Street, contacted by The Star, said he had waved a pistol at one such solicitor when the man demanded \$50. The man ran out of the store.

The owner, who asked that he not be identified, said a well-dressed Negro entered his store at about 11 a.m. Monday and said, "Give me \$50 and I'll tell them not to burn up your building." The owner then pulled out the gun and the man fled.

"I built this store myself 37 years ago," the owner said. "But I'm not going to pay somebody not to burn it down."

Numerous merchants said they had been asked by members of the Student Nonviolent Coordinating Committee to contribute smaller amounts—not, however, under threat.

"A SNCC worker came in Thursday and asked for money so they could send kids to summer camp, or something like that," said the owner of a grocery store on 7th Street NW.

"I gave him a check for \$5," he added. "I would have been crazy not to."

POSTERS BEING SOLD

Many stores throughout the city display a framed poster commemorating the death of the Rev. Martin Luther King Jr., whose assassination April 4 touched off widespread arson and looting.

The posters have been sold by door-to-door solicitors for \$1 each. The frame costs \$3. Also being sold are Martin Luther King buttons for \$1 each.

Inspector Herlihy pointed out that soliciting without a permit from the Department of Licenses and Inspection is illegal. There have been no arrests in connection with the posters and buttons, however, because of a lack of complaints.

He also pointed out that implied threats such as "I'll be back later" if a merchant refuses to pay extortion money are difficult to prosecute.

[From the Evening Star, Washington, D.C., Apr. 29, 1968]

D.C. LEASES 150 UNITS FOR VICTIMS OF RIOTS

(By Paul Delaney)

The District government today leased 150 units of the Envoy Towers apartments to be used as temporary housing for persons, displaced during rioting earlier this month.

The arrangements were completed this afternoon between District officials and the Federal Housing Administration. Families and individuals will be able

to rent, "at very minimal prices," mostly efficiencies and some one- and two-bedroom units in the private apartment project, according to a city official.

FHA made the offer of financial assistance to such a program following the rioting. "The government decided to take the agency up on it," the official stated. He said most of the persons displaced already have been housed.

The arrangement with Envoy Towers, located at 2400 16th St. NW, stipulates that housing will be temporary until permanent accommodations can be found.

The official said the city would "prefer to rehouse them in permanent locations, rather than use temporary housing facilities. We'll use Envoy Towers but try to find permanent accommodations as soon as possible. FHA went along with it on that basis."

Another official, Peter T. Riemer, operations director of the District Redevelopment Land Agency, said most of the displaced persons needing emergency housing already have been taken care of.

"As of 5 p.m. last Friday we handled 237 cases, either families or individuals," Riemer said.

He said 159 have been relocated in public or private housing; four have been relocated in temporary housing; 61 have been referred to private housing but there has been no followup contact as to whether they accepted the housing. Thirteen cases are pending.

"The offer by FHA is most generous for temporary housing," Riemer said.

[Reprint from The Evening Star, Washington, D.C., May 2, 1968]

PRESSURE GROUP FORMED—BUSINESSMEN ASK PROTECTION

(By Winston Groom)

A group of citizens is forming an organization to press for better protection for themselves and their businesses from what they call "militant minorities," it was announced today.

"We the People" is the organization's name, according to Abe Liss, president of the Midtown Business Association and head of the new group. Liss said the group held its first meeting Tuesday night, with about 200 persons attending.

According to the group's statement of purpose, the organization was formed because "the government has defaulted on its obligation to protect America." The statement adds that the group was organized "for the vast majority of citizens who are sick and tired of lawlessness," and that it will "demand the domestic tranquility guaranteed in the preamble to the U.S. Constitution."

Liss, whose television rental store was damaged during the recent civil disturbance, said the members attending Tuesday's meeting represented through their activities about 10,000 citizens of the District.

Among those present, he said, were Oscar Dodek, owner of D. J. Kaufmann's clothing store; John Immer, president of Washington's Federation of Citizens Associations, and R. N. Horton, head of the Uptown Progress Association, a Negro business group. Also present, said Liss, were representatives of Giant and the Greater Washington Food Wholesalers, auto dealer associations and finance associations.

Liss said more than \$1,500 was donated to start the organization, which he hopes will grow into a nationwide group. He also said they have hired a "nationally prominent" attorney to look into the possibilities of filing suit against the city for what he called "inadequate protection of property during the riots."

"The people of this country are afraid," said Liss. "They want to be protected by the government. People are scared to go out of their homes at night and they are buying guns to protect themselves," he said.

"We're all for social legislation," he said, "but at the same time we have got to stop this wanton disregard for the law. The people in this country have lost faith, in the government's ability to protect them."

The group will be a non-profit organization, is strictly non-political and is not intended as a "backlash" group, Liss emphasized. It is designed only to press for protection of citizens and their property, he said.

"We intend to be a very militant organization," he said. "We will do whatever it takes, legally, to restore law and order—even if it means marching on the Capitol."

Liss emphasized that the group would seek the support of all citizens and hopes eventually to enlist such people as Walter E. Fauntroy and other city council members into its ranks.

[From the Evening Star, Washington, D.C., May 20, 1968]

AN ANSWER TO THREATS

Some time ago Mayor Washington asked Congress for a law to give District citizens more protection against threats of bodily harm, with stiff penalties provided for intimidation and extortion.

The initial need for such a District statute arose from the fact that Washingtonians must rely largely for such protection upon federal laws dealing with extortion and intimidation only in terms of interstate offenses. In the absence of the interstate element, therefore, effective law enforcement in such matters here has been severely curtailed. In essence, the proposed legislation would apply the general protective measures of the federal law to the District in cases of purely local origin.

In the aftermath of the April riots, however, another problem arose. A considerable number of businessmen whose properties were destroyed, according to Mayor Washington, have been receiving threats "to the effect that if they should replace or repair their property and continue their business, the property will again be damaged or destroyed." The problem, the mayor added, is "assuming serious proportions."

Accordingly, in a letter the other day, the city government asked the House District Committee to broaden the extortion bill submitted earlier, and to declare such threats against either the person or the property of District citizens by any means of communication to be felony offenses, with commensurate penalties. Such threats, even in the absence of intent to extort money, would be punishable by fines up to \$1,000 or imprisonment for up to 5 years.

These and other related types of intimidation are difficult to reach. Indeed, as Public Safety Director Murphy has noted, it is almost impossible for law enforcement officials to attack them without the full and complete cooperation of the victims. The proposed legislation, however, would provide the District with a much-needed legal weapon. We trust that it will be passed by the House and Senate as swiftly as possible.

[From the Washington Star, May 4, 1968]

PRIDE WORKER CHARGED IN LIQUOR STORE SLAYING

A 29-year-old man identified by police as a Pride, Inc., worker was arrested last night and charged with the fatal shooting on Tuesday of a Northwest Washington liquor store owner.

Ernest M. Greely, who lives in the 300 block of T Street NW, was arrested at his home about 7 p.m. by homicide squad detectives. Police said he offered no resistance.

He was arrested under a U.S. commissioner's warrant charging him with first degree murder in the shooting late Tuesday afternoon of Benjamin Brown, 58, owner of the Service Liquor Store at 1100 9th St. NW.

Brown, who had reopened his business several days earlier, after it was looted during the rioting last month, was killed by a single shot. The gunman had burst into the store with a group of about 15 people.

Witnesses told police the crowd, mostly youths, first ordered soft drinks and then began grabbing bottles from the store's shelves.

Suddenly, one man reached over the cash register and began banging its keys in an attempt to open it. When Brown ordered him to move away, the man drew a gun, witnesses said.

Seeing the gun, Brown reached for the pistol he kept under the counter. He was shot in the chest as he grasped the pistol. Brown got off two wild shots.

The slain liquor store owner, who lived at 1900 Lyttonsville Road, Silver Spring, had waited about three weeks after the riot before reopening his store, and then had only partially restocked it.

LOOTERS STRIPPED STORE

Looters had broken all the windows in the store and left only a few bottles of cheap wine. Friends said Brown, who had run the store for more than 25 years, had not decided whether to keep it open permanently.

His elder brother, Louis, died in 1964 after being shot by a gunman in the liquor store he operated at 1432 New Jersey Ave. NW, about a half a mile from Benjamin Brown's store. The gunman was later convicted of murder.

Greely was being held last night without bond in the central cellblock at police headquarters.

A Pride official confirmed that Greely worked for the pioneering work-training program for youth.

He said a check was being made of Greely's work record to see "if he was on the job during the time and day in question."

[From the Washington Star, May 10, 1968]

35 PERCENT OF COUNTIES' FIRE FORCES SENT INTO D.C. DURING RIOTS

(By Donald Smith)

As much as 35 percent of Montgomery County firefighting forces were active in the District at the height of last month's eruption of looting and arson, according to the Metropolitan Washington Council of Governments.

In the latest statistics concerning the civil disturbances, Public Safety Director Richard C. Wertz of the council said yesterday that other suburban jurisdictions had committed similar percentages under a reciprocal agreement reached before the outbreak.

Council member John Ingram, who is Deputy Mayor Thomas E. Fletcher's executive assistant, told the council the response by suburban firemen was a "great show of help," and that "without it, we obviously would have been in bad trouble."

Ingram expressed the "personal appreciation and gratitude of (Mayor Walter E.) Washington, (City Council Chairman John) Hechinger and all the citizens of the District of Columbia for the help rendered us."

He added that the District "also stands ready to reciprocate" if called on by suburban officials.

Wertz reported that Alexandria and Arlington provided aid from public fire departments, and other jurisdictions offered both public and volunteer forces. The quality of the services, he said, was the "highest possible."

During the period between 10:50 p.m. April 5 and midnight April 7, suburban forces responded to 268 fires, Wertz said.

Montgomery County answered the highest number of calls—106. Prince Georges County followed with 102; Arlington County, 34; Fairfax County, 22, and Alexandria, four.

A total of 47 companies sent engines: 17 from Prince Georges, 14 from Montgomery, 12 from Fairfax, three from Arlington and one from Alexandria.

Communications between jurisdictions was handled by the council's civil defense committee through a "hot-line" telephone system established by the Department of Defense for use in case of civil emergencies, Wertz said.

Also during the meeting Wertz announced the completion of about 80 percent of a computerized regional police communications system.

Installations are in place in Fairfax, Arlington and Montgomery Counties, and three others are due to be installed within the next month. The three already installed are in various stages of operation, he said.

When completed, the Washington Area Law Enforcement System (WALEs) will enable local police to gather information on stolen cars and other matters almost instantaneously.

Of 28 terminals planned for the District, 17 are ready to start operating, Wertz said. These are expected to be put into use by next week.

The council yesterday also approved a request for a \$15,000 grant from the Department of Transportation to study the feasibility of using helicopters as ambulances in Washington's urban areas.

[An editorial broadcast by WMAL, during the week of May 12, 1968]

TROOPS IN WASHINGTON

By working policemen overtime to create more street patrols, the District government tacitly admits that order has not been restored since the riot in early April. The extra patrols are a step in the right direction, but we doubt they will be enough to control the average of 894 major crimes being committed here each week. The desirable long-range solution is an increase in the authorized strength of the police department. But as a short-range expedient, we reluctantly endorse Senator Robert Byrd's proposal to station troops throughout

the crime-ridden areas of the city until order is restored. Semi-martial law is not a pleasant idea. There seems, however, little choice.

The lack of choice is demonstrated by the arson rate alone. Not counting the 488 intentional fires during the four-day riot period, there were 178 arsons or suspected arsons during April. This compares to 87 in the same month last year—an increase of nearly 100%. The wave of burning continues this month.

In the face of such evidence, we are forced to conclude that use of troops is the only immediate and practical way to restore order.

[Washington Post, May 17, 1968]

An Open Letter to the President of the United States and the Mayor of Washington

It can happen here. The District of Columbia has become a disaster area and a battleground. The field of combat is clearly defined. It is in the minds of the law-breakers—and those who are tempted to break the law. Our most powerful weapon must be knowledge that the law will be enforced—fairly and firmly.

The ultimate restraint for the lawless is not jail. It is the possibility of jail. When that possibility is diminished by lax law enforcement, crime becomes a way of life. When lawlessness is blinked at, we're eyeball to eyeball with anarchy; "window shoppers" are encouraged—to break the window. Give a potential criminal an inch and he'll take everything he can get, along with human life.

There are those who think that to deplore the increase in the spiral of crime brands one a reactionary. We are not reactionaries but if we did not react to

the growing lawlessness in our city with alarm and protest, we would be irresponsible citizens.

We respectfully urge you, Mr. President and Mr. Mayor, while you seek from Congress the needed legislation for the disadvantaged, to seek also laws which will protect all citizens from irresponsible elements in the community—and to seek the means, if in your opinion you do not have them, to enforce those laws. We ask you to enforce and reinforce the law's presence—to alter the present climate which keeps tradesmen of national manufacturers from visiting our stores in the Washington area because of danger on the streets and prevents the law-abiding from taking about their lawful pursuits. Escalate the war against robbers, arsonists and murderers—to achieve safety in our city and peace at home.

Greater Washington Division of
MARYLAND-DELAWARE-DISTRICT OF COLUMBIA JEWELERS' ASSOCIATION
Affiliate of Retail Jewelers of America

High Rents * Spoiled Food * Slave Wages * Credit Crucifixion
 Cheated Children * Welfare Gestapo * Honkie Unions
 Mom and Pop Stores * Rats—4 legs and 2 legs

STOP SHUFFLIN' and BEGGIN' WHITEY

BUILD BLACK.

1. SEND MR. CHARLIE HOME

No more Mom and Pop Stores, Slumlords
 and other Exploiters of Black People
 allowed in Black Communities.

No more Honkie Unions—without Black members—and
 no more Honkie Owners and Contractors—
 without Black participation—
 allowed to build Black Neighborhoods.

No more Welfare Gestapo allowed to walk Black Streets.

2. END THE SLAVE TRADE.

No more Slave Wages—less than \$2.25 an hour—allowed anywhere.

No more Slave Traders—employment agencies and programs
 supplying the Slave Market—allowed anywhere.

this land is your land
 you have the right
 and the power
 to say who uses it for what
BUILD BLACK, IN
 3320 14th Street, N.W.

[From The Evening Star, Washington, D.C., May 17, 1968]

WHEN TO SHOOT

In his two-day appearance before the House District Committee, Public Safety Director Patrick Murphy clarified several important points about the conduct of Washington's police force in last month's riots.

A good bit of the questioning dealt with the issue of the use of guns by police—no doubt prompted partly by Murphy's reported comment at a recent luncheon appearance to the effect that he would "resign" rather than issue blanket orders to shoot looters and arsonists under riot conditions.

That generalized comment required clarification. Murphy's explanation to the committee placed the subject in its proper perspective.

Asked specifically how an officer should deal with an arsonist caught in the act who refused to stop when told, Murphy replied: "Shoot him." That is the right answer.

The safety director was equally right, however, in stressing that the use of firearms should be a measure of last resort, and that the decision is one which must rest in the final analysis with the discretion of the individual policeman. "I know of no way we can eliminate this area of discretion," Murphy said. "We impose upon our police officers a tremendous responsibility."

Indeed, it is the most difficult of all responsibilities. The decision, as Murphy noted, depends upon circumstances which vary whenever the question arises.

The officer in each instance must weigh—with very little time to do so—such factors as the seriousness of the offense, whether there is any way short of firing to apprehend the offender, whether the offender is an adult or a child, the possible danger to innocent bystanders if shots are fired—all as against the public danger which might result if the culprit escapes. These are not factors which lend themselves to the issuance of flat, firm policies.

The crucial point emphasized by Murphy to the House committee, and confirmed by Chief Layton, was that no policy of leniency or non-interference in regard to arsonists, looters or other lawbreakers was expressed at the time of the riots. Given the circumstances, furthermore, the police performance was quite creditable, especially in terms of total arrests made as conditions began to stabilize.

Murphy described a number of lessons learned which should further improve police effectiveness if such a crisis should arise again. The major lesson, however, was that no city police force can cope alone with a disorder of such dimensions. The real mistake made last month was the delay in bringing in massive numbers of troops as soon as the rioting broke out.

CLARK WARNS ON USE OF 'DEADLY FORCE'

By Jean M. White of the Washington Post

Attorney General Ramsey Clark warned yesterday that police orders to shoot arsonists and looters during riots can lead to "a very dangerous escalation" of the Nation's racial crisis.

His rebuke on get-tough police orders came in answer to a question on whether he approved of Chicago Mayor Richard J. Daley's directive to police to "shoot to kill" arsonists and "shoot to maim or cripple" looters in any future riots.

Clark's answer drew applause from his audience at the American Society of Newspaper Editors convention.

"I do not believe that the use of deadly force by law enforcement officers is permissible except in self-defense or when it is necessary to protect the lives of others," the Attorney General emphasized.

In Chicago yesterday, Mayor Daley defended his controversial "shoot to kill or maim" directive before the City Council. But, at the same time, he said the policy of the Chicago police department is to use only the minimum force necessary to carry out its duties.

John Dreiske, special correspondent for The Washington Post, reported from Chicago yesterday that Daley confidants, attempting to explain the Mayor's Monday outburst, say he was terribly upset at the prospect that Chicago might lose the Democratic National Convention to another city.

Daley's sensitiveness on this matter was dramatized by special orders to Chicago police to convert the International Amphitheater into a near-fortress during the violence after the assassination of the Rev. Dr. Martin Luther King Jr.

Another reason given for Daley's heated words was that the Mayor was just simply drained after six days of burning and looting on Chicago's West Side and spoke out in frustration.

A Chicago police order to use "deadly force" if necessary against arsonists has been on the books since May, 1967—nearly a year before Daley's crackdown order.

The 1967 order covers arson, attempted arson, burglary, and attempted burglary and says that "such force as necessary, including deadly force" shall be used to prevent the crime or the escape of the perpetrators. Shooting, however, is forbidden if there is a likelihood of serious injury to another person.

In his speech here yesterday before an ASNE seminar on "Conflict in the Cities," Attorney General Clark told the editors that the public should "bless our police" for the restraint and balance shown in handling the violence that broke out after the King assassination.

With trouble in 100 cities and widespread rioting in at least a dozen, Clark stressed there "were fewer deaths and less property damages in all of these than in one riot alone last year."

It was apparent that the Attorney General was using the editors' conference as a forum to plead for support of the policy to use police power cautiously and place the protection of lives above the protection of property during riots.

Restrictions on the use of deadly force were spelled out in the FBI's rewritten riot manual last fall and in 125 riot-control conferences sponsored by the Justice Department and the International Association of Police Chiefs during the winter.

As he has done before, Clark singled out the beat policeman as "the most important man in the United States today."

"He will determine whether we will have social stability, order under law, while we rebuild our cities and ourselves in the next few precious years," he told the editors.

Before yielding to despair, he said, it is well to put today's racial violence in the perspective of the Nation's and world's history.

In 1863, Clark noted, 2000 persons died in draft and race riots in three days in New York City—nearly ten times as many as in all the Nation's riots in the last five years. He also pointed to present-day riots in a disciplined society like Japan and an authoritarian country like Spain.

It took a white priest—the Rev. James E. Groppi of Milwaukee—to strike home dramatically the anger and frustration of Negro ghetto dwellers for the editors yesterday.

After three months of being tailed by policemen during the Milwaukee housing marches, Father Groppi said he drove into the driveway of his St. Boniface rectory one night and a police squad car came up behind.

At that moment, his anger exploded, the Catholic priest said, and he wanted only "to plow the police car out of the driveway."

"I put the car in reverse . . . I missed reverse and the car engine gunned. Then I got out and told the policeman to get off the property, that it was private property. He spit on me.

"This what goes on daily in the black community," Father Groppi concluded.

Another speaker, the Rev. Leon Sullivan, founder of the Opportunities Industrialization Centers, told the editors that the Negro problem is much more economic than racial.

"You cannot integrate the suburbs with a relief check," he observed.

["Letters to the Editor," Washington Star, May 11, 1968]

CROSBY NOYES ON MAYOR DALEY

SIR: For years, I have read Crosby S. Noyes' articles and usually I find myself in agreement with his reasoning. His column, "Crackdown Urged on Inciters of Violence," was excellent, but he sure flunked his homework a few days before in his analysis of Mayor Daley's remarks.

I will concede that Mayor Daley's statement—lifted out of context—is extreme, but I insist that his basic reasoning had much greater merit than the drivel of the sob sisters who refuse to separate lawlessness from legitimate civil rights issue. As a country we are morally and legally obligated to improve the status of the Negro, but, certainly, we have no obligation to supervise our own destruction through lawlessness and anarchy.

Mr. Noyes erred in stating that there is an elementary principle of law enforcement which directs the police to avoid making arrests in dangerous situations. He would have been correct had he stated that police should use that force, and only that force, necessary to assure compliance with the law.

The bleeding hearts about us would have us believe that restraint and permissiveness toward those who violate our laws is the only solution to our current wave of racial disturbances. They, and he, to a lesser degree, would like us to believe that the local authorities did everything right during our last wave of violence. They did not crack down quick enough or hard enough on the looters and the arsonists. Their failure to act then and since is nothing more than an open invitation to a return engagement.

No citizen, white or black, will be safe on the streets of Washington until the police show their teeth and notify the would-be violators in advance that force will be met with superior force.

It is the long neglected duty of the administration, state and city officials, and the press, to pass the word now in this period of relative calm. Let there cease to be doubt in anyone's mind of our willingness and ability to enforce our own laws, by whatever means are necessary, up to and including the blunt warning of Mayor Daley. This anarchy can be stopped and it can be stopped now, but it will take more than promises and long term ghetto programs.

Let us proceed with meaningful programs, but let us also show a determination to return to constitutional government. If the laws aren't right, let's change them, but not ignore or violate them or permit them to be violated. I'm not willing to wait "until law-abiding people in both communities decide they have had enough and begin to work together to cure the conditions on which violence breeds." That's

a fine platitude, but I have the right to peace and a sense of security in my home and in my person this summer.

My earliest conception of a politician is one who embraces virtue and abhors sin. Certainly the condoning of lawlessness is a sin, yet who in our present crop of politicians has the guts to denounce it? Agnew and Daley are small voices in the night. Why not help them rather than do your damndest to destroy them.

ARTHUR J. HOWE.

["Letters to the Editor," Washington Star, May 17, 1968]

"BEN BROWN IS DEAD"

SIR: Benjamin Brown is dead, but it has taken the Retail Liquor Dealers Association with its full-page advertisement of May 7 to point out that he was a victim of the white racism infecting our society.

White racism? Yes—for where were the costly full page ads when young Emmett Till's body was dragged from a river? Where were the dire warnings when four Sunday School children were bombed in Birmingham? Where were the cries for "law enforcement" when the search began for Goodman, Schwerner and James Chaney? Where were the pleas for safety when Medgar Evers was shot down? Where were the calls for protection of black people when Martin Luther King was added to the terribly long list?

In the main, we in the white community were silent. Our silence shouted our racism as each tragically predictable outrage occurred. Now that we have birthed an angry black backlash, we are scared.

"As ye sow, so shall ye reap."

ALBERT LANNON, JR.

SIR: The D.C. Retail Liquor Dealers Association must be commended for their stand against lawlessness.

Why can't the rest of society become involved in a cause for its protection instead of its destruction.

DEANNA W. KOSKIN.

SIR: The Liquor Dealers' ad on the laxity of law enforcement and the rampant crime here in the District of Columbia should have been put on the front page or at least its contents on the editorial page.

I imagine if the political and politically appointed heads of this city would come out from behind their heavily armed bodyguards and walk around this crime-infested city for a few days, they would immediately untie the hands of the policemen and instill fear in the criminal element instead of the policemen.

CARMELLA L. TILLMAN.

SIR: I would like to offer you my sincere congratulations for publishing an ad that said what so many of us cannot find the words to express.

We are witnessing the beginning of an era that will leave this great country of ours in ruins if we don't somehow find firm but just leaders to deal with the lawless. I've grown tired of listening to our churches and synagogues condone and find excuses for a small group of people that have adopted the idea that they can bully and push the masses of responsible citizens to bend to their wishes.

Let's join together as a group of concerned Americans to protect the interests of all people, black and white, that are sincerely interested in preserving the civil rights of all men. More ads like that could serve to unite people that uphold old-fashioned standards such as free enterprise; respect for country, and an enforcement of the law.

BRADLEY L. KOSKIN.

SIR: On May 7 I was on the scene of the holdup and shooting (Atlantic and S. Capitol SE) and watched the victim's life slip away. My spirits were lifted a little when I returned home to read The Star and turned to the back page of the front section which dealt with the shooting-death of Ben Brown.

Strange, to have one's spirits lifted when reading about a death? Not really, when I explain that I was encouraged by the fact that perhaps the citizens of

the District are finally getting fed up with the situation we have today and the manner in which the Police Department is being managed.

Last week's "rumblings-on-the-Hill" were also clearly indicative of the feelings towards Mr. Murphy. If there were ever a cause (or crusade) that needed the backing of the Fourth Estate, it is one to replace Mr. Murphy with a person of Chief Layton's ability, or better yet, return Chief Layton to the police department and let him continue to do the job he has done so well in the past.

A POLICE OFFICER.

SIR: Thank the good Lord someone at least had the courage to speak out. This ad should be repeated every week until our shops, and streets, and homes and our lives are safe!

LESLIE-CARL LEVINE.

[Advertisement from The Evening Star, May 7, 1968]

BROWN, BENJAMIN

On Tuesday, April 30, 1968, BENJAMIN BROWN of 1900 Lyttonsville rd., Silver Spring, Md., beloved husband of Freda Brown; devoted father of Miss Barbara Brown of Silver Spring, Md. Also survived by two sisters, Mrs. Faye Blanken and Mrs. Mollie Cohen, both of Silver Spring, Md. Services at the C. D. Goldberg & Son Funeral Home, 4217 9th st. nw., on Thursday, May 2, at 2 p.m. interment B'nai Israel Cemetery. In mourning at 1900 Lyttonsville rd., Silver Spring, Md., Apt. 1106. Family suggests in lieu of flowers contributions be made to the Steven Jay Brown Memorial at the Jewish Foundation for Retarded Children, 6200 2d st. nw.

BEN BROWN IS DEAD

Is law enforcement also dead?

Mr. Brown was shot while defending his property. Should anarchy prevail because a small segment of the population takes the law into its own hands? Should bands of hoodlums be allowed to continue preying on law-abiding citizens, Negro and white?

When hoodlums—regardless of age, sex or color—are undeterred by the prospect of effective law-enforcement, no one is safe. If criminals can loot, burn, and kill in the Inner City without fear of consequences, it is only a question of time before you, your family and your business can feel the effect. It makes no difference where you live, work or play: When law enforcement ceases, disrespect for the law is encouraged.

When you walk or drive through many areas of Washington do you feel safe—or scared? Do you encourage your friends and relatives to visit the Nation's Capital at this time?

Is the battle over? Not for the citizens whose lives are threatened. Not for the businessmen who cannot rebuild because they cannot get insurance. Not for the few who have surmounted the obstacles of arson and looting, and have reopened only to face new threats of extortion and worse. Not for the people who are out of jobs. Not for the people who were burned out of their homes.

Who is at fault? Certainly not the majority of citizens, white or Negro. Certainly not the majority of the poor, Negro or white. Certainly not the policeman on the beat, who must obey orders.

This is no revolt of youth against older generations. This is no revolt of the poor against the wealthy. This is no part of the Civil Rights movement whose real leaders know that Utopia doesn't have to be built on ashes.

It is an open attack by a few criminals against a community that lacks firm leadership and the courage to demand that its leaders exercise their authority—or resign.

We believe that law enforcement suffers when the police are handcuffed instead of the criminals. We believe that citizens are entitled to protection and safety.

Where is the safety, Mr. Murphy? Where is the protection, Mr. Murphy? Where will tragedy strike next? Today, the Inner City. Tomorrow, the residential areas, the suburbs.

Today, Ben Brown. Tomorrow???

Published because some of us have lost our lives, many of us have lost our property, and all of us want to preserve law and order for all residents of the Washington area and for the United States we love.

WASHINGTON, D.C., RETAIL LIQUOR DEALERS ASSOCIATION, INC.

[From the Washington Evening Star, May 20, 1968]

WASHINGTON'S "REIGN OF TERROR"

(By David Lawrence)

A reign of terror prevails in the capital of the United States. Drivers of buses are afraid to work at night because one of their number was killed a few days ago by robbers. Attempts to steal the money collected from passenger fares have produced 234 incidents thus far this year.

The police force is inadequate. Businessmen are dismayed. Tourists are reluctant to come to the national capital. Residents of the city are scared to go out on the streets at night. Theaters and movies have smaller audiences. Owners of parking lots are particularly apprehensive. Two hundred members of "the park and shop" organization unanimously signed a letter to the President and Congress which was published in a page advertisement in the newspapers Friday. It said in part:

"This nation has borne the allegedly spontaneous rape of its cities with restraint and patience beyond ordinary understanding, but the eyes of the whole country are now on Washington, and with a clear understanding that the approaching events will not be spontaneous. An aura of uncertainty and personal insecurity, a growing smog of fear hangs over this, the national capital. It is not just another city. It belongs to all Americans, and all Americans are watching.

"Will the government of the District of Columbia and the nation provide an overwhelming deterrent to violence? Will they provide visible police and troops sufficient to discourage the criminal few from acts which unfortunately and unjustly are often blamed on the innocent majority of one segment of our whole people? . . .

"We ask for a deterrent to destruction, not only a promise of control after it has started. . . .

"If sufficient police are patrolling this city, are seen in large enough concentrations and numbers, and are known to be authorized to enforce the law with all means necessary, serious rioting, arson and looting will never have the chance to begin. If sufficient police are unavailable, there are in the area of Washington and at the disposal of the commander-in-chief more than sufficient troops to provide the necessary show of force. It would seem preferable to show force before, rather than to have to use it afterwards."

The police in Washington are so busy watching the encampments where 3,000 "demonstrators" are to spend 30 days that there are not enough patrolmen to protect people on the streets and prevent the wave of looting and arson which has been going on.

Although the population of this city is more than 800,000, the police number only 3,000. Troops can help temporarily, but a larger force is really necessary. It cost the federal government \$5,375,400 to deploy troops across the nation after the assassination of Dr. Martin Luther King Jr. brought on "demonstrations" which gave criminals a chance to start fires and rob stores. Property losses in Washington alone were \$13 million and amounted to much more across the country.

When bus drivers are fearful about operating at night, and the transit company has to require passengers to carry the exact change so that the cash box can be kept locked, it certainly indicates that the governing authorities are lax and that not enough policemen have been utilized to deter acts of crime.

During such periods of disorder, "demonstrations" of any kind should not be permitted. There are enough halls and auditoriums for free speech to be exercised fully.

"Demonstrations" and mass gatherings could be forbidden by city ordinances everywhere until such time as an adequate force of troops has been provided to afford protection. It's an expensive way to assure respect for law and order, but it would cost far less in lives and property damage than bringing in soldiers after the riots and vandalism have occurred.

Disorder, meanwhile, is sweeping the nation. Members of college faculties and students who should know better are joining in the deliberate creation of condi-

tions of disorder. All this is happening because federal, state and city governments are afraid of the so-called "liberal" vote and the possibility that Negro voters will be likely to misconstrue the mobilization of police power as somehow related to the controversies over racial discrimination.

The American people, however, have again and again in a national election held the party in power responsible for unfavorable conditions.

[From the Washington Star]

POSITIONING TROOPS FOR MASSIVE RALLY STUDIED BY MURPHY

(By Ronald Sarro)

District Public Safety Director Patrick V. Murphy said yesterday that troops may be positioned in the city for the massive rally being planned for May 30 by leaders of the Poor People's Campaign.

Saying officials would closely watch the projected size of the crowd, which campaign leaders have predicted would be as high as a million, Murphy said close contact was being maintained with military authorities on use of troops.

"It might even be possible to have troops in the city and in position," Murphy said in a television interview on WRC's "Dimension Washington." Police Chief John B. Layton also appeared on the program.

Earlier in the program, Murphy said "Obviously, many disorders could be prevented if we had troops in advance." He reiterated that during last month's disturbances in the District it took many hours for the military to deliver soldiers that had been requested because of the normal problems involved in movement of troops.

INTIMIDATION CHARGED

In a separate television interview, two area congressmen charged the Poor People's Campaign with trying to "intimidate" and "blackmail" Congress.

The charges were leveled by Rep. Joel T. Broyhill, R-Va., and Rep. Hervey Machen, D-Md., on WTOP's "Report from Capitol Hill."

Broyhill said the campaign "cannot result in their objective. Congress will not be intimidated."

"I don't see anyone actually benefiting from this type of demonstration," he said, adding that "under no conditions whatsoever can Congress ever respond to these kinds of threats."

MACHEN HITS "BLACKMAIL"

Machen predicted that an overwhelming majority of Congress would not support a guaranteed minimum wage sought by march leaders.

"I just can't see anything but triggering more violence," Machen said.

He said that "blackmail" is a precedent that "we just can't tolerate."

Rep. Gilbert Gude, R-Md., who also participated in the program, took a different view, saying that many of the goals of the campaign have already been urged by the Kerner Commission and other responsible groups during the last five years.

"Congress ought to get down and roll up its sleeves and get to work on these problems," Gude said.

CONCERN EXPRESSED

But Gude also expressed "concern about the security of the metropolitan area." And he said "I simply do not understand" why "the leaders" of last month's disturbance here have not been arrested and prosecuted under anti-riot legislation adopted by Congress earlier this year.

SWIFT ACTION STRESSED—D.C. POLICE SET UP SECRET ANTI-RIOT COMMAND POST

(By Miriam Ottenberg, the Washington Star)

While District officials try to knock down criticism of police handling of last month's rioters, top police are quietly establishing machinery to deal swiftly with any new civil disorders.

A field command post has been set up at a secret location where men can be quickly assembled, equipped and dispatched to trouble areas.

A communications network will spread out from the field command post. A new radio station already has been licensed and direct lines have been strung from the post to all key agencies.

EMERGENCY QUARTERS

If it ever becomes necessary, emergency squads can be fed and can even sleep at the command post. This would prevent a repetition of the situation on April 5, when police, many of whom already had worked two shifts, went off duty at 5 a.m. and headed home. All had to be called back to duty at 2 p.m. as disorders spread. Police planners say that if the men could be kept at one place, they could return to duty faster.

This is only one of many lessons police learned from dealing with the riots and their aftermath.

Principal stress is being placed on licking the twin problems of processing persons accused of looting and other suspects at the scene of the trouble and transporting them to cellblocks and court.

PATROLS BEEFED UP

Meanwhile, over the last three weeks, the District government has been beefing up the number of police on patrol in the city in response to pressure from fearful citizens.

The latest step, over the weekend, came in response to demands from bus drivers after one was slain early Friday during a night of seven bus holdups.

This buildup, involving the shifting of 200 traffic and desk men to street duty and increased authorization of overtime pay means "one-third of the total police manpower is working a six-day week," according to Mayor Walter E. Washington.

In response to the criticism that the police were "soft" on rioters and under orders to let them alone, officials explained:

"You can't arrest more than you can process and transport."

RECORDING AN ARREST

Here are the new measures being taken to cope with that dilemma:

Each policeman will be given field arrest sheets in quadruplicate. When he makes an arrest, he can do all his paperwork at the scene—swiftly writing out who the suspect is and what prompted his arrest.

The courts have agreed to accept what he writes as an "information" and he can stay on the scene to make more arrests.

The policeman keeps one copy of the arrest sheet, sends the second to court, uses the third to accompany any seized evidence and sends a copy to his precinct.

The four-part "instant" record is aimed at meeting some of the criticisms voiced by Ronald Goldfarb, a Washington attorney and former Justice Department prosecutor who was commissioned by a foundation to study "The Administration of Justice in Washington During The Disorder of April, 1968."

Goldfarb found that the mountain of paperwork needed to process defendants during the riot caused the biggest tieup, that some prisoners became "lost or unnecessarily detained" for days and that police were kept from their principal duties by having to sign their name 27 times while processing a single arrest.

WILL PHOTOGRAPH SUSPECT

Another new step being taken by police is in answer to another of Goldfarb's criticisms—the often faulty identification of prisoners. Goldfarb recommended photographing prisoners as soon as possible. Police are going to make that "soonest."

Transport drivers who go to the scene of a riot to pick up prisoners will carry Polaroid cameras. As the policeman brings his prisoner to the car, the driver will snap a picture of the policeman with his prisoner. The picture will go to court with the prisoner and the policeman's signed information.

Hauling the prisoners away to courts and stationhouses was another major problem last month.

In the future, police won't have to rely solely on "black marias" and similar prisoner vans. When necessary, they will be able to carry prisoners in regular scout cars now being ordered equipped with a plexiglass and wire-screened security area behind the front seat.

All the driver will have to do is take off the back door handles, and handcuff his prisoners. The prisoners will be as securely sealed in as they were in regular police vans.

WILL GET BUSES

For additional transportation in emergencies, police planners have arranged to get buses from the Department of Corrections to transport prisoners.

Discussing the logistics of dealing with masses of looters, Assistant Chief Jerry V. Wilson, in charge of field operations, said in an interview that policemen were in a bind during much of last month's rioting.

"If a policeman arrests a looter," Wilson said, "he has to hold him till a car can get there, so he's out of the fight. The men know it's better to disperse people, get them out of there, than to let them go on looting while he holds onto one looter."

"Even with that, we were able to arrest far more looters and other criminals than any other city where a riot occurred."

In the four days of rioting, according to Wilson's figures, Washington police made 8,424 arrests, of which 831 were juveniles who were turned over to parents or guardians.

Wilson and Deputy Chief Raymond S. Pyles, commander of special operations, which includes the Civil Disturbance Unit, agreed to discuss what they consider misconceptions, rumors and myths about the rioting and subsequent attempted extortion of businessmen.

The officials frequently referred to a transcript of their radio conversations with police dispatchers during the first night of the riots. Here are some of the charges made by congressmen, businessmen and other local residents and the police officials' replies:

1. The charge: That some order was issued not to make arrests.

Not true, said Wilson, citing at least two police broadcasts the first night.

He quoted the dispatcher notifying all tactical units:

"Orders are: Any violations to take proper police action and arrest."

He also quoted an 11:06 p.m. broadcast from Inspector Mahlon Pitts to Pyles saying:

"I have eight cars ready to leave with instructions to proceed south on 14th Street as per your orders to start arresting."

Pyles said he had told Pitts earlier that night that he wanted 120 men in 30 cars to cruise 14th Street and "as you assign four men to each car, you are to instruct them that they are to enforce the law and make arrests."

2. The charge: That police were ordered not to shoot looters.

False, said Wilson. Police were operating under a 1954 order, last revised in 1956 and in force at the time of the riot.

Under that order, police were told they must be constantly alert to three factors: That the offender could be captured only through extreme methods, that the offense is of sufficient gravity to justify the possibility of serious injury or death and that the lives of innocent persons should not be endangered through the use of the service revolver.

Both Wilson and Pyles emphasized that the widespread use of tear gas made use of guns and billy clubs unnecessary in most cases. The Kerner report on civil disorders advocated using tear gas and it was used more widely here than anywhere else.

The two police officials believe that the tear gas and the curfew were the reason the Washington riots ended in four days while rioting went on elsewhere for a week or more.

3. The charge: That police on the street didn't know what to do.

BROADCAST CITED

Pyles was quick to refute this.

All the men on the street were under supervision of some official, and getting instructions from captains, inspectors and deputy chiefs.

For an example, Pyles turned again to the transcription of the broadcast and cited a 1:31 a.m. message he received from the dispatcher asking, "Do you have any extra officials? There are about 20 men at 14th and Monroe and 14th and Park Road with no officials?" Pyles' reply was swift: "I've got a sergeant up here. I'll send him."

4. Other charges: That policemen's hands were tied by higher officials, that police were ordered to unload their weapons and that snipers were all over the place.

Both Wilson and Pyles denied they were handcuffed from above, denied that guns were ordered unloaded and denied that snipers abounded.

Soldiers' weapons were unloaded but not police guns, they said.

As for snipers, police responded to as many as nine calls for snipers in one afternoon but found that the jittery public was mistaking firecrackers and backfire for gunfire. Only one man was arrested as a sniper and it turned out he was firing at random in some woods instead of shooting at a chosen target.

One set of rumors is not being denied by police. Instead, they want to pin down whatever facts exist behind the rumors.

These are the rumors that businessmen are being told they must contribute to the Poor People's Campaign or some other cause or their buildings will be burned down.

Others, according to rumor, have been told to close today in observance of the late Malcolm X's birthday and some businessmen victims of the rioting have been warned that if they open for business again, they'll be burned out.

Plenty of rumors are reaching police but they're not getting the complaints from victims of the alleged extortion.

Wilson said that where the merchants have complained, police usually have been able to make arrests but their hands are tied when they don't know who is being victimized.

Since businessmen may be afraid to report these threats and extortion demands through the usual channels, precinct commanders are going to the businessmen in their precincts and telling them that police will accept their complaints as confidential and they won't have to go to court. The precinct commanders themselves will take the complaints.

Police also are trying to cope with another riot aftermath—juvenile gangs preying on merchants.

To curb the juvenile marauders, police have been ordered to step up enforcement of antiloitering laws and truancy regulations.

["Letters to the Editor" Washington Evening Star, May 21, 1968]

LET PUNISHMENT FIT THE CRIME

SIR: To prevent more civil disturbance, offending individuals must learn to substitute constructive acts for destructive acts. How? If their rearing has omitted training to respect the persons and property of others, public agencies must provide that training.

Since the offenders deal in physical acts, the initial training, to be understood, must involve tangible things, and it should relate directly to the nature of the offense. Let's start with having the offenders work (under the supervision of law-enforcement officers, if necessary) to clean up the areas they've damaged. Then teach them the skills to rehabilitate these areas. Eventually they might be taught to assist their neighbors whose businesses and homes have been destroyed or damaged. When these individuals who have upset us can show callouses of constructive work, we can welcome them as fellow citizens of the District. They can earn our forgiveness.

FLORENCE SIFFERD.

SIR: Citizenship is not just a question of rights; it is also civil responsibility. Let's pass out shovels to those who are so ready to leave others homeless and jobless and let them clean up the mess they made.

Mrs. GEORGIA COUNCIL.

SIR: Jail sentences are certainly in order for the militant leaders and more serious rioters but for the thousands of otherwise good citizens I have other ideas.

Anyone who participated in any way with the mob violence against our established government should be punished in a constructive manner. If each of those individuals is sentenced to three or four hours a day at hard labor cleaning up the mess they have created, it would accomplish two purposes. First, it would save many hard-earned dollars and, second, it would make those people who participate in the reconstruction less apt to tear down the product of their own hard labor.

LIEUTENANT COLONEL, USAF.

NO RIOT AT WAKEFIELD

SIR: On Friday, April 5, some of the radio broadcasting stations reported rioting in many of the area high and junior high schools, including Wakefield. An

inexcusable wrong was committed to all the students of Wakefield High School as a result of this negligent and irresponsible reporting.

The Negro students of Wakefield deserve every honor for their behavior on that day. They, and many white students, assembled in a peaceful demonstration of their grief over the tragic murder of Martin Luther King. There were no fights and no sign of violence of any sort. Instead, there were some of the most eloquent and moving speeches by the students I have ever heard on the subject of racial problems.

Their behavior should serve as an example of what can be gained where people use reason instead of violence.

WHITE STUDENT AT WAKEFIELD.

AFTER 44 YEARS IN BUSINESS

SIR: We are owners of a hardware store in Northeast Washington. We write in behalf of the many who share our problems. We have obeyed the laws, paid our taxes, and insured ourselves, though it was expensive. We are more than equal-opportunity employers, as the majority of our help is Negro, and has been for years. We have been father-confessor, banker, and adviser to our customers, with whom we have dealt honestly and fairly. We are charter members of the Business and Professional Association of Far Northeast, and have worked diligently for local improvements and closer cooperation between consumers and merchants. We are for civil rights for all men.

Prior to April, 1968, we had lost money on bad checks, burglary, shoplifting, and vandalism, all repaired or replaced at our expense. We have taken needed hours from our business to sit in court at the request of police, only to see the judges postpone the cases or dismiss the defendant. We are constantly in need of more reliable help. We have had trouble for years.

Since April 5, 1968, we have been the victims of repeated looting, and vandalism. Our store was closed for two weeks in order to repair the major damage done to us on that date. Since we reopened for business, we have been broken into twice and have had numerous broken windows and doors.

Insurance may or may not cover a portion of these expenses. The bills for repairs to our property, and merchandise and equipment that was damaged or stolen are arriving daily. We have lost our expected busy spring season. We are frustrated with the past and pessimistic about the future.

Now, we receive word that the insurance on our building is to be canceled. Since conditions in the District are so bad, this could be the end of our business. We can obtain jobs in the suburbs and lower our standard of living. We can do without the responsibilities of owning a business and all that entails. We can manage. We will not need welfare.

But the taxes the District collects will be lost. All of our years of endeavor will be wasted. Our employees will probably need some financial assistance. Our customers will lose the convenience and service they depend on.

To our way of thinking, this benefits no one and hurts many. Is this what is to become of us after forty-four years in business, Is this what is to become of our employees who have been responsible supporters of their families? Is the city to be left an empty shell of families living on relief?

Citizens must be protected. Criminals must be jailed. The police must have the men and the methods to do this. Businessmen must be able to obtain insurance. We are willing to pay for it. Of all the groups now clamoring for help, how many are offering to help themselves as we have done and hopefully will continue to do?

We and all the others in our predicament are watching our life's work go down the drain, along with our children's education and our security.

ABRAHAM AND IDA WOLF.
HARVEY AND FREEDA WOLF.

[From The Washington Post, May 21, 1968]

8 PERCENT OF \$145,667 RIOT FUNDS SPENT

(By Robert G. Kaiser)

Private contributors gave more than \$145,667 to the Urban Coalition's emergency fund for victims of last month's riot, but only \$11,269.95, less than 8 percent, of that had been spent as of May 15.

Flaxie Pinkett, local real estate agent and chairman of the emergency fund committee, made the figures public yesterday.

The Urban Coalition's executive committee will meet Thursday to decide what to do with the \$134,000 left in the fund, Miss Pinkett said.

She announced three weeks ago that the emergency fund committee thought the money should be saved for future use. She said she will make this proposal to the Coalition's executive committee.

Miss Pinkett has said that the emergency fund provided money to all victims of the riot who could not get assistance from public sources or other private sources.

Winifred G. Thompson, director of the District's Department of Public Welfare, confirmed this yesterday. Miss Thompson said everyone who sought help as a result of the riot got what he needed.

"There was not the real demand for crisis money that we thought would grow out of the disorder," Miss Thompson said. "Most of the damage was done in the area of commercial property," she added, and said a surprisingly small number of private citizens needed assistance after the riot.

There were fewer families burned out than expected, Miss Thompson said. She added that although her Department was "very generous" with its own cash assistance to eligible victims of the riot, not as much of her emergency fund was spent as she had expected.

[From the Washington Evening Star, May 29, 1968]

RIOT CASES OVERTAX COURT, CURRAN SAYS

(By John Fialka and William Basham)

The chief judge of the U.S. District Court here said today that the impact of about 400 anticipated felony cases stemming from the April riots will almost nullify his court's "crash program" to reduce its backlog.

Chief Judge Edward M. Curran told a Senate Judiciary subcommittee that U.S. Atty. David Bress has estimated that a special grand jury now hearing riot cases will indict 500-600 persons in about 400 felony cases.

Curran also urged the subcommittee to push for legislation to set up a new court for felony cases in the District.

The Grand Jury has already returned 35 indictments. About 860 felony cases resulted from the riots. The majority of suspects were charged with second-degree burglary in the looting.

Most of the remaining cases, Curran said, would be sent back to General Sessions Court for trial as misdemeanors.

He said that by using visiting judges from other jurisdictions on civil cases and by concentrating District judges on criminal cases, the court's backlog dropped from 1,100 cases last October to 700 just before the riot began in April.

"Now we'll almost be back where we were," Curran told Sen. Joseph D. Tydings, D-Md., who chaired the subcommittee hearings.

Curran said he will assign three judges to a special "Emergency calendar" to hear the riot cases, which, he said, could be disposed of at a rate of two per judge per day.

The chief judge also told the subcommittee that next Monday he will hold a meeting of District Court judges and propose a plan to give immediate trials to defendants up for bail hearings whom the judges feel present a danger to the community.

Under the Bail Reform Act, he said, judges cannot consider danger to the community when they set bail. Both Curran and Tydings agreed that the act needs "tightening up."

SPACE SITUATION ACUTE

Curran said the District Court space situation was so critical that some new judges may have to commute to their courtrooms from chambers across town in the new U.S. Court of Claims building on Madison Place NW, where he has borrowed office space.

He added that the administrative office of the federal court system has offered to provide the District Court with rented space at the Dodge Hotel, near the Capitol. Curran said he didn't think the hotel was a "proper place" for a federal court because among other non-judicial features, he said, "they've got a bar in there."

Curran said that he felt the ultimate solution for court backlogs in the District would be to set up a new Superior Court of Criminal Jurisdiction to try felony cases.

He said it should be served by a chief judge and 10 associate judges appointed for 15-year terms.

"As Washington moves ever close to home rule," Curran said, "it is only logical that a truly local court system be established."

He said the new court would handle crimes now prosecuted in his federal court. They are the so-called common-law crimes, such as murder, rape, robbery, burglary, abortion and assault with a dangerous weapon.

In other jurisdictions, the chief judge pointed out, these common-law crimes are not federal offenses. They are tried in state, county or city courts. "Local crimes should be tried in a local court as they are everywhere else," he said.

[From the Washington Post, June 1, 1968]

SHARP DROP IN TOURISM NOTED HERE

(By Elsie Carper)

The Washington Convention and Visitors Bureau yesterday reported a "severe" decrease in the number of tourists coming to Washington in the wake of the April rioting.

Twenty-five per cent of room reservations were canceled in April and 22 per cent in May, the Bureau said.

One medium-sized hotel has told the Bureau that a single tour company had canceled reservations for 2300 visitors this summer.

Another hotel, catering to conventions and tourists, says it has 125 fewer employees than it would normally use during this period, a payroll reduction of \$45,000 a month. The hotel has estimated that it will pay the city \$12,000 less in taxes in May than it ordinarily would.

A third hotel reports it has 116 fewer employees, with a payroll loss of \$30,000 and a tax loss of \$10,000, and a smaller tourist hotel, which normally operates with 80 employees, has cut back to 60.

The report of what has happened to tourism, the city's largest single source of private money, was presented to the Senate District Appropriations subcommittee by Clarence A. Arata, executive director of the Bureau, and Victor O. Schinnerer, the immediate past chairman.

The Bureau has asked Congress to appropriate \$200,000 in the fiscal year beginning July 1 to recapture the tourist and convention trade.

Business firms have been asked to subscribe to a special emergency fund, Schinnerer told the subcommittee, "to launch a massive campaign to tell America and the world that Washington is again free from disturbances and unrest and that visitors can again feel safe in the Nation's Capital."

In addition, he said, the businessmen expect to raise \$350,000 to expand the operation of the Bureau, which now operates on a more limited budget.

Arata said that if the present trend continues, there will be substantial tax losses to the city. Last year, direct revenues from tourists brought in \$21.6 million. In April and May alone, revenues were approximately \$1.5 million less than normally would have been anticipated.

"We find that cancellations of tour groups is continuing into the months ahead—all because of the widespread unfavorable publicity which the city has received and is receiving currently," Schinnerer told the subcommittee.

Two major conventions scheduled to come to Washington next year "are skittish" about meeting here, Arata said.

"We thought we had a convention of 9000 people tied down for 1973 but the decision of whether to meet in Washington or move to another city has been postponed until October," he said. "We are extremely hopeful that crime and unrest in Washington will soon pass. If we could see the terminal point we could go out and fight. We have a tremendous problem in promotion."

Travel agents are being shown where the riots took place and where tourists stay and visit to point out that there is no close relationship, Arata told the subcommittee.

He said that the rioting and the Poor People's Campaign have replaced crime here as the major deterrent, although crime is still a factor in keeping tourists away.

Subcommittee Chairman Robert C. Byrd (D-W. Va.) said that he has talked to a score of merchants since the riots. Loss of business is a combination of all three of those elements, Byrd said.

"If something is done about crime to preserve law and order, the tourists will come back," Byrd declared.

Sen. William Proxmire (D-Wis.) commented that of all cities, Washington is the safest from a "cataclysmic" riot.

"The President would bring in troops—order would be restored quickly, it has to be," Proxmire said.

During the day-long hearings the subcommittee heard the heads of 33 city agencies present requests for operating funds during the coming fiscal year.

Proxmire commended city officials for their proposal to establish an Office of Consumer Affairs.

"There is a terrific need for this," Proxmire said, after referring to a report by the Federal Trade Commission, which showed that poor people pay substantially more for goods that are inferior to goods that can be purchased outside the slums.

FIGURES ON TOURIST DECLINE

The number of visitors to Washington's tourist attractions in April was dramatically lower than in April of last year in most cases, official figures show.

Attendance at some attractions was as much as 40 per cent lower than it was last year. In a handful of isolated cases, however, this year's April attendance was higher than last year's.

Officials of the institutions involved released these attendance figures for April of last year and this:

	1967	1968
The White House.....	202,600	151,000
Washington Monument.....	240,000	208,200
Jefferson Memorial.....	255,300	149,300
Lincoln Memorial.....	365,900	365,700
Lee Mansion.....	28,100	30,400
Smithsonian Institution.....	1,579,078	986,211
National Gallery.....	178,228	115,424

The Park Service could not explain why the Lee Mansion and Lincoln Memorial were better attended in April when other attractions had many fewer visitors.

The aftermath of Washington's riot, the then-impending Poor People's Campaign and reports of violence here are all said to have contributed to the decline of tourism.

A spokesman for the National Park Service noted yesterday that in normal times April should have been a significantly better month than April of 1967 because Easter was in March last year and April this year. Easter week traditionally brings thousands of tourists to the city.

These figures tend to confirm the contention of restaurateurs and hotel keepers that tourism—the city's largest private industry—is in serious trouble.

[From the Evening Star, Washington, June 10, 1968]

GUARD CHIEF URGES TOUGHER RIOT ROLE

(By Shirley Elder)

The commander of the D.C. National Guard today suggested two major changes in the Guard's operations to protect the city in any future riot and to avoid a call for federal troops.

Maj. Gen. Charles L. Southward said he thinks teams of marksmen should be assigned to each unit with orders to shoot to kill any sniper or other person threatening lives.

Southward said the marksmen would be told: "There's the target—get it." This, said the general, would be a last resort.

Southward went on to say that if he had another 1,500 men added to his present force of 1,750 they, working with metropolitan police, probably could control the situation without federal troops.

TELLS OF SPEEDUP

Southward told the Senate Appropriations subcommittee for the District that several changes have been made to make it possible to move the Guard more swiftly from civilian to military footing.

Equipment now is more accessible and training programs are staggered so that some men are immediately available at all times, he said. He said it took six hours to pull together 78 percent of the Guardsmen on April 5, the day after Dr. Martin Luther King was slain.

The question of marksmen came up in a discussion with subcommittee Chairman Robert C. Byrd, D. W. Va., who asked whether orders issued during the April riots forced unreasonable delays on Guardsmen who might have needed to shoot.

The orders were that no man could load his gun and fire without clearing the decision with higher authorities. The only exception was to save a life.

Trained marksmen could be placed under the command of an officer on the scene, Southward said. The officer could simply say to the rifleman: "There's the target—get it."

Southward emphasized that he feels the use of weapons is dangerous and that care must be taken to avoid hitting innocent people.

Of the present 1,750 District Guardsmen, only 1,200 are organized into police battalions, Southward said.

He said he would like to have three more battalions, one of military policemen, one of combat engineers and one of mechanized infantry. These would total about 1,500.

Southward conceded it is always hard to recruit Guardsmen but, he added, he thinks many persons in the District are a little shame-faced that they were not out on the streets protecting their own citizens.

Julian Dugas, director of the District Department of Licenses and Inspections, also testified today and pleaded for more personnel.

He denied he is lowering standards in order to hire more Negroes. "No standards are being bent," he said. "No standards have been bent. No standards will be bent."

Dugas explained that, given a choice between a white man just out of the Army with investigative experience and a young Negro college graduate, he would hire the Negro.

"It's a simple fact. Young white people don't do too well in this town at this time," he said. Young Negroes are accepted more easily in the ghetto areas where the housing inspectors are assigned, he explained.

Byrd asked whether Dugas was accurately quoted when a reporter wrote that he intends to change the color of his department from "rosy red to brown and then to black." Dugas said the statement was "rhetoric." He said he has no intention of discriminating or lowering standards.

Byrd said, somewhat angrily, he is not interested in rhetoric.

"If a man is qualified, give him the job," Byrd said. "This Congress and this committee is not interested in supplying monies for you to increase your staff to achieve a racial mix."

[From the Washington Post, June 12, 1968]

GET MAXIMUM OF YEAR: "REMORSELESS" TRIO SENTENCED IN RIOT

(By Jarod Stout)

Three men arrested April 7 in the looting of a Southeast Washington 7-11 store were given maximum sentences of a year in jail yesterday by Judge Charles A. Halleck in the Court of General Sessions.

Halleck imposed the sentences after noting that the defendants had shown no indication of remorse, despite the fact that their actions were "without justification or excuse."

All three were charged with petty larceny after police said they found them parked 15 feet from the burned out 7-Eleven store at 5026 Benning rd. se. at about 12:30 p.m. on the Sunday of the April riot.

The sentences were the first handed down by Judge Halleck and were among the toughest yet meted out to looters. Jail terms in other cases have generally been suspended.

According to police, Walton M. Lacey, 23, of 3511 B st. se. and Benjamin L. Short, 25, of 274 35th pl. se. were in a car while Tyrone Williams, 21, of 3432 Croffut pl. se. was loading beer and wine into the trunk of the vehicle. More beer and wine was in the car, it was said.

Halleck said that since the offense took place on Sunday, the three "must have known" of the steps taken to quell the disturbances which had racked the city since the previous Thursday.

Halleck said:

"I remember reading that this was a city of remorse. Well, here stand three young men who have given no indication of remorse . . . and who can't have any possible excuse because they did it on Sunday . . .

"Their acts under these circumstances were willful and without justification or excuse.

"We talk about ours being a sick society. Perhaps the sickness is that people have gotten the idea they are owed something, that another man's property is his for the taking.

"The time has come when the law will be enforced and this Court, at least, will make clear that deliberate violators will be dealt with sternly."

Attorneys J. Francis Pohlhaus, representing Williams, and Paul M. Wolff, representing Lacey, said appeals would be filed for their clients. Attorney Warwick R. Furr II said an appeal for Short was under consideration.

[From the Washington Evening Star, May 30, 1968]

JUDGES LAY D.C. COURT CRISIS TO RIOT CASES, RISE IN CRIME

(By John Fialka)

The unprecedented burden of riot cases, the increasing complexity of criminal justice and the continuing rise in crime are severely straining Washington's courts.

This was the message the three chief judges of the District's main trial courts presented to Senate subcommittees yesterday.

Unless the government provides more judges, space and court manpower, they said, backlogs will become a dominant feature of the city's system of justice.

Chief Judge Harold H. Greene told a Senate District subcommittee that the Court of General Sessions needs five more judges to cope with a backlog that includes a backup of 2,032 criminal jury cases.

By switching judges from civil to criminal matters, he said, he had cut a backlog of 2,065 cases to 1,597 cases three days before the rioting began last month.

But the switch further clogged matters in the court's civil side. He added that there are now 5,492 civil jury cases pending and that it now takes about 27 months to bring a noncriminal matter before a jury.

Because lawyers are demanding jury trials in serious misdemeanor cases at an unprecedented rate, there were 80 percent more trials in General Sessions last year than in 1965, when the great majority were settled by pleas, Greene said.

Chief Judge Morris Miller told the same subcommittee, presided over by Sen. Alan Bible, D-Nev., that if he has no more requests for jury trials—a "most unlikely event"—the District's Juvenile Court would need 2½ years to try the 487 jury cases now pending.

Miller said 116 cases referred to Juvenile Court during the riot brought the April total of juvenile referrals to 683, the second highest month in the court's history.

His most "alarming" statistic, Miller said, was the fact that Juvenile Court already during May has had 686 youths referred to it by police.

Miller said he needed at least two judges and complained that the District government has not backed his requests for more judges.

BUDGET HAS BILL

Sen. Bible replied that the Senate District Committee still is waiting for the District's proposed uniform court bill, which is being examined by the Bureau of the Budget.

The bill, backed by the Judicial Conference, asks that the Juvenile Court become a division of the Court of General Sessions and that the resulting cluster of courts be given a total of six more judges.

Earlier, Judge Edward M. Curran, told a Senate Judiciary subcommittee that his efforts to cut the backlog of criminal jury cases would be nearly nullified by the riot.

Curran said U.S. Atty. David Bress has estimated that a special grand jury now hearing riot cases would indict in about 400 of more than 800 cases in which one or more persons are charged by police with felonies.

The additional caseload would bring the current backlog of 700 cases back up to 1,100—the same number the District Court had last October when more judges were placed on criminal trials in what Judge Curran described as a “crash program” to cut the backlog.

Curran said he will assign three judges to a special “emergency calendar” to hear the riot cases which, he said, could be disposed of at a rate of two cases per judge per day.

Both Judge Curran and Sen. Joseph D. Tydings, D-Md., who presided at the subcommittee meeting, agreed that the District’s current Bail Reform Act “needs tightening up.” Under the act, a judge cannot consider the potential danger a defendant poses to the community as a factor in setting bail.

Curran said that he felt the ultimate solution for court backlogs in the District would be to set up a new Superior Court of Criminal Jurisdiction to try felony cases. The court, he proposed, would require 11 judges.

[From The Evening Star, Washington, June 4, 1968]

JUDGE IN RIOT CASES CRITICIZES DISTRICT

(By Donald Hirzel)

A judge criticized District officials yesterday for what he termed their failure in the early stages of the April riot to order police to make arrests and enforce the law.

Judge Alfred Burka made the comment in the Court of General Sessions at the conclusion of the first group sentencing of persons arrested in connection with the riot. Burka has scheduled group sentencings for various dates this month.

Some defendants have been sentenced on riot-connected charges by other judges, but this was a group sentencing.

“I have questioned several police officers,” Burka said, “and there is no doubt in my mind they operated with implicit or implied orders not to make arrests.”

He added that there appeared to be no effort to instill in the public mind the idea that looters would be arrested and prosecuted, and he referred to the fact that seven persons sentenced by him yesterday said they had no fear of arrest when they went into the streets.

He also condemned those who took part in the rioting, declaring: “People we were depending upon to uphold law in the District were involved in the disorder and very few of them were caught.”

PROBLEM FOR JUDGES

Burka said judges are greatly concerned about sentencing rioters because so many of the defendants have no previous police records and are family men with steady jobs.

“If we don’t send them to jail, it is a sign to everyone with a clean record that he is entitled to one free ruling, but if I do . . .”

His words trailed off, and then he looked at the last man in the group he sentenced yesterday and said: “Here is a man with a wife and four children and another on the way who is working steadily to support his family . . .” Again his voice trailed off in the middle of the sentence.

He then sentenced the man, Nathaniel Dodds, 51, of the 1100 block of 10th Street NW, to a suspended 360-day jail term and placed him on probation for a year for attempted burglary II (looting).

Dodds is in a sense both typical and untypical of the rioter.

WATCHED THE PEOPLE

He told the court he is a dishwasher and makes \$58 a week. He came here from Mississippi 15 years ago after serving a six-month jail term there in 1935 for manslaughter.

He had no arrest record since being in Washington, until April 5, when he got off work and went home and sat on the porch drinking beer and watched the people milling about on the streets.

When he saw people carrying television sets and other items up the street, he asked where they got the goods and was told they came from a nearby store.

"I saw others taking things, and I thought of the things my kids needed," he told the court. So he joined the looters but was arrested before he got anything.

"Would you have gone if you had been warned that looters would be arrested or shot?" Burka asked.

"No sir," Dodds replied. "People told me the police weren't arresting anybody and I thought it was all right since everybody else was doing it."

He said he saw "lots of police around, but nobody was being arrested."

DIDN'T EXPECT ARREST

The others sentenced yesterday also said they did not expect arrest. They also said they went into the streets because everybody else was looting.

The others sentenced had good-paying jobs, unlike Dodds, with one making \$4 an hour as a cement finisher. None of them graduated from high school.

Jessie J. Hinson Jr., 23, of the 500 block of 7th Street SE, a truckdriver charged with attempted burglary II and petty larceny, received a suspended 360-day jail term and was placed on probation for two years.

He had one previous arrest for breaking and entering in Lancaster, S.C. in 1962 but no arrests since to come to Washington. He told the judge "I got with the wrong crowd" during the rioting and was arrested. He is married and has two children.

A. D. Huff, 36, of the 2100 block of 4th Street NE, had no arrest record. He told Burka he completed the second grade before going to work on his father's farm. He has been in Washington eight years and works as a cement finisher.

He received 180 days for petty larceny and rioting, with the sentence suspended. He was placed on probation for one year.

John H. Walker, 22, of the 3400 block of 14th Street NW, charged with attempted burglary II and petty larceny after his arrest in a clothing store, received a suspended 180-day sentence and was fined \$100 and placed on probation for one year.

Walker, a machine operator with a fifth-grade education and a native of Washington, was bailed out after his arrest by his employer who then wrote a letter to the court in which he described Walker as "honest, trustworthy and a loyal employee."

The letter stated, according to Burka, that Walker on numerous occasions had been left alone in the plant with large sums of money and never took one cent. His boss wanted him back on the job.

Walker said that when he entered the clothing store there were policemen two doors away, but "I didn't think about police. It never occurred to me that I would be arrested."

"How do you feel about what you did now?" Burka asked. Walker replied: "Bad."

Charles E. Dean, 19, and Dempsey H. Bowie, 23, came to Washington from Alabama years ago and live in the 500 block of 3rd Street NW. Both are employed as cement workers earning \$3.17 an hour and neither had an arrest record.

Dean completed the ninth grade and Bowie the seventh grade. They said they "saw a bunch of other people walk out of the store" and then they were arrested.

Both were charged with attempted burglary II and received suspended 360-day terms and were fined \$100 each.

ONLY ONE GETS JAIL

Only one man received a straight jail term. He was James McDonald Carroll, 31, of the first block of Bryant Street NW. He was charged with carrying a pistol without a permit.

He received 360 days in jail after Burka reviewed his conviction record, including charges of petty larceny, assault and carrying a dangerous weapon.

A lifelong resident of Washington, Carroll is a laborer with a sixth-grade education.

He claimed he had just bought a .22-caliber pistol from a youth on the street when he was arrested. Police said they recovered the gun and 26 rounds of ammunition. Carroll said he planned to take the gun home.

The last of the eight to appear before Burka was Sylvester Burrows, 47, of the 1200 block of 5th Street NW, who was charged with attempted burglary and rioting.

He previously entered a guilty plea to the charges, but when he came before Burka yesterday he said it was all an "accident."

Burrows claimed that on April 5 he was standing near a liquor store when a crowd surged by him and the next thing he knew he was in the store, where he was arrested. The judge set aside the guilty plea and set a trial for July 2.

[From the Washington Post, June 16, 1968]

BANKERS ASK AID FOR D.C. POLICE

NEED IMPERATIVE, ASSOCIATION SAYS IN RESOLUTION

(By S. Oliver Goodman)

HOT SPRINGS, VA., June 15—The D.C. Bankers Association today called for the immediate release of 1000 men from the military forces to augment the Washington Police Department.

In a resolution adopted at the close of their annual convention here, the bankers said: "The needs of our community are so imperative that a delay cannot be endured."

The resolution noted that President Johnson has requested Congress to authorize an increase of 1000 in the strength of the City's police force. However, the bankers feel too much time may elapse through normal civilian recruitment and training procedures.

If the release of servicemen should be judged unacceptable, the bankers requested legislative action so that "not less than 1000 federal tropps may be ordered into our nation's Federal City to perform temporary and vitally needed police duties."

The request for servicemen was one of a three-part resolution passed by unanimous vote of the bankers as steps towards restoring law and order in Washington.

The action was prefaced with these remarks: "Crime is accelerating at a rate so rapid in the Capital of the Nation as to approach emergency dimensions. Those who may doubt the seriousness of our crime need only refer to recent statistics released by the Federal Bureau of Investigation showing that 'serious crime' in the District of Columbia for the period 1960-66 increased 123 per cent."

The bankers also cited figures for the first five months of 1968 showing 36 bank robberies, an increase of 177 percent over 13 in the same period last year.

In other anti-crime resolutions, the bankers—

Endorsed Judge Edward M. Curran's recommendation for the establishment of a new court to be known as the "District of Columbia Superior Court of Criminal Jurisdiction."

Endorsed the recommendation of Judge Harold H. Green that favorable action be taken on a Senate bill providing for raising salaries and increasing the number of judges for the Court of General Sessions.

Endorsed a proposal that the Juvenile Court be transferred and made a part of the Court of General Sessions.

The bankers also recommended that the Bail Reform Act be amended to provide judges with discretionary power to deny bail pending trial in certain extreme cases.

They also went on record as supporting an effective parking agency for downtown Washington, endorsing prompt Congressional action on the long-delayed freeway construction program, and calling for construction of a regional rail network to begin in October, 1968.

A speaker today was Comptroller of the Currency, William B. Camp who touched briefly on a sore spot with District banks. Camp said he is well aware "of the particularly keen frustrations that arise when initiative is shackled by what are regarded as artificial barriers to normal patterns of growth and expansion."

The Comptroller referred to the lengthy efforts of Washington banks to be allowed to branch into suburban Maryland and Virginia.

Similar, if not identical, problems exist in many other sections of the country, he pointed out.

(Whereupon, at 12:20 o'clock p.m., the Committee adjourned, subject to the call of the Chair.)

(Subsequently, the following letter was received for the record:)

UNITED STATES DEPARTMENT OF JUSTICE,
OFFICE OF THE UNITED STATES ATTORNEY,
Washington, D.C., May 29, 1968.

Hon. JOHN M. McMILLAN.

*Chairman, House Committee on the District of Columbia, Rayburn Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: At the Committee hearing held on May 16, 1968, Congressman Mathias requested that I submit a list of areas for new legislation which would be helpful to prosecutions in the District of Columbia. Accordingly, I submit the following areas which merit Committee consideration:

1. The common-law rule in the District of Columbia permits an arrested person to use force to resist an illegal arrest. A like common-law rule has been changed by decision in New Jersey and by statute in six other states. In a recently argued case in the Court of Appeals an opportunity was afforded the Court to re-examine the rule, but it appears the Court will decide the case without reaching that point. Further consideration should be given to the question whether the law should require an arrested person to submit to arrest without the right to resist by the use of force or should the common-law right to resist be retained. In cases involving assaults on police officers it is common to find defendants justifying use of force to resist arrest on the theory that the officer did not have sufficient probable cause to arrest thereby claiming the arrest to be illegal.

2. It is essential that we have strict gun control legislation in the District of Columbia, and that the law cover both hand guns and long guns. Such legislation has been previously proposed by the Department of Justice. I cannot too strongly urge the Committee to re-examine this proposal.

3. Modification of the Bail Reform Act is currently being studied by a committee of the Judicial Council of this Circuit and by the D.C. Committee on the Administration of Justice under Emergency Conditions. Recommended amendments of the Act will no doubt emerge from those studies. A recent interim report of the Council Committee indicates some sentiment favoring legislation providing for pretrial detention during declared emergencies in certain civil disorder cases such as arson, possession or use of firearms, explosives and incendiary materials; there was also some indication that inciting to riot, burglary and assault with a dangerous weapon should be included. Needed legislation should probably await the reports of these on-going studies.

Please be assured of my cooperation in connection with your effort.

Sincerely yours,

DAVID G. BRESS,
United States Attorney.

cc: Hon. CHARLES McC. MATHIAS, Jr.
House of Representatives
107 Cannon Building
Washington, D.C.

APPENDIX

STAFF MEMORANDUM, MAY 15, 1968—THE APRIL 1968 CIVIL DISTURBANCES IN WASHINGTON

Beginning on the evening of April 4 of this year, the District of Columbia experienced a widespread outbreak of rioting, looting, arson, and destruction of property. When the last Federal troops were withdrawn from the city on April 16, many blocks of the city were a burned-out shambles, with a total of 645 buildings and 283 housing units badly damaged or destroyed. Also, some 909 commercial establishments and their contents were destroyed or damaged.

The commercial areas of 14th Street and 7th Street, N.W., and of H Street, N.E., were particularly hard hit by this wave of vandalism and arson. As a result, many small business establishments in these sections were badly damaged or totally destroyed by fire. Many of the men and women who owned these businesses have lost not only their property, but their sole means of earning a living and their entire life savings as well. While some have recouped a portion of their loss through insurance, few if any of these people will ever be completely reimbursed.

The District estimates that the cost of demolishing and removing these unsafe damaged buildings or parts thereof will be approximately \$300,000.

Total losses of property in the riot-torn areas may never be completely calculated. The latest estimate of losses or damages to "insured" properties alone in the concentrated areas of looting and destruction has been fixed by insured underwriters at \$25 million.

Job losses, business losses, and hotel, restaurant and sightseeing losses, during this the busiest season in Washington likewise have been appalling and presently not determined.

Widespread reports have been received by the Committee of innumerable instances attested to by witnesses, seen personally or on the various TV channels, of looting and plundering in the presence of the police, and subsequently in the presence of troops, with no apparent attempt being made by the police or troops to prevent or control same. What actual orders were issued to the police or troops is not clear from preliminary inquiry.

Estimates of losses from the April 1968 civil disturbances in Washington

ESTIMATED REAL PROPERTY DAMAGE

No. of Buildings Damaged or Destroyed.....	645
No. of Housing Units Damaged or Destroyed.....	283
No. of Commercial Establishments Damaged or Destroyed.....	909
No. of Public and Institutional Establishments Damaged or Destroyed.....	8

These are estimates of losses in the concentrated areas of destruction; scattered damages outside thereof would run 15% of those figures, according to D.C. Government estimates.

OTHER LOSSES

Estimated cost of insured property losses or damages, including inventories, as revised by insured underwriters (making Washington's losses, under these preliminary estimates, higher than those in any other U.S. city) (million)-----

\$24
?

Job losses in riot-torn areas-----

(This is an elusive figure. There was testimony before the Committee that on 7th Street alone—one of the several areas of widespread destruction—1,034 people were put out of work.)

Cost of Federalizing the National Guard and Bringing in 14,000 Army Troops (million)-----

\$5.3

ESTIMATES OF COSTS TO THE DISTRICT OF COLUMBIA GOVERNMENT OF THE RECENT DISTURBANCES

Additional costs

Functions	Estimated costs, Apr. 4 to 9	Estimated additional costs, Apr. 10 to June 30	Total
General Operating Expenses-----	\$10,400	\$2,000	\$12,400
Public Safety-----	1,154,900	888,800	2,043,700
Education-----	101,000	-----	101,000
Parks and Recreation-----	52,600	-----	52,600
Health and Welfare-----	220,000	791,000	1,011,000
Highways and Traffic-----	36,400	57,500	93,900
Sanitary Engineering-----	66,200	75,000	141,200
Grand Total-----	1,641,500	1,814,300	3,455,800
Average per day-----	328,300	-----	-----

Estimated losses of revenue

Sources	Fiscal year 1968	Fiscal year 1969	Total
Sales and Excise Tax-----	-\$1,300,000	-\$500,000	-\$1,800,000
Income Taxes-----	-200,000	-250,000	-450,000
Property Taxes-----	-100,000	-350,000	-450,000
Fines and Forfeitures-----	+50,000	+50,000	+100,000
Gasoline Tax-----	-100,000	-----	-100,000
Parking Meters-----	-50,000	-----	-50,000
Totals-----	-1,700,000	-1,050,000	-2,750,000
Average per day-----	340,000	-----	-----

Source: District of Columbia Government Executive Office, Apr. 30, 1968.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,

EXECUTIVE OFFICE,

Washington, D.C., May 3, 1968.

Mr. JAMES T. CLARK,

Clerk, Committee on the District of Columbia, U.S. House of Representatives.

DEAR MR. CLARK: Attached is a breakdown of the costs incurred during the civil disturbances by the District agencies from the period April 4 through April 9, 1968, and the projected additional costs.

You will note that the footnotes on pages 3, 4 and 5 indicate the purpose for which the money was used.

D. P. HERMAN, Budget Officer, D.C.

**SUMMARY OF INDICATIONS OF AGENCY COSTS OF DISTRICT OF COLUMBIA CIVIL DISTURBANCE—
APRIL 4 THROUGH 9, 1968**

Areas	Total incurred and additional costs	Costs incurred to date (April 4-9)	Additional costs estimated, April 10- June 30, 1968	Amount that can be absorbed by agencies	Additional funds required
General Operating Expenses.....	\$12,364	\$10,364	\$2,000	\$12,364	-----
Public Safety.....	¹ 2,043,658	¹ 1,154,872	888,786	32,528	¹ \$2,011,130
Education.....	¹ 101,000	¹ 101,000	-----	86,000	¹ 15,000
Parks and Recreation.....	52,570	52,570	-----	52,570	-----
Health and Welfare.....	1,011,000	220,000	791,000	210,000	801,000
Highways and Traffic.....	93,940	36,440	57,500	9,000	84,940
Sanitary Engineering.....	141,156	66,156	75,000	-----	141,156
Grand Total.....	3,445,688	1,641,402	1,814,286	402,462	3,053,226
Operating Total.....	3,430,688	1,616,402	1,814,286	402,462	¹ 3,028,226
Capital Outlay.....	25,000	25,000	-----	-----	25,000

¹ Indicates figure includes "Capital outlay costs." See explanations for details.

² Indicates total includes anticipated \$200,000 grant from Federal Government to Licenses and Inspections Agency to help finance the estimated \$300,000 costs of razing dangerous buildings and removing debris.

INITIAL INDICATION OF AGENCY COSTS OF DISTRICT OF COLUMBIA CIVIL DISTURBANCE—APRIL 4-9, 1968

Agency Reference Number	Agency	Total Incurred and Additional Costs to Agency	Costs incurred to date (April 9, 1968)	Additional Estimated—April 10 to June 30, 1968	Amount that can be absorbed by agency from current Appropriations	Additional Funds required
General Operating Expenses:						
1	Executive Office.....	500	500	-----	500	-----
1A	City Council.....	-----	-----	-----	-----	-----
2	General Administration.....	-----	-----	-----	-----	-----
3	Regulatory Agencies.....	-----	-----	-----	-----	-----
3-3	Death Investigations.....	532	532	-----	532	-----
3-11	Human Relations.....	400	400	-----	400	-----
4	Occupations and Professions.....	-----	-----	-----	-----	-----
5	Public Library.....	-----	-----	-----	-----	-----
6	Veterans Affairs.....	-----	-----	-----	-----	-----
7	Buildings and Grounds.....	10,932	8,923	2,000	10,932	-----
8	Surveyor.....	-----	-----	-----	-----	-----
Total, General Operating Expenses..		12,364	10,364	2,000	12,364	-----
Public Safety:						
9	Corporation Counsel.....	11,000	2,500	8,500	11,000	-----
10	Metropolitan Police.....	1,228,564	823,564	405,000	-----	1,228,564
11	Fire Department.....	290,375	190,376	100,000	-----	290,376
12	Civil Defense.....	2,000	1,130	870	595	1,405
13-1	Juvenile Court.....	-----	-----	-----	-----	-----
13-2	Court of General Sessions..	18,381	14,465	3,916	18,381	-----
13-7	Bail Agency.....	2,552	2,552	-----	2,552	-----
13-6	Legal Aid.....	-----	-----	-----	-----	-----
13-5	U.S. Courts.....	-----	-----	-----	-----	-----
14	Corrections.....	1161,704	1101,704	60,000	-----	1161,704
15	Licenses and Inspections..	329,081	18,581	310,500	-----	329,081
16	National Guard.....	-----	-----	-----	-----	-----
Total Public Safety.....		12,043,658	11,154,872	188,786	32,528	12,011,130
Education:						
17	Public schools.....	1101,000	1101,000	-----	86,000	115,000
17A	Federal City College.....	-----	-----	-----	-----	-----
17B	Washington Technical Institute.....	-----	-----	-----	-----	-----
Total Education.....		1101,000	1101,000	-----	86,000	115,000
Parks and Recreation:						
18	Recreation.....	1,920	1,920	-----	1,920	-----
19	National Capital Parks.....	50,000	50,000	-----	50,000	-----
20	National Zoological Park..	650	650	-----	650	-----
Total Parks and Recreation.....		52,570	52,570	-----	52,570	-----
Health and Welfare:						
21	Vocational Rehabilitation.....	-----	-----	-----	-----	-----
22	Public Health.....	-----	-----	-----	-----	-----
23	Public Welfare.....	1,011,000	220,000	791,000	210,000	801,000
Total Health and Welfare.....		1,011,000	220,000	791,000	210,000	801,000
Highways and Traffic:						
24	Highways and Traffic.....	93,940	36,440	57,500	9,000	84,940
25	Motor Vehicles.....	-----	-----	-----	-----	-----
26	Motor Vehicle Parking.....	-----	-----	-----	-----	-----
Total Highways and Traffic.....		93,940	36,440	57,500	9,000	84,940
Sanitary Engineering:						
27	Sanitary Engineering.....	137,511	62,511	75,000	-----	137,511
28	Washington Aqueduct.....	3,645	3,645	-----	-----	3,645
Total Sanitary Engineering.....		141,156	66,156	75,000	-----	141,156
Grand Total—All Agencies.....		3,455,688	1,641,402	1,814,286	402,462	3,053,226
Operating Total.....		3,430,688	1,616,402	1,814,286	402,462	3,028,226
Capital Outlay.....		25,000	25,000	-----	-----	25,000

¹ Indicates figure includes Capital Outlay Funds.² Indicates figure includes estimated \$200,000 Grant from Federal Government to Licenses and Inspections agency to help finance the estimated \$300,000 costs of razing dangerous buildings and removing debris.

Agency Cost Explanation—For Costs Related to Civil Disturbance—April 4-9, 1968

1.	Executive Office (\$500).....	This was for overtime costs for clerical help.
3-3	Death Investigations (\$532).....	This was for overtime costs for clerical help and junior professional staff.
3-11	Human Relations (\$400).....	This was for overtime costs for clerical help and junior professional staff.
7	Buildings and Grounds (\$10,932).....	The to-date costs of \$8,932 was for overtime costs incurred in providing additional guards around the clock for the District buildings and the Municipal Center. An additional \$2,000 is needed for overtime costs incurred after April 9. The full costs of \$10,932 will be met from within available funds.
9	Corporation Counsel (\$11,000).....	Of this sum, \$2,500 was for overtime costs to date. An additional \$8,500 overtime costs are expected in connection with further legal actions.
10	Metropolitan Police (\$1,228,564).....	The costs to date total \$823,564 which are divided as follows: (a) Personnel overtime: \$645,000; (b) Materials: \$98,473; (c) Additional equipment and damage to equipment: \$63,174; (d) Other miscellaneous: \$16,917. Future estimated costs total \$405,000, of which overtime accounts \$265,000; pay for additional days associated with a temporary six-day work week: \$90,000; and Court time pay: \$50,000.
11	Fire (\$290,376).....	The costs to date of \$190,370 include overtime pay: \$137,500, compensatory time: \$30,000; sick leave costs of \$2,500; supplies and service costs of \$10,191; damaged equipment: \$10,185. The additional \$100,000 estimated need is to meet overtime costs for the days of April 10-13, 1968.
12	Civil Defense (\$2,000).....	The primary expense was for operating the Emergency Communications System Headquarters around the clock. This agency can absorb \$595 but requires \$1,405 of additional funds to meet the incurred costs which it can not absorb.
13-1	Juvenile Court.....	No significant costs have been incurred nor are expected that can not be absorbed as part of the regular program. There were few referrals from the Juvenile Division of the Metropolitan Police.
13-2	Court of General Sessions (\$18,381).....	A total of \$17,181 was for personnel compensation and benefits and \$1,200 was for miscellaneous expenses. The Court expects to be able to absorb these additional costs in full.
13-7	D.C. Bail (\$2,552).....	A total of \$2,408 was for overtime and \$144 was for materials. These costs can be absorbed in full.
13-6	Legal Aid.....	Although the attorneys of this agency worked over the week end in providing representation in the Courts for indigent defendants apprehended during the disturbance the agency will incur no additional expense because the attorneys are paid on a yearly basis rather than by the hour.
14	Corrections (\$161,704).....	The costs to date of \$101,740 were to provide \$44,000 for overtime and compensatory time; \$35,000 for equipment and supplies lost to fire; \$12,740 for additional equipment and supplies purchased; and \$10,000 building damage due to fire. It is estimated that an additional \$60,000 will be needed for overtime costs. CAPITAL OUTLAY of \$10,000 will be needed for repairs of building damaged by fire. Most of these costs were incurred due to a "sympathy demonstration" by inmates.
15	Licenses and Inspections (\$329,081).....	Costs to date of \$18,581 were mainly for equipment (\$16,223) associated with Licenses and Inspections work on the spot. Personnel overtime payments costs \$2,358. It is estimated that an additional \$310,500 will be needed; \$10,500 for expected overtime payments and \$300,000 for removing unsafe buildings and removing debris from razed buildings if owners are unable to do so and refuse to do so. The Federal Government is making grant funds available to finance 2 1/2 of this cost.
17	Public Schools (\$101,000).....	A sum of \$80,000 was needed for custodial overtime to keep the schools open and lighted. The other costs include \$1,000 for fire damage to the stage at Evans Junior High School; \$2,000 for glass breakage; at Wheatley, Coummel and Cardozo schools; \$3,000 for small pilferage; and \$15,000 for fire damage at Harris school. CAPITAL OUTLAY of \$15,000 is needed to repair Harris School area damaged by fire. This agency will absorb the \$86,000 operating costs.
19	National Parks (\$53,000).....	Of this total \$50,000 was for overtime for the Park Police and \$3,000 was for restoring areas used by Military Forces.
20	National Zoological Park (\$650).....	This was for overtime costs.
23	Public Welfare (\$1,011,000).....	The estimated costs are detailed below:

	To date	To date through June 30
Food and related services.....	\$206,734	\$326,000
Overtime.....	9,347	38,000
Public assistance.....		56,000
Crisis assistance.....		30,000
Family Emergency Services.....		120,000
Temporary assistance for unemployed parents.....		203,000
Emergency help.....		18,000
Trucking services, gas and oil.....	3,919	
Total.....	220,000	791,000

24	Highways and Traffic (\$93,940).....	Of the \$36,440 costs to date, \$25,385 was for labor and \$11,555 was for materials and operating expenses. Future costs of \$57,500 are expected to repair damage to streets, sidewalks and trees.
27	Sanitary Engineering (\$137,511).....	Of the \$62,511 costs to date, \$60,503 was for overtime; \$1,600 was for contract costs at Kenilworth Land fill, and \$408 was for equipment costs. It is estimated that an additional \$75,000 will be needed to meet labor costs, including overtime payments, through June 30.
28	Washington Aqueduct (\$3,145).....	These costs were for small repairs and labor. This agency cannot absorb these additional costs.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, May 8, 1968.

Mr. JAMES T. CLARK,
Clerk, House District Committee,
Longworth House Office Building,
Washington, D.C.

DEAR MR. CLARK: Following up on my letter of April 29, 1968 concerning the costs of the recent disturbances, I now have some figures for the cost of federalizing the National Guard and bringing in Army troops. They are as follows:

Gross Cost.....	\$5,394,072
Less:	
Normal Costs.....	(2,966,255)
Offset Costs.....	(246,440)
Net Cost.....	2,181,377

The normal costs are those which would have been expended for paying Army troops and their other costs wherever they would have been located. The offset costs are for items which were issued and subsequently returned after the disturbances. It is of interest that one of the largest costs was that of transportation, which was \$1,050,960.

These costs included the cost of federalizing the National Guard, although the costs thereof other than salaries has not been computed. The pay for the National Guardsmen was \$232,983.

I trust this information will be of assistance to you and the Committee.

Sincerely yours,

THOMAS W. FLETCHER.

AUTHORITY FOR USE OF TROOPS IN THE SUPPRESSION OF RIOTS
(D.C. Code, Title 39, Sec. 603)

When there is in the District of Columbia a tumult, riot, mob, or a body of men acting together by force with attempt to commit a felony or to offer violence to persons or property, or by force or violence to break and resist the laws, or when such tumult, riot, or mob is threatened, it shall be lawful for the Commissioners of the District of Columbia, or for the United States marshal for the District of Columbia, to call on the commander-in-chief to aid them in suppressing such violence and enforcing the laws; the commander-in-chief shall thereupon order out so much and such portion of the militia as he may deem necessary to suppress the same, and no member thereof who shall be thus ordered out by proper authority for any such duty shall be liable to civil or criminal prosecution for any act done in the discharge of his military duty. (Mar. 1, 1889, 25 Stat. 778, ch. 328 § 45; Feb. 18, 1909, 35 Stat. 634, ch. 146, § 48.) (See also U.S. Code, Title 32)

ARRESTS BY THE METROPOLITAN POLICE DEPARTMENT, GOVERNMENT OF THE DISTRICT OF COLUMBIA

By Day, March 30 through April 14, 1968

	March		April													
	30	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Criminal homicide.....	1		1	1				1			1		2		1	1
Rape.....		1						1		1			6			
Robbery.....	9	18	6	8	6	5	8	2		6	5	2		4	2	2
Aggravated assault.....	5	4	11	11	3	3	3	6	3	5	3	2	3	2	4	3
Housebreaking.....	4	13	12	5	16	13	460	276	86	24	14	25	30	31	13	22
Larceny.....	14	3	21	14	22	6	15	6	1	2	2	7	9			3
Auto theft.....	3	5	1	2	1	6		6	3	4	3	3	8	7	1	1
Arson.....							3		1			1				1
Curfew violation.....							253	1,116	1,024	781	470	165	164	76		
Other felonies and misdemeanors.....	214	143	133	133	106	98	429	340	302	131	105	186	174	142	181	141
Total.....	250	187	185	175	154	131	1,172	1,753	1,421	953	603	391	396	262	202	174

¹ The riots and looting started during the evening of Thursday, April 4, 1968.

DISTRICT OF COLUMBIA FIRE DEPARTMENT

BUILDING FIRES—MARCH 30 TO APRIL 14, 1968

March:	April—Continued	
30 -----	18	9 ----- 4
31 -----	12	10 ----- 19
April:		11 ----- 23
1 -----	10	12 ----- 16
2 -----	15	13 ----- 13
3 -----	8	14 ----- 20
4 -----	13	
5, 6, 7 -----	488	Total ----- 668
8 -----	9	

Total number of fires between March 30, 1968 and April 14, 1968, both dates inclusive..... 1,180

Number of BUILDING fires between March 30, 1968 and April 14, 1968, both dates inclusive..... 668

BUILDING FIRES

	1967	1968
January.....	289	294
February.....	311	329
March.....	320	339
April.....	295	880
Total.....	1,215	1,842

FALSE ALARMS

March:	April—Continued	
30 -----	37	8 ----- 27
31 -----	29	9 ----- 20
April:		10 ----- 29
1 -----	23	11 ----- 28
2 -----	17	12 ----- 33
3 -----	18	13 ----- 31
4 -----	31	14 ----- 27
5 -----	13	
6 -----	12	Total ----- 391
7 -----	16	

*Hotel losses since April 1968, due to civil disorders and poor people's encampment***Loss of Business:**

April-----	\$2,000,000
May-----	1,500,000
June-----	1,750,000

Personnel loss: 875 less employees (in 31 hotels) today than normal for this time of year; \$311,000 per month payroll loss to employees; and \$8,000 per month loss in taxes to District of Columbia Government.

Type of Continuing Reservation Cancellation: Elks Convention scheduled for July, 1969, which had reserved 5,000 hotel rooms—canceled.

JUNE 11, 1968.

EXECUTIVE COMMUNICATIONS DEALING WITH THE DISTURBANCES, CALLING OUT THE TROOPS, ETC.

EXECUTIVE ORDER PROVIDING FOR THE RESTORATION OF LAW AND ORDER IN THE WASHINGTON METROPOLITAN AREA

Whereas I have today issued Proclamation No. 3840, calling upon persons engaged in acts of violence and disorder in the Washington metropolitan area to cease and desist therefrom and to disperse and retire peaceably forthwith; and

Whereas the conditions of domestic violence and disorder described therein continue, and the persons engaging in such acts of violence have not dispersed:

Now, therefore, by virtue of the authority vested in me as President of the United States and Commander in Chief of the Armed Forces under the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code and Section 301 of Title 3 of the United States Code, and by virtue of the authority vested in me as commander-in-chief of the militia of the District of Columbia by the Act of March 1, 1889, as amended (D.C. Code, Title 39), it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized and directed to take all appropriate steps to disperse all persons engaged in the acts of violence described in the proclamation, to restore law and order, and to see that the property, personnel and functions of the Federal Government, of embassies of foreign governments, and of international organizations in the Washington metropolitan area are protected against violence or other interference.

SECTION 2. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use such of the Armed Forces of the United States as he may deem necessary.

SECTION 3. (a) The Secretary of Defense is hereby authorized and directed to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, units or members of the Army National Guard and of the Air National Guard to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. Units or members may be relieved subject to recall at the discretion of the Secretary of Defense. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use units and members called or recalled into active military service of the United States pursuant to this section.

(b) In addition, in carrying out the provisions of Section 1, the Secretary of Defense is authorized to exercise any of the powers vested in me by law as commander-in-chief of the militia of the District of Columbia, during such time as any units or members of the Army National Guard or Air National Guard of the District shall not have been called into the active military service of the United States.

SECTION 4. The Secretary of Defense is authorized to delegate to one or more of the Secretaries of the military Departments any of the authority conferred upon him by this order.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 5, 1968.

LAW AND ORDER IN THE WASHINGTON METROPOLITAN AREA

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

Whereas I have been informed that conditions of domestic violence and disorder exist in the District of Columbia and threaten the Washington metropolitan area, endangering life and property and obstructing execution of the laws, and

that local police forces are unable to bring about the prompt cessation of such acts of violence and restoration of law and order ; and

Whereas I have been requested to use such units of the National Guard and of the Armed Forces of the United States as may be necessary for those purposes ; and

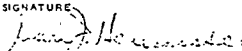
Whereas in such circumstances it is also my duty as Chief Executive to take care that the property, personnel and functions of the Federal Government, of embassies of foreign governments, and of international organizations in the Washington metropolitan area are protected against violence or other interference :

Now, therefore, I, Lyndon B. Johnson, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do command all persons engaged in such acts of violence to cease and desist therefrom and to disperse and retire peaceably forthwith.

In witness whereof, I have hereunto set my hand this fifth day of April, in the year of our Lord nineteen hundred and sixty-eight, and of the Independence of the United States of America the one hundred and ninety-second.

THE WHITE HOUSE.

LYNDON B. JOHNSON.

JOINT MESSAGEFORM		RESERVED FOR COMMUNICATION CENTER	
SECURITY CLASSIFICATION CONFIDENTIAL CONFIDENTIAL		DEPARTMENT OF THE ARMY STAFF COMM DIVISION DESPATCHED TIME 1203 APR 6 01 39Z	
TYPE MSG	BOOK MULTI SINGLE		
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PRECEDENCE			
ACTION IMMEDIATE			
INFO IMMEDIATE		DTG	
FROM: DA		SPECIAL INSTRUCTIONS	
TO: GEN RALPH E. HAINES, JR. VICE CHIEF OF STAFF, UNITED STATES ARMY METROPOLITAN POLICE HQ WASH, D. C. - COURIER		DISTR: ARSTAF Plus: SECDEF OSA CLL TIG CINFO USCONARC LNO USAINTC LNO NMCC	
INFO: CNO - COURIER CSAF - COURIER CGUSCONARC CINCAFSTRIKE CGUSAONE FT MEADE, MD CGUSATHREE FT MCPHERSON CGUSAFIVE FT SHERIDAN CGUSASIX SFRAN CALIF CG XVIII ABN CORPS FT BRAGG, N.C. CG III CORPS FT HOOD, TEX. CG MDW WASH D. C. - COURIER CINCFSTRIKE CGUSAMC CGUSACDC CGUSASA CGUSAINTC FT HOLABIRD MD. CGUSASTRATCOM FT HUACHUCA ARIZ. CG DC NG DC ARMORY WASH D. C. - COURIER			
CONFIDENTIAL DA858662 From GEN Harold K. Johnson, Chief of Staff, United States Army			
1. (C) For immediate action by TF WASHINGTON Commander. 2. (C) This letter of instruction is effective at once. 3. (C) You are designated Commander of TF WASHINGTON. Your mission is to restore and maintain law and order in Washington, D.C. metropolitan area. Initial Army units for TF WASHINGTON are 1/3 Inf,			
D R A F T TYPED NAME AND TITLE ROBERT G. WOOLEXHAN L.C., GS OPS, OD AOC		PHONE 50441x252	SIGNATURE  TYPED (or stamped) NAME AND TITLE JOHN J. HENNESSEY, Brigadier General, GS Deputy Director of Operations, ODCSOPS
SECURITY CLASSIFICATION CONFIDENTIAL CONFIDENTIAL		REGRADING INSTRUCTIONS	

DD FORM 1372

GPO : 1965 O-223-172

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ACTION IMMEDIATE					
INFO IMMEDIATE				PHONE	
1/6th ACR, 91st Engr, USMC Bn (SDT) (PROV), 544th Sup and Sv Bn (PROV) (Ft Lee), 714th Trans Bn (PROV) (Ft Eustis). Assume command of District of Columbia National Guard which has been federalized under Presidential authority. Be prepared to assume command of additional active Army units which may be ordered to the Washington, D.C. area. a. In carrying out your duties, you will be directly responsible to the Chief of Staff, US Army. You will establish your command post initially at Washington, D. C. Metropolitan Police Station and report subsequent locations. You are authorized direct communication with Army, Air Force and Navy installations commanders in the vicinity of your operation. b. Minimum force, consistent with mission accomplishment, will be used by both military and civilian personnel. Moreover, commanders and their personnel will avoid appearing as an invading, alien force rather than a force whose purpose is to restore order with a minimum loss of life and property and due respect for the great number of citizens whose involvement is purely accidental.					
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Personnel must be civil; the use of epithets and degrading language will not be tolerated. c. The following options are provided as guidance for determining how your troops may be armed to accomplish your mission using the minimum force principle enumerated in the preceding paragraph. <table border="1"> <thead> <tr> <th>OPTION</th> <th>RIFLE</th> <th>BAYONET SCABBARD</th> <th>BAYONET</th> <th>AMMUNITION MAGAZINE/ CLIP</th> <th>CHAMBER</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>At Sling</td> <td>On Belt</td> <td>In Scabbard</td> <td>In Pouch on Belt</td> <td>Empty</td> </tr> <tr> <td>2.</td> <td>At Port</td> <td>On Belt</td> <td>In Scabbard</td> <td>In Pouch on Belt</td> <td>Empty</td> </tr> <tr> <td>3.</td> <td>At Port</td> <td>On Bayonet</td> <td>Fixed</td> <td>In Pouch on Belt</td> <td>Empty</td> </tr> <tr> <td>4.</td> <td>At Port</td> <td>On Belt</td> <td>Fixed</td> <td>In Pouch on Belt</td> <td>Empty</td> </tr> <tr> <td>5.</td> <td>At Port</td> <td>On Belt</td> <td>Fixed</td> <td>In the Weapon</td> <td>Empty</td> </tr> <tr> <td>6.</td> <td>At Port</td> <td>On Belt</td> <td>Fixed</td> <td>In the Weapon</td> <td>Round Chambered</td> </tr> </tbody> </table> d. Military personnel will not load or fire their weapons except when authorized by an officer in person; when authorized in advance by an officer under certain specific conditions; or when required to save their lives. e. Authority to order use of the riot control agents is delegated to you. You are authorized to delegate this authority to commissioned officers.						OPTION	RIFLE	BAYONET SCABBARD	BAYONET	AMMUNITION MAGAZINE/ CLIP	CHAMBER	1.	At Sling	On Belt	In Scabbard	In Pouch on Belt	Empty	2.	At Port	On Belt	In Scabbard	In Pouch on Belt	Empty	3.	At Port	On Bayonet	Fixed	In Pouch on Belt	Empty	4.	At Port	On Belt	Fixed	In Pouch on Belt	Empty	5.	At Port	On Belt	Fixed	In the Weapon	Empty	6.	At Port	On Belt	Fixed	In the Weapon	Round Chambered
OPTION	RIFLE	BAYONET SCABBARD	BAYONET	AMMUNITION MAGAZINE/ CLIP	CHAMBER																																										
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INFO					
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at your discretion. Riot control agents should be used to accomplish your mission before live ammunition. f. You are authorized to use force to prevent looting and to detain persons caught in the act of looting. The amount of force which may be used is that which is reasonably necessary under the circumstances. Warning shots will not be fired; however, when shooting is necessary, shots will be aimed to wound rather than to kill. Looters present a particular problem since women and children may be involved and the articles looted may be of little value. The looter is not necessarily sympathetic toward the views of those who otherwise participate in the disturbance. There is no satisfactory predetermination as when firearms should be employed to stop looting beyond continued emphasis on the absolute necessity of using minimum force and avoiding the use of firearms except as a last resort and under the rules established here and in paragraphs d and e above. g. Snipers may also present a particular problem since the normal reflex actions of the well-trained combat soldier are to respond with an overwhelming mass of firepower. Experience indicates that in general this tactic endangers innocent people more than snipers and that the preferred tactic is to enter the building from which sniper fire originates. It also indicates that darkening the streets in order to gain protection from sniper fire is counterproductive. The following general approach should be emphasized in dealing with snipers:					
CONTROL NO.	TOR/TOD	PAGE NO.	NO. OF PAGES	MESSAGE IDENTIFICATION	INITIALS
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ACTION		IMMEDIATE		PHONE	
INFO		IMMEDIATE			
(1) Surround the building where sniper is concealed and gain access, using APC if necessary and available. (2) Employ CS initially rather than small arms fire. If CS is not successfully employed, then use well-aimed fire by expert marksmen. (3) Illuminate the area during darkness. h. Be prepared to receive assistance from certain active Army forces specifically designated to provide tactical, administrative, and logistical support. i. Department of Justice (DOJ) representative will be contacted as required for advice on matters of legal policy. DOJ point of contact, Mr. James McTiernan, will be located at or near your CP (exact location to be announced). j. Presidential representative on the scene is Mr. Cyrus Vance. You will be responsive to his instructions and inform the Chief of Staff, US Army, promptly of instructions received and actions taken in accordance therewith. k. Should a situation arise necessitating the detention of civilian personnel, DOJ personnel, possibly in collaboration with civilian police, will operate and maintain or provide for detention facilities. Whenever possible, US Marshals (or civilian police) should take civilian personnel (ring leaders, violators) into custody. When it becomes necessary for					
CONTROL NO.	TOR/TOO	PAGE NO.	NO. OF PAGES	MESSAGE IDENTIFICATION	INITIALS
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REGRADING INSTRUCTIONS				SECURITY CLASSIFICATION	
				CONFIDENTIAL	

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ACTION <u>IMMEDIATE</u>					
INFO <u>IMMEDIATE</u>					
Army personnel to take this action they will immediately seek a 7 US Marshal (or civil policeman) to take over such custody on the spot or at a detention center. In the event the number of civilian personnel taken into custody exceeds the capability of DOJ (or civil police) to detain them, your forces will provide temporary detention facilities until DOJ (or civil police) can continue to receive them. i. Searches of individuals or private property (including automobiles) may be conducted only after you have determined that such searches are reasonably necessary to the accomplishment of your mission. That determination must be based upon either a review of the evidence forming the basis of the request for the search or your own preliminary investigation. Searches should be conducted by the following personnel in the order indicated, if available; (1) Municipal law enforcement officials. (2) Representatives of the Department of Justice. (3) Task Force personnel. ii. You will cooperate with and assist municipal law enforcement officers to assume their normal roles. In this regard, you will not take orders from state or municipal civil authorities. iii. The Assistant Chief of Staff for Communications-Electronics will be responsible for communications facilities between your CP location and the Army Operations Center, Washington, D.C. Direct communication with DA					
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ACTION	IMMEDIATE				
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is authorized and directed. 7 p. You will ensure that DA is fully informed of operations through the submission of: (1) Interim telephonic reports on major changes or significant events which warrant the immediate attention of Headquarters, DA. (2) Written situation reports covering a 12 hour period, commencing 060001 hours Apr, local time. 4. (C) Future teletype correspondence on this operation will be prefaced by the words "Task Force WASHINGTON". 5. (U) Acknowledge receipt of this letter to Team Chief, Army Operations Center, Pentagon, Washington, D. C. (OK 50441x215). GP-4					
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REGRADE/INSTRUCTIONS				SECURITY CLASSIFICATION	

BONDS FOR PARADE PERMITS, AND REMOVAL OF DESTROYED BUILDINGS

HEARINGS
BEFORE A
SPECIAL INVESTIGATING SUBCOMMITTEE
OF THE
COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES
NINETIETH CONGRESS
SECOND SESSION
ON
H.R. 16941
TO REQUIRE BONDS FOR PARADE PERMITS
AND
H.R. 16948
TO REQUIRE DISTRICT GOVERNMENT AT ITS EXPENSE TO
REMOVE DESTROYED OR DAMAGED BUILDINGS

MAY 13 AND 17, 1968

Printed for the use of the
Committee on the District of Columbia



U.S. GOVERNMENT PRINTING OFFICE

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(II)

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BONDS FOR PARADE PERMITS, AND REMOVAL OF DESTROYED BUILDINGS

MONDAY, MAY 13, 1968

HOUSE OF REPRESENTATIVES,
SPECIAL INVESTIGATING SUBCOMMITTEE OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The Special Investigating Subcommittee met, pursuant to notice, at 10:15 o'clock a.m., in room 1310, Longworth House Office Building, Hon. Basil L. Whitener (chairman of the Special Investigating Subcommittee) presiding.

Present: Representatives McMillan (chairman of the full committee), Whitener (presiding), Nelsen, Winn, and Steiger.

Also present: James T. Clark, clerk; Sara Watson, assistant counsel; Donald Tubridy, minority clerk; and Leonard O. Hilder, investigator.

Mr. WHITENER (presiding). The subcommittee will now come to order. We will proceed with hearings on H.R. 16941, a bill by Mr. Abbitt and others to authorize an officer or employee of the government of the District of Columbia to require applicants for permits to parade in the District of Columbia to post a bond to cover certain costs of such parade.

We will also hear the testimony relating to H.R. 16948, a bill to direct the Commissioners of the District of Columbia to remove at the expense of the District of Columbia buildings destroyed or damaged in riots or other civil disorders.

These bills relate to subjects which are very much on the minds of the people, not only in the Nation's Capital, but throughout the Nation. And we are delighted that we are having as witnesses Members of the Congress, members of the District government, as well as members of the community.

H.R. 16941 and H.R. 16948, together with the Commissioners' reports, will be printed in the record at this point.

(The documents referred to follow:)

[H.R. 16941, 90th Cong., 2d sess., by Mr. Abbitt (for himself, Mr. Stubblefield, Mr. Gettys, Mr. Watson, and Mr. Fountain), on May 1, 1968]

A BILL To authorize an officer or employee of the government of the District of Columbia to require applicants for permits to parade in the District of Columbia to post a bond to cover certain costs of such parade

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no officer or employee of the government of the District of Columbia shall issue or sign any permit for a parade in the District of Columbia if such officer or employee determines that such parade may

cause property damage or disorder which would constitute a breach of the peace unless the person requesting such permit posts a bond in an amount determined by such officer or employee as will cover the estimated cost of—

- (1) damage to property; and
- (2) equipment and personnel needed to maintain order, excluding such equipment and personnel as are needed to route traffic and to protect those parading.

SEC. 2. (a) If the conditions of such permit are violated, the issuing officer or employee shall immediately revoke such permit, and the person to whom such permit was issued shall declare such parade at an end and shall actively cooperate in the dispersement of such parade.

(b) Failure by the person to whom such permit is issued to comply with the requirements of subsection (a) shall result in forfeiture of the total amount of the bond.

SEC. 3. The term "parade" includes march, demonstration, or other assemblage.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, May 10, 1968.

The Honorable JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
United States House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The Government of the District of Columbia has for report H.R. 16941, 90th Congress, a bill "To authorize an officer or employee of the government of the District of Columbia to require applicants for permits to parade in the District of Columbia to post a bond to cover certain costs of such parade."

The bill provides that no officer or employee of the District Government shall issue or sign any permit for a parade (a term defined by section 3 of the bill to include marches, demonstrations, or other assemblages) if he determines that the parade may cause property damage or disorder which would constitute a breach of the peace, unless he first requires the applicant for such parade permit to post a bond in an amount determined by the officer or employee to cover the estimated cost of damage to property, and the estimated cost of equipment and personnel needed to maintain order (but not including the cost of such equipment and personnel as may be needed to route traffic and to protect the persons participating in any such parade). Failure to comply with the conditions of the permit will, under the bill, result in its revocation, and in such case the permittee is required to declare the parade at an end and actively cooperate in its disbursement. The failure of the permittee to comply with the last-mentioned requirements will result in the forfeiture of the total amount of the bond which the permittee has posted.

It is the view of the District of Columbia Government that while the object of the bill is to relieve the District government from bearing property damage and other costs arising out of a parade, march, demonstration, or other assemblage, it raises a constitutional question as to whether the bill infringes on the right of peaceable assembly guaranteed by the First Amendment.

The Metropolitan Police Department, the United States Park Police, the National Park Service, and the General Services Administration are presently the agencies responsible for the issuance of permits for parades, demonstrations, and the like. While these agencies require the filing of an application in writing, and some consultation as to time, place, date, duration, number of persons involved, equipment and facilities, there are no charges made, and the permit form is considered informational, rather than restrictive.

Under the bill, no criteria are provided to guide the government official or employee as to what constitutes "property damage or disorder". The official or employee is thus faced with formulating his personal view as to whether any disorder will occur and the amount of damage that may accrue. The bill provides for no avenue of appeal from the decision of the official or employee if he decides that a bond is required. Failing to post the required bond demanded would prevent the issuance of any permit. The result of the enactment of the bill could be to establish a government official or employee as the arbiter of who is worthy of parading, marching, or demonstrating, and the amount of bond, if any, that it will cost the permittee to parade, march, or demonstrate.

In conclusion, while the District of Columbia Government views with interest and attention all proposals for efficiency and economy, it is our view that the bill raises serious constitutional issues in that it would limit the issuance of a parade, march, or demonstration permit to an individual or group desiring to exercise his or its rights of peaceable assembly, only to those individuals or groups who could post the required bond prior to the parade, march, or demonstration. The Government of the District of Columbia accordingly recommends against the enactment of the bill.

The Government of the District of Columbia has been advised by the Bureau of the Budget that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

/s/ Thomas W. Fletcher,
THOMAS W. FLETCHER,
Assistant to the Commissioner.
For: WALTER E. WASHINGTON,
Commissioner.

[H.R. 16948, 90th Cong., 2d sess., by Mr. Friedel on May 1, 1968]

A BILL To direct the Commissioner of the District of Columbia to remove at the expense of the District of Columbia buildings destroyed or damaged in riots or other civil disorders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in the case of any building in the District of Columbia which the Commissioner of the District of Columbia determines was destroyed or damaged on or after April 4, 1968, as the result of any riot or other civil disorder, the Commissioner of the District of Columbia shall (1) remove any such damaged building (or part thereof) which he determines under the Act of March 1, 1899 (D.C. Code, sec. 5-501-5-508), to be unsafe or (2) remove any other building (or part thereof) so damaged if the owner requests to have it removed and (3) remove any materials or other debris from any buildings so destroyed.

(b) The entire cost of any removal of any building (or part thereof) so damaged and debris from any building so destroyed—

(1) carried out by the District of Columbia under the Act of March 1, 1899, on or after April 4, 1968,

(2) carried out by the District of Columbia under this Act, or

(3) carried out by the owner on or after April 4, 1968, and before the date of the enactment of this Act, shall be borne by the District of Columbia.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, May 10, 1968.

The Honorable JOHN L. McMILLAN,
Chairman,
Committee on the District of Columbia,
United States House of Representatives,
Washington, D.C.

DEAR MR. McMILLAN: The Government of the District of Columbia has for report H.R. 16948, 90th Congress, a bill "To direct the Commissioner of the District of Columbia to remove at the expense of the District of Columbia buildings destroyed or damaged in riots or other civil disorders."

The bill requires the District, in the case of any building which it determines was destroyed or damaged on or after April 4, 1968, as the result of any riot or other civil disorder, to remove the building or part thereof determined to be unsafe pursuant to the Unsafe Structures Act of March 1, 1899 (D.C. Code, sec. 5-561-5-508). The bill also requires the District to remove any other damaged building or part thereof if the owner asks that it be removed, and, finally, the bill requires the District to reimburse those owners who, at their own expense, removed their damaged buildings in compliance with orders issued by the District pursuant to the Unsafe Structures Act.

The District believes it desirable, for reasons of health and safety of the public, that it be required at its expense to remove damaged buildings or parts of buildings which are unsafe within the meaning of the Unsafe Structures Act, and that the owners of real property damaged in the course of the disorders which began on April 4 should not be required to bear the cost of correcting a condition that was not the result of their own acts of omission or commission. However, with respect to properties which, although damaged, are not unsafe within the meaning of the Unsafe Structures Act, the District is of the view that the owners of any such properties should themselves be required to bear the cost of removing such buildings or parts of buildings if that be the course of action they desire to take.

Accordingly, in the belief that the action which the bill requires be taken by the District will eliminate conditions endangering the health and safety of the public, the District recommends the enactment of H.R. 16948, with the exception of so much thereof as would require the District, at the request of its owner, to tear down and remove a building or part of a building which, while damaged, is not in such condition as to be unsafe. In this connection, the District has reason to believe that a number of buildings which might fall within this category could be restored. The District therefore questions so much of the bill as would require it, upon receiving such a request from a property owner, to tear down and remove a building which could be repaired and restored to productive use.

The District accordingly recommends that the bill be amended by striking clause (2) in both subsection (a) and subsection (b); by striking "any buildings so destroyed" in line 3 on page 2 and inserting in lieu thereof "such unsafe buildings"; and by inserting between lines 12 and 13 on page 2, the following: "pursuant to a notice received under the Act of March 1, 1899 (D.C. Code, secs. 5-501 to 5-508),".

These amendments would have the effect of eliminating from the bill the mandatory requirement that the District, upon receiving from an owner of damaged property a request that it be torn down, must take such action, and must remove the debris from all razed buildings, regardless of whether they were unsafe.

The District estimates that the cost of demolishing and removing unsafe damaged buildings or parts thereof will be approximately \$300,000, of which \$100,000 is presently available from funds of the District and the balance of which would be covered by a demolition grant presently being processed through the Department of Housing and Urban Development.

If the bill be amended in the manner suggested in this report, so as to limit its effect to the removal, for reasons of health and safety, of buildings or parts of buildings so damaged as to be unsafe, without at the same time requiring the District also to remove damaged buildings or parts of buildings which are not unsafe, then the District would strongly favor the enactment of the bill.

The Government of the District of Columbia has been advised by the Bureau of the Budget that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

/s/ Thomas W. Fletcher,
THOMAS W. FLETCHER,
Assistant to the Commissioner
(For Walter E. Washington, Commissioner).

Mr. WHITENER. At this time we will ask our distinguished colleague from Maryland, Congressman Samuel N. Friedel, if he would like to come around and give us the benefit of his testimony.

STATEMENT OF HON. SAMUEL N. FRIEDEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. FRIEDEL. Chairman Whitener and distinguished members of the subcommittee:

I wish to precede my remarks on the pending bill by thanking the members of this subcommittee and your chairman of the full Committee on the District of Columbia, Mr. McMillan, for the considera-

tion and prompt response to my request for a hearing on my bill, H.R. 16948.

As all of you know many business establishments here in the District were totally destroyed during the recent riot. A goodly number of the men and women who owned these businesses have lost their sole means of earning a living; some have lost their entire life savings; some have recouped a portion of their loss through insurance; few, if any, have been or will be completely reimbursed for their losses.

To add to this already calamitous situation, it was recently brought to my attention that the District of Columbia law requires that these same unfortunate people remove the rubble and debris left from their burned out and looted businesses at their own expense. To me this was the straw that broke the camel's back.

It seems unreasonable and unfair to add to the already heavy burdens of those businessmen whose businesses have been wiped out and whose property has been totally destroyed by arsonists, the expense of removing the rubble. Surely they cannot be held responsible for the riots and fires which destroyed their property. But since the District government is responsible for maintaining law and order and for preventing and suppressing riots, looting and burning, then it seems only fair and reasonable to me that the District government should bear the cost of removing the resultant debris.

Before introducing H.R. 16948, I spoke with the Corporation Counsel of the District of Columbia, Mr. Charles T. Duncan, and he indicated that he, too, agrees that the businessmen should not be held liable for the removal of the rubble left by the riots; and that, further, he would favor this kind of legislation.

While I am not an attorney, it is my understanding that there is ample legal precedent for such legislation and, in fact, many states now have statutes which impose liability on a municipality for damage or personal injury by riots and mob violence; and, further, that the constitutionality of such statutes has been upheld by the Supreme Court of the United States. In order to assist the committee in its deliberation, I am submitting for the record copies of several Law Review articles dealing with this subject.

In conclusion I wish, once again, to thank the committee for its promptness in scheduling this bill for a hearing and urge that you take fast and favorable action for the relief of both the City of Washington and its unfortunate businessmen who desperately need whatever help we can give them.

Thank you.

(The documents referred to follow:)

TRENDS IN MUNICIPAL LIABILITY: RIOT DAMAGES

[Reprint from *Illinois Law Journal*, May 1967]

(By Robert E. Jaffe and Gary W. Dubin)

The authors discuss the concept of imposing liability on a municipality for damage and injury caused by riots and mob violence, and conclude that this trend will continue with the enactment of more statutes and the evolution of more case law creating such liability even in the absence of statutes. Mr. Jaffe is a member of the law firm of Garber, Gutfeld & Jaffe, Cleveland, Ohio. Mr. Dubin is an associate in the same firm. This article originally appeared in the July 1966 *Cleveland Bar Association Journal*.

Within Recent Times newspaper headlines have carried titles such as "Another Riot Breaks Out In Watts." Underneath the headlines the story begins:

"As usually has been the case in these racial outbursts, Tuesday night's violence was neither organized nor planned."

Smoldering frustration, a rock through a car window, a policeman called to the scene—suddenly scuffling, looting and even killings. In many cities of the nation this chain of events has been repeated, spontaneous and deadly, without plan or program.

From Elizabethport, New Jersey, according to The Associated Press, came the story late in August of 1965 that large groups of youths drove through a section of Elizabethport in the early morning, hurling gasoline bombs, stones and bottles. They tossed firebombs through four store windows creating fires which were quickly extinguished. The rioters stoned the firemen when they attempted to save the burning property.

Throughout the incident, people clustered in small groups along the seven-block strip of the main business district and the city police were hampered in their attempts to disburse these groups because they were outnumbered.

The first Watts riots which took place early in August of 1965 were, according to reports, a series of riots amounting almost to insurrection for a period of virtually six days when a small segment of the population estimated by officials to be not more than 1 per cent of the inhabitants of the city caused 34 deaths and 45 million dollars damage to private property. Eighty-five police officers, a large number of city firemen and 757 civilians were injured. Property stolen by looters exceeded the value of 200 thousand dollars.

In New York City the shooting of a young Negro boy by a police officer triggered off a riot in Harlem.

Nor are these incidents restricted to civil rights episodes. From throughout the United States have come stories of a growing tendency on the part of youths in many areas of the land to gather together in large numbers in small resort communities and villages with insufficient police personnel and equipment to control them. In these instances the youthful mobs may even outnumber the local population. Thrown stones and empty bottles, wielded weapons of all types, have resulted in store windows being smashed, buildings being set on fire, and other extensive damage throughout the affected communities.

Locally, here in Cleveland, Ohio, during the construction of a school in the Lakeview area, extensive rioting and public commotion took place resulting in the death of a minister, the demolishing of many stores, extensive property damage throughout the area, and even complete loss of businesses. These examples illustrate that we are living in a tense, heated, explosive atmosphere—especially so in view of the unrest of the Negro in his quest for complete and equal civil rights—the results of which have been extensive property damage, personal injury and loss of life as a direct result of rioting and mob violence and civil disobedience.

This article is addressed to the concept of the liability of a municipality for damage and injury caused by these riots and mob violence, and attempts to point out how the law has evolved and what we can expect in the future.

The protection by a community of life and property within its boundaries has traditionally been considered a governmental function rather than proprietary; therefore the traditional theory of immunity has gone with it. Up to now, all authorities have indicated that there is no common-law right to recovery on the part of the injured, but by statute some states have already ended this immunity on the part of the municipality.

The common-law rule that a municipality is not liable for damages resulting from mob violence or riots is founded on the traditional notions of sovereign immunity which shield the local government from liability for failures which are peculiarly governmental.¹ Therefore, in the absence of a statute abrogating this immunity, an injured citizen had no action against a municipality no matter how derelict it had been in maintaining order. Many states now have statutes which impose liability on a municipality for damage or personal injury by riots and mob violence.² The constitutionality of such statutes has been upheld by the

¹ 52 A.L.R. 562 (1928); 38 Am. Jur., Municipal Corporations Sec. 652 (1961).

² Conn. Gen. Stat. Rev. Sec. 7-108 (1958); Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965); Kan. Gen. Stat. Ann. Sec. 12-201 (1949); Ky. Rev. Stat. Ann. Sec. 411-100 (1963); La. Rev. Stat. Sec. 33:5065 (1950); Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954); Md. Ann. Code Art. 82, Secs. 1-3 (1957); Mass. Ann. Laws Ch. 269, Sec. 8 (1956); Mo. Rev. Stat. Secs. 537.140-160 (1959); Mont. Rev. Codes Ann. Sec. 11-1503 (1947); N.H. Rev. Stat. Ann. Sec. 31:53 (1955); N.J. Stat. Ann. Secs. 2A:48-1 to 48-7 (1952); N.Y. Munic. Law Sec.

United States Supreme Court in *Chicago v. Sturges*,³ in which the Court stated:

"The law in question is a valid exercise of the police power of the State of Illinois. It rests upon the duty of the State to protect its citizens in the enjoyment of and the possession of their acquisitions. It is but a recognition of the obligation of the State to preserve social order in the property of the citizen against the violence of a riot or a mob. The State is the creator of subordinate municipal governments. It vests in them the police powers essential to the preservation of law and order. It imposes upon them the duty of protecting property situated within their limits from the violence of such public breaches of the peace as are mobs or riots. This duty and obligation thus entrusted to the local subordinate government is by this enactment emphasized and enforced by imposing upon the local community absolute liability for property losses resulting from the violence of such public tumults. The policy of imposing liability upon the civil subdivision of government exercising delegated police power is familiar to every student of the common law. We find it recognized in the beginning of the police system of the Anglo-Saxon people. Thus, 'the hundred' a very early form of civil subdivision was held answerable for robberies committed within the division. By a series of statutes, beginning possibly in 1285 in the Statutes of Westminster . . . we may find a continuous recognition of the principle that a civil subdivision entrusted with the duty of protecting property in its midst has police power to discharge the function and may be made answerable not only for negligence affirmably shown, but absolutely as not having afforded protection adequate to the obligation. Statutes of a similar character have been enacted by several of the states and held valid exertions of the police powers."

The court in *Darlington v. New York*⁴ said that the policy of the law respecting mob statutes has been well stated:

"* * * to make good at the public expense the losses of those who may be so unfortunate, as without their own fault, to be injured in their property by acts of lawless violence of a particular kind which is the general duty of the government to prevent, and further and principally, we may suppose, to make it the interest of every person liable to contribute to the public expenses, to discourage lawlessness and violence in maintaining the empire of the laws established, to reserve public quiet and social order."

In *Anderson v. Chicago*,⁵ the court held that the purpose of the Illinois Riot Damage Act is toward the suppression of mob violence, to impose upon the municipalities to which the state has delegated police power the responsibility of protecting their residents against unlawful exercise by unauthorized groups of persons of powers delegated. And in *Northern Insurance Company v. Milwaukee*⁶ the court held that the statute imposing liability upon a municipality for injury to personal property by a mob or riot therein imposed absolute liability upon the municipality.

Ohio has a statute⁷ which makes counties liable for assault upon or lynching of a person by a mob. However, by an 1861 decision, *Western College v. Cleveland*,⁸ the City of Cleveland was held responsible neither for the destruction of property by a riotous assemblage of persons nor for the officers' neglect in not preserving the peace by preventing such destruction. This case still appears to be the law in Ohio despite a recent decision handed down in the Municipal Court of Cleveland in which the plaintiff recovered for injuries sustained as a result of mob violence as he attempted to report a robbery. This case did not apply to property damage and will probably be appealed. Whether this case will extend the municipality's liability for damage caused by riots and mob violence in the absence of statute is questionable at this time.

STATUTORY ENACTMENTS

An analysis of the various statutes which have been enacted up to this time reveals that they vary considerably as to the extent of recovery, as to whether personal injury as well as property damage is compensable, as to whether one

71; Pa. Stat. Ann. Tit. 16, Sec. 11821 (1956); R.I. Gen. Laws Ann. Sec. 45-15-13 (1956); S.C. Code Ann. Sec. 16-107 (1962); Wis. Stat. Sec. 66.091 (1961).

³ 222 U.S. 313 (1911).

⁴ 31 N.Y. 164 (1865).

⁵ 313 Ill. App. 616; 40 N.E. 2d 601 (1942).

⁶ 227 Wis. 124, 277 N.W. 149 (1938).

⁷ Ohio Rev. Code Sec. 3761.01 (1964).

⁸ 12 Ohio St. 375 (1861).

can recover if he himself is negligent, as to whether there is absolute liability or only conditional liability upon the community, as to the definition of a mob. It is to the variations of these statutes we will look next.

All of the statutes provide for the recovery of property damage. Four states have enacted statutes which include recovery not only for property damage but for personal injury as well.⁹ In Connecticut, the statute provides that:

"* * * each city and borough shall be liable for all injuries to person or property including injuries causing death when such injuries are caused by an act of violence of any person or persons while a member of or acting in concert with any mob, riotous assembly or assembly of persons engaged in disturbing the public peace * * *."¹⁰

The Illinois statute provides for recovery for "any person suffering material damage to property, injury to person or death as a result of mob action."¹¹ The Kansas statute provides that:

"* * * all incorporated cities and towns shall be liable for all damages that may occur in consequence of the action of mobs within their corporate limits whether such action shall be the destruction of property or injury to life or limb."¹²

The Wisconsin statute provides that the county is liable for injury to person or property by a mob or riot therein.¹³

Several states provide for only partial recovery of any damage which may be incurred.¹⁴ Statutes enacted in the states of Maine,¹⁵ Massachusetts,¹⁶ and Rhode Island,¹⁷ provide that the municipality shall be liable to indemnify the owner for property damage caused by a "riotous, tumultuous assemblage of persons" to the amount of three quarters of the value of the property so destroyed.

Many states condition recovery on the basis of whether or not the injured party was a participant in the riot and whether or not the injured party is free from any fault in connection therewith or whether or not the injured party was negligent in failing to notify the authorities to take preventive measures. The Illinois statute prohibits recovery if the injured party was a "participant" in the mob that produced the harm.¹⁸ The New Jersey statute provides that if the "claimant's negligence" contributed to destruction, he is barred from recovering. In addition, if claimant did not exercise all diligence to prevent the injury and if claimant had time to notify the authorities of impending mischief and failed to do so, he is barred from recovering.¹⁹ The New Hampshire²⁰ and South Carolina²¹ statutes bar recovery by a claimant if the destruction of his property was caused by his "illegal or improper conduct." The Pennsylvania statute provides that the claimant cannot recover if he is guilty of "illegal or improper conduct" or if he fails to inform the authorities—if he has sufficient time to do so—that a mob is forming which is likely to cause mischief.²² The statute of the state of Wisconsin prohibits recovery unless the claimant exercised all diligence to prevent the injury and notified the mayor or sheriff.²³ Rhode Island prohibits recovery unless the owner used all reasonable diligence to prevent the destruction or damage to the property by an unlawful assemblage and to procure the conviction of the offenders.²⁴

Some states provide for recovery only if the municipality or the police authority of the municipality is derelict and negligent in its duty to prevent any mob violence and to protect the property of its citizens. The Connecticut statute provides for recovery if the city or the police of the city "have not exercised reasonable care and diligence in the prevention or suppression of a mob, riotous assembly, or an assembly engaged in disturbing the public peace."²⁵ The Mary-

⁹ Conn. Gen. Stat. Rev. Sec. 7-108 (1958); Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965); Kan. Gen. Stat. Ann. Sec. 12-201 (1949); Wis. Stat. Sec. 66.091 (1961).

¹⁰ Conn. Gen. Stat. Rev. Sec. 7-108 (1958).

¹¹ Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965).

¹² Kan. Gen. Stat. Ann. Sec. 12-201 (1949).

¹³ Wis. Stat. Sec. 66.091 (1961).

¹⁴ Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954); Mass. Ann. Laws Ch. 269, Sec. 8 (1956); R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

¹⁵ Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954).

¹⁶ Mass. Ann. Laws Ch. 269, Sec. 8 (1956).

¹⁷ R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

¹⁸ Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965).

¹⁹ N.J. Stat. Ann. Secs. 2A: 48-3 (1952).

²⁰ N.H. Rev. Stat. Ann. Sec. 31: 54 (1955).

²¹ S.C. Code Ann. Sec. 16-108 (1962).

²² Pa. Stat. Ann. Tit. 16, Sec. 11822 (1956).

²³ Wis. Stat. Sec. 66.092 (1961).

²⁴ R.I. Gen. Laws Ann. Sec. 45-15-13 (1956).

²⁵ Conn. Gen. Stat. Rev. Sec. 7-108 (1958).

land statute provides that a city is not liable unless the authorities had notice and also had the ability to prevent the injury. No recovery is allowed when it is satisfactorily proved that the civil authorities and citizens of said county, town or city have used all reasonable diligence to prevent or suppress mob action.²⁸ Maryland has been followed by the state of Kentucky, which enacted similar provisions.²⁷

Many of the statutes have certain distinctive features such as the number of persons required to qualify as a mob or in the designation of what cities or towns come within the statutory liability. The Illinois statute, for example, provides that a city, village, or incorporated town must have a population in excess of 5,000 persons in order to come within the provisions of the statute. Also, in order for an assemblage to constitute a mob for which liability could be imposed, the assemblage must consist of 20 or more persons.²⁵ The Pennsylvania statute applies only to Philadelphia County, Allegheny County and North Hampton County, specifically referring to liability caused by riot damage and mobs only in those enumerated counties. The statute also specifies that a mob is 12 or more persons armed with clubs or weapons or 30 or more armed or unarmed persons assembled together.²⁹ The Kansas statute defines a mob as an assemblage of five or more persons.³⁰

The statutes of Rhode Island,³¹ Maine,³² and Massachusetts³³ provide that in order for a claimant to recover, the damages to the property so destroyed or injured must exceed \$50.

Almost all of the statutes provide that the city which has to pay the claim of a citizen for damage caused by riots and mob action shall be subrogated to the rights of said citizen against the individual participants causing such damage. Most of the statutes also provide that the injured party may proceed against the individual causing the damage but may not have a double recovery.

CALIFORNIA LAW

One state seems to have gone in the opposite direction with respect to a municipality's liability for damage caused by riots and mob action. Prior to 1963, the state of California had an act known as the California Riot Damage Act, which followed the pattern of those set forth above.³⁴ However, in 1963, the California court in *Muskopf v. Corning Hospital District*³⁵ held that the doctrine of sovereign immunity was mistaken and unjust and would no longer protect governmental entities from civil liability for their torts. As a result of this decision, the California Law Revision Commission recommended repeal of the California Riot Damage Act on the basis that it was unnecessary, and this statute and others imposing liability were subsequently repealed. However, California thereafter enacted a statute providing that a public entity is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law.³⁶ The result of this repeal and enactment is that a California property owner whose property has been damaged by riot cannot now recover from his government on any theory. The Riot Damage Act has been repealed, and he has no claim based on the government's failure to enforce the laws since the aforementioned statute abolishes such liability.

PROGNOSIS

Thus far, we have established that historically there is no common-law liability on the part of the municipality for damage to person or property as a result of riots. We see, in addition, that in recent times many states have by statute imposed a liability and that these statutes lack uniformity as to the scope of the liability and the definition of terms. What of the future? What may reasonably be expected in this regard?

²⁸ Md. Ann. Code Art. 82, Sec. 3 (1957).

²⁷ Ky. Rev. Ann. Sec. 411.100 (1963).

²⁶ Ill. Ann. Stat. Ch. 24 Sec. 1-4-8 (1965).

²⁹ Pa. Stat. Ann. Tit. 16, Secs. 11821, 11825, 11826 (1956).

³⁰ Kan. Gen. Stat. Ann. Sec. 12-201 (1949).

³¹ R. I. Gen. Laws Ann. Sec. 45-15-13 (1956).

³² Me. Rev. Stat. Ann. Ch. 136, Sec. 8 (1954).

³³ Mass. Ann. Laws Ch. 269, Sec. 8 (1956).

³⁴ Cal. Stats. 1949, Ch. 81, Sec. 1. As codified this enactment was Cal. Gov't Code Sec. 50140-45.

³⁵ 12 NEGLIGENCE CASES (2d) 160, 55 Cal. 2d 211, 359 P. 2d 457 (1961).

³⁶ Cal. Stats. 1963 Ch. 1681.

In evaluating the development of the statutory and case law in this area, it is necessary to examine the entire doctrine of sovereign immunity and the law which has evolved in this area. Recent decisions have whittled away at the doctrine of immunity, imposing more and more liability on a municipality for tortious conduct. In the *Nimlo Municipal Law Review*³⁷ the committee on tort liability reported that the general picture in the field of municipal tort liability continues to be one of attack upon the traditional doctrine of immunity. As in the immediately preceding years, several strongholds of immunity were taken by assault and the doctrine encroached upon. The report goes on to say that some of the cases continue in the traditional view that immunity is the rule and liability is the exception. However, the exceptions have become increasingly broad. Some of the cases make liability the rule subject to whatever immunity exceptions the legislature may thereafter restore; some cases take the view that liability ought to be the rule but it is up to the legislature to make it so. The trend continues, however, away from immunity.

The concurring opinion of Justice Rankin Gibson in the case of *Hack v. City of Salem*³⁸ is an explicit illustration of how the doctrine of sovereign immunity has been whittled away. Justice Gibson sets forth the arguments which have been expounded in many decisions of recent years abrogating much of the doctrine of governmental immunity and states there is no good reason why a municipal corporation should not be held liable for its negligent torts on the same basis as a private corporation:

"The municipal corporation is of no more legal concept than a private corporation. Both arise by operation of law, both necessarily act through agents and both necessarily are going to have agents who at times are negligent in the performance of their duties. The ordinary rules of liability applicable to private corporations should give municipalities all the protection they require against unreasonable claims. The defenses of contributory negligence and voluntary assumption of risks are available and are consistently upheld by the courts. Moreover, under the doctrine of respondent superior, the liability of municipal corporations would be as limited as that of a private corporation by the requirement that the municipal employees act within the scope of their employment."

In recent years, opinions by the Supreme Court of Florida in *Hargrove v. Town of Cocoa Beach*,³⁹ the Supreme Court of Illinois in *Moliter v. Kaneland Community Unit District No. 302*,⁴⁰ the Supreme Court of Michigan in *Williams v. City of Detroit*,⁴¹ and California—as has been previously cited—in *Muskopf v. Corning Hospital District*⁴² have abrogated or whittled away at the broad doctrine of governmental sovereign immunity.

Using the experience in the entire field of tort law as a guide, if one were to attempt to determine what the future might hold with respect to municipal liability for damage caused by riots or mob violence, one might expect to see many more states follow the lead of the states mentioned in this article and enact statutes providing recovery for damage caused by mob violence. One might also expect that due to the increasing number of cases abrogating and whittling away the doctrine of sovereign immunity, it may not be too long before we have case decisions in the various states—even in the absence of statutory provision—holding that a municipality is liable for damage and injury caused by riots and mobs. This is especially conceivable in view of the fact that possibilities of mob action, mob violence, rioting, and tumultuous assemblage have again become an increasing danger and menace to the safety and welfare of the citizens of the community not only because of racial unrest and tension but also as a sociological condition of society. Therefore, one may find the courts more and more willing to hold that a municipality entrusted under the police power with the preservation of the safety, health and moral welfare of the community should be responsible for the failure to protect its citizens and their property through every available means.

The writers of this article therefore hazard a guess that the trend towards municipal liability for damage caused by riots and mob action will continue by the enactment of more statutes and by the evolution of more case law creating such liability even in the absence of statutes.

³⁷ 28 *Nimlo Mun. Law Rev.* 432 (1965 Ed.).

³⁸ 15 *NEGLIGENCE CASES* (2d) 623, 174 Ohio St. 383, 189 N. E. 2d 857 (1963).

³⁹ *NEGLIGENCE CASES* (2d) 145, 96 So. 2d 130 (Fla. 1957).

⁴⁰ 18 Ill. 2d 11, 163 N. E. (2d) 89 (1959).

⁴¹ 13 *NEGLIGENCE CASES* (2d) 487, 364 Mich. 231, 111 N. W. 2d 1 (1961).

⁴² Case cited at footnote 35.

STUDENT COMMENTS

INSURANCE PROTECTION AGAINST CIVIL DEMONSTRATIONS

[Reprint from *Boston College Industrial and Commercial Law Review*]

(By Alan S. Goldberg and William P. Statsky)

Since the summer of 1964, Negro communities in eight large cities have experienced mob violence resulting in widespread damage.¹ The most recent of these outbursts occurred in the Watts section of Los Angeles. In an area covering forty-six square miles, the cost of property destruction approximated forty million dollars.² The purpose of this comment is to examine the insurance ramifications of such civil demonstrations.

From an insurance point of view, the first obstacle faced by a property owner in a district prone to civil demonstrations is the possible unavailability of insurance in the event that insurers anticipate a recurrence of violence. Although it has been asserted that owners of private homes and business establishments in these areas have experienced little difficulty in obtaining policies,³ there are indications to the contrary. One Los Angeles insurance agent has charged that businessmen in that city are faced with the decision of many first-line insurance companies to refuse to write policies in southern Los Angeles.⁴ Similar problems have been reported in other racially tense cities.⁵ Moreover, one who has succeeded in obtaining a policy in these areas is not secure. The same threat of violence which has led underwriters to refuse to issue new policies has reportedly caused cancellation and refusal to renew existing policies.⁶ And, even where policies are made generally available, insurers have yet another means by which they can avoid assuming the risk of civil demonstrations. They can make it financially impractical for a property owner to pay the insurer's rates for covering those risks. While it has been suggested that the incidence of prohibitive rates has been minimal,⁷ reports from Philadelphia, New York, and southern Los Angeles indicate the contrary.⁸

Assuming that the property owner has been able to obtain a policy at reasonable rates, he faces yet another obstacle in the possible operation of the exclusion clause. The standard fire policy covers all fire damage, including that caused by riot.⁹ If the assured desires additional protection, the "extended coverage plan" insures against all non-fire losses, even those caused by riot.¹⁰ However, in both the standard fire policy and the extended coverage plan, and in any policy obtainable,¹¹ there is a clause excluding the insurer's liability if the loss results from insurrection.¹² Hence the problem of the policyholder becomes clear: is the outburst a riot, making the insurer liable, or is it an *insurrection*, as this term is used in the exclusion clause?

A "riot" is generally said to have occurred when two or more persons have joined in committing an act, lawful or unlawful, in a violent or tumultuous manner.¹³ Most of the cases, however, further require that the tumult have a private objective,¹⁴ such as the destruction of the property of an individual,¹⁵ as opposed to a public objective. In the latter case the violence is directed against

¹ Governor's Comm'n on the Los Angeles Riots, Violence in the City—An End or a Beginning? at 2 (1965).

² State of California, Department of Insurance Press Release, Aug. 20, 1965.

³ State of California, Department of Insurance Press Release, Sept. 21, 1965.

⁴ N.Y. Times, Aug. 16, 1965, p. 16, col. 8.

⁵ Boston Herald, Oct. 3, 1965, p. 7, col. 6.

⁶ Elizabeth Daily Journal (N.J.), Oct. 6, 1965; Wall Street Journal, Oct. 4, 1965, p. 14, col. 3.

⁷ State of California, Department of Insurance Press Releases, Sept. 2, 1965 & Nov. 22, 1965.

⁸ Boston Herald, supra note 5; Wall Street Journal, supra note 6; N.Y. Times, supra note 4.

⁹ E.g., Mass. Gen. Laws Ann. ch. 175, § 99 (1958).

¹⁰ Extended Coverage Endorsement No. 4, Uniform Standard New England Form No. 758 (1962).

¹¹ Although insurers are generally authorized to insure against such risks as war and insurrection, see Mass. Gen. Laws ch. 175, § 47 (1932), as a practical matter they usually do not do so. Vance, Insurance § 153, at 871 (3d ed. 1951).

¹² Mass. Gen. Laws Ann. ch. 175, § 99 (1958); Extended Coverage Endorsement No. 4, Uniform Standard New England Form No. 758 (1962).

¹³ Walter v. Northern Ins. Co., 370 Ill. 283, 286, 18 N.E. 2d 906, 907 (1939); Idaho Code Ann. § 18-6401 (1947).

¹⁴ "It seems to be agreed that the injury or grievance complained of and intended to be revenged or remedied by a riotous assembly must relate to some private quarrel only * * *."

Salem Mfg. Co. v. First American Fire Ins. Co., 111 F. 2d 797, 802 (9th Cir. 1940).

¹⁵ Spring Garden Ins. Co. v. Imperial Tobacco Co., 132 Ky. 7, 116 S.W. 234 (1909).

society or civil authority, such as an organized rebellion against the government.¹⁶ Even when it is established that the objective of the group was the settlement of a private quarrel, a riot cannot be said to have occurred unless the result or effect of this settlement is a public disturbance.¹⁷ For example, if two or more persons secretly break into a home at night and destroy some property, no riot will have taken place unless these actions terrified the general populace or in some way produced a public disturbance.¹⁸ Hence a riot can be defined as the activity of two or more persons acting in pursuit of a private objective resulting in public turmoil.

A difficulty often arises in determining whether public turmoil has resulted from a private or a public objective. Violence aimed at the settlement of a labor dispute,¹⁹ or an attempt to prevent a business enterprise from operating,²⁰ is clearly privately motivated. Other cases pose difficulties. In *Commonwealth v. Runnels*,²¹ a group of about fifty persons attacked a public town house, seized the ballot boxes, and prevented the holding of an election. And in *United States v. Stewart*,²² the defendants used violence to thwart the mayor's efforts to have the polls opened. In both criminal actions, the court held that a riot had occurred. Since opposition to the voting process would appear to be directed against society or government, it can be argued that these outbursts had public objectives and hence were not riots. However, neither court discussed the public-private dichotomy. A possible reason for this, other than their rejection of this dichotomy as a test, could be that it was clear to the court that the objectives of the violence were in fact not public. If in *Runnels* and *Stewart* the prevention of the elections was motivated by the participants' desire for personal revenge against those conducting the elections, then it would seem that the court could find riot and still observe the requirement of a private objective. But the underlying objectives were not mentioned. The *Runnels* court emphasized the combination of two or more participants²³ while the *Stewart* court treated this factor plus the element of a public disturbance.²⁴ If these cases did reject a private objective requirement, then it would appear that a riot is any assembly of two or more who act in such a way that members of the general public become terrified. As will be seen, while such a definition may suffice in a criminal proceeding, it is of little value in an insurance context, where the issue is not "riot or no riot," as in *Runnels* and *Stewart*, but rather "riot or insurrection." When it becomes necessary to distinguish between riot and insurrection, the private objective requirement for riot should be retained. Otherwise the definition of riot could in many instances easily encompass what should technically be termed an insurrection. By limiting the definition of riot to the use of violence to settle a *private* quarrel, and by defining insurrection as the violent manifestation of a *public* objective, we adopt the only test available which draws a workable distinction between riot and insurrection.

The term "insurrection" has been defined generally as an armed assembly of persons rising in opposition to established government or lawful authority.²⁵ This definition raises the fundamental question of the nature of the opposition required. One aspect of the problem is whether incidental or indirect opposition to government is sufficient. In *In re Charge to Grand Jury*,²⁶ the defendants were charged with willfully obstructing the execution of the mail transportation laws in so formidable a way as "for the time being to defy the authority of the United States."²⁷ This obstruction was held to be an insurrection which was defined as a "rising against civil or political authority,—the open and active opposition of a number of persons to the execution of law in a city or state."²⁸ This holding is subject to criticism since the defendants were involved in a local labor disagreement in which the court suggests that personal ambition and the satisfaction of private malice might have been the motivating factors. It could be inferred from this that the defendants did not have the public ob-

¹⁶ *Boon v. Aetna Ins. Co.*, 40 Conn. 575, 584 (1874).

¹⁷ *Commonwealth v. Zwierzelewski*, 177 Pa. Super. 141, 146, 110 A.2d 757, 760 (1954).

¹⁸ *Walter v. Northern Ins. Co.*, supra note 13, at 291, 18 NE.2d at 910.

¹⁹ *Insurance Co. of North America v. Rosenberg*, 25 F.2d 635, 636 (2d Cir. 1928).

²⁰ *Commonwealth v. Paul*, 145 Pa. Super. 548, 554, 21 A.2d 421, 423 (1941).

²¹ 10 Mass. 518 (1813).

²² 27 Fed. Cas. 1339 (No. 16401a) (C.C.D. Pa. 1818).

²³ *Commonwealth v. Runnels*, supra note 21, at 519.

²⁴ *United States v. Stewart*, supra note 22, at 1343.

²⁵ *Hearon v. Calus*, 178 S.C. 381, 399, 183 S.E. 13, 20 (1935).

²⁶ 62 Fed. 828 (N.D. Ill. 1894).

²⁷ *Id.* at 830.

²⁸ *Ibid.*

jective of attacking some phase of society or government, but rather were engaged in a *private* quarrel. The ensuing violence should then be termed a riot, not an insurrection. For, unless it is accepted that insurrection must involve *direct* opposition to the official acts of government, rather than the mere incidental resistance to such acts which may stand in the way of a private goal, any distinction between insurrection and riot is lost. It is difficult to conceive of a "riot" where the violence does not in some way result in resistance to the execution of some law, even if it be only the law against breaching the peace or malicious mischief. The determination of insurrection should be governed, therefore, by an analysis of the public nature of the group's basic objective rather than by an observation of the incidental effects of any outburst.

If, then, the opposition must be direct, to what end must it be directed? It has been assumed thus far that any direct violence against government or society would be sufficient and that it is not necessary to have a movement which seeks to overthrow the government. Some cases support this assumption,²⁹ while, on the other hand, there is authority requiring a specific intention to overthrow the government.³⁰ This conflict must be resolved in order to determine when the exclusion clause in an insurance contract will become operative. An analysis of the conflicting cases is unlikely to yield the desired resolution since they do not satisfactorily set out the reasons for their choices. The more fruitful approach to this question, therefore, is a determination of why an insurance company would insert "insurrection" into an exclusion clause and why the legislature might allow the insurer to do so.

There seems little doubt that the major consideration leading an insurer to refuse to undertake the risk of damage resulting from direct violence against the government, *i.e.*, an insurrection, is the probability that extensive destruction will result.³¹ An analysis of the elements of antigovernmental activity which are likely to lead to this destruction is relevant to the issue of the direction which opposition to society or government must take in an insurrection. The participants are likely to have a sense of unity, at least in terms of singleness of purpose. Some may be moved by such fanatical desire that checking them will be nearly impossible. They will probably have done some planning to insure that their movement will come by surprise. The result will be systematic destruction and paralysis of the local police force, prolonging the period of destruction. Another element to be considered is the form which the government's counterattack is likely to take. In the interest of containing the outburst as a whole, government forces may find it necessary to allow property in some areas to be destroyed by the insurgents in order to cut off the progress of the movement into other areas. By concentrating the counterattack in areas not yet reached by the insurgents, government forces such as the National Guard may have to abandon any hope of protecting property in those districts which the insurgents have been able to dominate. In addition, these forces may find it necessary to engage in destruction of property themselves in order to prevent further violence. For example, apprehension of the insurgents may require the use of firearms, fire hoses, and tear gas in areas where private property is likely to be damaged in the process. All of the factors listed above must necessarily lead to wide-spread destruction of property and hence to potentially ruinous insurance claims.

It seems quite clear that these factors of destruction are very likely to appear when the movement seeks to overthrow the government. It may, however, be inaccurate to suggest that they are peculiar to such movements. If the objective of an outburst is to display opposition to a foreign policy, an unjust law, or an unjust social order made possible by governmental action or inaction, then it is likely that the participants will be as fanatical and unified, and hence as destructive, as when they seek to overthrow the government. There appears, therefore, to be no reason to say that when insurers excluded insurrection from coverage they meant to limit the exclusion merely to outbursts aimed at overthrowing the government.

The insurer's purpose in excluding insurrection is relevant to the question of whether an intention to overthrow the government is necessary only if the government which regulates the business of insurance shares that purpose. Legislatures

²⁹ Case of Fries, 9 Fed. Cas. 924, 930 (No. 5127) (C.C.D. Pa. 1800); In re Charge to Grand Jury, supra note 26; Ex parte Jones, 71 W. Va. 567, 601, 77 S.E. 1029, 1043 (1913).

³⁰ Home Ins. Co. v. Davila, 212 F.2d 731, 736 (1st Cir. 1954); cf. Spruill v. North Carolina Mut. Life Ins. Co., 46 N.C. 126, 127 (1853).

³¹ Home Ins. Co. v. Davila, supra note 30, at 735; Vance, supra note 11.

are opposed to an underwriter's assumption of risks which may lead to insolvency and his consequent inability to pay claims.³² Clearly a narrowing of the concept of insurrection to an intention to overthrow the government increases the chances of liability for the ruinous payments which the exclusion clause is designed to avoid. It is submitted, therefore, that the reason for the existence of the clause, both from the point of view of insurance companies and legislatures, militates against the adoption of the narrow definition.

An additional reason for concluding that the term insurrection embraces both events is that violence opposing a law or governmental policy may be as unforeseeable as violence directed toward overthrowing the government. In order for insurers to set rates that bear some reasonable relationship to the risk assumed, as legislatures demand they must,³³ actuarial departments must be able to calculate the frequency and intensity with which the insured event will occur. One major reason for including an event in the exclusion clause is the difficulty of making this calculation due to the unpredictability of that event.³⁴ The manifestation of opposition to society or government through violence, *i.e.*, an insurrection, is such an event. This element of unpredictability exists not only when the movement seeks to overthrow the government, but also when its target is an allegedly unwise and unjust law or social order. For this reason, the term insurrection should include both movements.

Traditionally, insurers have not provided protection against the risks incident to direct opposition to government.³⁵ This may be the result of a feeling that it is the responsibility of government to assume those risks. If there is merit to the argument that the responsibility of government to prevent opposition to its existence is a factor which would lead an insurer to decline to offer coverage for such opposition, then no reason is seen for limiting the concept of opposition to an intention to overthrow the government.

Was the outburst in Watts a riot or an insurrection? Was it the activity of two or more pursuing a private objective resulting in a public disturbance, or was it a movement with a public objective directed against government, its laws, or an unjust social order? It has been suggested that the violence had no objective other than destruction for its own sake.³⁶ Apparently much of the agitation stemmed from a Negro's resistance to arrest for reckless driving³⁷ and from a claim that a pregnant Negro woman had been abused by the police.³⁸ The fact that a good deal of the damage was inflicted upon white-owned establishments³⁹ may indicate the Negro participants' grudges against the white owners for alleged unfair dealings. Insofar as the above would lead to the conclusion that the violence was a manifestation of private objectives, such as the desires to be destructive or to seek revenge against individuals, the outburst may be considered a riot.

However, other aspects of the outburst indicate that what may have begun as the settlement of private quarrels became something more than a riot. Although there is little evidence of a pre-established plan of destruction, "the sudden appearance of Molotov cocktails in quantity and the unexplained movement of men in cars through the areas of great destruction support the conclusion that there was organization and planning after the * * * [outburst] commenced."⁴⁰

To the extent that this planned violence, however unsophisticated it may have been, was directed toward what the participants considered an oppressive government or an unjust social order, an insurrection may have occurred.

A good deal of the destruction of private property can be interpreted as the manifestation of a feeling that the structure of society denies full citizenship to Negroes. Inadequate education,⁴¹ consumer exploitation⁴² and job discrimination⁴³ must certainly give rise to this feeling. When, in November of 1964, an overwhelming majority of the voters repealed by initiative the Rumford Fair Housing

³² E.g., Cal. Ins. Code § 1852(a); Mass. Gen. Laws Ann. ch. 174A, § 5(a)(2) (1958).

³³ Del. Code Ann. tit. 18 § 2303(a)(3) (1953); Wash. Rev. Code Ann. § 48.19.030(3) (1961).

³⁴ 3 Richards, Insurance § 512, at 1663 (5th ed. 1952); Vance, *supra* note 11.

³⁵ Home Ins. Co. v. Davila, *supra* note 30 (insurrection, rebellion, war); Spruill v. North Carolina Mut. Life Ins. Co., *supra* note 30 (invasion, insurrection, usurped authority).

³⁶ N.Y. Times, Aug. 14, 1965, p. 8, col. 6.

³⁷ Governor's Comm'n on the Los Angeles Riots, *op. cit. supra* note 1, at 10.

³⁸ *Id.* at 12.

³⁹ N.Y. Times, Aug. 14, 1965, p. 8, cols. 1 & 7.

⁴⁰ Governor's Comm'n on the Los Angeles Riots, *op. cit. supra* note 1, at 22. The authors have substituted the word "outburst" for "riot." Although the commission called the Watts outburst a "riot," they were not using this term in a legal sense.

⁴¹ *Id.* at 49.

⁴² *Id.* at 62.

⁴³ *Id.* at 46.

Act, this probably was further evidence to the Negro that society and the government it reflects was basically discriminatory.⁴⁴ The "resentment, even hatred, of the police, as the symbol of authority,"⁴⁵ is yet another indication of the conclusion that, however inarticulate the violence may have been as an expression of protest, it did have as an objective opposition to society and government. As one commentator put it, the violence was a "protest against forces which reduce individuals to second-class citizens, political, cultural, and psychological nonentities * * *."⁴⁶

Whether this view of society was justified is irrelevant to the issue of whether or not there was a violent opposition to the laws of government or to the structure of society. The existence of an insurrection should not depend on the political acumen of the insurgents nor on the rightness of their cause. The only question should be whether there in fact existed direct violent opposition to government. It is submitted that this question as applied to Watts should be answered in the affirmative and that the exclusion clause, as presently written, should relieve insurers of liability.

At present, insurers do not appear ready to contest their liability for losses from such demonstrations as occurred in Watts.⁴⁷ Nevertheless, in view of the increasing number of insurance claims arising from civil demonstrations, insurers may decide to assert the defense of insurrection. Because of this possibility, solutions to the problem posed by the present form of the exclusion clause should be proposed and examined. Such solutions must presuppose the existence of a fire policy available at reasonable rates. Only when such availability is established should the question be raised whether the policyholder is able to procure protection which clearly covers civil demonstration losses. This approach (treating policy availability at reasonable rates before adequacy of coverage) will be employed below in an examination of the ability of the insurance industry, the states, and, finally, the federal government to implement solutions.

The ability of insurers to effect solutions themselves is limited by state control over the business of insurance. In some areas, states have permitted insurers to act with a degree of independence; here insurers can effect solutions, subject, of course, to state acquiescence. In other areas, however, the state has exercised its control to the fullest;⁴⁸ here insurers are restricted to suggesting solutions. As an example of the former, California insurers have been considering the voluntary formation of an insurance pool or association which would provide protection for some of those experiencing difficulty in securing insurance.⁴⁹ This "pool" approach would, of course, be subject to the same problem which exists absent a pool: the insurers remain the evaluators of insurability.⁵⁰ Thus, while a voluntary pool makes it somewhat easier for certain property owners to procure protection, those who are deemed uninsurable risks by the insurers remain unprotected.⁵¹

An example of an area in which the states have exercised their control to the fullest is fire and casualty rate regulation.⁵² Insurance industry action in lowering rates so as to make policy availability more than illusory must satisfy the various requirements considered in formulating and approving rating structures.⁵³

Any change in the form of the exclusion clause (for example, deletion of insurrection as an excluded peril) would also be subject to strict state control.⁵⁴ While the insurance industry could propose clarification or modification of the exclusion clause, actual changes would depend upon the states.

Turning now to state solutions, the scope of state regulation of insurance is sufficiently comprehensive to enable a state to require insurers operating within

⁴⁴ *Id.* at 4.

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 88.

⁴⁷ *J. Am. Ins.*, Nov.-Dec. 1965, p. 5.

⁴⁸ As will be discussed below, rates and policy forms are strictly regulated by the states. See statutes cited note 62 *infra*; cases cited note 54 *infra*.

⁴⁹ State of California, Department of Insurance Press Release, Nov. 22, 1965.

⁵⁰ This is a "problem" only insofar as it is assumed to be desirable that all property owners in civil demonstration areas be protected by insurance. Undeniably, insurers' obligations to their stockholders and policyholders require selection of risks.

⁵¹ The factor motivating consideration of a pool might be the same as motivated the California automobile insurers to form a voluntary pool: if the insurers do not act themselves, the state will impose its plan upon them.

⁵² E.g., *N.Y. Ins. Law* § 186(2).

⁵³ See statutes cited note 62 *infra*.

⁵⁴ *Union Mut. Life Co. v. Bailey*, 99 Colo. 570, 575, 64 P. 2d 1267, 1269 (1937); *New York Life Ins. Co. v. Hardison*, 199 Mass. 190, 198, 85 N.E. 410, 413 (1908).

its boundaries to issue policies to applicants who would be denied protection by insurers free to choose their own risks.⁵⁵ Automobile assigned risk plans enable certain states to assure protection to residents classified as poor risks.⁵⁶ In 1951, the due process objection to California's plan was rejected by the United States Supreme Court.⁵⁷ The arguments which were offered by the automobile insurers may be raised by fire insurers faced with legislative establishment of assigned risk fire insurance. The defendant insurers argued in vain—but perhaps not without merit—that the act, in commanding them to incur liabilities against their will, forced them to undertake risks so abnormal that financial loss might be expected.⁵⁸ The Court found no violation of the fourteenth amendment, stating that, in its broadest reach, the case “is one in which the state requires in the public interest each member of a business to assume a *pro rata* share of a burden which modern conditions have made incident to the business.”⁵⁹ Legislation which would establish assigned risk fire insurance has already been proposed in California⁶⁰ and Pennsylvania.⁶¹ Although these bills might effectively alleviate the availability problem, the conspicuous absence of a provision for rates reasonably within the reach of the property owner could render this protection illusory.

Normally, state insurance commissioners are required by statute to observe three primary considerations in establishing and approving rate structure: The solvency of the insurers, nonexcessiveness of the rates, and nondiscrimination among applicants posing like risks.⁶² The nonexcessiveness provision arguably leaves room for reasonable profit margin. Rates must meet the test of all of these provisions, and if the property owner is unable to afford the established rates, he cannot be protected. Perhaps in an assigned risk fire insurance plan the commissioner should be empowered to set rates which satisfy solvency considerations but cut into the insurers' profits, bringing rates within the reach of the low income property owner.

The problem posed by the present exclusion clause could be handled by legislative modification, or substitution of a new clause which clearly does not exclude civil demonstration losses.⁶³ Although it would seem that an alteration of the exclusion clause might affect the solvency of insurers, the fact that they are presently paying for civil demonstration losses without crying insurrection⁶⁴ suggests that present profit margins enable them to absorb these losses. If these profit margins continue, change should not cause a solvency problem.

A different approach would be for the states to adopt programs which are not, strictly speaking, insurance. An illustration of such a program is the proposed California catastrophe insurance fund which would be composed of tax revenues and premiums paid by residents who desire protection.⁶⁵ As mentioned previously, rates satisfying the present state requirements might preclude protection because of the inability of the property owner to pay. By pouring general tax revenues into the fund, the state would in effect subsidize the cost of this protection.⁶⁶

In *United States v. South-Eastern Underwriters Ass'n*,⁶⁷ the United States Supreme Court held that the federal government has the power under the commerce clause of the Constitution to assume the dominant role in insurance regulation. Congress chose not to exercise this power in Section 1 of the McCarran-Ferguson Act,⁶⁸ which declares that it is in the public interest that regulation of the business of insurance should remain in the hands of the states. In theory, then, if Congress should so decide, the federal government

⁵⁵ California State Auto. Ass'n v. Maloney, 341 U.S. 105, 110 (1951).

⁵⁶ Cal. Ins. Code §§ 11620-27; Mass. Gen. Laws Ann. ch. 175, §§ 113H, I (1958); N.Y. Ins. Law § 63; Wisc. Stat. Ann. § 204.51 (1957).

⁵⁷ California State Auto. Ass'n v. Maloney, *supra* note 55.

⁵⁸ *Id.* at 108.

⁵⁹ *Id.* at 109.

⁶⁰ Cal. S.B. 1276 (Regular Sess. 1965).

⁶¹ Pa. H.B. 78 (1965 Sess. 1965).

⁶² Cal. Ins. § 1852(a); Mass. Gen. Laws Ann. ch. 174A, § 5(a)(2) (1958); N.Y. Ins. Law §§ 183(1)(b), (c).

⁶³ See Union Mut. Life Co. v. Bailey and New York Life Ins. Co. v. Hardison, *supra* note 54.

⁶⁴ J. Am. Ins., *supra* note 47.

⁶⁵ Cal. A.B. 1737-40 (Regular Sess. 1965).

⁶⁶ Another non-insurance solution might be legislative imposition of direct municipal liability for civil demonstration damage. See Note, Municipal Liability for Riot Damage, 16 Hastings L.J. 459 (1965).

⁶⁷ 322 U.S. 533, 552-53 (1944).

⁶⁸ 59 Stat. 33 (1945), 15 U.S.C. § 1011 (1964).

could assure availability of insurance and make those rate and exclusion clause modifications discussed above.

Even under existing laws, some federal action is possible. One federal solution might take the form of the Federal Flood Insurance Act of 1950.⁶⁰ Although the Congress appropriated no money for the program, it is illustrative of a joint federal-state subsidy of insurance: the act provided for the establishment of a disaster insurance fund, composed of the assureds' premium payments and state and federal contributions, from which payments for losses were to be made.⁶¹ The same reasons underlying passage of the Federal Flood Insurance Act are applicable to civil demonstrations. In both cases there are potential ruinous losses, the losses affect only a limited area, and these limited areas can be determined in advance with some degree of accuracy.

The federal antitrust laws, made applicable to the business of insurance by the McCarran-Ferguson Act,⁶² might be used to prevent agreements among insurers not to insure property in civil demonstration areas. However, a recent case involving agreements not to insure illustrates the limitations of this approach.⁶³ The case involved alleged agreements not to insure the plaintiff property owner against loss from fire. It was held that the antitrust laws were not violated, since the effect upon competition in this instance was minimal.⁶⁴ By way of dicta, the court stated that in light of the plaintiff's previous susceptibility to fire loss and the insurers' obligations to their policy holders, refusal to insure the plaintiff was not unreasonable.⁶⁵ Because of the very high risk involved in insuring property susceptible to civil demonstration damage, insurers may very well be acting reasonably in refusing, even concertedly, to insure in such high risk areas.

In conclusion, the authors submit that a legal analysis of a "Watts-type" outburst by a court may well lead it to the conclusion that such an outburst constitutes an insurrection. The upshot is that insurance policies now available do not provide protection against civil demonstrations such as occurred in Watts. To afford such protection to property owners, we must look to the states, since federal activity in insurance regulation is curtailed by McCarran-Ferguson, and because insurers are limited largely to suggestion. The authors feel that the optimum solution which can be afforded by the states would be the establishment of state-administered fire insurance assigned risk plans, with policies clearly covering loss due to civil demonstrations.

CIVIL DISOBEDIENCE AND RIOT DAMAGE—CURRENT LIABILITY AND THE NEW IMMUNITY STATUTE

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(By Jack M. Siegel)*

INTRODUCTION

The events of the past year have more than ever before made the entire civil rights area a matter of vital concern to local governments. Recourse to the streets to promote or oppose the objectives of the "civil rights revolution" has produced violence and threats of violence beyond the experience of most municipal officials.

⁶⁰ 70 Stat. 1078 (1956), 42 U.S.C. §§ 2401-21 (1958).

⁶¹ Actual premium rates could be less than the rates estimated to be adequate to fund the program, but in no case could a policy premium be less than 60% of the estimated rate. Each participating state would have been required to pay one half of the difference between the actual rate and the estimated rate; the federal government would have paid the other half. The latest proposal for federal aid to victims of flood damage is the Disaster Relief Act of 1965, S. 1861, 89th Cong., 1st Sess. (1965). This program would provide an indemnity against loss resulting from major disasters. The federal government would pay 50% of the loss, the state would pay 25% of the loss, and the property owner or business concern would assume the remaining 25%.

⁶² 59 Stat. 33 (1945), 15 U.S.C. § 1012 (1964).

⁶³ *Ruddy Brooks Clothes, Inc. v. British & Foreign Marine Ins. Co.*, 195 F. 2d 86 (7th Cir. 1952).

⁶⁴ *Id.* at 90.

⁶⁵ *Ibid.*

*Jack M. Siegel is a member of The Chicago Bar Association and a partner in the firm of Ross, Hardies, O'Keefe, Babcock, McDugald & Parsons. He holds an M.A. degree from the University of Chicago and a J. D. degree from the University of Chicago Law School (1951). He is Corporation Counsel of the City of Evanston and Village Attorney for the Village of Arlington Heights and the Village of Schaumburg. He is a member of the Legislative Policy Committee of the Illinois Municipal League.

There has arisen the necessity of walking the fine line between preserving the peace of the community and at the same time guaranteeing the free exercise of basic constitutional rights.

Those of us who represent municipalities are increasingly concerned not only with the philosophical aspects of the civil rights movement but with the practical consequences of possible mob action stemming from civil rights demonstrations. The specter of extensive injuries and even deaths, as well as wholesale property damage arising out of possible riot situations, remains with us.

It should be emphasized, of course, that the basic problems of mob violence and riot damage are not indigenous to the civil rights movement and have nothing to do with civil rights as such. Some recent spectacular and overpublicized examples of lawlessness have used the movement as a pretext to justify what in other contexts would be nothing more nor less than the overt flouting of the law and have frequently been the work of individuals opposed to civil rights objectives. Moreover, the specific problem faced by the local community may be the result of a gang war deep in the slums or the undisciplined outbreaks of overprivileged north shore teenagers where the civil rights struggle is not an issue. Although "violence in the streets" may be a euphemistic way of discrediting the civil rights movement on the part of some, the fact remains that possible mob violence unconnected with civil rights is also very much a factor of concern.

The basic law with respect to municipal liability for mob violence and riot damage antedates the civil rights movement by many years. That movement has merely served to dramatize a potential problem which has long been with us and which may well have become acute with the concentration of urban population, even if civil rights had not become a major issue of our time.

The extent of municipal liability for mob damage has thus become more than an academic inquiry. It provides a compelling if mundane reason for prompt and effective municipal action to control riot situations. For an examination of the relevant statutes and the case law indicates clearly the extensive liability imposed on municipalities in this State for damages caused by mob violence. This liability is absolute and is not dependent on the negligence or nonfeasance of the municipality. It also seems clear that the recent legislative enactment intended to limit municipal tort liability does not offer any defense to claims arising from mob violence.

THE STATUTORY FRAMEWORK OF MUNICIPAL LIABILITY FOR RIOT DAMAGE

The preservation of the public peace is a basic responsibility of local government. Illinois municipalities enjoy specific grants of power to deal with mob violence. Section 11-5-2 of the Illinois Municipal Code (Ill. Rev. Stat. 1965, Ch. 24, § 11-5-2) specifically provides:

"The corporate authorities of each municipality may prevent or suppress riots, routs, affrays, noises, disturbances, and disorderly assemblies in any public or private place."

This language goes back to the prior Cities and Villages Act¹ and has remained basically the same since 1872. Moreover, under Section 3-11-4 of the Illinois Municipal Code (Ill. Rev. Stat. 1965, Ch. 24, § 3-11-4):

"When necessary, the mayor may call on every male inhabitant of the city over the age of 18 years, to aid in enforcing laws and ordinances. Subject to the authority of the Governor as commander-in-chief of the militia, the mayor may call out the militia to aid in suppressing riots and other disorderly conduct, or to aid in carrying into effect any law or ordinance."

Because the duty to preserve law and order and prevent mob violence is a governmental function, municipalities under the common law were free from liability for injuries resulting from mob violence.²

But Illinois, like many other states,³ has long had a statute imposing liability on municipalities for damage caused by mob violence. Originally part of the

¹ Ill. Rev. Stat. 1941, Ch. 24, § 23-58.

² *Pittsburgh Ry. v. Chicago*, 242 Ill. 178; *Chicago League Ball Club v. Chicago*, 77 Ill. App. 124; McQuillen, *Municipal Corporations* (3rd Edition) § 53.145; Antieau, *Municipal Corporation Law*, 1965, § 12.06.

³ Conn. Gen. Stat. § 7-108 (1958); Kan. Gen. Stat. Anno. § 12-201 (1949); Ky. Rev. Stat. Anno. § 411.100 (1963); La. Rev. Stat. § 33.5065 (1950); M. E. Anno. Laws Tit. 17 § 3354; Md. Code Art. 82 § 2; Mo. Rev. Stat. §§ 537.140-160 (1959); Mott. Rev. Code Anno. § 11-1503; N.H. Rev. Stat. Anno. § 31.53 (1955); N.J. Rev. Stat. § 2A 48-8; N.Y. Gen. Mun. Law § 71; Pa. Stat. Anno. Tit. 16 § 11,821 (1956); R.I. Gen. Laws Anno. § 45-15-13 (1956); S.C. Code Anno. § 16-107 (1962); Utah Code Anno. § 78-12-29 (1953); Wis. Stat. § 86.091 (1961).

old Criminal Code,⁴ the present statute was made part of the Municipal Code in 1963. As amended in 1965, to change the participating number of persons from a minimum of six to twenty persons, the statute is now Section 1-4-8 of Chapter 24 and applies to all municipalities over 5,000 population. It reads as follows:

"(a) Any person suffering material damage to property, injury to person or death as a result of any of the following unlawful activities shall have an action against the city, village or incorporated town in which such damage or injury is inflicted, but only if the city, village or incorporated town has a population in excess of 5,000:

"(1) Mob action, as defined in Section 25-1 of the 'Criminal Code of 1961', by 20 or more persons;

"(2) Lynching; or

"(3) Unlawful taking from the custody of any person legally exercising such custody.

"In the event of death of the person injured the action authorized by this subsection (a) shall survive to a spouse or if there is no surviving spouse then to any person dependent for support upon the victim. Recovery under this subsection (a) shall be limited to an amount not exceeding \$30,000.

"(b) A person may recover under subsection (a) providing:

"(1) He was not a participant in the mob action that produced the harm; and

"(2) Notice of suit and filing of suit comply with the requirements in Sections 1-4-1 and 1-4-2.

"(c) An action under subsection (a) shall not bar any injured party from maintaining an action or actions against any person or persons, participating in such mob action for recovery of damages sustained thereby. Any city, incorporated town or village which under subsection (a) has paid any monies shall have a lien to the amount of such sum on any monies recovered by the subsection (a) plaintiff against any persons participating in such mob action. Any city, incorporated town or village recovered against under subsection (a) or voluntarily settling any claim arising under subsection (a) shall have an action to recover any such sums with all costs paid by it from any persons participating in such mob action."

"Mob action," in turn, as defined in Section 25-1 of the Criminal Code consists of:

"(1) The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law; or

"(2) The assembly of 2 or more persons to do an unlawful act; or

"(3) The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of the violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence."

Thus read together, it is clear that these statutes are not only anti-lynching and anti-vigilante enactments, but are an imposition of absolute liability without fault upon municipalities, if damage results from the use of force or violence disturbing the public peace by 20 or more persons without authority of law. Note, however, the very important condition that the injured party must not have been a participant in the mob action. The statute however apparently does not preclude recovery by one whose injury was precipitated by his own acts or his own negligence.

A similar statute imposing liability on counties is found in Section 25-3 of the Criminal Code. Under that section, however, a mob is defined as six persons.

The United States Supreme Court more than 50 years ago sustained the earlier Illinois statute. In *Chicago v. Sturges*, 222 U.S. 313, decided in 1911, the court held that the statute did not deny due process of law, even though liability was imposed without municipal fault. The court said:

⁴ Until January 1, 1962 the Criminal Code contained Sections 518 through 524 of Chapter 38 which made the city, village, town or county in which property was destroyed by a mob composed of 12 or more persons liable for three-fourths of the damage sustained. The statute, however, barred recovery when the injury of the property was occasioned, aided or permitted by the negligence or wrongful act of the owner and the owner was required to have used all reasonable diligence to prevent such damage. Although there was an anti-lynching statute which allowed recovery up to \$10,000 for personal injury or death, this statute applied only in instances where the victim was supposed to have been guilty of a violation of the law or the mob's action was for the purpose of exercising correctional or regulative power without lawful authority.

"If such legislation be reasonably adapted to the end in view, affords a hearing before judgment, and is not forbidden by some other affirmative provision of constitutional law, it is not to be regarded as denying due process of law under the provisions of the Fourteenth Amendment."⁵

The court went on to say that equal protection was not violated because liability was imposed upon cities for harm occurring within municipal boundaries while the counties were held responsible for acts outside the corporate limits. Section 25-3 of the Criminal Code does not now limit county liability to the unincorporated area but in view of the subsequent enactment of Section 1-4-8 of Chapter 24, such a construction may still be likely.

The arguments favoring such statutes usually include the desire to take the burden or loss off the innocent individual and spread it to the entire community. Moreover, the purpose is said also to insure the compensation of an injured party where civil recovery might otherwise be difficult, to encourage municipal authorities to maintain order, and to stimulate the taxpayer of the community to resist lawlessness.⁶ In the *Sturges* case, the Supreme Court also noted:

"Such a regulation has a tendency to deter the lawless, since the sufferer must be compensated by a tax burden which will fall upon all property, including that of the evil-doers as members of the community. It is likewise calculated to stimulate the exertions of the indifferent and the law-abiding to avoid the falling of a burden which they must share with the lawless. In that it directly operates on and affects public opinion, it tends strongly to the upholding of the empire of the law."

It is questionable, however, whether the court would seriously urge that proposition today. Certainly there is nothing to indicate that the recent participants in mob violence in our large urban areas were even slightly deterred through a fear that their taxes might go up.

The *Molitor* decision⁷ of 1959, of course, did away with the doctrine of sovereign immunity in Illinois and precipitated a flurry of legislative activity which culminated in what is known as the "Local Governmental and Governmental Employees Tort Immunity Act" of 1965.⁸

The legislation is an effort to replace the judicial doctrine of sovereign immunity with statutory immunity with respect to certain acts of governmental units and their employees. The act spells out specific areas where liability against the municipality and its officers shall not accrue. Exemption is granted for liability caused by the issuance, denial, suspension or revocation or failure to issue a license of permit; failure to make an inspection or the making of an inadequate or negligent inspection; an oral promise or misrepresentation; libel or slander; the granting or failure to grant public welfare, goods or moneys; the institution or prosecution of a judicial or administrative proceeding; and certain other specified acts with respect to the use of public property, police and correctional activities, fire protection, medical and hospital activities and the joint operation of functions or services between municipalities.

Local governments are defined to include counties, townships, municipalities, school districts, forest preserve districts, park districts, fire protection districts, sanitary districts and all other local governmental bodies. The statute offers a broad range of immunities to these entities for torts but does not specifically deal with riot damage. While it may be argued that Section 2-103 of the statute, which provides that "a local public entity is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law," grants some measure of immunity for mob damage, it is likely that such an interpretation would receive short shrift from the courts. Section 4-102 also provides that a local public entity is not liable for failure to establish a police department or otherwise provide police service or for failure to provide adequate police service. However, the Tort Immunity Act was approved on August 13, 1965, the same date on which the amendment to Section 1-4-8 of the Municipal Code was approved. It seems hardly likely that a court would render meaningless the specific statute relating to damage from mob violence because of general language in a statute which also includes an enumeration of specific acts for which immunity is provided.

I am thus of the opinion that the Tort Immunity Act of 1965 does not protect cities and villages from actions arising under the mob violence statute which is

⁵ 222 U.S. 313, 322.

⁶ Antieau, Chester James, *Statutory Expansion of Municipal Tort Liability*, 4 St. Louis Law Journal 378.

⁷ *Molitor v. Kaneland Community Unit District*, 18 Ill. 2d 11.

⁸ Ill. Rev. Stat. 1965, Ch. 85, § 1-101, et seq.

now part of the Illinois Municipal Code. In this connection, it should also be pointed out that certain specific sections of the Municipal Code were repealed by the Tort Immunity Act,⁹ but the mob violence statute was not included in the repealer.

It may be noted in passing that the new tort immunity statute has not yet been tested or interpreted by the courts. However, a majority of cases from other jurisdictions have sustained statutory exemptions from tort liability, although in a few cases such statutes have been held to be unconstitutional.¹⁰ An Illinois statute which purported to give immunity to park districts was recently unconstitutional in the case of *Harvey v. Clyde Park District*.¹¹ The statute was declared void, however, because of an invalid classification of municipal corporations. The court pointed out that cities, villages, park districts, school districts and forest preserve districts all maintained similar recreational facilities and that if the plaintiff had been injured in a facility maintained by a school district or other governmental unit, recovery would have been permitted. Mr. Justice Schaefer, however, clearly left the door open to enact a valid tort immunity statute when he said:

"From this decision it does not follow that no valid classifications for purposes of municipal tort liability are possible. On the contrary it is feasible, and it may be thought desirable, to classify in terms of types of municipal function, instead of classifying among different governmental agencies that perform the same function. Capacity to distribute some kinds of risks through insurance may be thought to be a relevant consideration. Under the Federal Tort Claims Act, which waives the sovereign immunity of the United States, there are numerous exceptions, perhaps the most important of which relates to discretionary acts. (28 U.S.C. § 2680.) The recent California legislation carves out numerous areas of non-liability, the most important of which also relates to discretionary acts. (See *Cobey*, *The New California Tort Liability Statutes*, 1 *Harv. J. Legis.* 16 (1964).) These illustrations do not exhaust the possibilities."¹²

Thus, it may be concluded that the recent legislation which applies to all municipal corporations will probably be sustained against a constitutional attack, but it seems highly unlikely that it could be construed to, in effect, repeal the mob violence statute.

THE ILLINOIS EXPERIENCE

As indicated above, the original mob violence statute included in the old Criminal Code was sustained by the United States Supreme Court, as well as the Illinois Supreme Court, on several occasions.¹³ This statute, while permitting recovery for up to three-fourths of property damage sustained, was in the nature of an anti-lynching statute with respect to personal injury or death. As a result, in several Illinois cases, the court took a narrow view and held the city not liable for mob action when the rioters were not attempting to assume powers "lawfully authorized to other persons" or the victim had not been supposed to have committed a crime.

Thus, in the case of *Anderson v. City of Chicago*,¹⁴ the court held the city was not liable when the plaintiff was a mere bystander at the scene of a clash of police officers and strikers marching on a plant. In the case of *Brannock v. City of Chicago*,¹⁵ a Negro woman was hit by stones and rocks thrown by a group of 30 or 40 white men. Apparently several automobiles had been damaged and overturned in the same area and a number of similar incidents occurred. The court held, however, that the record failed to establish that the persons were congregated "for the purpose of exercising correctional powers over the plaintiff." The statute was regarded primarily as an anti-lynching or anti-vigilante enactment and, being in derogation of the common law, was strictly construed.

However, in the case of *Slaton v. City of Chicago*,¹⁶ arising out of the Fernwood housing project riots in 1947 where there was attempted integration in a previously all-white public housing project, the Appellate Court, speaking through Judge Robson, took a much more liberal and perhaps realistic view of the mob

⁹ Ill. Rev. Stat. 1965, Ch. 85, § 10-101.

¹⁰ *Anteau, Municipal Corporation Law*, § 13.00.

¹¹ 32 Ill. 2d 60; 203 N.E. 2d 573.

¹² 203 N.E. 2d 573, 577.

¹³ *City of Chicago v. Sturges*, 222 U.S. 313; *City of Chicago v. Sturges*, 237 Ill. 46; *Dawson Soap Company v. City of Chicago*, 234 Ill. 314; *City of Chicago v. Manhattan Cement Company*, 178 Ill. 372.

¹⁴ 313 Ill. App. 616.

¹⁵ 348 Ill. App. 484.

¹⁶ 8 Ill. App. 2d 47.

violence statute. In a scholarly opinion, Judge Robson pointed out that "one of the objects of the statute is to impose sanctions against the citizens of the community when they participate in or allow the condition to arise that we find in the instant case."

In the specific case, several thousand persons had assembled around the project in question between 9:00 and 11:00 p.m. Members of the mob stopped cars and opened their doors to find out whether there were any Negroes in them. The plaintiff was stopped at the intersection of 103rd and Halsted Street. The members of the crowd started throwing bricks at the car and its occupants. One of them struck the plaintiff on the right side of the skull and another struck a woman occupant of the automobile. The plaintiff was rendered unconscious and was bleeding profusely. The lower court had directed a verdict against the plaintiff apparently on the theory that the mob involved was not attempting to exercise correctional powers or regulative powers and that the victim was not supposed to have been guilty of a violation of the law. In words which seem strikingly prophetic, Judge Robson said:

"It is with this historical and legislative background that we consider the issue in this case. Involved is a social problem inherent in our system of society and far-reaching in importance. Our people are of varied religious, ethnic, economic and cultural backgrounds. We have assumed world leadership in the establishment of a system of government wherein the incidents of birth and life have not been permitted to determine the rights of citizens before the law. No group or segment of a community has the right to dictate by force or by other unlawful means who shall or shall not live within the community. The unlawful assembly of people gathered together in the instant case apparently believed that the duly constituted authorities in admitting colored tenants into the housing project were harming the community. Allowing these tenants to remain in the project, they believed, would be detrimental to the value of the community property and ultimately affect the way of life in the community. They therefore undertook to prevent the entrance of Negroes into their community. In so doing they were not acting to promote their individual interests but what they wrongfully assumed to be a collective or community interest. They thus supplanted the legally constituted officers of the community, and it was in the pursuit of this unlawful arrogation of authority that the plaintiff was injured. This we consider to be the distinguishing feature of this case."¹⁷

He rejected the narrow interpretation of the *Anderson* case which turned on the requirement that the mob must be arrogating to themselves the powers given to the state and its municipalities and went on to say:

"We believe, however, when we consider the historical and legislative background, that this interpretation is too narrow and restrictive and that for this court to adopt it would render the statute impotent. We believe a more logical interpretation of the statute would allow recovery under the Act in those cases where it is shown that the unlawful crowd of people was assembled for the purpose of carrying out what it believed was its collective or community interest, and in the execution of that purpose took over the powers lawfully delegated to and vested in the local authorities in order to exercise such powers correctionally and summarily over the plaintiff."¹⁸

It should, of course, be noted that the present statute does not require that the mob be assembled for the purpose of offering violence to the person or property of someone supposed to have been guilty of a violation of the law or for the purpose of exercising correctional powers or regulative powers by violence without lawful authority. Instead, as indicated, our present statute makes the municipality liable when a person is injured by the use of force or violence disturbing the public peace by a mob consisting of 20 or more persons acting together and without authority of law.

There have been no cases decided under the present mob violence statute, but it seems clear that the statute, particularly as bolstered by the reasoning of the *Staton* case, makes the municipality absolutely liable for personal injury or property damage resulting from the use of force or violence disturbing the public peace by a group of 20 or more persons. Although the *Harvey* case makes possible an argument that the 5,000 population classification renders the statute invalid, this classification is at least reasonably related to the ability to provide police protection. It is thus likely that, when tested by our Supreme Court,

¹⁷ 8 Ill. App. 2d 47, 55.

¹⁸ 8 Ill. App. 2d 47, 58.

the statute will be sustained. In fact, an argument could well be made that since the doctrine of sovereign immunity no longer applies, absent statutory immunity, recovery for mob violence would be possible even without a statute, although in such instance, negligence or nonfeasance on the part of the municipality might be required.

CONCLUSION

Based on the foregoing, it must be concluded that at a time when mob violence has become too common an occurrence, the law in Illinois clearly makes the municipality liable for property damage and personal injury, regardless of the best efforts of the community to preserve peace and order. The argument that the community should assume the loss of the innocent individual who was the victim of mob action still remains compelling although the other reasons advanced in support of the mob violence statute may seem unrealistic. It is not likely that these statutes have deterred riot participation through fear of increased taxes nor does the record suggest that police protection would in any way be diminished if the municipality was not liable for riot damage. It is apparent that municipal officials, particularly in the smaller communities that lack large police forces, must give serious attention to the possibility that an unexpected riot or other mob action may produce liability well beyond the financial resources of the community.

It may well be that the existence of the mob violence statute in its present form will cause municipal officials to be extremely reluctant about permitting protest marches, parades and other types of controversial public demonstrations which may trigger violence. It would be ironic indeed if the mob violence statute, which has now been amended and construed to produce municipal liability without fault, in an effort to protect the innocent victim of mob violence, should become the excuse for municipal reluctance to sanction public demonstrations and other gatherings intended to promote individual rights.

Yet anyone familiar with the fact that most of our suburban communities at least are woefully undermanned and under-equipped as far as police departments are concerned must recognize that the mob violence statute can produce terrific burdens and cause even sympathetic public officials to go slow in granting permits for parades or the use of public facilities for controversial activities.

It would also seem that some governmental unit of greater financial resources should be required to stand behind the municipality if liability for mob violence is to be continued in its present form. Perhaps the ultimate liability should lie with the State of Illinois with some sort of contribution from local government if there is to be full recovery for damages sustained through mob violence.

Many municipalities have liability insurance to protect them against claims of all kinds. In fact, the Tort Immunity Act²⁹ specifically provides that a local public entity may contract for insurance against any loss or liability which may be imposed upon it under this Act. Most general liability insurance policies presently do include coverage against liability for mob damage. Yet it is highly likely that in view of the present conditions, many insurance carriers will be unwilling to write such insurance. This will be particularly true if there should be a flurry of lawsuits resulting from recent mob damage in Chicago. At the very least, the State should share the liability if the local government is unable to secure insurance.

On balance, however, it seems inconsistent that the legislature has seen fit to grant a wide range of tort immunity to local governments, while at the same time imposing the possibility of extensive liability through the mob violence statute. Recognizing that there may well be an overriding public interest in the maintenance of some form of municipal liability for mob damage, it would seem that the statute should at least be amended to impose liability on the municipality only if there was negligence or nonfeasance on the part of the municipality in providing police protection.

For those of us who represent municipalities, a realistic view of the present status of the law in this field would suggest steps which should be taken in order to protect the municipality against such liability and to mitigate such damages as may accrue. They would include the following:

1. *Make certain that the police departments are specifically trained to deal with mob violence and riot control.*—The problem of police training is always an im-

²⁹ Ill. Rev. Stat. 1965, Ch. 85, § 9-103.

portant one. The legislature through the Police Training Act of 1965 has taken the first step toward providing a uniform educational program for the training of our police officers. This program should include effective riot control training and the individual departments should be adequately trained to anticipate and prevent the kind of outbreaks which have unfortunately occurred. There should also be a program of intercommunity cooperation developed so that riot situations can be handled promptly and with maximum manpower available.

2. *Make certain that insurance coverage is adequate.*—Many of the smaller communities have extensive liability insurance programs. It is incumbent upon the municipal attorney to make certain that this area is adequately covered. It is to be hoped that the insurance companies do not attempt to eliminate such coverage from municipal policies.

3. *Seek appropriate statutory amendments.*—Such amendment could involve setting up defenses for municipalities when the plaintiffs were guilty of contributory negligence or failed to exercise due care for their own safety. Again liability might be precluded if the municipality was not negligent and had made reasonable efforts to prevent mob violence. Finally the possibility of requiring the State of Illinois or the county to share in the liability should be examined.

4. *Prompt enforcement of criminal sanctions against violators.*—Article 25 of the Criminal Code²⁰ provides substantial penalties for participants in mob action. It would appear that the imposition of these strict penalties and proper circumstances might deter rioters in the future. Certainly token penalties or booking offenders on lesser charges can only contribute to a disrespect for the law and encourage further violations. As noted, the municipality does have a lien in the amount of moneys recovered by plaintiffs against persons participating in mob action. In practice these lien rights may be valueless.

It is, of course, possible that the Local Governmental and Governmental Employees Tort Immunity Act could be amended to specifically grant immunity to a municipality from claims arising out of mob action. The conflicting policy decisions involved in seeking such amendments, however, deserve careful consideration and the possibility of outright immunity or repeal of Section 1-4-8 of the Illinois Municipal Code seems unlikely. Thus it may be concluded that this is another problem that already overburdened municipal officials will have to assume, at least until the threat of mob violence is vitiated.

The only real answer to the problem must lie in the re-establishment of peace and security in our community. The mob violence statute is a recognition that respect for the law is not always prevalent. As lawyers we all have a basic responsibility to promote that respect for law and order which will render such statutes unnecessary.

Mr. WHITENER. Thank you very much, Mr. Friedel.

Are there any questions? Mr. McMillan?

Mr. McMILLAN. I assure you that our committee will do everything possible to expedite action on this bill.

Mr. FRIEDEL. Thank you.

Mr. McMILLAN. Thank you for taking your time to appear before us.

Mr. WHITENER. I notice on page two of your statement that you say: "But since the District government is responsible for maintaining law and order and for preventing and suppressing riots, looting and burning, then it seems only fair and reasonable to me that the District government should bear the cost of removing the resultant debris."

This is in line with the thinking of some of the citizens whose articles I have read in the papers, who are preparing law suits against the District government for not exercising due diligence in maintaining law and order and in the suppression of the rioting, as I understand it.

Mr. FRIEDEL. Mine does not go that far. This is as to the cost of removing the debris. I do not want to cast any reflections on the police department or the military. I think that they did a wonderful job.

²⁰ Ill. Rev. Stat. 1965, Ch. 38, § 25-1.

Mr. WHITENER. Thank you very much, Mr. Friedel.

Mr. FRIEDEL. There are quite a few other people who want to be heard on this bill, and I want to thank you very much for this opportunity.

Mr. WHITENER. At this point we have Congressman Fountain, of North Carolina, who is a cosponsor of H.R. 16941, to present his testimony.

We are delighted to have you with us, Mr. Fountain. I believe this is the first time I have had the privilege of having my colleague before this subcommittee. He and I do a lot of talking every day on other matters and maybe on this, too. We will be delighted to hear from you now.

**STATEMENT OF HON. L. H. FOUNTAIN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. FOUNTAIN. Thank you, Mr. Chairman and members of the committee. I would like to say that I have not had occasion to come before this subcommittee, because I felt that our interests have been well protected by my colleague who has just spoken, Mr. Whitener, from North Carolina.

First, let me thank the committee for meeting and taking testimony. There have been times when we were wondering whether any of our committees had the courage to sit down and listen to this subject and to take some action.

I am here this morning to join my colleagues in urging that your subcommittee favorably report a bill which would place appropriate restrictions on the uncontrolled use of public areas in the District of Columbia. I have joined Congressman Abbitt in a bill which leaves this matter in the discretion of the authorities as to whether or not they will permit parades or demonstrations. Frankly, the bill is too weak. I think that the committee can write appropriate legislation.

I introduced another bill which had been referred, I think, to the House Interior Committee, which provides, in effect, that the Secretary of the Interior shall not permit any person to camp upon or otherwise occupy overnight any land within the District of Columbia under his jurisdiction within the areas bounded on the east by 11th Street, S.E. and N.E., on the north by M Street, N.E. and S.E., and on the west and south of the Potomac and the Anacostia Rivers, including East Potomac Park which includes the central part of the District of Columbia.

As a sponsor of legislation which I think could be helpful I am gravely concerned that without some restriction the announced plans of those who are already marching on Washington will lead to disorder and disruption of the orderly functioning of our federal government.

First, I think we should consider that public grounds are set aside for the general use and enjoyment of all of the people of this country, and to permit one group to erect tents or huts or other structures for an extended period of time denies all others the use of the property intended for all.

And let me emphasize this point: Such a practice may well plague Washington as the seat of government for years to come.

I think that the problems of health and sanitation and the food and the like recognized by every member of the committee. They always raise possible difficulties whenever large numbers of persons are concerned, and they will be greatly expanded in park lands surrounded by government office buildings.

There has been some fear expressed that any legislation restricting the use of the District public areas would conflict with the First Amendment guarantee of assemblage to petition the government. I think that argument is not valid here, because from everything I have been able to read and from what I have heard, the petitions that are supposed to take place will not take place on the Mall, except that it might be construed a public petition, or in the West Potomac Park area or wherever the camp site is planned.

I do not think that anyone and I, certainly do not want or intend to deny any person any right to present his case to this government.

One of the problems today is that so few have that opportunity and unless they are members of organized groups, that right will not be endangered in any way by limiting the use of public lands, and to say so, in my opinion, is a specious argument.

Another factor I think should be considered which is the possibility—and this is a very real one on the basis of experience that persons who are not members of the groups coming to Washington, encouraging or instigating disorder among the group.

Senator McClellan has just invited the attention of the Senate and the country to some confidential information which he has received on this subject. This sort of thing would be all too easy to accomplish if the Mall or the nearby territory is permitted to be used as a camp ground, certainly, for the period of time which I understand has already been agreed to with the group in question. And it would be vastly enhanced by the danger to the thousands of government employees who must travel that area each morning and each evening, by those who like to do their dirty work under cover of the night.

When all of these factors are considered I hope and I believe that the members of the committee will decide that appropriate limitations on the use of public areas and the activities permitted to take place on these areas are necessary and that no constitutional right is endangered by so doing.

If this Congress, Mr. Chairman and members of the committee, does not soon show some extent of responsibility in connection with matters of this kind, there is no telling what people otherwise considered responsible people may do and how irresponsible some of them may become. I think all of the facts are known. I think that we know what has been taking place in America—what is taking place in Washington—and I think that it behooves us here in the Congress, in the absence of action on the part of the Executive Branch so far to do anything, that we should provide the tools that will keep America as the land of the free and the home of the brave and that will protect not only the lives of our people, but the property which is almost a part of themselves.

Thank you, Mr. Chairman, for giving me this opportunity to be heard.

Mr. WHITENER. Thank you.

Mr. McMillan?

CREATING THE FEDERAL CITY

Mr. McMILLAN. Mr. Fountain, we all appreciate your taking your time to give us your opinion on the proposed legislation present before us this morning.

I wonder if you could give us some idea what George Washington's reasons were for taking out the original ten-mile square area here—why do you think he did this?

Mr. FOUNTAIN. Your colleague sitting on your left probably could give you much better explanation in response to that question because of his experience on this committee, but it has always been my understanding that it was staked out as the seat of the government, the Federal government, and was to be used for that purpose. I do not think that purpose should in any way deprive our citizens of any rights which they have under the Constitution.

Mr. McMILLAN. Is it not a fact that in the City of Philadelphia, where Congress met before the District of Columbia was created, that the Congress could not transact its business in a businesslike manner? The situation became so bad that George Washington felt that something should be done to correct the same. He staked out the ten miles square known as the District of Columbia, so that the Congress of the United States could be protected, since the police force and militia in Philadelphia did not even try to protect the Congress and that is the reason for the creation of this city.

Mr. FOUNTAIN. It is my understanding that it was one of the basic causes for it.

Mr. McMILLAN. For the protection of the people who are trying to transact the business of the Federal government—it was for that purpose, was it not?

Mr. FOUNTAIN. It is my understanding that that was one of the basic reasons for it.

Mr. McMILLAN. We recognize, every person has the right to come to Washington and petition his Congressman, or petition the Congress. I do not think that they should be permitted to remain here on public property and suppress the orderly procedure of the government.

Mr. WHITENER. Mr. Winn?

Mr. WINN. No questions.

RIGHT OF APPEAL

Mr. WHITENER. Mr. Fountain, we have here a report from the District Commissioner's office on this legislation in which some objection is expressed as to the enactment of this legislation. And they say in this report that one of their objections is that the bill does not spell out any avenue of appeal for the applicant from the decision of the official or employee if he decides that a bond is required, and the exercise of discretion by the District official is involved. As they interpret the legislation, this would deprive a citizen of any remedy at law; at least, that is my interpretation from a hurried reading of the report.

Is that not a rather nonsensical statement in the light of the cases that are now on the books, the decisions of the Supreme Court, such as in the Birmingham case and many other cases where citizens have

gone to the highest court in the land to raise constitutional questions as to the validity of local ordinances?

Mr. FOUNTAIN. I quite agree with you, Mr. Whitener. We provide for appeals in cases of this kind, I am satisfied, on the basis of the opinions of the Supreme Court; at least, the present Supreme Court with which we are familiar, that anyone who appeals from an arbitrary or capricious order of any kind in connection with a matter of this kind will have no difficulty in getting a determination made by the Supreme Court. I think that the court in recent years has exercised maybe discretion when they did not really have statutory authority many times to consider matters which ordinarily might not have been considered. So I think the Supreme Court has gone far enough in recent years to satisfy anyone that if it wants to it will grant a person a hearing.

Mr. WHITENER. And there are other procedures available to an aggrieved citizen for redress.

FIRST AMENDMENT

I also note that the Commissioners say that in some way it is an infringement upon the constitutional right of the citizen to peacefully assemble as guaranteed by the First Amendment to the Constitution if the Congress enacts some statute, this one or any other one, which would prevent a mob taking over the streets of the city and depriving the rest of the citizens of the use of those streets. This is my interpretation of their report, where they say, "While the object of the bill is to relieve the District government from bearing property damage and other costs arising out of a parade, march, demonstration, or other assemblage, it raises a constitutional question as to whether the bill infringes on the right of peaceable assembly guaranteed by the First Amendment."

As I read your bill, the public official issuing the permit must first determine that such parade may cause property damage or disorder which would constitute a breach of the peace.

Is there anything in the Constitution, the First Amendment or any decisions by the courts that says that a governmental party cannot avoid breaches of the peace and damage to property?

Mr. FOUNTAIN. I know of none. As a matter of fact, there are numerous sections for placing certain limitations and restrictions upon the exercise of the rights of citizens. We have riots but we also have responsibilities, and it seems to me that in too many instances we have permitted the concentration effort towards the protection of the right of an individual without taking into account the right of collective society, of the vast majority of the citizens.

Mr. WHITENER. The First Amendment to the Constitution says, in part, that Congress shall make no law respecting an establishment of religion or abridging the freedom of speech or press, or the right of the people peaceably to assemble and to petition the government for a redress of a grievance. Is there anything in this legislation that would seek to infringe upon the rights of the people peaceably to assemble?

Mr. FOUNTAIN. I see nothing in it.

Mr. WHITENER. Is there anything in it which would, in any way, infringe upon the rights of the people to petition the government for redress of grievances?

Mr. FOUNTAIN. I see nothing in it. The only thing that I can envision there is a possibility of a complete abuse of discretion on the part of an individual for which the person petitioning would have a right to take the matter up and have it reviewed. If that was true in this case we would have little trouble in passing legislation placing reasonable restrictions or requirements upon the individuals in the exercise of their rights to petition.

PRECEDENTS FOR LEGISLATION

Mr. WHITENER. I note that in the 89th Congress, on behalf of the Shriners the Congress enacted into law, Public Law 89-514 (H.J. Res. 1178, approved July 19, 1966). I remember the hearings on it, and the testimony of some of the witnesses who participated in writing the Commissioners' report on this legislation urging that we enact that bill into law, that was done. That bill gave to the Shriners Convention the right to hold their meetings and to parade here in the District of Columbia. While I will not undertake to read all of it, I note that it has a provision in it as follows:

The corporation shall indemnify and save harmless the District of Columbia, the United States, and the appropriate agencies of the United States against any loss or damage and against any liability whatsoever arising from any act of the corporation or any agent, licensee, servant, or employee of the corporation.

This is what we did to the Shriners, and we required a bond of them. The American Legion had a convention here, and we passed Public Law 89-25 (H.J. Res. 195, approved May 22, 1965), which said:

And the corporation shall indemnify and save harmless the District of Columbia, the United States and the appropriate agencies of the United States against any loss or damage and against any liability whatsoever arising from any act of the corporation or any agent, licensee, servant, or employee of the corporation.

And, further:

The corporation shall give a good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States.

That is what we said about the American Legion. The same language applied to the Shriners; were required to see to it that the property that they used and "such structures, stands and grounds that they use shall be restored to their previous condition."

And the Shriners who have contributed so much to the welfare of this Nation were required to give a bond in order to have a meeting in the Capital City of our Nation—which was required of them to give assurances that they would restore the public property to its former condition.

Can you visualize any sane reason for contending that should not be required of any other organization or group?

Mr. FOUNTAIN. I certainly cannot.

Mr. WHITENER. Thank you very much.

Mr. FOUNTAIN. Thank you, Mr. Chairman.

Mr. WHITENER. Our next witness is Congressman Albert Watson, of South Carolina, who is the co-author of H.R. 16941. We are delighted to have you with us, Mr. Watson. We will be glad to hear from you now.

**STATEMENT OF HON. ALBERT W. WATSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF SOUTH CAROLINA**

Mr. WATSON. Thank you very much, Mr. Chairman and the subcommittee and, also my distinguished fellow South Carolinian, Mr. McMillan, chairman of the full committee, and members of the subcommittee. I am delighted to be here.

Frankly, I do not exactly understand the legislative position that we are in now. I guess it is typical of the whole situation confronting the Nation's Capital that no one knows what is coming next or what we should do in order to try to bring about some order on this.

I remember just a week ago that the able chairman of this subcommittee and I both testified before the great Public Works Committee of this House in reference to a similar bill requiring the posting of a bond by any group which plans a parade and/or demonstration in the Nation's Capital. I understand that that committee has reported out a bill. However, nothing has been done subsequently thereto to get a rule on that bill, so that it might be presented to the House and then over the weekend I understand that one of the members of that committee has charged a breach of faith on the part of the agreement which purportedly had already been entered into.

Whether or not we are here with this hearing again in more or less of an exercise in futility, I do not know, but I want to commend the committee and, certainly, it is our responsibility as elected officials of our respective districts in having the ultimate responsibility for the safety of the District of Columbia, the Nation's Capital, that we do whatever we can to try to keep the peace here and to make it available for the enjoyment of all of the citizens of the District.

And I say parenthetically now that it is a sad day where we have experienced the receiving of messages from people back home, from groups of students, high school graduates, who, normally, look forward to a pleasant visit to the Nation's Capital, that because of all of the unrest that we have and the problems confronting us that these youngsters are going to be denied one of the pleasures they have always looked forward to as high school graduates. Be that as it may, these youngsters, I guess, will have to forego their rights as American citizens to come and enjoy the Nation's Capital because of the threats that are now being voiced and that are now existing in this Nation.

Frankly, anyone would take notice of the fact that we are in a very tense situation. I believe the city officials have expressed the fact, including the Mayor himself, that we do still have a tense situation existing as a result of the riots of a little more than a month ago.

I believe that the fire department can verify this fact, that arson continues in the District of Columbia; in fact, this past month it was up 100 per cent over the previous period one year ago.

And under this tense and potentially explosive situation I take the basic position, Mr. Chairman and members of the committee, that certainly this demonstration should not be permitted. We are reasonable men. We face up to the facts of life. We are not dealing here in the normal procedure or with normal matters at all.

PRECEDENTS FOR LEGISLATION

Just as the Chairman pointed out a moment ago, when the Shriners wanted to use the Nation's Capital they had a special bill passed by this Congress to permit them to do so. And as was pointed out here it required the Shriners as well as the American Legion, and even requiring the Boy Scouts, that they give good and sufficient bond to indemnify the District of Columbia for any damages which might be sustained.

That is the orderly way for this thing to be done. However, we all know that we are not dealing with people who subscribe to the orderly processes of government. In fact, the leader of this particular demonstration has stated publicly that we, the members of Congress, Mayor Washington, nor anyone else in this Nation, will stop him by laws or in any other way. And the sooner we recognize that fact, then I think we will be able to deal with these people in the necessary manner.

As Mr. Friedel pointed out a moment ago, and I strongly support his bill, to try to force the District of Columbia to remove these partially destroyed buildings, as a result of the riots of a month ago, frankly, I think it is the city's responsibility—I think it is a crying shame, as I understand it, that some of the owners of these buildings have been served with a notice by the city officials that unless they tear down these potentially dangerous buildings within a matter of twelve hours or so, some ridiculous time like that, then the city will move in and tear them down and then charge them for the cost of doing so.

We all know that we have a number of people even here in the District of Columbia and other cities who have been the victims of riots and of riotings, who are now pursuing causes against the city governments. In my judgment I think those causes well lie if there is shown that the city administration did not use adequate force to suppress the rioters.

Secondly, and this is the thing that disturbs me so greatly, if a permit is given this group to demonstrate and/or parade as they plan here in the District of Columbia, then I believe of a certainty, as a lawyer, that the city will be held responsible for the consequences of granting that permit.

I know that elaborate plans have been made and they are rather vague as to the plans for the protection of the citizens of the District of Columbia and the visitors who come into the Nation's Capital. Certainly they are not as vague as the plans of the demonstrators themselves. I think personally they do not know exactly what they want. If they wanted, their leaders to prevent a legitimate request or a grievance to their government or a petition, I understand they had that opportunity earlier. A group of them headed by the principal leaders came up here and presented their demands from the highest exec-

utive branch right on over here to the leadership in the Congress itself. And, as I understand it, even showing their defiance, they kept many of the Government officials, members of the Cabinet, who have responsible jobs to do, they kept them waiting for three or four hours, and then they showed no remorse or any regret for having kept them waiting for that period of time but, rather, made the comment, "We have been waiting some 350 years, so let them wait for three hours."

But this shows you the attitudes. Now we are not dealing with a Boys Scout demonstration. We are not dealing with a parade by the American Legion. We are not dealing with a Shriners parade. All of these groups uphold America. All of these groups are helping to build a stronger America. All of these groups are patriotic citizens. And not a member of these groups, so far as I know, has ever had any Communist implication or involvement.

But some of the leaders of this particular group here have definite Communist affiliations or backgrounds. And you can rest assured that the militants and those with Communist backgrounds are going to capitalize on this particular situation, and they will try to make trouble right here in the Nation's Capital.

I want to say one thing further in support of the bill that Mr. Abbitt and Mr. Fountain spoke of, in behalf of several of us on these bills which have been introduced. There is nothing new in the matter of requiring a bond. We required a bond of the American Legion. We required a bond of the Shriners. We even required a bond of the Boys Scouts. Is it not logical that we would require a similar bond for any group which is going to be using the grounds here of the Nation's Capital?

But again, I say that we are not dealing with the normal set of circumstances. And so as a consequence I really guess we are having to look at this in an entirely or from an entirely different angle.

I might say further, as evidence of the fact that the city officials and the officials of the Department of the Interior believe that we continue to have a very tense situation, an explosive situation in the District of Columbia and parenthetically, I am a member of the Baptist denomination and I am proud of it, but it could be any denomination—the Baptists requested the use for three days from the 10th to the 13th of October, for a parade on the occasion of their continental celebration, to march on the Nation's Capital and have a rally around the Washington Monument. I understand that was the basic plan. They requested that permit, not at this time, but for October 10 and 13. Mr. Fitch of the National Park Service notified them that they would not be granted the permit.

This Baptist group has never been guilty of any violence, may I remind you, members of the committee, as is certainly true of the leadership of this particular group in most of the places they have been where the cities have suffered the violence. But this Baptist group was denied the permit by the Department of the Interior to use the Nation's Capital, and the reason for the denial of this permit and request was the tense and explosive situation which existed in the Nation's Capital.

How can we tell the American citizens, those who are law-abiding in one instance, "You cannot do it," and then knuckle under to the mob on the other side?

I remember the statement made by the Chairman of this subcommittee, and there is no more able lawyer in this Congress than he—the statement made by him before the Public Works Committee. And you said, “Gentlemen, we are virtually facing up to a simple proposition, one of two alternatives—it is not a matter of law and order at this time, although that is the principal concern.” He said, “We are coming up to the point”—and I believe that I am paraphrasing him correctly—“you are coming up to where you will have to choose between tyranny and anarchy and we do not want either. But I am sure of one thing, the American people are not going to permit even if this Congress does not act to protect them, they are not going to permit anarchy to exist in this Nation.”

So, as a consequence, we might have to become a little hard in order to bring things back in perspective. This Nation is going down the drain when people can say, “I obey those laws with which I agree, and I disobey those laws with which I disagree.”

Why are we surprised that youngsters are causing trouble around here today when we have adults proclaiming from every quarter of this Nation such an alien philosophy as that? We have a real responsibility.

I do not know whether the action that you will take on this bill, Mr. Chairman and members of the subcommittee—whether it will do the job. I am hopeful that it may. At least, it is a step in the right direction.

I think that the American people are demanding that we face up to our responsibility as hard as they might be, as disastrous as the political consequences might be—and I know the political consequences in taking a position such as this and that which a number of others have taken, but I believe that it is our responsibility as Representatives of the American people to be willing to suffer that political consequence in order to try to maintain law and order here in the Nation’s Capital.

Then may I say that everybody has a right to come here without fear of intimidation or harassment—everyone has a right to use the public facilities and the parks around here. And just as certainly as this is permitted today as apparently it has been, the permit has been granted, you will never be able to deny any group or any individual the right to come here and camp wherever they desire in the Nation’s Capital.

So, again, Mr. Chairman, let me say that I strongly support this bill of Mr. Friedel. I think it is only equitable. I think it is only fair, because, certainly, none of these businessmen who suffered these losses were responsible for them. There is a serious question as to whether or not the police—and they have no stronger supporter than I—and the military, too—but there is a serious question in the minds of a lot of the people as to whether or not the administration can handcuff the police and virtually hold them back from trying to control this particular mob in the occasion just a month or so ago. If we grant this permit, in my judgment, if violence occurs and, certainly, you know they are announcing that they will disrupt and dislocate this government—they are announcing that as their intention and they have further said, Mr. Abernathy has said, they intend to turn this city upside-down. Well, if he meant that, then we as responsible legislators should know that he is telling us that he is going to cause violence. And if he did not mean it, certainly, we should not permit a

man to go around making such irrational statements to conduct a demonstration and to camp in and so forth in the Nation's Capital.

Thank you, Mr. Chairman.

Mr. WHITENER. Thank you, Mr. Watson.

Mr. McMillan?

Mr. McMILLAN. Thank you, Mr. Watson, for a very forthright statement. Mr. Watson is an outstanding attorney and enjoys a wonderful practice in my State. We are very much disturbed over this matter so it could easily get out of hand in these confused times.

Mr. WHITENER. Mr. Winn?

DENIAL OF OTHER REQUESTS TO CAMP OR PARADE

Mr. WINN. Mr. Watson, you remarked about the numbers of high school seniors who usually come in the spring to see the city and visit the many beautiful memorials are being denied that privilege. Are you aware or do you know of any circumstances where students have been allowed to camp on any of the grounds around here?

Mr. WATSON. Mr. Winn, I certainly know of none whatsoever. Frankly, they have never requested such a permit so far as I know. But if they had, in the absence of specific legislation, I do not believe that they would have been granted such a permit.

Mr. WINN. It is my understanding that down through the years some groups, not knowing the rules and the regulations, have inquired whether they could camp in the Mall area. They were told, no, this was against the regulations.

Mr. WATSON. I am sure that is a correct statement. We might bear in mind that we are dealing with a most unusual situation. Really, the people who care a little bit about what the law is, act differently. We had a camp-in of a very short duration in Lafayette Park. And I understand that the officials were complaining up and down, "You cannot do it. You cannot do it." But they did it. And that was further encouragement to just what is happening here today.

I am sure that these officers can testify to this fact that if you allow a man to break the law one time without redress and adequate punishment it is further encouragement and that you, the official, are actually responsible for further violations.

Mr. WINN. You mentioned the Baptists having a celebration here in October. You mentioned the name of the man who turned them down. I do not know if he will come before this committee or not. I hope that we would have a chance to visit with this man. Do you know how many requests for similar types of meetings have come into the District per year along the same line as the Boy Scouts or the Shriners or the American Legion?

Mr. WATSON. I certainly do not. There was an article which appeared in the Baptist Courier of the State of South Carolina. So far as I am concerned I take no position one way or the other as to the issuance of the permit. This was not a camp-in. This was simply a matter of having a parade in the Nation's Capital and having a rally around the Washington Monument. The reply received was that in view of the tense situation that they were not granting any permits. Bear in mind that this was only to occur October 10 to 13, this event.

Mr. WINN. I understand. This was for the purpose of a parade; right?

Mr. WATSON. Yes, sir.

Mr. WINN. Do you know if the permit was granted for the parade yesterday?

Mr. WATSON. I do not know whether it was or not. Frankly, Mr. Winn, I do not think it makes any difference. I do not know whether they requested it. Perhaps the authorities will be able to answer that question.

Mr. WINN. Thank you.

Mr. WHITENER. Mr. Steiger?

DAMAGES OR DISORDER

Mr. STEIGER. I also would like to join my colleagues in commending you on your very excellent statement.

I do not know whether you have seen a copy of the D.C. government report over the signature of Mr. Fletcher and Mr. Washington on the bill. On page two of that report it says, "Under the bill, no criteria are provided to guide the government official or employee as to what constitutes 'property damage or disorder.'"

What they are saying is that in your bill you are asking for something that is beyond the ability of anybody to determine.

I would then refer to the permit signed by Mr. Castro who is the Regional Director of the National Park Service, and a part of that language says, and I will quote it: "Permittee shall hold the United States and the District of Columbia harmless in the event of the death or injury of any person, for the destruction or damage to any property," et cetera.

Additionally, no explosives or such flammable fuels shall be permitted in the designated area. It would seem to me that Mr. Castro has been able to anticipate some problems. He also would be the man who would make the judgment as to what constitutes property damage, et cetera.

It occurs to me, and I would welcome your comment on this: If the official granting the permit is not capable of anticipating violence or damage it would seem to me that he should not be permitted to grant a permit and that somebody who is capable of anticipating the problem should be selected instead. You might choose to comment on that.

Mr. WATSON. Mr. Steiger, your point is well taken there. In my judgment I do not think that anyone could answer it. Again, we get back to the basic proposition that we are dealing with a most unusual set of circumstances here. Apparently they will cut the cloth to fit the pattern. And if it does not make sense when you and I raise the question, if it suits their purpose later on, it can make sense within their interpretation. And I agree with you that if they cannot conclude as to what would be a reasonable and adequate bond, as others have done, then, perhaps, they should let others who are more competent and qualified to make such determination for them.

If I may make one further point here, I do not know where we are headed. I have been trying to help the committee, if I can. I do not know whether I have made a worthwhile contribution. But we have

read here recently where many of the store owners in the District of Columbia are being approached by militants and are required to pay protection, somewhat comparable to the Al Capone period, in order not to be looted, et cetera. This is a tragic thing of what is happening here in the Nation's Capital.

I have heard some are being required to buy portraits of this or that of a particular variety. Others are demanding \$500 in order to be "protected" from shooting and rioting.

That is why I think it is incumbent upon us to try to bring some order out of chaos and to protect not only the local citizens here, but to protect the American people who, as taxpayers, have the right to come in and visit their capital. Frankly, when we passed the so-called civil rights bill it was for the protection of the civil rights of all of the people or, at least, I am sure that the majority of the Congress thought so. But, apparently, now that is not the way it is being interpreted.

Mr. STEIGER. Thank you.

DENIAL OF SIMILAR REQUESTS

Mr. WHITENER. Thank you very much, Mr. Watson. With reference to your comment about the Baptist group having requested an opportunity to parade and to have a meeting or a rally, let me say that on April 25 I requested permission of the Department of the Interior, which is not within the purview of the District, for the Boy Scouts to have a jamboree beside the Washington Monument, July 18, 19 and 20. And I have not received any reply yet. There has been a lot of going back and forth between the Secretary of the Interior and the Park Service. It seems that they are having real serious difficulty in deciding whether these young fellows who have as the keystone of their organization "God and country," should have this privilege, while the District Commissioner is telling us it is unconstitutional, and the privilege should be denied them. I just wonder how we can reconcile this.

Mr. WATSON. No one can reconcile it, Mr. Chairman. There are people who are trying to delude and deceive the American people in this regard. There is no way to reasonably reconcile the two positions. Here are the Boy Scouts supporting "God and country," who have never made any announced intention to dislocate or to disrupt the Nation, to turn it upside-down—one of the finest groups of youths in the world, and yet they have to agonize over whether to grant them a permit, and yet work it out for others where violence has followed them wherever they have gone. The answer is obvious to any thinking person. I hope that this committee will help Mayor Washington and others. We realize their problems. I really deep down believe that they would like to see this committee and the Congress get this monkey off of their backs. Let us face up to it. And I think there is no way to explain adequately to the American people as to why you would deny or have any difficulty in deciding whether to grant a permit for an encampment of Boy Scouts, but yet you go out here and work out an encampment with the announced intention to disrupt the Government which I understand has exceptions or renewals later on.

Mr. WHITENER. This is another day. You will recall the men who fought for their country, in uniform, in World War I, on the battle-

fields in Europe, who came to Washington in the 1930s for one purpose, to urge or maybe demand that the Congress enact into law bonus legislation which would give to the veterans of World War I certain monetary benefits. History tells us that these men who had fought courageously for their country were trampled under the feet of horses, many of them killed and forced off of the public grounds of the Nation's Capital. I wonder if our constitutional principles had been exerted in their support, whether that tragic thing would have come about.

Mr. WATSON. It was very sad. I think you understand that we are now in an era where patriotism and the protection of all rights and the love of flag and the love of country is rather an old fuddy-duddy thing. We are in newer sociological concepts where we warp the Constitution to suit our own purpose, rather than letting it apply equally to all citizens, regardless of race or color.

Mr. WHITENER. I wonder if you would agree with this statement, a decision in the Supreme Court where it says this:

The privilege of a citizen of the United States to use the streets and parks for communication, et cetera, views of national questions, may be regulated in the interests of all. It is not absolute, but relative. It must be exercised in subordination to the general comfort and convenience and in consonance with the peace and good order.

Mr. WATSON. I agree wholeheartedly. That was the case where these people brought in an earlier occasion just a short time ago a so-called poor people's campaign, but of a much smaller nature.

Mr. WHITENER. This case involved a city ordinance requiring permits for public assembly on public streets, highways and parks and public buildings, to authorize the director of public safety, for the purpose of preventing riots, disturbances, or order, to refuse to issue a permit when after investigation of all of the facts and circumstances pertinent to the application he believed it would be proper to refuse to issue a permit.

Mr. WATSON. I agree wholeheartedly. I would like for the committee to look into it. I will try to get a citation I have in mind. Some judge was very critical of a leader here recently who tried to bring the poor people in here. I will get the citation of the case. The judge was critical of the situation and castigated him for playing upon the plight of the poor people, rather than urging them to prepare themselves for education and otherwise to go out and fill some of the jobs we have. There are thousands of jobs that are going unfilled right now. I will try to get this situation for you.

Mr. WHITENER. The First Amendment to the Constitution does not say that government officials have no authority whatever to infringe upon the rights of a citizen or a group of citizens in the use of the public parks and the streets for their own convenience without regard to the convenience of the general public.

Mr. WATSON. I agree wholeheartedly with you. I am inclined to believe that it is part of the genius of those who framed the Constitution, and the great Declaration of Independence—I am sure that they never intended for it to be so torn up and disregarded.

Mr. WHITENER. Thank you very much, Mr. Watson.

Mr. WATSON. Thank you.

Mr. WHITENER. We have a statement from the Honorable W. M. Abbitt, of Virginia which we will make a part of the record. He was unfortunately detained and could not be here. We will make his statement a part of the record.

**REMARKS OF HON. W. M. ABBITT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF VIRGINIA**

Mr. Chairman: I would like to express my appreciation to the Subcommittee for calling the hearing this morning as, in my opinion, the crisis with which we are confronted is still far from resolved and such measures as have been announced publicly leave unanswered many questions which are being raised by the general public with reference to the so-called Poor Peoples Campaign.

In the last several days, there have appeared in the press a number of articles which tend to indicate that an arrangement has been worked out for an orderly handling of the so-called camp-in. However, it is perfectly obvious to me that the District of Columbia government has no intention of taking the steps necessary to contain the crowd which will be coming here in increasing numbers over the next several weeks. They have not acted forthrightly nor have they made it clear that violations of the law will not be countenanced and that proper precautions will be made to see that law and order will be maintained.

If the disorders here last month proved nothing else, they showed conclusively that riotous groups are not afraid of policemen who have been ordered not to shoot nor are they cowed by National Guardsmen or Federal troops who have no ammunition in their guns. I do not know who issued the orders for such unorthodox law enforcement but I would certainly hope that history would not be repeated if trouble breaks out in connection with the campaign getting under way now. District law enforcement officers should not be restrained from taking the necessary steps to prevent the rash of arson, looting, rioting, etc.

I have tried in vain to ascertain from officials of the District government and various other Federal agencies whether any effort has been made to discourage the bringing of thousands of people into the city for this purpose or to in any way attempt to restrain those who are leading the campaign so that they will not feel that they have an open invitation to go any place and do anything they want to while the campaign is going on. Apparently the main focus of the "negotiations" which have been carried on for the last week have been in the nature of working out an accommodation for the march and camp-in and not to circumscribe its limits or goals in any way.

I realize that we in Congress cannot carry out laws—all we can do is put them on the statute books. It is then up to the law enforcement agencies and the Judiciary to see that they are obeyed. I am told that many of those arrested during the recent riots had criminal records and it will be interesting to see what disposition is eventually made of these cases. According to the newspapers, most of the serious crimes committed in the District are committed by people who have been convicted of felonies and are out on probation. Certainly something seems to be wrong with the probation system here when this is allowed.

I believe that the leaders of the so-called Poor Peoples Campaign are prepared to take advantage of the leniency of law enforcement and

welfare agencies in the District of Columbia. Certain statements have been made to the effect that if the campaign does not achieve its objectives within a reasonable time, the participants are prepared to remain here all summer. So far as I have been able to ascertain, I have not heard one word that the present administration downtown has spoken in an endeavor to have the march called off. I am afraid that in the environment of accommodation which now appears to be the adopted policy, we can only expect a long, drawn-out challenge to Federal authority and demonstrations which will either be countenanced by the officials and have to be tolerated by the community or eventually a crack-down will have to be imposed. I would far rather see limits put on the demonstration in advance than to have trouble and later terminate the campaign for the communities security.

I wish to address myself primarily to H.R. 16941 which I introduced on May 1st along with several other members which would authorize an officer or employee of the government of the District of Columbia to require applicants for permits to parade in the District to post a bond to cover certain costs of such parade. As this subcommittee well knows, the House Public Works Committee has ordered reported a bill embodying much the same purposes and providing for certain limitations on the use of government land for camp-ins. I introduced the original bonding bill on November 1, 1967 following the so-called "peace" demonstration at the Pentagon last October and, therefore, I have long felt that some bill of this type is necessary in order to deal with such situations as the one with which we are now confronted. Although the District government has given assurances that adequate police protection will be provided and various other statements from high officials in the Executive Branch have indicated that they consider they have the situation well in hand, I do not believe that the public has been adequately assured that we have done all that we could under the circumstances.

The so-called campaign is now under way; thousands of demonstrators are converging upon Washington from all over the country and no one seems to have the foggiest notion as to when it will all end and more importantly how it will end.

The press media still overflow with wild and outrageous statements by leaders of the campaign as to what they intend to do, etc. and the general public is still puzzled by the relative silence of those Federal officials who are supposedly in charge. I do not mean to cast undue alarm or to over-emphasize that with which we are confronted but it seems to me that it is abundantly obvious that the District of Columbia faces an unusual emergency, the like of which we have not seen in many years. I do not believe that all the statements which we read in the press and hear spoken over radio and television are responsibly made but I do not believe that we can afford to ignore that which is plainly before us and take the chance that great destruction will be avoided simply because we turn out to be lucky. Such logic defies all of our principles of national defense, law enforcement and detection of crime. If the FBI or any other security organization operated simply on the basis of "waiting to see what happens" or in the hopes that the criminal somehow would turn out not to be as bad as they thought he would, we would have very little protection. It seems to me that far too much reliance has been placed upon the sheer hope that those who

lead the Poor Peoples Campaign will somehow be able to maintain order and that those dissident groups connected with it will somehow turn out to be less vicious than their words have lead us to believe. Federal agencies have bent over backwards to avoid giving any idea that the right of freedom of speech will in any way be abridged and both the general public and the leaders of the campaign have been kept in the dark as to what D-Day will bring.

When I introduced H.R. 16941, it was my feeling that the minimum action which Congress should take would be to require that those who apply for permits to parade in the District should post a bond to cover the cost of any destruction which might result. I believe that the subcommittee should consider the possibility of amending H.R. 16941 to include therein the sense of H.J. Res. 1256 which was introduced by the Virginia delegation in the House. This resolution would place a limitation on the use of park lands of the United States and other public space situated within the District of Columbia and reads as follows:

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That, except as may hereafter be provided by Act of Congress, it shall be unlawful to use the Capitol Grounds, the Mall, the Washington Monument Grounds, the grounds around the Lincoln and Jefferson Memorials, or any other real property of the United States or the District of Columbia within said District for the purpose of camping or erecting thereon any temporary shelter or other structure. This statute shall not exclude establishing campsites and/or recreation areas from time to time, pursuant to an Act of Congress, or the bivouacking of military personnel on public properties in the District of Columbia.

As I understand it, the primary issue before the subcommittee today is whether or not any permit will be issued to allow parades, demonstrations or other assemblages of the campaign now in progress—either in the streets of the District of Columbia or on grounds owned by the Federal government. Apparently there has been an impasse between the Department of the Interior and the District of Columbia government with respect to what type of government action can be taken to limit such assemblages or whether those seeking to parade, demonstrate or have assemblies can in any way be restrained from doing so in the absence of a permit being issued. Apparently the leaders of the demonstration are fully aware that policies and regulations of the departments concerned would preclude the granting of such permits on a regular basis. I understand that Boy Scout groups and other such organizations have from time to time sought the right to assemble on the Mall or to have camping privileges on government lands in various parts of the District of Columbia. Such permission has been denied as a matter of policy and according to my understanding such permission will continue to be denied under the regulations which now exist. The question then arises as to what action the policy authorities and/or the security officers of the National Park Police or any other agency will take if and when violations of the regulations are obviously being made.

I would urge this committee to report out a bill which will forth-

rightly and without reservation state what the government will and will not allow and that this be done without delay. We cannot sit around and wait for trouble to come and face the possibility that whatever action we eventually take may be too little and too late.

Mr. WHITENER. At this time we will hear from Commissioner Walter Washington of the District of Columbia.

If you would like, Commissioner, you may ask other officials of the District of Columbia to sit with you.

STATEMENT OF HON. WALTER WASHINGTON, COMMISSIONER, DISTRICT OF COLUMBIA; ACCOMPANIED BY CHIEF JOHN B. LAYTON, METROPOLITAN POLICE DEPARTMENT; THOMAS APPLEBY, EXECUTIVE DIRECTOR, REDEVELOPMENT LAND AGENCY; JULIAN R. DUGAS, DIRECTOR, DEPARTMENT OF LICENSES AND INSPECTIONS; DR. MURRAY GRANT, DIRECTOR, DEPARTMENT OF PUBLIC HEALTH; DR. FRED HEATH, DEPARTMENT OF PUBLIC HEALTH; ROBERT KNEIPP, ASSISTANT CORPORATION COUNSEL; AND WILLIAM N. DRIPPS, DEPARTMENT OF LICENSES AND INSPECTIONS

Mr. WASHINGTON. Thank you.

Mr. WHITENER. If you will identify each of the gentlemen seated with you for the record, please.

Mr. WASHINGTON. Mr. Chairman, members of the subcommittee, on my right here is Dr. Fred Heath, from the Department of Health, who will not testify; Chief Covell from the Metropolitan Police Department; Thomas Appleby, Executive Director of the Redevelopment Land Agency; Dr. Murray Grant, Director, Department of Public Health, with Mr. Fred Heath of the same department; Chief Layton; Mr. Kneipp of the Corporation Counsel Office; and Mr. Dugas, Director of the Department of Licenses and Inspections. These are some of the gentlemen whom we have here, Mr. Chairman.

Mr. WHITENER. Mr. Murphy is not here?

Mr. WASHINGTON. I do not believe he is here today. As a matter of fact, he decided to send someone else, thinking that you would want someone to come up as to these permit procedures. We were not exactly sure of the format of the hearing, but these men are here. Some of them are here because we worked out the agenda with the staff representation in both areas in respect to both bills, the two bills that are before us.

Mr. WHITENER. You may proceed.

Mr. WASHINGTON. If there is anyone else that you desire, we will be happy to get him up here.

Mr. WHITENER. We probably will not finish today. But it may be that we will want others later.

Mr. WASHINGTON. We will be very happy to get them here.

PRELIMINARY STATEMENT

Mr. Chairman, we have come to give you our views with respect to the two bills that I understand are before us. One is H.R. 16941, and the other is H.R. 16948.

However, in view of the rather extensive testimony we have had before us with respect to the larger problem, I will be very happy to say along with the distinguished Congressmen before that the city is somewhat in a difficult position. We believe that currently the situation we find ourselves in, which is involving the petitioning of the Congress and the administration, is one that is directed along those lines where we simply have not the geography upon which the matter is being debated. I do not believe I have ever had a situation or a circumstance on which the geography is so completely vague.

I feel that what our government has tried to do, Mr. Chairman, is to protect the best interests of this city within reason. We have heard allusions as to protection. I have stated at least four times last week, and with rather, I thought, profound language, that our concern at this moment is for the full protection of the rights of our citizens and those who may visit the city. We have not had the problem of being unvisited, however. We have 16 million people who visit this city yearly. Our concern is for all of America. It distresses me a great deal to hear of children having the problem of not coming to this city.

I sat with a group of businessmen the other day. We found that one of the things that we must start talking about—and just a few weeks ago with the DAR—one of the things that we talked about then was the period of 1776, out of which we moulded a Nation.

When a group of veterans came within two or three days after the height of our disturbances—and I would strongly submit this to those who are yelling from the roof tops and then hiding under the bed, while some of us carry the load.

It is coming to the point where I think we have to stand up and be counted—stand for rights—stand for law and order—and then proceed to make it work.

The hotel people told me just the other day when I had them in here that they are getting word from representatives around that they should not come here. I have urged them to come to this city.

The restaurant people are telling me that they have a good daytime business, but that some people are not coming out at night, at a time when some of the very material that is appearing in the ads in the papers are adverse to night business.

The question is, what are we doing to ourselves? I would strongly appeal at this time to those who fail either to see or to recognize some of the difficulties we are facing that we must pull together in the situation and the circumstance that is truly nationwide, but, particularly has hit the Nation's Capital. And I have seen it since I have been back. I came back here six months ago. I could somewhat feel the situation. I believe the time has come when the Nation's Capital should really be the place that all people of the Nation look to. And I think that those who are pulling it from one end to the other are going to have to reappraise our position. There is no time in this America, and I have heard this said—and I took your word strongly for it, when you spoke to one of our deputy chiefs—when you come down to a small town in your district, you talk about that town and do not run it down. I am trying to do that with this town. I am trying to get everybody to pull along with me, because the situation is difficult.

And I think that statement you made that day is ringing in my ears and has continued to ring. I have made ten speeches to people not to

run the town down. The town is not what someone would like to have it. I think some will try to pull it apart if we are not careful. That is true in some instances where they do it and do not realize it.

I just want to feel that you are with me in this. I want you to know that I think it is necessary to react to some of the statements, not emotionally, but sincerely, because I believe in this theme, and I believe in the city. I believe in the people. We are going to protect them. And we are going to do this if just given a decent opportunity to do so.

I would like to say at this point that the Chief is here who can speak as to whether or not the administration had any hold on the police. I would just like to have him speak to that point. He wanted to do so once or twice before. If you would like him, Mr. Chairman.

LAW VIOLATIONS

Mr. WHITENER. Before he does that, let me ask you this: Does Chief Layton make the decisions that tolerated arson and looting outside of usual police methods?

Mr. WASHINGTON. Why do we not let him speak?

Mr. WHITENER. I will ask him. I will be glad to hear from him.

Mr. WASHINGTON. I would just like him to speak to it.

Mr. WHITENER. We will be glad to hear from the Chief.

Chief LAYTON. Mr. Chairman, with respect to the disorders that began on the evening of April 4, and continued for several days, there were not any instructions from me to the department to tolerate looting or burning or any other violence offense.

Mr. WHITENER. I do not think that anyone on this committee thinks that emanated from you.

Chief LAYTON. Nor from anyone else.

Mr. WASHINGTON. Not from anyone else.

Chief LAYTON. I would have to say very respectfully that I have not received any orders from Mayor Washington or the Director of Public Safety or anyone else to tolerate violations of law. The fact of the matter, of course, is that we began making arrests to the extent that we were able to on the evening of April 4. We arrested and charged more than 1,100 people with burglary, which is the formal charge for looting.

Mr. WHITENER. It would have been not available if it had not been for the crime buildup we passed, where we were criticized, not by you but by others. Some of the same folks who gave the police department a difficult time, saying that there is something bad about the crime bill that we passed.

Chief LAYTON. There was that statement.

Mr. WHITENER. If we had not done that, you would not have been able to charge them except with petty larceny or some minor offense.

Chief LAYTON. We would have been able to charge in appropriate cases housebreaking, but as you say—

Mr. WHITENER. That is a misdemeanor.

Chief LAYTON. No, sir. Housebreaking is not. We have a couple of misdemeanor offenses that are possible. Unlawful entry is one that we have on the books, and petty larceny is as you have indicated, but if there was an entry into premises with the intent to commit a crime it came under a previous statute, housebreaking. And what you made

reference to gives us a better tool, in my judgment, without any question. It divided the charge into two, burglary class one and burglary class two, which in my judgment is a better tool than we had previously, but as I say, Mr. Chairman, we did make arrests of more than 1,100 individuals and brought the charge of burglary which are being processed through the courts now. We made altogether almost 8,000 arrests during the period of time that the disorder was in effect, but I do not mean to give the impression that we were able to make arrests of everyone who committed an offense. We were not. We cannot help but acknowledge that. The magnitude of the problem, however, was the reason for not being able to meet it with the kind of effect and forcefulness that we were determined to meet it with.

Mr. WHITENER. Commissioner Washington, I would like to ask you if you agree with this statement? This is in the Supreme Court of the United States, in the case of *Cox vs. New Hampshire*, 312 U.S. 574:

"Civil liberties as guaranteed by the Constitution imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses. The authority of a municipality to impose regulations in order to assure the safety and convenience of the people in the United States of the public highways has never been regarded as inconsistent with civil liberties, but rather as one of the needs of safeguarding the good order upon which they ultimately depend."

Mr. WASHINGTON. I agree with that.

Mr. WHITENER. How do you do that if you cannot support legislation which will give to the municipal authorities the right to impose restrictions upon the use of public property where a proper official of the District of Columbia, in his best judgment, feels that property damage or disorder which would constitute a breach of the peace may result?

Mr. WASHINGTON. Let me just refer to that same case that you did where it says that it is well established that freedom of expression can be by means of orderly parades or demonstrations.

Mr. WHITENER. You should read another case, a recent case in which Mr. Justice Black said that that does not give a person a right to walk into a public library and make a speech or to walk on the court house steps and engage in conduct which would disrupt the orderly administration of justice within that court house.

Mr. WASHINGTON. I think, Mr. Chairman, what you are getting to—

Mr. WHITENER. I think that you just get a one-sided legal opinion from your people.

Mr. WASHINGTON. I just gave a citation from the same case. So I would assume, Mr. Chairman—

Mr. WHITENER. It is really not so one-sided when it comes to the issues of whether we are going to have public protection or not.

Mr. WASHINGTON. I am trying to get my position on that which I have not given, that is, simply that we think that under the current restrictions, so far as parades and demonstrations and the streets are concerned, that is of the city are concerned, the Chief has been personally responsible for this—the means of doing this—and the question here is whether or not they should be, which is the only point. A permit was requested yesterday for an orderly, peaceful parade. We granted

the permit. The Chief had his men working on the permit. The parade was from 7th and T Streets at the Kennedy Playground in a peaceful way and to have a rally and then to disperse peaceably.

The question then was raised, as I see it, the only way that we address ourselves to it—not only to the orderly movement of people in a parade or otherwise, because if they fail to perform properly or break the law, they will be arrested—and what we are talking about here is—

Mr. WHITENER. You mean that we have no right as public officials to try to deter violations of the law, that the only recourse is to—

Mr. WASHINGTON. That is not what I am saying. I am saying that the deterrent here is the permit itself which we have been issuing. We have issued 85 during the past year—is all I am saying—and these have gone on in a peaceful way. We sit down with the parties. The Chief can give you the exact process. And we make certain determinations, so that we can assure for law and order. Our position is predicated on one particular point, and that is, whether the bond itself—I have heard testimony—I know that in the case of the Shriners and in the case of others—I am not sure of the Boy Scouts—that there was a certain use of government space, and that they wished to come in and make bonds or insurance, as a matter of fact, with respect to the use of government space. The question of a parade and a bond to do that raised a question in the minds of our legal people as to whether or not we could put a price tag on a parade or upon people demonstrating. This is why I think our position has been, perhaps, misunderstood. If a person has no money and wishes to parade peacefully, to demonstrate, would we deny him because he could not make the bond? And this is the only position that we would have some difference on—not on restriction, not on prevention, not on trying to assure to the fullest degree possible that we have a procedure by which we protect not only our citizens but the marchers who would be assembling for the demonstration. Upon that legal position we may disagree. It is our position only. We are going to control and we are going to maintain public safety. We just raised the question in respect to the bill.

There is another point and that is whether or not we can find any other process. As a matter of fact, I understand that the Scouts at the time they had the jamboree were permitted to insure—not to put up a bond, but to insure against it. Maybe some process such as that is possible. And I was not raising this in relation to the current march.

I thought that the legislation was expected to be broader. We were simply raising this question with respect to that aspect of it, because we did have 85 marches or demonstrations that we have had since April last. And we have applied, even with our procedures, we have applied an orderly process to them, and not one that I can recall has had any difficulty.

The question of the bond may be restrictive—it may not be. We raised that question, Mr. Chairman, only because we believe that it may put some people in the position where they could not or may not have been able to orderly demonstrate. This is our position on that.

If I might go to another—

Mr. WHITENER. Mr. Steiger.

Mr. STEIGER. Are you aware, Commissioner Washington, that the Baptists were denied a permit?

Mr. WASHINGTON. We have this problem, Mr. Chairman. For the most part, people coming here to Washington want to use federal lands, either around the monument or in some relationship to the Lincoln Memorial or something like that. Frequently, we are not aware of any such request or knowledge of it at all of their visit. You say this is in October. We probably would not get any information on it until the decision is made. Then we start working cooperatively with respect to any arrangements necessary for health or safety in and around the grounds. This is something that is handled principally and primarily by the Interior Department, Park Service, as it is in this situation.

Mr. STEIGER. What you are saying is that you are not aware of this application?

Mr. WASHINGTON. No.

Mr. STEIGER. And none of the other gentlemen?

Mr. WASHINGTON. No.

Mr. WHITENER. Mr. McMillan?

FAILURE TO ENFORCE LAWS

Mr. McMILLAN. Mr. Whitener, before you leave, Chief Layton, I want to ask one question. During the first day of this so-called riot in April, my phone was busy all day, calls from persons asking if I could not give them some relief. I advised them that I did not know anything that a Congressman could do. Our authority ended when we make the laws. And they stated that the police were standing outside of their stores, outside of their doors on each occasion, and they asked for help, and the policemen told them that they could not—they had orders not to touch anybody. I have the names of those persons and they have been urging me to let them come down here to testify. I think they have the names of the policemen. You tell me that nobody gave any such orders?

Chief LAYTON. That is correct. And I would like to have the benefit of having the names, both of the merchants and the officers who stated that. We did make arrests as testified. And, as I say, the magnitude of the problem that the police were faced with was such that I know there were occasions when we simply did not have enough men to effect the arrest of all violators, but there were no instructions to the men not to make arrests. At the proper time I would like to have the names of both the merchants and the police officers, if they are known.

Mr. McMILLAN. How about when people come in and knock down the owner of the store and his wife and beat them up right before the police and the police did not arrest them?

Chief LAYTON. I cannot answer as to why it did not take place. There should have been an arrest, those being the circumstances, Mr. Chairman.

Mr. McMILLAN. I think, at least, something could and should have been done—some force could have been used.

Chief LAYTON. Of course, how much force the officer would be legally authorized to use under those circumstances would depend on the amount of the force that a person is attempting to subdue used, whether against the officer or against somebody else.

Mr. McMILLAN. I promised those property owners they would have the opportunity at the proper time to express themselves. I just wanted to ask you this while you were here if you knew anything of such orders.

Chief LAYTON. No, sir, I would like to have the opportunity to explore that further.

Mr. McMILLAN. You will be called to testify at the same time.

Mr. WASHINGTON. I might say, too, that beyond the public hearings that we have had, I have made myself available to talk to practically every business unit in this city in the past week—from the Board of Trade to the Uptown and Downtown people—have spoken to retail-wholesalers, the hotel people. I have learned a lot about the troubles, from the Restaurant Association, which I had in my office on Friday, and from a number of the companies, such as Safeway and Giant Food Stores who have had particular problems. I just wanted you to know that I have personally had these groups in. We had a session with one of the gentlemen back here, trying to understand and trying to get to the problem. I am not trying to say that we are not human. I am only saying that wherever we have information we would like to get whatever other information there is. We want it. We want to be in a position to act upon it. We want to be in a position for an orderly restoration of law and order.

Mr. McMILLAN. I want you to know that I have confidence enough in you and that I think you want to see the law enforced as best as possible in the Nation's Capital.

Mr. WASHINGTON. Thank you, sir. I am trying to do my best.

PRECEDENTS FOR THIS LEGISLATION

Mr. WHITENER. Let me at this point say to you, Mr. Commissioner, I think you understand that most of us on this committee want to assist you in any way possible and anything I might ask you I do not want you to interpret as being with personal hostility. But I would like to point out to you that we cannot ignore that a precedent has been established by your own government and your predecessors over the years. We have had on numerous occasions direct requests from the District government for the enactment of legislation relating to visits of various organizations to the District of Columbia. In 1965 the Commissioners wrote to the Congress and requested legislation with reference to the visit of the American Legion National Convention to Washington. They said in that report that this convention was estimated to bring into the District around 25,000 to 35,000 people and that it would generate a need for increased help on the part of the municipal government, and that the Commissioners are authorized and directed to make regulations to preserve peace and order, and to regulate traffic, and to issue licenses to vendors. It went on to say that it would require the American Legion of the 1966 Convention to indemnify to save harmless the District of Columbia, the federal government against loss or damage and liability and it authorized the requirement of an insurance policy or a bond or both in such a manner subject to terms as these officials may deem adequate to protect the interests of the respective governments. They went on to point out that legislation similar in scope to this resolution had been enacted in past years when con-

ventions and other public gatherings had brought large numbers of people into the District. The most recent one, 1965, was the joint resolution approved July 28, 1964, relating to the 91st Annual Session of the Imperial Council of the Ancient Order of Nobles of the Mystic Shrine of North America held in Washington in July, 1965. The Commission said they believed that resolution would provide for the safety and well-being of all of the persons in the District of Columbia during the period of the national convention of the legion.

Is there anything in this bill introduced by Mr. Abbitt and others that would be in conflict with that?

Mr. WASHINGTON. No. I do not know whether it would be in conflict with that. We are distinguishing here, as I tried to point out, our position with respect to the right to petition as against the use of public space. There is a great deal of difference in our minds. In a larger convention, like the Shriners, they were using public space, putting up vending machines all over the city.

Mr. WHITENER. Is there a substantial difference?

Mr. WASHINGTON. Again, I am saying, Mr. Chairman, that they were limited. This was on Pennsylvania Avenue. But the tense situation is against the use of the space which from our standpoint would not, from my standpoint, cause us to wish to talk about violence. What we are talking about is demonstrations that particularly have relevance to the District of Columbia in the streets and in these areas.

Mr. WHITENER. I think it is broader than you say. I remember distinctly that we passed special legislation here some time ago to authorize the payment of funds for sanitarians that Dr. Grant might have to bring in from outside his jurisdiction in connection with visitation by these large conventions. So there are problems other than the use of the streets that are involved in this. And I think that even with inaugural parades, if my memory serves me rightly, that the Health Department is empowered to make certain requirements for the health of the citizens. Is that not correct?

Dr. GRANT. Yes, sir, that is correct.

Mr. WHITENER. That has been found in many cases to exceed the manpower so that you could bring them in from outside into the area, people skilled in health services.

Dr. GRANT. We have that authority, Mr. Chairman. We have not used it, but we have that authority.

Mr. WASHINGTON. Is that not predicated, may I ask, on the commercial aspects of this, so that there is a charge for what is being done?

Mr. WHITENER. I do not believe that health is commercialized.

Mr. WASHINGTON. I am not meaning the health angle. What I am asking about is the nature of the other situation. I am not really trying to distinguish them, except to isolate the one feature of this that the District had some reaction to, which is that of bonding for the imposition of the bond that raised the question, both with the Justice Department and our own legal staff, which has to do with this, whether or not this was, indeed, restrictive and, indeed, perhaps restrictive enough to prevent a person without adequate bonding resources to be able to demonstrate. Gentlemen, that is all. That was our personal concern in this matter, that the movement, without the bond, we believe

we have adequate control and preventive measures, and I have indicated there have been some 85 cases.

Mr. WHITENER. We have had requests from the District Commissioners in the past for legislation relating to this.

Mr. WASHINGTON. You may well have it again, sir, under certain circumstances as I can see it. For instance, in this one, the area involved—and Dr. Grant has in this case worked with their own medical people, their own sanitation people—and several medical associations who are involved here—we even have had private citizens who have volunteered to provide food, an extra amount of food per day, which is a little different situation.

Mr. WHITENER. How many people do you anticipate will be coming into the city in connection with the current movement?

Mr. WASHINGTON. This is one of the difficult points to reach.

Mr. WHITENER. We have had the figure of—

Mr. WASHINGTON. 3,000 is a figure which sticks, just for the larger number of people that are beyond any imagination.

Mr. WHITENER. But the organizers of this particular program have suggested that it could be up to a quarter of a million people, have they not?

Mr. WASHINGTON. The latest this morning that I heard from Mr. Henry was that they expect 3,000—there will be some buildup—they do not expect, according to their terms, more than 10,000. We expect to be able to treat it on a day-to-day basis, and plan for it accordingly.

Mr. STEIGER. I think that you come up with another purpose of this hearing, Mr. Commissioner. I think that maybe you could help us. What you are saying is that the presence of the bond might preclude groups that are financially insolvent from demonstrating on District property?

Mr. WASHINGTON. Yes.

RESTRICTIONS ON WHERE TO ASSEMBLE

Mr. STEIGER. Okay. It would seem to me that the judgment we have to make is this: does it really deny a group the right to petition, the right to assembly, if we tell them there are areas that they cannot assemble on if they cannot post a bond? By your own testimony you have indicated that there are many areas within the boundaries of the District where they can assemble and they can petition, which the bond situation would not affect.

Mr. WASHINGTON. No, sir. If the bill is passed I am saying that we can withhold our restrictions—with a bond I would assume that we would have to put it on all.

Mr. STEIGER. My reading of the bill is that “no officer or employee of the government of the District of Columbia shall issue or sign a permit for parades in the District of Columbia, et cetera, et cetera.” It gets back to the heart of your explanation of the Shrine and the Legion permits which you granted. In the event that this bill is passed and the group could not post the bond, all it would mean is that they could not parade on District property. As I interpret that, if that is the case, our judgment then is not a withholding of the permission to petition, a denial of a person to petition. I do not personally think it is.

Mr. WASHINGTON. I think this is the nub of it, really. This was in our reasoning. It was the nub of the problem and this was the case then that would be saying to people who wish to petition, do not have extra money, that they cannot do it.

Mr. STEIGER. You cannot do it on District of Columbia property, because it has been demonstrated that the property owners in the District of Columbia are subject, at least, to potential damage beyond the control of the District to prevent.

Mr. WASHINGTON. If this were out, and they have to pay \$50, they have no more reason to believe that it will be any different than in the others.

Mr. STEIGER. I think that we are leaving the nub again, because in truth you are not denying the right of assembly and to petition. We are denying the right to use a specific area, because people in that area need protection which this group is not able to provide.

Mr. WASHINGTON. It does not afford protection. It only says that they will clean up. And if they do not, we are going to use the bond for that purpose. That is, again, the nub. There is no protection here.

Mr. STEIGER. The protection is inherent or implied in the fact that if you do damage it will cost you money; ergo you will not do damage. This is the implication.

Mr. WASHINGTON. I would like to believe that is proper. I do not know that it is.

Mr. STEIGER. This is one of the purposes of it.

Mr. WASHINGTON. I am very clear now that we are on the nub of what concerns us. I am saying that we have raised this question.

Mr. STEIGER. You have raised that question.

Mr. WASHINGTON. As to this bill. I do not think that we are pounding on the desks and saying that we are against it without some reason. I believe there may be other aspects that we have not looked at, even in the insurance angle. Of course, we will now do that. The whole problem is before us.

Mr. STEIGER. You do realize under the terms of the National Park permit they are required to post \$5,000 cash bond to clean up?

Mr. WASHINGTON. To clean up.

Mr. STEIGER. It is not a matter of any particular situation. Thank you.

Mr. WHITENER. The bells have rung. Some of us must be on the floor. We will have to recess our hearings until some later date, notice of which will be given. We appreciate your being with us. We would like to ask Dr. Grant if convenient to do so, to give us some of your health planning in connection with the current situation and also to give us the benefit of a little of the history when we have had the Legion and the Shrine and the inaugural parades and other large groups in the District of Columbia and how your folks had to extend yourselves in those situations and also what steps you took in preventing difficulties.

Dr. GRANT. We will be glad to do that.

Mr. WHITENER. I do not want to put too big a burden on you. I think it would be good if we had it before us so that we could put it in the record. And you will have a little time to work on it.

Mr. WASHINGTON. Could I just say, Mr. Chairman, for the record

that we favor the bill relating to the removal of property. We have got one small feature in mind.

Mr. WHITENER. I think that will be reflected by the report which we put in the record.

Mr. WASHINGTON. I wondered if you had that introduced.

Mr. WHITENER. It is already in the record.

Mr. WASHINGTON. Thank you.

Mr. WHITENER. We are sorry that our time has run out here today. We will at the call of Chairman McMillan, have another hearing. At that time we will probably be able to complete with you and of the other witnesses listed.

Thank you very much.

(Whereupon, at 12 o'clock noon the subcommittee was recessed, to reconvene subject to the call of the Chair.)

(Subsequently the following material was submitted for the record:)

AN EDITORIAL BROADCAST BY WMAL/AM/FM/TV, BROADCAST DURING THE WEEK OF MAY 5, 1968

BONDS FOR DEMONSTRATIONS

We again urge that Congress pass legislation requiring that bonds be posted to cover possible damage caused by demonstrators within the District of Columbia.

Such legislation was opposed this week before a House subcommittee by Assistant Attorney General Stephen Pollak. Pollak argued that such legislation might violate the First Amendment guarantee of peaceable assembly and the right to petition Congress for redress of grievances. Pollak contended that poor people might be deprived of these rights simply because they could not afford to post bond.

Constitutionality is, of course, a matter for courts to decide. We note, however, that no large demonstration can be organized without substantial money. The estimated cost of the so-called Poor People's Campaign is \$2 million. The amount of bond to be posted should certainly be scaled to the size of a demonstration.

Furthermore, Congress has the Constitutional responsibility to ensure the general welfare. Destruction of property—public or private—is certainly not in the general welfare.

OPINION OF CORPORATION COUNSEL RE PARTICIPATION IN POOR PEOPLE'S CAMPAIGN

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
OFFICE OF CORPORATION COUNSEL,
Washington, May 10, 1968.

To: WINIFRED G. THOMPSON, Director, Department of Public Welfare.

From: CHARLES T. DUNCAN, Corporation Counsel, D.C.

Subject: Request for Corporation Counsel's Opinion: Participants in the "Poor People's March."

By memorandum, dated April 30, 1968, you inquired concerning the granting of public assistance, of various types, to the participants in the "Poor People's March". Due to the pressures of time and the desirability of responding to your inquiry as quickly as possible, we have not given the questions posed a detailed legal analysis and are, therefore, providing you at this time primarily with our conclusions in order that you may prepare to meet the demands upon the Department of Public Welfare posed by the forthcoming March. Since most requests for assistance during this period will be made by those applying for regular public assistance, about which you inquired in Question 1-c of your memorandum, we shall deal first with that issue.

Question 1-c: *Regular Public Assistance Programs.*

In Question 1-c you inquired whether the Department of Public Welfare may authorize assistance and services for persons who make application for one of

the regular public assistance programs because they are in need, are not receiving public assistance from any other state, and would appear to continue to be in need for an indefinite period, or for as long as they may continue to reside in the District of Columbia. A primary consideration in evaluating the responsibility of the Department of Public Welfare to applicants for regular public assistance is the recent decision by the United States District Court for the District of Columbia in the case of *Minnie Harrell, et al v. Walter E. Washington, et al*, in which the District Court enjoined the Department of Public Welfare, among other things, "From refusing to process any application for Aid to Families with Dependent Children, Aid to the Blind, Aid to the Permanently and Totally Disabled, or General Public Assistance made to the District of Columbia Department of Public Welfare or in any way denying public assistance in any of the forementioned categories of aid to any resident of the District of Columbia solely for the reason that such person has not resided in the District of Columbia for a period of one year."

It is important to note that although the District Court by its decree eliminated the durational requirement of one year's residence as a prerequisite to the granting of public assistance, it did not eliminate the residence requirement itself. In fact, in referring to the question of whether a state could constitutionally confine the benefits of its public assistance program to its own domiciliaries, the Court said:

"We also are not called upon to decide this question, for it is not disputed that the plaintiffs are bona fide domiciliaries of the District who came for reasons disassociated from the desire to obtain relief not elsewhere available."

Thus, it is clear that the residence requirement applies to all applications for regular public assistance albeit that the duration of such residence may, based upon the District Court's decision, no longer be a blanket one year.

This interpretation of Section 3-203 of the District of Columbia Code in the light of the recent District Court opinion is reinforced by several considerations. First, there is no indication that Congress, in enacting the public assistance provisions of the District of Columbia Code, intended that the District assume the burden of rendering public assistance to anyone who was present in the District regardless of whether or not such person resided therein. Secondly, applying a practical approach to the question, it would make no sense to permit a resident of another state to come to the District, have himself placed on the welfare rolls and subsequently returned to his home state, which would be a consequence of eliminating the residence requirement in its entirety. Lastly, it must be acknowledged that the primary obligation of the Department of Public Welfare is to the bona fide residents of the District of Columbia which is necessitated by the limited resources available to meet the needs of all persons requesting public assistance.

It is thus clear that the Department of Public Welfare, in evaluating applications for regular public assistance, must apply the requirement that the applicant be a resident of the District of Columbia. The term "residence" has been defined by the courts of this jurisdiction to be "the place of abode, a dwelling, a habitation, the act of abiding or dwelling in a place for some continuance of time. To reside in a place is to abide, to sojourn, to dwell there permanently or for a length of time. It is to have a permanent abode for the time being, as contradistinguished from a mere temporary locality of existence." Residence has been considered not only to be the personal presence of one in a place but an attachment to the place by those activities or habits which express the closest connection between a person and a place. It is a place where an individual actively dwells and ordinarily has his home; the place where his wife and children reside, a fixed and permanent abode or dwelling place and more than a place of mere sojourning or transient visiting. The establishment of a home of some permanence with all its attendant characteristics such as the presence of family and household effects is evidence of the establishment of residence. In evaluating the location of the residence of an individual, the expression of intent to make a particular abode his home, as well as the duration of time during which he has resided there, are factors to be considered.

In applying this guideline of residence to potential applications for public assistance by those participating in the "Poor Peoples March", it may be concluded that one who moves into an apartment of a friend or relative, bringing with him his family and household possessions, and manifests an intention to remain, may, upon meeting other requirements, be considered a resident for welfare purposes. However, if an applicant is encamped in so-called "Tent City",

occupying Federal property under a permit with an expiration date, such an applicant would be considered a visitor and as such not a resident and, therefore, not entitled to assistance. Each applicant, of course, will have to be evaluated in terms of the definition of resident in the light of his particular factual circumstances.

Question 1-b: *Emergency Assistance Programs.*

In Question 1-b you inquired whether the Department of Public Welfare is authorized to provide assistance to those participants in the "Poor Peoples March" who make application for one of the Department's emergency assistance programs because they are faced with such crises as: lack of food, clothing, shelter, or medical services. It is to be noted at the outset that the Department of Public Welfare Handbook Release No. 149, dated April 25, 1968, Supplement 6, Family Emergency Services Program, Part II, sets forth the eligibility requirements which, among others, includes the requirement that the family must be domiciled in the District of Columbia. The foregoing analysis of the residence requirement may also be applied in the instance of applications for family emergency services since the requirement of domicile is even more stringent than of residence, requiring the showing of an intent to make his residence in a particular place permanent.

A second factor which will narrow the demands upon the Department for emergency assistance is that the applicant must show that he has exhausted the other facilities available to meet his emergency needs. Since a number of other agencies and groups in the community are being established to provide food, housing, medical and other vital services, the Department should ask each applicant for emergency assistance whether and to which other groups he has applied for aid. If all other resources have, in fact, been exhausted, and if an individual were nonetheless in genuine need of crisis assistance for food or other vital services, it is my understanding that the Department would, out of humanitarian considerations, render emergency services to the extent of its resources.

Question 1-d: *Temporary Assistance for Families with Unemployed Parents.*

In Question 1-d you inquired whether the Department of Public Welfare may authorize services and assistance for persons who apply for Temporary Assistance for Families with Unemployed Parents by virtue of the fact that they are employable, but unemployed, and in need. The existing eligibility requirements of the Department of Public Welfare in Handbook Release No. 66, of December 10, 1965, Supplement 3, Temporary Assistance for Families of Unemployed Parents, Part IV, includes certain requirements which might serve to disqualify applications for such assistance by participants in the "Poor Peoples March". Among such requirements are the following:

1. That the applicant be registered with the U.S.E.S. and have evidence of application at the District of Columbia Work Training and Opportunity Center, established under Title V of the Economic Opportunity Act.

2. That the applicant apply for unemployment compensation benefits.

3. That the applicant be the head of the *household* in which there is at least one child under 18 years of age, or under 21, if attending a school or university.

There are other requirements for such assistance, however, the ones listed are especially applicable to participants in the March.

Question 2: *Child Welfare Services Program.*

In Question 2 you inquired whether the Department of Public Welfare should be required through its Child Welfare Services Program to provide care and custody to children in families from other jurisdictions who are participating in the March and who may be referred to the Department for various needs. There is clearly no residence requirement applicable to those otherwise qualified for child welfare services and the full resources of the Department should be made available to meet the needs of any children of families participating in the March.

Question 3: *Food Stamp Program.*

In Question 3 you inquired whether the maintenance of a temporary domicile in the District of Columbia meets the Food Stamp Program requirement that applicants be living in the District of Columbia. The term "living" should be equated with the term "residence" for such purpose and the definition of residence given above applied in the case of those otherwise qualified for the Food Stamp Program.

We trust that the above analysis will enable the Department of Public Welfare to adequately plan to meet the needs and requests for public assistance by participants in the "Poor Peoples March". Any such applications will have to be evaluated, however, on a case-by-case basis and we will, of course, be available

to assist the Department in resolving any additional legal problems posed in regard to such applications as may be forthcoming.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
DEPARTMENT OF PUBLIC HEALTH,
Washington, D.C., May 22, 1968.

Mr. JAMES T. CLARK,
*Clerk, House District Committee,
Suite 1310, Longworth Building,
Washington, D.C.*

DEAR MR. CLARK: Enclosed herewith is the material requested by Congressman Whitener concerning the activities of this Department in relation to previous special events and the current Poor Peoples Campaign.

Very sincerely,

MURRAY GRANT, M.D., D.P.H.,
Director of Public Health.

[Enclosure]

EMERGENCY PROGRAMS FOR SPECIAL EVENTS, PRESIDENTIAL INAUGURATIONS, AMERICAN LEGION AND SHRINE CONVENTIONS, OTHER DEMONSTRATIONS AND CIVIL DISTURBANCES

In all special events, the D.C. Department of Public Health directs and coordinates all activities related to medical care and public health services. A Central Medical Command Post with multiple telephone lines and a Civil Defense Emergency Radio Network is located in the Deputy Director's Office. Emergency communications with the Medical Aid Stations is provided by mobile units of the Civil Defense Emergency Radio Network. This Command Post remains in continuous operation from the onset of the activity or situation until termination or control has been achieved.

I. PRESIDENTIAL INAUGURATIONS, AMERICAN LEGION AND SHRINE CONVENTIONS

A. *Funding*

Congress had approved special funds in the budget to offset the cost of such activities to the District of Columbia. The language of the appropriation for these special funds authorized the Departments of Defense and Interior to participate in terms of personnel, equipment, supplies, and use of federal buildings.

B. *Medical Activities*

1. *First Aid Medical Clinics* were housed in Army tents, Army ambulances, buses, Federal and District government buildings and Red Cross First Aid vehicles, which were set up at the staging area, along the parade route, and along dispersal areas. Medical evacuation was to the nearest hospital.

2. *Pre-positioned Ambulances* at the Medical Stations were secured from the Armed Forces, District Government, and the Red Cross.

3. *Medical Care for Indigents.* Commissioners' Orders were issued in the public interest to make nonresident, medically indigent cases eligible for emergency hospital care at District of Columbia expense.

4. *Warming Tents* for parade personnel at the staging area, depending upon the temperature, were supplied by the Army.

C. *Sanitation Facilities*

1. *Toilet Facilities* were provided in Federal and District government buildings. National Park Service toilet trailers, rental toilet trailers, and chemical toilets were used.

2. *Drinking Water* facilities were supplied by temporary bubblers on fire hydrants when required by the season of the year.

D. *Food Surveillance*

1. *Food establishment personnel*, temporary caterers and catered functions received intensive supervision and monitoring by the D.C. Department of Public Health personnel and additional food sanitarians on a temporary or contractual basis to insure safety and wholesomeness of food.

2. *Canteen tents*, supplied by the Army, were operated by the Red Cross for Disabled Veterans.

E. Other Services

1. *Holding Areas* were set up for lost or stranded persons.
2. *Horse Ambulances*, manned by veterinarians and animal trainers, were provided on a rental basis.
3. *Emergency Communications* were provided by temporary telephones and the Civil Defense Radio Network.

F. Additional Support to D.C. Government

Department of Defense.
National Park Service.
General Services Administration.
U.S. Public Health Service.
Contract and Freedmen's Hospitals.
D.C. Chapter, American Red Cross.
D.C. Medical Society.
Temporary contractual arrangements.

II. CIVIL RIGHTS DEMONSTRATION, AUGUST 1963

A. Funding

No additional appropriations were provided by Congress; the D.C. Government had to absorb the increase in costs.

B. Medical Activities

First Aid Medical Clinics were housed in Army hospital tents, Army ambulance buses and Red Cross vehicles set up on The Mall extending from the Washington Monument to the Lincoln Memorial. Pre-positioned ambulances were provided by the Army and the Red Cross. Medical evacuation was to the nearest hospital.

C. Sanitation Facilities

1. *Toilet Facilities* were provided by fixed buildings on The Mall, including National Park Service toilet trailers and rental chemical toilets at this site and outside Union Station.
2. *Drinking Water* facilities were provided by attaching temporary bubbler units on the fire hydrants.

D. Food Surveillance

The D.C. Department of Public Health supervised catered food provided the marchers; and General Services, Incorporated set up food stands along The Mall.

E. Other Services

Emergency communications were provided by the Civil Defense Network.

F. Additional Support to D.C. Government

Department of Defense.
National Park Service.
D.C. Chapter American Red Cross.
D.C. Medical Society.
Contract and Freedmen's Hospitals.

III. TENT-IN, LAFAYETTE PARK

A. Funding

Costs absorbed by D.C. Government.

B. Medical Activities

One Medical Aid Station was provided and manned by the D.C. Department of Public Health personnel. One pre-positioned ambulance was also provided by the D.C. Department of Public Health. Medical evacuation was to the nearest hospital.

C. Sanitation Facilities

One rented mobile toilet trailer and the toilet facilities in the park were available.

NOTE: This Tent-In was terminated by an outbreak of dysentery. Additional support to the D.C. Government was by contractual arrangements.

IV. ANTI-WAR DEMONSTRATION—PENTAGON BUILDING

A. Funding

No additional funds appropriated by Congress. D.C. Government absorbed costs.

B. Medical Activities

1. *Medical Air Stations* were housed in D.C. Department of Public Health trailer and a Red Cross trailer, as well as Army hospital tents manned by D.C. Department of Public Health personnel and Red Cross volunteers; these trailers and tents were on The Mall. The Department of Defense provided medical care and facilities at the Pentagon Building.

2. *Pre-Positioned Ambulances* were provided by the Red Cross, with volunteers, and medical evacuation was principally to D.C. General Hospital.

C. Sanitation Facilities

1. *Toilet Facilities* were provided by National Park Service mobile trailer and rented chemical toilets.

2. *Drinking Water* bubblers provided water from fire hydrants.

NOTE: A holding station was set up for stranded persons and additional support to the D.C. Government was provided by the following:

Department of Defense.

National Park Service.

D.C. Chapter, American Red Cross.

D.C. Medical Society.

Temporary contractual arrangements.

Emergency communications were provided by Civil Defense Network.

V. CIVIL DISTURBANCE, APRIL 1968

A. Funding

No additional appropriation by Congress; the District Government absorbed costs.

B. Medical Activities

1. *Three Medical Aid and Social Relief Stations* were set up in churches and were operated by volunteers from Medical Committee for Human Rights. Public Health Nurses from the D.C. Department of Public Health were assigned as co-ordinators and consultants.

2. *Medical Evacuation* was primarily to D.C. General Hospital; contract and Freedmen's Hospitals were also utilized.

3. *Additional Ambulances* assigned to the Fire Department Emergency Ambulance Service were provided by the D.C. Department of Public Health and the Army.

4. *Medical Screening of Detainees* at police precinct stations and the court house was provided by volunteer physicians from the Medical Committee for Human Rights.

There were 1,202 patients treated in the emergency rooms of D.C. General Hospital, contract and Freedmen's Hospitals; and 107 patients admitted to hospitals, and 9 deaths.

C. Following is a summary of environmental health activities related to the civil disturbances of April 1968.

The problems were related to protection of the drug, food, milk, and water supplies, sanitary disposal of waste, and rodent control. The fires interrupted electricity supplied to refrigerators, produced damage to food and drugs, destroyed buildings, broke water and sewer lines, and opened the buildings to looting of food and drugs, the safety of which had become questionable as a result of the interruption of refrigeration, damage from heat or contamination by tear gas.

Visits began on the morning of April 7 to thirty-four emergency food distribution operations which were evaluated as to potential food protection problems and provided with advisory service. Insufficient refrigeration capacity was the principal problem encountered.

None of the milk plants suffered any physical damage in the disturbance even though two are located within the affected areas. Close liaison was maintained with the plants during the critical period. There was some interruption in the

normal milk distribution arrangements only during the period April 4 through April 9.

A survey of the disturbance areas on the afternoon of April 7 indicated the extensive nature of the damage to food and drug establishments. More than 1,200 visits were made over the next two weeks to 935 premises where food and drug businesses had been interrupted by the disturbance. Of these, 216 had been in buildings which were demolished and which will have to be entirely rebuilt before any business can be resumed. For all practical purposes, at least 120 of these establishments are out of business. Another 467 interrupted businesses could not resume without some time consuming repairs to the buildings or the equipment, some of which are still under way. Another group of 252 businesses had reopened by April 21, having repaired the minor damage and completed necessary decontamination operations.

The disposal of damaged food and drugs was monitored to make sure that none reentered the normal trade channels. In many cases, the damaged food was mixed with debris from the demolished building. The Food and Drug Administration of the U.S. Department of Health, Education and Welfare, provided personnel who worked closely with the Bureau of Food and Drugs. These personnel assumed responsibility for disposal of damaged drugs and for the decontamination of salvable drugs damaged by tear gas.

A number of the destroyed buildings which had housed food businesses and which had become sources of food for rats, were baited and some were sprayed for fly control. In a few cases, deodorizing agents were applied to reduce odors.

Reports of broken water lines were relayed to the Department of Sanitary Engineering in order that the water supplies to the damaged buildings could be cut off. Soon after the disturbance, samples were collected from the water supply in the areas of disturbances and checked for adequacy of residual chlorine and bacteriological indications of contamination. Residual chlorine concentrations were found to be adequate and no indications of contamination were found.

There remained the problem of the demolished buildings in which the rubble mixed with food is serving to feed rats, is the breeding place of flies, and a source of noisome odors. In most cases, neither the former business operators nor the property owner has assumed responsibility for cleaning up the debris. This situation was called to the attention of the appropriate offices of the District Government immediately after the disturbance and on several occasions since then and suggestions have been made for possible ways in which the District Government could assure the early clean-up, possibly by actively participating. Although a few contracts have been let by the District Government, demolition and disposal of debris is proceeding slowly in a handful of the 200 buildings, many of which can be expected to become increasingly more serious problems with the passage of time.

D. ESTIMATED COST OF DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC HEALTH ATTRIBUTABLE TO ACTIVITIES RELATED TO CIVIL DISTURBANCE, APRIL 1968

	Number of units	Estimated cost
1. Medical care estimated cost:		
Emergency room treatments:		
Contract hospitals.....	980	\$5, 979
District of Columbia General Hospital.....	222	2, 387
Total costs emergency room treatments.....	1, 202	8, 366
2. Inpatient care:		
Contract hospitals admissions.....	88	34, 204
District of Columbia General Hospital admissions.....	19	20, 691
Total cost for inpatient care.....	107	54, 895
Total contract hospitals cost.....		40, 183
Total District of Columbia General Hospital cost.....		23, 078
Total medical care estimated cost.....		63, 261

¹ Absorbed by District of Columbia Department of Public Health.

E. Non-Hospital Estimated Costs

1. Personnel Compensation:	<i>Estimated cost</i>
Administration:	
Office, Director of Public Health.....	\$851
Administrative Services Division.....	6,219
Procurement and Supply Division.....	184
Total Administration.....	7,254
2. Planning and Research: Program Review and Development Division...	174
3. Preventive Services:	
Office of the Associate Director.....	326
Bureau of Nursing.....	2,048
Bureau of Chronic Disease Control.....	279
Health Mobilization Division.....	1,747
Total Preventive Services.....	4,400
4. Environmental Health:	
Public Health Inspection.....	347
Environmental Engineering Division.....	220
Bureau of Food and Drugs:	
Office of the Chief.....	682
Food Technology Division.....	237
Field Services Division.....	7,210
Total Environmental Health.....	8,696
5. Medical Care: Office of the Associate Director.....	204

F. Supplies

Supplies	1,321
Total non-hospital estimated costs.....	¹ 22,049
Total medical care and non-hospital estimated cost.....	85,310

¹ Absorbed by D.C. Dept. Public Health.

G. Additional support to D.C. government

Department of Defense.

Contract and Freedmen's Hospitals.

Medical Committee for Human Rights Volunteers.

VI. POOR PEOPLE'S CAMPAIGN

A. Funding

To date, no additional appropriations have been provided.

The Department of Public Health has informed the contract and Freedmen's Hospitals that the District Government cannot assume financial responsibility for treatment of patients connected with the Poor Peoples' Campaign at their hospitals.

B. Medical Activities—Current and Proposed

The Medical Committee for Human Rights (volunteers composed of physicians, dentists, psychiatrists, psychologists, nurses, nursing assistants and clerical staff) has the primary responsibility for medical care, food sanitation and general environmental sanitation.

The responsibility of the D.C. Department of Public Health will be limited to assistance to the Medical Committee for Human Rights in those areas where they do not have adequate resources.

C. D.C. Department of Public Health Assistance

1. We are loaning two medical trailers and one public health nurse at Resurrection City; and one public health nurse for consultation and referral of health problems at St. Stephen's Church.

2. The Southwest Health Center will be available for medical examination of campers of Resurrection City.

3. Patients needing inpatient or outpatient treatment or diagnostic work-up are being referred to D.C. General Hospital. Diagnostic laboratory services are available at the Departments Central Laboratory.

4. The Department of Public Health cannot neglect its public health responsibility to protect the health of all persons, regardless of whether they are residents or visitors. We are participating in an immunization program against measles, diphtheria, tetanus, pertussis, poliomyelitis and small pox.

5. We are engaged in tuberculin skin testing, chest xray and serology surveying.

D. Environmental Health

1. *Sanitation.*—To protect the health environment, the Department is supervising and monitoring the water supply, sewage disposal, trash and garbage collection, and insect and rodent control.

2. *Food.*—To protect the food supply, prevent contamination and spoilage, the D.C. Department of Public Health is supervising and monitoring the sources, preparation and transportation serving the people.

E. To carry out the above responsibilities in Section VI, C and D

We have assigned medical and paramedical personnel, nurses, sanitary engineers, food technologists and a nutritionist to the respective areas.

We are coordinating our public health activities with the National Park Service.

F. Additional Support to D.C. Government

National Park Service.

The Department of Defense is loaning ambulances and an ambulance bus with supporting personnel, if needed.

The D.C. Medical Society.

The Medical Chirurgical Society of D.C.

The Walter T. Freeman Dental Society.

The D.C. Chapter, American Red Cross.

The Medical Committee for Human Rights.

COSTS TO THE DISTRICT OF COLUMBIA OF THE POOR PEOPLE'S CAMPAIGN

[As summarized by the Government of the District of Columbia, Finance Office, July 8, 1968]

Agency or department	Total cost, week ending June 29	Prior reported costs	Total cost through June 29, 1968
General Administration.....		\$100	\$100
Death investigations.....	\$157	1 286	1 443
Metropolitan Council of Governments.....	916	1, 692	2, 608
Buildings and Grounds.....	752	270	1, 022
Corporation Counsel.....	640	5, 376	6, 016
Metropolitan Police.....	193, 414	338, 870	532, 284
Fire Department.....	856	15, 810	16, 666
Civil Defense.....	954		954
Juvenile court.....	881	9	890
Court of general sessions.....	4, 937	1, 214	6, 151
District of Columbia Bail Agency.....	44	274	318
Department of Corrections.....	50, 509	3, 561	54, 070
Licenses and Inspections.....	337	523	860
National Park Service, National Capital region.....	7, 176	2 46, 082	2 53, 258
Public Health.....	4, 813	63, 789	68, 602
Public Welfare.....	10, 151	2, 233	12, 384
Highways and Traffic.....	31, 130	6, 523	37, 653
Motor Vehicles.....	66	134	200
Sanitary Engineering.....	32	10, 145	10, 177
Washington aqueduct.....	40	986	1, 026
Total.....	307, 805	497, 877	805, 682

¹ Cost related to the death of 1 of the Poor People at the Department of Agriculture.

² In addition it is estimated that \$106,516 in Federal funds have been spent to date.

This does represent the major cost to the District of Columbia for the Poor People's Campaign. However, we have estimated that there will be some additional cost as follows:

Department of Corrections----- \$3, 600
National Park Service----- ¹20, 333

¹ Also it is estimated that they will need additional Federal funds amounting to \$40,667.

The following indicates the type of expenses incurred through June 29, 1968:

	Amount	Percent of total cost
Regular staff time spent.....	\$376, 734	46. 8
Overtime costs.....	371, 473	46. 2
Equipment.....	15, 912	2. 0
Patient treatment.....	9, 957	1. 2
Meals for jail inmates and working staff.....	9, 394	1. 1
Child care.....	5, 644	. 7
Transportation ¹	4, 685	. 6
Meals for policemen.....	4, 468	. 5
Supplies, including gas and oil.....	4, 283	. 5
Miscellaneous.....	3, 132	. 4
Total.....	805, 682	100. 0

¹ Represents payment to Travelers' Aid for transportation of indigent nonresidents to their homes. The Department will be reimbursed for this expense from private sources.

The following Agencies and Departments did not report any cost either direct or indirect for the Poor People's Campaign:

- Alcoholic Beverage Control Board
- Administration of Parole Laws
- Administration of Insurance Laws
- Administration of Wage, Safety and Hour Laws
- Filing and Recording of Property and Corporation Papers
- Public Service Commission
- Planning and Zoning
- Metropolitan Area Transit Commission
- Board of Appeals and Review
- Commissioner's Youth Council
- Office of Community Renewal
- Commissioner's Council on Human Relations
- Metropolitan Area Transit Authority
- Board of Elections
- Occupations and Professions
- Public Library
- Veterans' Affairs
- Office of the Surveyor
- D.C. Court of Appeals
- D.C. Tax Court
- U.S. Courts
- Legal Aid Agency
- National Guard
- Public Schools
- Washington Technical Institute
- Federal City College
- Recreation
- National Zoological Park
- Vocational Rehabilitation

No attempt has been made to pro-rate the cost to the Executive Office or the City Council for the Poor People's Campaign.

This is the sixth report. Since the Poor People's Campaign has ended we will consider this to be the final report relative to the cost of the Campaign.

BONDS FOR PARADE PERMITS REMOVAL OF DESTROYED BUILDINGS

FRIDAY, MAY 17, 1968

HOUSE OF REPRESENTATIVES,
SPECIAL INVESTIGATING SUBCOMMITTEE OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C

The Special Investigating Subcommittee met, pursuant to call, at 10:20 a.m. in Room 1310, Longworth House Office Building, Honorable Basil L. Whitener (Chairman of the Special Investigating Subcommittee) presiding.

Present: Representatives Whitener (presiding), and Winn.

Also present: James T. Clark, Clerk; Sara Watson, Assistant Counsel; Donald Tubridy, Minority Clerk; and Leonard O. Hilder, Investigator.

Mr. WHITENER (presiding). The Subcommittee will come to order. We will resume our hearings on H.R. 16941 and H.R. 16948.

RECENT LOOTINGS

Before we start with the witnesses, I would like to read into the record a communication which I received today from the Connecticut Avenue Association, entitled "Don't Shoot Looters."

"On Friday, April 5, when negro rioters, looters, plunderers, and arsonists ran free to perpetrate havoc in downtown Washington, this interviewer spoke with four District of Columbia police officers. Three of them (high-ranking officers) were sufficiently well known to accept pledges that identities would remain undisclosed. The fourth, a private patrolman, indicated 'I don't really care if you use my name', because he said he had already made plans to leave the force.

"In summary, the following is, in part, information elicited from the four conversations:

"District police were told to avoid making arrests.

"Looters were to be ignored—unless they were white.

"Orders had come in briefings; sometimes with Safety Director Patrick Murphy present.

"On Friday afternoon, police radio carried a message that President Johnson had personally requested avoiding a brush with negro rioters whenever possible."

"Patrick Murphy to Police: 'Be scarce.'"

"Since his taking office, at the appointment of President Johnson, Safety Director Murphy has repeatedly let it be known that the White House wanted uniformed police to be inconspicuous in the event of Negro uprisings. 'Be scarce' was the way instructions came down.

"'Don't Shoot Looters'—'Don't use billies.'"

"'Patrolmen on the beat, in every precinct in Washington were told not to use their guns in any manner to prevent looting, arson, or damaging of property. They were instructed to employ their nightsticks only in cases of dire need for self defense.

"'Stupid To Do Business in Washington.'"

"Quote from one of the officers interviewed: 'The inference from the new police control is that anybody stupid enough to operate a business in Washington deserves to have his place looted and burned.'"

"While the President issued his permissive orders from the White House, a woman of great courage issued a 'shoot' order to the police of Prince George's County, Maryland. Commissioner-Chairman Gladys Spellman observed: 'You can't fight violence with non-violence.'"

"On January 17, 1968, told members of The Connecticut Avenue Association, in response to the question 'What good will a college education do the policeman who has a bank robber at gun point?'"

"MR. MURPHY: 'It will help him understand why the man is holding up the bank.'"

"We know we need a change—radical and drastic from the top down.

"F. O. Hinz, Executive Manager, The Connecticut Avenue Association."

We might make this a part of the record at this point, and I will so place it in the record.

(The document referred to follows:)

THE CONNECTICUT AVENUE ASSOCIATION

ORDER FROM WHITE HOUSE—"DON'T SHOOT LOOTERS"

On Friday, April 5, when negro rioters, looters, plunderers, and arsonists ran free to perpetrate havoc in downtown Washington, this interviewer spoke with four District of Columbia police officers. Three of them (high-ranking officers) were sufficiently well known to accept pledges that identities would remain undisclosed. The fourth, a private patrolman, indicated "I don't really care if you use my name", because he said he had already made plans to leave the force.

In summary, the following is, in part, information elicited from the four conversations:

DISTRICT POLICE WERE TOLD TO AVOID MAKING ARRESTS

Looters were to be ignored—*unless they were white!*

Orders had come in briefings—sometimes with Safety Director, Patrick Murphy present.

On Friday afternoon, *police radio* carried a message that President Johnson had personally requested avoiding a brush with negro rioters "whenever possible".

PATRICK MURPHY TO POLICE: "BE SCARCE".

Since his taking office, at the appointment of President Johnson, Safety Director Murphy has repeatedly let it be known that the White House wanted uniformed police to be inconspicuous in the event of negro uprisings. "Be scarce" was the way instructions came down.

"DON'T SHOOT LOOTERS"—"DON'T USE BILLIES."

Patrolmen on the beat, in every precinct in Washington were told not to use their guns in any manner to prevent looting, arson, or damaging of property. They were instructed to employ their night-sticks *only in cases of dire need for self defense.*

"STUPID TO DO BUSINESS IN WASHINGTON"

Quote from one of the officers interviewed: "The inference from the new police control is that anybody stupid enough to operate a business in Washington deserves to have his place looted and burned."

While the President issued his permissive orders from the White House, a woman of great courage issued a "shoot" order to the police of Prince George's County, Maryland. Commissioner chairman, Gladys Spellman observed: "You can't fight violence with non-violence."

On January 17, 1968, told members of The Connecticut Avenue Association, in response to the question "What good will a college education do the policeman who has a bank robber at gun point?" MR. MURPHY: "It will help him understand why the man is holding up the bank."

WE KNOW WE NEED A CHANGE . . . RADICAL AND DRASTIC FROM THE TOP DOWN.

F. O. HINZ,

Executive Manager, The Connecticut Avenue Association.

1404 S. 28th St.,
Arlington, Va. OT 4-6274

Mr. WHITENER. This communication appeared in the mail today. It is at variance with the testimony we have had here, but it is not for us at this point to determine which version of what happened here at the riots is correct. I assume that the Connecticut Avenue Association is a responsible body. I believe that their accusations are such that those who are the objects of their accusations will want to request an opportunity to come before this committee and to refute, if they can, these allegations of fact, if they are facts. We have to determine that on the basis of the evidence.

Is there anyone here from the District Government who would like to comment upon this document which I have just read?

**STATEMENT OF ROBERT KNEIPP, ASSISTANT CORPORATION
COUNSEL, DISTRICT OF COLUMBIA**

Mr. KNEIPP. Mr. Chairman, I am here, but I do not believe I should comment on it. I think that is probably within the province of Mr. Murphy.

Mr. WHITENER. Will you please advise Mr. Murphy of this document? I am sure you can get a copy of it from the Connecticut Avenue Association. You may want the telephone number of the author, it is OT 4-6274.

Mr. KNEIPP. If I can get a photostat-copy of it from the Clerk of the Committee, it would be of help.

Mr. WHITENER. All right, sir.

I understand that Mr. George Kalavittinos is here and would like to testify.

We will be glad to hear from you now.

Do you have additional copies of your statement?

Mr. KALAVITTINOS. Yes, sir.

Mr. WHITENER. Do you represent any organization or are you speaking only for yourself?

Mr. KALAVITTINOS. I am a Washington citizen. I was born and raised in the city of Washington. I represent several of my business associates.

Mr. WHITENER. You may proceed.

STATEMENT OF GEORGE KALAVITINOS, A WASHINGTON, D.C., CITIZEN AND BUSINESSMAN

Mr. KALAVITINOS. Mr. Chairman and distinguished members of this Subcommittee.

I am appearing before you today as an ordinary citizen and a Washington businessman. There are many here who are familiar with Part of Amendment 14—Ratified July 9th, 1868, which says: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction, the equal protection of the laws." (I presume the Amendment included Washington, D.C.)

Now, exactly 100 years later, a so-called riot erupted Thursday evening, April 4th, 1968, in this city of the District of Columbia which resulted in arson, vandalism and thievery.

Many merchants' businesses were looted and burned to the ground. These same merchants who for years have been paying their taxes, which part payment of the taxes went for police protection. Where was the Police protection for these merchants? Why should these merchants be held responsible for the removal of the debris, for the demolition of their buildings, and for the cost of such undertaking? They did not burn their buildings down. It is the City's responsibility to remove the debris and demolish the buildings, for they did not render the necessary "police protection".

I want to read to you a statement entitled "The City of No Windows."

As a result of the Supreme Court decisions and through the liberals and certain politicians of our great nation we are now faced with our police forces around our nation both local and state being now totally neutralized. We, as a nation from July 4, 1776, when the Declaration of Independence was adopted by the Continental Congress, have never been faced with a more critical situation as we are confronted with today—and that is a complete breakdown of law and order.

Now, how did this situation come about?

How did we let it happen?

Is it too late to do something about it?

What is the solution? Money, education, bloodshed, military dictatorship, communication—What?

What has happened to this nation? Where are our leaders? Where can we find a voice to tell those hoodlums, animals and punks, both white and black militants who have no regard for our country and its laws? Where?

What leaders can be found—political or private citizens—who will speak up and say "Law and order is not going to retreat anymore; enough is enough?"

I, as a D.C. businessman and citizen of these United States have had it. I am now damn mad. I want to help do something—anything to awaken this city and this nation to the fact that by tomorrow it might be too late.

Now, let's take a look at our Bill of Rights as citizens of these United States of America and citizens and businessmen of Washington, D.C. Let us go back to July 9th, 1868, when the 14th Amendment was

ratified and read once again the part that says: "No State shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of law."

I presume the Amendment included Washington, D.C.

Today, when I read that part of the 14th Amendment, I say to myself: "What a fraud, what a joke, what a tragedy!"

I suppose the Supreme Court and those few liberals and politicians and others are going to now void the part of the Bill of Rights in Article II which says: "The right of the people to keep and bear arms shall not be infringed."

How naked do those in the Supreme Court and liberals want me as a citizen to be? How naked?, I ask.

The top priority on our list today is not the Vietnam War, the war on poverty, the race to the moon or the rebuilding of our cities but the breakdown of law and order especially during these past ten years.

Let us go back further, let's say 1953, in Montgomery, Alabama, and the bus boycott. Then later across the South, demonstrating and protesting to integrate the lunch counters, the toilets, the schools; eliminate the poll tax, the right to vote, and many other wrongs, which I as a realistic individual have never believed in or condoned. For in many cases mass demonstrations and mass protests that were supposed to be non-violent but were only used to bring disorders, cause unrest and to provoke violence which later caused bloodshed, and during those early years many Negroes and whites who participated in those battles were humiliated and in many cases degraded.

And then approximately eight years ago there came upon us a few blacks and whites who had no plan or program for the betterment of the poor black or white peoples who infiltrated into organizations such as CORE, SCLC and others which were established. Many new organizations such as SNCC—which is better known as SNICK—whose only purpose is to divide the white and the blacks, to create chaos, cause violence and bloodshed with the resultant destruction of our cities and our great nation. Today, many, many people, both white and black, do not know who are the heads of SNCC. I will try to tell you.

No. 1. The No. 1 man is James Foreman, who has contacts with several African nations and Fidel Castro's Cuba. He is the man behind the scenes. Nothing happens within SNCC without his O.K. He is black.

No. 2. Reverend James Bevel, who was since 1965 and who still is the head of SCLC. The Reverend Martin Luther King, since 1965 was just a figurehead. The Reverend Abernathy today is nothing more than a figurehead, also, and could and will be replaced when the time comes. Reverend James Bevel gives the commands and tells Reverend Abernathy which speeches are to be read. All are black.

No. 3 and No. 4. Stokely Carmichael and H. Rap Brown are the ones who remain in the public's eye. Neither one makes a move without James Foreman's approval and the legal advice from their counsel, Mr. William Kunstler, who is white—and, by the way, he gets his orders from Arthur Kinoy who is also white and who teaches at Rutgers University located in New Jersey.

Mr. Kinoy has legal resources composed of Faculty Members and Rutgers University is the training ground for militant legal talent.

No. 5. IVANHOE DONALSON, black, has been involved with STOKELY CARMICHAEL since the beginning. He has major contacts within the white community. He also was head of the New York City office and fund-raising.

No. 6. CHUCK HAMILTON, of all the black militants is the most brilliant of the group. He has a Ph.D. in Political Science and is now teaching at Roosevelt University, Chicago, Ill. He was actually the one who wrote the book "Black Power" and not Stokely Carmichael.

No. 7. HARRY BELAFONTE, has African contacts, International contacts and contacts all through show business. He is one of the very large donors and fund raisers.

Stokely Carmichael's inner circle of friends here in Washington, D.C. are Ralph Featherstone, Cleve Sellers, Courtland Cox and William (Winkly) Hall. Also included are Lester McKinney, Local Head of SNCC and Gaston Neal, who is a dope addict.

These people in SNCC and other Militants like them in other organizations are to be held responsible for the most part in the breakdown of Law and Order. These same people along with the criminal elements, punks, and other demagogues are today and for many years have been teaching our youths of this nation how to lie, steal, loot, burn and to disrupt our schools across the nation.

Mr. WINN. Mr. Chairman, I do not believe—although I may be out of order—that the Committee should hear a history-book dissertation. I believe we are here on these two bills.

Mr. Chairman, one individual should not come up here and take the time to present this extensive statement orally. We could make the statement a part of the record. We have six or seven other witnesses sitting here representing views, we should not take their time for this.

Mr. WHITENER. I would suggest, Mr. Kalavittinos, that this statement which you make here giving your views on the riots might be made a part of the record, if you would like, and then we would let you speak to the legislation we are concerned with. We have two bills here. One is (H.R. 16948) to provide for the District of Columbia Government removing buildings destroyed and damaged in the riots, and the other bill (H.R. 16941) relates to the issuance of permits for parades and demonstrations.

Mr. KALAVITTINOS. I beg your pardon, Mr. Chairman. I will read part of page 9 which goes into this.

Mr. WHITENER. You will go to page 9?

Mr. KALAVITTINOS. Yes, sir.

Mr. WHITENER. To the top of page 9.

We understand your contentions as to the effectiveness of law enforcement. The question before this committee now is, primarily, that to which we would like you to address yourself, the contents of the two bills which we now have before us.

Mr. KALAVITTINOS. Well, if I can read this part, sir.

Mr. WHITENER. How much time will it take?

Mr. KALAVITTINOS. I would say about three minutes.

Mr. WHITENER. Go ahead.

RECENT LOOTING AND RIOTING

MR. KALAVITINOS. Can you imagine a merchant who works for 14 or 16 hours a day, if he is lucky makes approximately \$125.00 per week, opens his store and during the normal course of business he has to relieve himself and he has to lock his doors for fear of mugging and thievery. Same merchant after a hard day's work approximately 8 or 9 o'clock at night closes up his place of business and goes home. Picture this merchant driving in his car towards his place of business and turning the corner to park in front of his place of business and lo and behold he finds his store has been looted and burned to the ground! Can you imagine the expression on this merchant's face, his thoughts, all of this gone up in smoke after 20 or 25 years of hard work. Then on the following day he gets a cancellation notice from his insurance company. Would you say this is bad enough?

Now, along comes Betty Furness, a political hack who has been appointed by the President of these United States as an adviser on consumer affairs and says: "Mr. Merchant, you have gouged, you have stolen from the poor of this city and of this Nation." Is that enough?

No, let's go further. Along comes Mr. Julian R. Dugas, Director of the City Licenses and Inspections who has no right nor experience to hold such a job and who has been appointed by the Mayor of D.C. and makes a statement to Mr. Merchant—"You now have a 24-hour notice to remove all the debris and to demolish your burned out building. Now that is the law, or else we shall proceed to prosecute you."

Mr. Merchant, after so many problems and too old to start over to rebuild his business, gets into his car, drives home, pulls into his garage, locks the doors, quietly goes into a box in his garage and pulls out hose—attaches it to the exhaust pipe of his car, then closes all windows in his car, slowly turns on the motor, lays his head down and slowly commits suicide.

Do the newspapers, radio, T.V. media pick up this story, the answer is no. They only cover and give a write-up when some punk calls the Head of the City Council a Honkie. And where was the police protection that this hard working citizen who for years paid his taxes for—I ask you Mr. Patrick Murphy, Safety Director—where?

So now approximately 1½ weeks after Mr. Merchant was buried, along comes a letter in the mail to Mr. Merchant's widow, who by the way has three children, from our Mr. Dugas which states, upon receipt of this letter you are now being assessed by this D.C. Government for the cost of removing the debris from the burned out property and if payment is not made up by a certain date you will have to pay 2% penalty per month. What a tragedy!!

Today, many of our business people who were looted and burned, many who were not looted and burned, are removing their display windows and replacing them with brick walls. In Europe, in Asia and even in this great country of ours, hundreds and thousands of years ago, great walls were built around their cities, village and homes. They built these walls to protect them against an invasion by armies, plunderers, and wild beasts. Are the businessmen and private citizens of this community supposed to build high walls to protect themselves

against the army of criminals, punks, and militants who are now here and the thousands of potential criminals, punks, and militants that the Poor People's Campaign is bringing to this city?

Are we to build high walls to protect us from the plunderers and the wild beasts that are walking our streets today—these animals that this city allows to roam about, killing, raping, burning, looting, mugging and stealing?

Is Mr. Safety Director Patrick Murphy and the President of these United States going to allow the same thing to happen that happened April 5th, 1968?

Are looters going to be ignored, unless they are white?

Are the police going to be told not to shoot looters or use even their billies?

Are the police going to wait until some looter, arsonist, or black militant kills him before he acts?

Are the National Guard and Regular Army troops going to have live ammunition or are they going to play make-believe maneuvers just like they did April 5th, 1968?

How can any police or official of this city and of this country fight violence with non-violence? What idiot came up with that last order?

I, for one, will not run; I, for one, am now informing this city and its officials that I will kill to protect myself, my family, my property, and my country. For there are many of us who will not stay home this next time.

Mr. WHITENER. Thank you.

BUSINESS EXPERIENCE

As I understand it, from one of your exhibits, you are a businessman here in the District of Columbia in the real estate business?

Mr. KALAVITINOS. I am.

Mr. WHITENER. What is the nature of your business, brokerage, or what?

Mr. KALAVITINOS. I started out as a roominghouse operator. Then, I became a speculator. I started out about four years building.

Mr. WHITENER. Doing what?

Mr. KALAVITINOS. Constructing new buildings. You see, what I am is called a slum landlord, and reconstruction. I was forced to sell three of my buildings. The last one that I built, fourteen months ago, in the first year I had \$3200 worth of broken glass. I lost \$60,000 after the building was built.

Mr. WHITENER. You say that you were forced to sell your building?

Mr. KALAVITINOS. I sold three. I was forced to sell, on account of vandalism. I got beat out of rents. I have had very little cooperation from the United States Marshal's office, and Mr. Dugas' office, and the Housing office.

Mr. WHITENER. You were born here in the District of Columbia on February 11, 1921, and you are 28 years of age?

Mr. KALAVITINOS. I have a son who is 28 years of age.

Mr. WHITENER. Yes, sir, your son is 28—excuse me.

You entered the United States Army in World War II; where you sustained wounds in combat and then was discharged from the service?

Mr. KALAVITINOS. Yes, sir.

Mr. WHITENER. Are there any questions, Mr. Winn?

Mr. WINN. I was not trying to play down your testimony, but I question whether a great deal of your testimony is germane to the two bills we are considering.

I can understand your feeling. You and I are in the same boat. I am a landlord. I own 356 units.

I would ask you if, prior to the time that you built your buildings or took over old buildings, did you look into all of the conditions that prevailed? And you were born here in Washington, D.C. You made the investment. I ask you whether conditions have changed that much? They have gotten worse, I am quite sure, but they have not changed that much. I would say offhand, my opinion is that if these things happened to you, and I do not question but what they happened, part of it possibly could be a lack of judgment on your part.

Mr. KALAVITINOS. Sir, in 1963 and since that time they raised the taxes three times. The cost of repairs have gone up. If I raise my rent \$5, repairs are \$6.

Mr. WINN. I realize that.

Mr. KALAVITINOS. In addition to that, conditions were not as bad then when I originally started as they are today.

When I say that I built, I have gotten up at five o'clock in the morning, and I have been on the job at 6 myself. Conditions were not then what they are now.

Mr. WINN. You are to be commended for that.

Mr. KALAVITINOS. In other words, I was a sucker to build, but I thought I would try to put something different than the ordinary run of things in those areas. I built them good; I built them well. It was not cheap. But what has been happening? These children around, three or four blocks away, come down. They probably had a party about a block away; they come down. I cannot keep washing machines in the places. And then there is intimidation of the tenants.

Mr. WINN. Do you not have a mortgage on the buildings?

Mr. KALAVITINOS. I have.

Mr. WINN. Did the mortgage company investigate the conditions before they put most of the money in there?

Mr. KALAVITINOS. They investigated the conditions. This is why a lot of the lending institutions do not want to lend money for that.

Mr. WINN. I would agree with you on that. That is another problem.

Mr. KALAVITINOS. They investigated it. I have a very good reputation of putting up a nice building and not a crack-jack place, but the conditions were different. Today, you could not get a loan to save your life in those areas. They would be crazy to lend you money.

Mr. WINN. That is 100 per cent correct, that last statement.

Mr. KALAVITINOS. I have been in all phases of this. I have lived in it. I was living in an integrated neighborhood.

Mr. WINN. I appreciate your feeling on that. I do question some of your own judgments, as we all do once in a while. I do not get any other idea. I note that you have about an hour and a half of testimony.

Mr. KALAVITINOS. I have only given you one part of it.

Mr. WINN. Thank you very much.

Mr. WHITENER. Thank you very much.

We will make your whole statement a part of the record, as I have already stated.

(The prepared statements submitted by Mr. Kalavitinos follow:)

THE CAUSE OF RIOTS AND THE REMEDIES AND SOLUTIONS

(By George Kalavitinos, Washington businessman—born and raised in the District of Columbia)

Mr. Chairman, Distinguished Councilmen and Ladies. I am appearing before you today as a simple citizen in order to express my sincerest views and recommendations with reference to the chaotic circumstances existing in our Washington Community. I have lived all my life in this community and I want to list my background.

I am George Kalavitinos, born February 11, 1921. I have attended the following elementary and junior high schools in the District of Columbia:

Seaton Elementary School—2nd and I Streets, N.W.

Blake Elementary School—North Capital & K Streets, N.W.

Gales Elementary School—Mass. Avenue and New Jersey, N.W.

Henry Polk—7th Street between O & P Streets, N.W.

Langley Junior High School—1st and T Streets, N.E.

Jefferson Junior High School—6th Street, S.W.

McKinley High School—Drop-out, because of marriage.

I am the father of two children—a son, 28 years of age, and a daughter who is 25.

I am also a grandfather.

I left home when I was 15 years old. I have four brothers and two sisters. I have sold produce and newspapers on the streets and corners of 7th Street, N.W., 5th and Florida Avenue, N.E., in the Farmers' Market. I also lived for many years in several integrated neighborhoods where my immediate neighbors were *Negro* families. There were also Jewish, Italian, and other minority group families. We socialized without incident.

I entered the U.S. Army just after Pearl Harbor and was wounded severely. After many months' hospitalization, I was discharged and returned to civilian life, whereupon I went into the rooming-house business and became a real estate broker and owner of several pieces of property in the City of Washington.

My parents, who came to the United States from Greece, struggled very hard to make a living and with their determination and hope they knew they would conquer poverty. I am pleased to say that this was accomplished.

Mr. Chairman, you will note that my life has not been "all peaches and cream." I want to state that this problem is not a black and white problem, as I see it, but a "man-to-man" problem. Due to poor leadership on both sides, I would say that black people are terribly misguided, and white people are too. What is the solution? In my opinion, the solution is proper planning for public good, regardless of race, color, or creed.

Referring to the recent riots here in the District of Columbia, I feel that it did not take the death of Martin Luther King to explode the situation. This is the crutch so many have used as their excuse for such behavior. The person who did the most to trigger the so-called riots, who got the riots started, was the speech made by Stokely Carmichael when he called upon Negroes to "retaliate" for King's death and to get guns.

A planned guerrilla warfare is now in our land with criminal approaches, and it is comprised of misleading elements, such as the demagogues Stokely Carmichael, H. Rap Brown, and other "punks" like them, who do not have any proposal for better communities. They are the "blind leading the blind." There appears to be great emphasis in the "Mafia-approach" resulting in the threatening of some black people with loss of life and property.

I do not regard the recent disorders experienced in the Nation's Capital as riots. To me this was vandalism, arson, thievery, etc. planned by the demagogues and the criminal elements of this city many months before. They knew which places to hit, when to hit, and how to hit. If anyone thinks there is no criminal conspiracy in this city they are sadly mistaken, for one only has to read the headlines through the past several years to justify what I am saying. There has been looting of our business communities for many years. I personally have had numerous experiences where I have been approached to buy clothes with labels

from Garfinkel's, Woodward & Lothrop, Louis & Dan Brown, University Shop, and jewelry, television sets, furniture, etc.

On April 18, 1968, a column written by Richard Starnes, a Scripps-Howard Staff Writer, in the Washington Daily News, another demagogue, Floyd B. McKissick, in his statement said: "I don't know if the white community has the ability to change."—"I don't know if it has the intelligence to listen to what's being said to it." My answer to Mr. McKissick is, "Yes, the white community has the ability to change and I know it has the intelligence to listen. But, on the other hand, does the black community have the ability to change and the intelligence to listen?" Both the black community and the white community have to work hand-in-hand without any interference or Mafia-type threats from the demagogues and "punks."

Also, in the same column, a question was asked of Mr. McKissick: "What is it that the Negroes really want?" Mr. McKissick explodes in bitterness when he hears it. "I don't like that question," he replies darkly. "What I want—what every black man wants—is really quite simple. I want everything you've got right now, and everything you hope to get." My answer to Mr. McKissick is: "You can have everything I have now through hard work, but not through hand-outs."

I would be willing to help show you the way to obtain the necessities of life—homes, jobs, schools, clothing, health, education, etc., for now and in the future, for those who want to be shown. But you must remember, Mr. McKissick, that the Negro's worst enemy is himself—for lack of communication, the poor Negro has been exploited more so by his own people ratio-wise than by the so-called whites.

Now, there are those black racists who say and demand 51 per cent of the businesses should be controlled by the Negroes, and that only Negro-owned businesses should be permitted to return to the burned-out areas of this community. Also, those same racists say that if the white businessman return, they will be burned out again. To start with, to have Negroes only owning all the businesses is totally infeasible. At this time very few Negroes have the capability that is needed to own and operate their own businesses. But given time, and through training and financial help from the white business community, there can be many Negro-owned and operated business. But let's not forget this is not something that is instant; it will require many years of practical experience both in training and in merchandising, buying, and most of all, hard work to compete with other businesses. Those demands made by the demagogues and racists should be repudiated by this City Council and by the Mayor in public. If racism is going to be based on the black and white kick, it is also understood that the blacks, as a whole, resent the Puerto Ricans and the Mexican-Americans. This indicates that the black militants are only interested in their own personal welfare—they are not for the best interests of the community in which they live.

I understand through several "scuttlebutt" sources that organizations such as Pride, Inc., are involved, in my opinion, in some type of "skulduggery." For instance, you will recall a recent confrontation with Rufus Mayfield—a Mafia approach involving all types of guns in order to discourage all types of free speech. And this was not a white man's proposal. This was "black to black." It appeared that Rufus Mayfield has to date, information for this community's interest that is not available for publication. There are sources also that claim that Pride, Inc. is involved in payoff schemes towards the militant-black-power identities.

In my extensive travels to countries of this hemisphere, I have obtained first-hand information, because while visiting I was always very interested in the areas considered underprivileged or unplanned. With this background information, I was able to compare them with similar areas in the United States. I will not hesitate to say that at our lowest levels we are better than any country in the world, even with regard to freedom of speech.

As a Real Estate owner, I would like to bring to the attention of this Committee that there is constant ridicule and harassment of property owners. The public, however, does not know of this kind of treatment of property owners. Not all property owners are alike, nor are people who rent. It is frightening to know that a newly constructed apartment can be rented on one day and in ten days the windows are broken and vandalism takes other forms; in addition, obscene language is found written on walls. Such occurrences are very discouraging to property owners.

Because of such occurrences that I have just described, property owners in many, many cases are unable to reduce rents and make necessary repairs. The responsibility, in most cases, should rest with the tenants. This is a problem of both black and white property owners. If philosophies such as "*It is not where you live, but how you live*" were emphasized, people might have more interest in defending the appearance of where they live and would not destroy or mar property regardless of who the property owners are.

I would say that I am a slum landlord with new construction at 1325-1327 Emerson Street, N. W.; 4625-4627 13th Street, N. W.; 4715-4721 Texas Avenue, S. E., which were sold; also 100-110 58th Street, S. E., which I still own. Through numerous causes, such as vandalism, high cost of material, taxes which were raised three times since 1963, and loss of rent revenues, when the total losses were summed up there was \$100,000 loss over a three-year period. In all cases, I personally constructed these properties from the ground up, working with Negro subcontractors and tradesmen. I found my relationship with them to be compatible 90 per cent of the time.

As I see it, the present laws within this community, through the Housing, Licenses and Inspection, Corporation Counsel's Office, and the Courts are inadequate. If something is not done to remedy this situation immediately, many property owners, both black and white, will be forced to abandon their property, and others will be forced into bankruptcy.

I know and I believe that in many cases the District of Columbia Government has in its employ numerous persons that have been hired under its kind of hiring practice and political practice, who are definitely not qualified and who do not have practical knowledge or intelligence to assess the situation and to make clear recommendations.

With this testimony, Mr. Chairman, I do not profess to know all the remedies but as an interested citizen and for the best interest of a better community, I feel that my recommendations should be given utmost attention. They are as follows:

Establishment of proper planning in all aspects, free of prejudice.

Blacks should establish their own leadership where frank discussions can arise, without fear of retaliation.

Since money is the basic topic, there should not be any curtailment of funds when programs are established for the public good.

The expansion of the city economy, eliminating political aspects.

Mr. Chairman, my testimony has been given in good faith and I hope that it will be accepted by you, your colleagues, and the dedicated public attending this meeting.

1111 Vermont Avenue, N.W.
Washington, D.C. 20005

"THE CITY OF NO WINDOWS"

(Written by: George Kalavritinos—May 11, 1968)

As a result of the Supreme Court decisions and through the Liberals and certain politicians of our great nation we are now faced with our police forces around our nation both local and state being now totally neutralized. We, as a nation from July 4th, 1776 when the Declaration of Independence was adopted by the Continental Congress have never been faced with a more critical situation as we are confronted with today—and that is a complete breakdown of LAW and ORDER.

Now, how did this situation come about. why did we let it happen, is it too late to do something about it? What is the solution? Money, Education, Bloodshed, Military Dictatorship, Communication!—What?? What has happened to this nation, where are our leaders, where can we find a Voice to tell those hoodlums, animals and punks, both white and black militants who have no regard for our country and its laws—where? What leaders can be found—political or private citizens who will speak up and say Law and Order is not going to retreat anymore, enough is enough? I, as a D.C. Businessman and citizen of these United States have had it. I am now damn mad. I want to help do something—anything to awaken this city and this nation to the fact that by tomorrow it might be too late. Now let's take a look at our Bill of Rights as citizens of these United States of America and Citizens and Businessmen of Washington, D.C. Let us go back

to July 9th, 1868, when the 14th Amendment was ratified and read once again the part that says: "(No State shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.") I presume the Amendment included Washington, D.C.

Today, when I read that part of the 14th Amendment, I say to myself, what a fraud, what a joke, what a tragedy!

I suppose the Supreme Court and those few Liberals and politicians and others are going to now void the part of the Bill of Rights in Article Two, which says: ("The right of the people to keep and bear arms shall not be infringed.") How naked do those in the Supreme Court and Liberals want me as a citizen to be, how naked, I ask?

The top priority on our list today is not the Vietnam War, the war on poverty, the race to the moon or the rebuilding of our cities but the break-down of Law and Order especially during these past ten years. Let us go back further, let's say 1953 in Montgomery, Alabama and the bus boycott. Then later across the South, demonstrating and protesting to integrate the lunch counters, the toilets, the schools, eliminate the poll tax, the right to vote and many other wrongs, which I as a realistic individual have never believed in nor condoned. For in many cases mass demonstrations and mass protests that were supposed to be non-violent, but were only used to bring disorders, cause unrest and to provoke violence which later caused bloodshed, and during those early years many Negroes and whites who participated in those battles were humiliated and in many cases degraded.

And then approximately eight years ago there came upon us a few black and whites who had no plan or programs for the betterment of the poor black or white peoples who infiltrated into organizations such as C.O.R.E., S.C.L.C. and others which were established. Many new organizations such as the S.N.C.C. whose only purpose is to divide the white and the blacks, to create chaos, cause violence and bloodshed with the resultant destruction of our cities and our great nation.

Let us take for instance the Local Head of SNCC and its leaders Lester McKinney and Gaston Neal, who by the way approximately two weeks ago, along with Stokely Carmichael and approximately 50 other militant punks held a high-level meeting at the home of some militant's girlfriend located at 704 Peabody Street, N.W., Washington, D.C. to discuss the use of further violence and to make plans for the coming Poor Peoples Campaign here in Washington, D.C., whereby they would create chaos and bloodshed. Also, again at a downtown Hotel in the heart of the business district, another meeting was held by H. Rap Brown, Stokely Carmichael, Lester McKinney, Gaston Neal and a few others. What was their purpose in having such a meeting in that location? None of them wore their usual dark glasses, a few were dressed in business suits. If you want to know their purpose, I'll tell you. It was for the planning of the coming of the Poor Peoples Campaign and how to cause riots, chaos and bloodshed. One must not forget that since the day of April 4th, 1968, when Martin Luther King was murdered and acts of arson, stealing occurred those same militants have now gone underground and guerilla warfare is now being waged here and around this country. Those militant punks have been training youths before April 4th, 1968 as well as today in the fine arts of looting, arson, stealing and stickups. For anyone today and yesterday can pick up any newspaper, turn on any radio, and T.V. media and read, hear and see who is in the headlines. Just a few days ago a friend handed me a mimeograph copy which was put out by the SNCC, herein quoted word for word. By the way, I saw a young black boy whose age was around 14 reading such a copy and making some nasty remarks to me. What I am about to say is not make believe, this and other pamphlets are now being circulated around by those militant punks to the youths of our city and our nation. So, Citizens both black and white please listen:

"BLACK BROTHERS !!

WE GOT WHITEY ON THE RUN ...

"WHITEY HAS GOT TO BE TAUGHT A LESSON. THE MORE WHITEY DEVILS THAT ARE FOUND WITH THEIR THROATS CUT THE MORE THEY WILL KNOW THAT WE MEAN BUSINESS. WE GOT THE WHITE POWER STRUCTURE IN OUR BLACK HANDS. RIOTS ARE NOT ENOUGH. WE HAVE TO SHOW THE WHITE DEVILS WHAT POWER REALLY IS.

CURSE THE WHITE DEVILS. RAPE THEIR WOMEN. SPIT ON THEM. TAKE OVER THE SCHOOLS. EVERY CHANCE YOU GET DESTROY THEIR WHITE HOMES AND GREEN GRASS. GO INTO THEIR NEIGHBORHOODS AT NIGHT AND DO ANYTHING YOU CAN DO TO PUT FEAR IN THEM. THEY ARE YELLOW BESIDES WHITE. WE HAVE THE LAW ON OUR SIDE. THEY HAVE TO BE ELIMINATED.

"WE HAD A DREAM TOO!

"WHEN THE TIME COMES TO INVADE WHITEY YOU WILL GET ORDERS TO DO YOUR PART. OUR SYMBOL IS A BLACK HAND AND THE PASS-WORD IS THE MAN. ANY BLACK BROTHER WILL LET YOU KNOW THE PAD OF OUR BEING, YOU WILL BE BOUND TO SECRECY AND YOU WILL BE ALLOWED TO BRING IN THE HEAD OF A WHITE DEVIL IF YOU ARE COOLED IN THE GROUP. THIS IS IT. RIOTS WILL LOOK LIKE PICNICS WHEN WE ARE THROUGH. DESTROY DESTROY DESTROY DESTROY "BLACK POWER IS BABY TALK MAN. THIS IS BLACK HAND POWER. THEY WILL FEEL THE STING. THIS IS A CALL TO ARMS. BLACK ARMS. BLACK BODYS. BLACK HEARTS. BLACK HANDS.

"BURN BABY BURN IS WHITE FLESH FROM NOW ON. NO LIGHTS. NO GAS. NO WATER. NO NOTHING FOR WHITEY. NO CALL FOR HELP. IT WILL BE TOO LATE FOR THE WHITE DEVILS. DESTROY.

PACK THE ROD AND STEEL

IF YOU WANT TO MINGLE ASK YOUR BLACK BROTHER IF HE IS ONE OF THE HANDS YEAH

UNITED BLACK HANDS U.S.A."

I'll now ask all of you citizens, both black and white, what are your thoughts? I knew for a long time what my thoughts were. Are we going to allow these militants, criminals, demagogues, animals and punks abduct this city and this great nation of ours through blackmail and intimidation. Where is that voice, where is the leader? Where?

There are many whites who have been and are still very much active in the black militant organizations such as SNCC and CORE. Many whites have been used and many blacks have been used, only for the benefit of the militants whose sole aim was and still is the overthrow of these United States. Fidel Castro, during his revolution in Cuba, recruited many naive individuals who later were executed, imprisoned, and many fled their country. These militants and demagogues here in this country are following the same tactics as Fidel Castro did in Cuba, for many of these punks were taught by the Cuban Leader. Many months ago, an organization that met in Chicago, Ill., threw most of those white followers and their white African Queens out of their organization. Those white militants who today still belong to some of those organizations contribute much money, time, energy and act as fronts. Many members of the clergy also act as fronts, raise money and many are themselves very militant. You have in many of these organizations black and white membership. I purposely want to tell you something that is very true, many white women have black boyfriends and they carry their boyfriends' guns in their purses, conceal guns, ammunition and other weapons of violence in their homes, their apartments, their parents' homes and apartments to be used when and if riots occur. The same applies to the black women who have white militant boyfriends. I ask you again, where are your daughters and sons, where does the allowance your Mr. Rich Daddy gives to your daughters and sons, how is it being used?

What has happened to this country, where are the leaders, the citizens who could but do not speak out? Is appeasement your answer Mr. or Mrs. America? It certainly is not mine. Has this country run out of leaders? If so, why not borrow the Three Colonels (JUNTA) from Greece, the cradle of Democracy. Many say dictatorship is not the answer. Well, I say we could use some now. They certainly would never put up with what is going on here in Washington, D.C. and the nation. These punks, demagogues, animals, militants, beatniks and other queer ducks would have long been exterminated from their rat holes and the streets of our nation if we had the three "Colonels."

Now, the Poor Peoples Campaign has started to take shape and is beginning to arrive here in Washington, D.C. What idiots are allowing these masses of people to come and squat down in this nation's capital? What good will come out of it? Who will profit from such a venture, certainly not the poor people who are being misled. The only persons who are going to get any benefit are those dema-

gogues, animals, militants, punks, and criminal elements of this city, nation and the world. How stupid are these officials who are allowing this campaign? Don't they know that S.C.L.C. is controlled by SNCC and that Rev. Bevel is a SNCC leader? Don't they know that for every poor man and woman they are recruiting, they're bringing in and infiltrating militant members into the S.C.L.C. Poor Peoples Campaign. Don't we have enough criminal acts in this city committed by youths? What is going to happen when and if the marchers return to their homes? How many are going to remain here, how many are going to join the criminal elements of this city? How many more crimes will be committed? How mad are our officials of this city and nation, how mad??

Through my contacts, both black and white here in this city, I am being told that the April 5th, 1968 so-called riots were only a warm-up. The main event is about to begin. These militants know that the Police have orders not to shoot children. So what have they started to do? Just listen, just read a few happenings since April 4th, 1968. Three youths held up the Industrial Bank of Washington on Georgia Avenue, N.W.—their ages: 15, 15 and 16 years old and they used a shotgun and hand guns. Four youths arrested for \$100,000 fire and looting of the Standard Drug Co., Inc. 1115 H Street, N.E., April 18, 1968—ages were: 14-16-16 Boys; and a girl 17 years old. Several dozen places of business have been looted and set on fire by youths. A S.E. salesman, April 19, 1968, shot and killed one out of five bandits in Prince George's County Branch of Suburban Trust Co. Three youths held up Public National Bank, at Georgia and Eastern Avenues, N.W. while driving down Georgia Avenue at a fast rate of speed, their car hit a parked car. The Driver, a young female was killed, two youths injured. Fifteen youths, several who belong to Pride, Inc. shot and killed Ben Brown, a liquor store operator, whose place of business was looted. The assassin was identified as Ernest M. Greely, a 29-year old man, who is a Pride, Inc. worker. A 17-year old youth was shot and killed while he attempted to break into a store a few doors from his home on May 10, 1968. The store was the S & J Market—2031 Benning Road, N.E., by Wilbert A. Coble, Jr., 27, a partner in the store. What is this city and nation coming to when a person has to sleep in his place of business to protect it? Mr. Wilbert A. Coble and his partner took turns sleeping in their store to protect it. Where is the police protection, what are we paying taxes for? Is every place of business going to become an armed store? Is Mr. Businessman going to have to remain in his store 24 hours a day to protect it? Is Mr. Businessman going to have to brick up his store front and eliminate his show windows? Is this city to become "THE CITY WITH NO WINDOWS?" or be known to the people as "THE CAPITAL CITY OF THE WORLD WITH NO WINDOWS?"

How many merchants and businessmen, both black and white are going to continue taking this laying down? Many persons that I have talked to and believe me it is many, are buying guns and ammunition to be kept in their businesses and their cars and many carry guns on their persons. To obtain a License is next to impossible and they know it. They tell me that if the militants, punks and criminal elements of this city can carry them and get away with it why can't they do the same? This city and the suburbs in Maryland and Virginia are becoming armed camps. People are afraid to come down-town and others will not come in from the suburbs who used to dine in the city, take in a show or visit with friends. Many who work in the District of Columbia after work head straight for their homes. They are afraid. Many places of business are 90% empty before 8 P.M. ! A very few are doing the business that they normally did before April 4th, 1968. I have talked to many owners whom I know personally and managers of downtown restaurants, bars, and other businesses, they are nervous; many are wondering if their already depressed business climate will get worse. Many are arming themselves, many say that they will not run. Many say that since they pay taxes for police protection and do not receive it are going to stop paying taxes. Others are saying that when the time comes they will shoot any looter, criminal—regardless of their age. They tell me a criminal is a criminal. Many businessmen will be forced into bankruptcy. Why then should these people and others be subjected to suffering? Many businesses are off as high as 60%. Why, they ask do we not have adequate police protection on the streets? How is the District of Columbia going to survive if the businessman fails or the tax revenue decreases? What is happening—what? Hotels are receiving huge cancellations. Large groups of tourists are not coming. Conventions are being cancelled. The night-time business has dried up. Businessmen are threatened by punks and criminals if they do not pay they will be burned down. What has happened to this city, where did the scum and these animals come from? Why should an Antique Dealer be forced to close his business

down? What militant, dog or punk calls Mr. Johnny DiLizza up 3 times and tells him he is going to be burned down? Where is our police protection, why pay taxes. Mr. Mayor? Here is Mr. DiLizza who as an immigrant, came to this country in 1947, arriving from Italy with \$14.00 in his pocket. Many immigrants come to this and other countries with less. Here's Mr. DiLizza after many years of hard work, sweat and determination became his own boss. He did not ask for welfare, he did not ask for handouts, he didn't go out and mug any private citizen. He did not stick anyone up, he did not use a knife or a razor blade. He didn't join any organization such as the Black United Front who through its spokesman Big Mouth C. Summer (Chuck) Stone are looking for handouts. I wonder, Mr. Mayor where is all this talent to rebuild Washington coming from; where are the brains, as you know brains are not manufactured? I am going to continue telling my friends, businessmen and others not to rebuild 7th Street, 14th St. and H Street. Let them leave the boards up and let the Federal Government turn those streets into a national park for those black militants and the criminal elements. Let those punks join the rats and insects in the debris. And where are your sons and daughters tonight Mr. Citizen—whose guns are they carrying?

This city can get better law enforcement. This country can get better law enforcement. But again that one word pops up—money. We should in this city create large auxiliary police forces that can move swiftly and decisively to put out small disturbances that can become potential riots. Such a force could reach a disturbance in a matter of a few minutes if located right. A few highly trained men that are able to move in immediately wherever a disorder occurs could prove more effective then, than let's say a few hours later. If we had such a force on April 5th, 1968, many places of business could have been saved. Such a force could be used to destroy H. Rap Brown, Stokely Carmichael, Lester McKinney, Gaston Neal and other punks when the big push begins. For, if this city is not prepared, there probably will not be anything or anyone around for the "Black United Front" and other negro groups to rebuild.

Applications for gun permits in the suburbs since April 4, 1968, have risen from a monthly average of 1,350 to a total of 2,500. In the period between January 1, 1968 and April 1, 1968, applications for 4,000 hand guns in Maryland and Virginia area were made and this does not include the District of Columbia, and also does not give a true picture of what additional purchases were made through mail orders!

Mr. Mayor, City Council, Safety Director Patrick Murphy, Mr. President and responsible businessmen and citizens of this city and country, what does all this mean? THINK, and THINK HARD!

There was and still is much racism in our Americian Society, both white and black racists who would like to see this city and country of ours destroyed. I, myself have seen quite a great deal of suffering of the Negro people in Washington, D.C., the Negro of the South, the Negro of the East and of the West. I have also seen the suffering of the poor whites here and in many other sections of this country. Through the years, both here and around this country I have felt and sensed the humiliation and degradation that the majority of the Negro people and the majority of the poor white people, the Mexican-Americans and Puerto Ricans have experienced and still go through. I know that many of these same people could have lived many more years if they had proper food, medicine, housing and training. For let us not forget that the only thing that is "INSTANT" is coffee, cream, tea, etc., but not social problems.

Mr. Mayor, remember one thing, it is better to move a little bit slower, to come up with proper programs, planning; also they must be sensible and workable. Get the most for the least spent. I know you are doing your best, I know you have a few good men around you, but you also have a few who should be dismissed. Bring in good talent, for there is no substitute for brains and experience. There are many such as myself who would be more than happy to donate time, experience at no cost to the D.C. Government. I have been in the real estate business for approximately 22 years—in the rooming house business, investor, builder, lending institution and personal contact with all aspects of this community—businessman, tradesman, citizens. But do not permit yourself to be rushed into impossible situations for the benefit of a very few. Do not punish yourself, your citizens or me. Just remember Mr. Mayor, that you are the Mayor of this great city and that your citizens are white as well as black. Would it not be wonderful, Mr. Mayor if you were to speak up and say "LAW AND ORDER" is not going to retreat any more—enough is enough. So many in this community who respect and trust you would be more than

pleased. The great majority of negroes here in Washington, D.C. are bitter and ashamed over the burning, looting, etc. that occurred after the death of Martin Luther King. I wonder Mr. Mayor, are you the leader and voice that I and thousands of others in this community are looking for? Think about it, Mr. Mayor. The time is running out in this City of No Windows. It only takes courage and guts, Mr. Mayor, and I believe you have both. Let's speak up Mr. Mayor now, and not tomorrow when this city and this country is destroyed, *please!*

High Rents * Spoiled Food * Slave Wages * Credit Crucifixion
 Cheated Children * Welfare Gestapo * Honkie Unions
 Mom and Pop Stores * Rats—4 legs and 2 legs

STOP SHUFFLIN' and BEGGIN' WHITEY

BUILD BLACK.

1. SEND MR. CHARLIE HOME

No more Mom and Pop Stores, Slumlords
 and other Exploiters of Black People
 allowed in Black Communities.

No more Honkie Unions—without Black members—and
 no more Honkie Owners and Contractors—
 without Black participation—
 allowed to build Black Neighborhoods.

No more Welfare Gestapo allowed to walk Black Streets.

2. END THE SLAVE TRADE.

No more Slave Wages—less than \$2.25 an hour—allowed anywhere.

No more Slave Traders—employment agencies and programs
 supplying the Slave Market—allowed anywhere.

this land is your land
 you have the right
 and the power
 to say who uses it for what
BUILD BLACK, INC.
 3320 14th St. N.W.

Mr. WHITENER. Our next witness is Mr. Richard O. Haase, Chairman, Legislation and Taxation Committee of the Washington Board of Realtors.

We will be glad to hear from you now.

**STATEMENT OF RICHARD O. HAASE, CHAIRMAN, LEGISLATION
AND TAXATION COMMITTEE, WASHINGTON BOARD OF REALTORS**

Mr. HAASE. Mr. Chairman and members of the Subcommittee.

I would like to read a prepared statement for the Washington Board of Realtors.

It supports this bill, H.R. 16948.

My name is Richard O. Haase, and I appear today as Chairman of the Legislation and Taxation Committee of the Washington Board of Realtors.

Unfortunately, we had very short notice of this hearing and as a consequence, had little time to prepare a comprehensive statement on H.R. 16948. We would like this Committee to know that our Association supports this legislation because we feel that removal of the rubble, created by our recent riots, is the responsibility of the local government, just as it is the responsibility of the local government to remove trash and debris. If the local government had performed its function and duty to maintain law and order during the riots of April, there would be no need now to determine who bears the responsibility of removing the damaged buildings.

We feel that it would add insult to injury to require the property owners to remove the ashes of what was once a proud possession. In many cases these property owners lost everything they owned. Many will not be in a position to rebuild, and, if they do, it is doubtful that they will be able to insure their property due to the potential future risk.

If, through H.R. 16948, the local government is required to remove riot-caused debris, then in future disturbances better protection may be given to property.

I thank you.

Mr. WHITENER. Thank you.

Mr. Winn?

Mr. WINN. Thank you, Mr. Haase, for a very fine statement. We are sorry that we do not have more time for discussion, but you have a comprehensive statement and I think you have made your point very clear here. That is why this Committee is looking into the problems presented by what has happened.

POLICE AND GOVERNMENT PROTECTION

Do you think that additional police protection and additional responsibility of the local government could protect the property under the circumstances of the April 4th and 5th riots?

I am not saying that they could not have improved the situation. I think they have admitted that they probably could have done a better job under the circumstances, but when anything like that takes place, they cannot protect everybody's property, although we expect it.

Do you think we really have enough police in the District of Columbia police department, or did have, to have prevented it, and whether, if we doubled the police force, we could have protected or could protect all of the properties that we would all like to protect?

Mr. HAASE. Mr. Winn, I think that hindsight in retrospect is very good. What I would say sounds like good judgment now. We have

heard the phrase of "long hot summers" before this event of 1968. I believe that after the assassination it became intense, there were intense emotions in the city of Washington—and it probably would have erupted. I think it would have been better at that time for the local police force, who commendably did an excellent job in my opinion, to have augmented their forces when it became apparent they could not handle the situation—or it should have become apparent—and 24 hours were lost before Federal troops were brought into the city. And during that time there were vandalism and arson throughout.

I think it is as if a man were to come to you and tell you that a tidal wave, such as I read about on the West Coast, would happen within three days, and you waited until the three days before you moved out all of the people and protected their property. I think it was a case—the evidence is—where it was there, that it would happen. I think this was too big a thing for the local police to handle.

Mr. WINN. What you are saying is that, as the Committee has heard in the last several days, the police did the best they could under the circumstances?

Mr. HAASE. Yes, sir, under the circumstances.

Mr. WINN. That seems to me to be about the whole story in a nutshell.

Many of us think, too, that after the experience we had in Detroit, where there was a long lapse before the troops were moved in, that possibly the District of Columbia could have moved earlier. There seems to be some discrepancy there as to how soon they moved in.

Does the Washington Board of Realtors have any recommendations to make on types of protective improvements, other than maybe additional policemen or Federal troops?

We cannot continue to move Federal troops in and out.

It cost us over \$5 million to bring them in here in April.

Mr. HAASE. I think that looting is a crime; that vandalizing is a crime, and that these crimes should be met with extreme measures. I, for one, believe in the strict policy of law enforcement.

You saw in the papers, you saw in Time Magazine, and in Life Magazine, and in other news media, people running in and out of the stores.

Mr. WINN. Could you get your Board to go on record on that statement, to enforce the laws the way they are written?

Mr. HAASE. I certainly will try.

FINANCING RECONSTRUCTION

Mr. WINN. I think many of us would appreciate it if the businessmen would come out as a group and let the authorities know how they feel. Do you agree with the witness before you that the real estate people and the mortgage companies will not lend, or are very reticent about lending in neighborhoods such as the few that were badly hit?

Mr. HAASE. Absolutely.

Mr. WINN. And so there is a big movement underway to get additional money put in by the lending agencies and the insurance companies into these same districts to rebuild these districts, making a big front-page splash about the money they are going to put in there, but

if you go to the individual mortgage company it is almost impossible to get a loan on a building or a rental on a business.

Mr. HAASE. Yes, sir, absolutely.

Mr. WINN. Thank you. That is all.

Mr. WHITENER. I observe that you say in your statement that the police did the best job they could and that the District Government did all they could under the circumstances?

Mr. HAASE. Yes, sir.

Mr. WHITENER. That was in your oral presentation, but in your prepared statement you say that had the local government performed its function and its duty to maintain law and order in the riot neighborhoods there would have been no need now to say who bears the responsibility for the damaged buildings.

Mr. HAASE. I have read in the papers and have read from the testimony here, just as the statement which was read this morning, that one organization stated the police were hamstrung in their ability to perform their function.

Mr. Murphy sat in and said that he did not give any orders. Am I quoting him correctly? I do not want to be misquoting.

Mr. WHITENER. You gave your own version of it.

Mr. HAASE. I have not heard anything contrary to it, I think. There are so many conflicting arguments about what actually happened, about what orders they were under——

Mr. WHITENER. Your organization recommends that H.R. 16948 be enacted into law to authorize or to require the District of Columbia Government to pay the cost of the removal of the damaged buildings and the debris.

COMPENSATION FOR OTHER LOSSES

What is the disposition of your organization towards payment for compensation to innocent people who were injured, those who were killed in the disturbance?

Mr. HAASE. Well, I would not wish to comment on that, because I would say something that I am not authorized to say. I would be glad to take it up with the members of the Board.

Mr. WHITENER. This is the thing that bothers me, so many having the zeal for the removal of rubble and debris. I am wondering about those people who have had hospital bills, funeral bills, the loss of earnings. There are not only those people but also the employees in some of these businesses who were innocent of any wrongdoing who have been deprived of their weekly paychecks.

Mr. HAASE. Let me say, Mr. Chairman, that these merchants pay real estate taxes. That represents the greatest single revenue that the city has, and that money from taxes on real estate goes to pay for the police force. The merchants are entitled to protection under the law.

Mr. WHITENER. Of course, other citizens pay their sales taxes and their property taxes, and the other taxes imposed by law which entitles them to be protected in their pursuits, too.

Mr. HAASE. Yes, sir.

Mr. WHITENER. We are entitled to protection for our property, too. This, to me, is the real issue before us.

It has been suggested from time to time—I believe in England they enacted into law some statute which took care of compensating victims of crime. I was just wondering, if we enacted this legislation, if we ought to put a premium on rubble and lower it on life and limb.

Mr. HAASE. I see your point.

Mr. WHITENER. Do you have any personal comment? I know that you cannot speak for your association.

Mr. HAASE. No. I would agree with you; let me say that. I think what you say has merit.

Mr. WHITENER. I read an account in the press this morning about a Negro woman who was an occupant in an apartment above one of these buildings that the hoodlums set on fire. She was taken out, as I understand it, from the apartment to the undertaking establishment. I do not know her; all I know is what I read in the paper. But, in addition to the loss of her life, we know that somebody had to pay for her funeral and the like, and yet no one is saying that we ought to look at that. I wonder if we should not consider that, too, and give some thought to that as well. Do you have any further questions?

Mr. WINN. Do you know whether the Washington Board of Realtors have made any study of what percentage of the owners might open again?

Mr. HAASE. No, we have not.

Mr. WINN. If the District pays for cleaning up the rubble out there, you do not have any idea as to that yet?

Mr. HAASE. Not yet, sir, but I will bring that up and furnish the Committee with a statement on that.

Mr. HAASE. I think it would be most interesting to have. Thank you very much.

Mr. WHITENER. Thank you.

Our next witness is Mr. Abe Liss, President, Midtown Business Association.

Before Mr. Liss testifies, we will make the statement of Mr. Hilliard Schulberg, Executive Director, Retail Liquor Dealers Association, Washington, D.C., a part of the record at this point.

(The statement of Hilliard Schulberg referred to follows:)

STATEMENT OF HILLIARD SCHULBERG, EXECUTIVE DIRECTOR, WASHINGTON, D.C.,
RETAIL LIQUOR DEALERS ASSOCIATION, ON H.R. 16948, MAY 17, 1968

My name is Hilliard Schulberg. I am the Executive Director of the Washington, D.C. Retail Liquor Dealers Association, an organization comprised of those retail licensees who sell alcoholic beverages for off-premises consumption. We appreciate the opportunity afforded us to express our views concerning the rebuilding of the areas devastated by the recent civil disturbance in the District of Columbia.

Like many other small businessmen, our people were hard hit and suffered grievous losses. Reports indicate that approximately 35 stores were totally destroyed and 150 others damaged and looted. From information available as of April 23, 1968, the projected losses sustained by liquor dealers, covering damages to real property, inventory and fixtures, totals \$7,780,000 with an uninsured loss of \$2,300,000. The uncontrolled destruction, burning and looting that took place certainly was not of our making; we became the innocent victims of a deliberate policy of forbearance by the authorities which permitted an unjust enrichment of law violators at the expense of small neighborhood merchants. The protection that should have been available was noticeably absent.

There is now no point in quarrelling with a decision of the authorities which determined that law enforcement would be suspended, that rioters and burners

would be invited to help themselves to the property of others, that small businessmen would become the reluctant hosts for this party.

Now, however, it seems to us that the inviters should pick up the check; the very least the government should do for those who were victimized is recompense them for the losses they sustained, including payment for the removal of debris from their destroyed properties.

Second, total support should be mounted to secure passage of the so-called "backup reinsurance bills" S. 3028 and H.R. 17003, now pending before the Banking and Currency Committees of both Houses of Congress. These bills will provide for industry and government participation in setting up reinsurance pools so that it would be possible to make insurance available for all, including those in high risk areas.

Third, the authorities must move without delay to have introduced into the Congress for speedy enactment the necessary legislation to enable the District of Columbia to participate in the above insurance program. Insurance companies are cancelling policies now. Each day we are receiving calls concerning further cancellations. It is axiomatic that without insurance no business can continue, be rehabilitated, or survive. And it is also very clear that unless this Federal reinsurance program and the necessary District participation legislation is enacted, insurance will not be available for the neighborhoods; if it is not, these areas will die. People who live in or around troubled areas are learning the hard way that empty store fronts ruin neighborhoods just as they drain and strain city treasuries.

Fourth, merchants must be given assurance that sufficient restraints and police protection will be available; that that which occurred will not happen again. Without such assurance, to what purpose would be rebuilding, restoration, or remaining in business? The philosophy of buying restraint of the criminals from doing greater crimes by offering the alternative of property destruction is false and self-defeating. No one must be allowed to act without the law.

Fifth, if the foregoing can be accomplished, the displaced merchants should be granted a priority in returning to the areas which must be rebuilt and repaired. Where restoration is feasible, property owners should be given the necessary building permits without delay. Where an urban renewal program is needed, this should be made known quickly and here, too, those displaced should be given priority in obtaining locations. Sufficient commercial premises should be scheduled so that no one of the affected merchants who want to return to business should be denied that opportunity.

We agree with the urban renewal program set forth in the editorial which appeared in the April 21 issue of the Sunday Star, a part of which we quote:

"This approach would differ sharply from the typical urban renewal project in which entire city blocks are subjected to replanning and to drastic change. The major riot damage in this instance has been confined to the narrow strips of mixed small-business and run-down residential properties fronting on one side of the city blocks. For the most part, the housing existing elsewhere in these blocks is solid and substantial.

"The urban renewal plans need not require total reconstruction even in these strip areas. Where sound structures exist, they might well remain. Where rehabilitation is possible, that might be proposed. Ironically, however, the major benefits could result where destruction and demolition occur. For at those sites it is possible to make the most significant improvements—including substantial increases in housing for low and moderate-income families.

"Most of the damaged or destroyed structures contained ground-level commercial uses with only one or two stories of housing above. Why not, in the reconstruction, provide housing of much greater density by building higher in the air? Imaginatively planned, some of these units could help satisfy at least a portion of the demand for public housing. Some could make use of rent supplements and the diversity of other types of federal housing aids—with the ground levels devoted, as before, to business use.

"What of the business operators burned out in the riots?

"We believe that those who choose to return should have that opportunity on a first-priority basis. Urban renewal, combined with small-business loans and other available aids, offers a feasible administrative means of accomplishing this."

Sixth, every effort should be made to secure the cooperation of the Small Business Administration so that financial assistance may become available,

without discrimination, to any merchant in need thereof, regardless of the business in which he might be engaged. The people in the alcoholic beverage industry have been discriminated against by this Agency over a period of many years. This unwarranted determination was inaugurated by administrative fiat by a Loan Policy Board, since abolished, and cannot be supported by any Congressional enactment. This unlawful policy, which bars people in the alcoholic beverage field from even applying for a needed loan, has been perpetuated by successive Administrators.

After the Newark and Detroit disorders of last year, both cities were eventually declared disaster areas. The Small Business Administration at that time stated it was seriously considering the removal of the alcohol beverage industry from its proscribed list; now, eight months later, it is still making the same statement, but it still has done nothing to place the industry on an equal footing with other industries.

Nevertheless, every effort should be made to provide expeditiously the necessary economic data to the Small Business Administration so that this city might be declared a disaster area and the processing of applications of those in need of assistance might go forward without any further delay. Many of our merchants will need these loans; they were either underinsured or had no insurance, nor do they have sufficient capital to re-establish themselves. Government assistance thus could play an important role in the rehabilitation process.

These ideas, we believe, present a program necessary to rehabilitate and revitalize the city. It is recognized that there must be a long range program as well, but unless we can achieve this suggested immediate program we will never be able to reach the long range goals, which are:

1. Elimination of poverty
2. Better housing
3. More jobs
4. More schools
5. Better education
6. More recreation and playgrounds, with school facilities, such as gymnasiums and libraries, all open each evening for use of the public.

The foregoing we are convinced, presents reasonable and equitable ideas for rebuilding. We recognize that the program can only go forward if there is complete cooperation among all of the citizens, business community, the city authorities, and the Federal Government. But once the program is formulated, let it go forward with a minimum of red tape and a determination to build a better future.

Mr. WHITENER. We will be glad to hear from you now, Mr. Liss.

STATEMENT OF ABE LISS, PRESIDENT, MIDTOWN BUSINESS ASSOCIATION

Mr. Liss. Mr. Chairman and distinguished members of the Subcommittee.

I am the President of the Midtown Business Association, consisting of 100 members. We support H.R. 16948.

LACK OF PROTECTION

I would like to comment on some of the things I have heard here. I think there has been too much talk about shooting, whether we should shoot or whether we should not shoot. I watched this disturbance with my own eyes, and since that day I guess I have been interviewed more than anybody in the country, on the radio and in the newspapers. And I was on television last night for three hours.

Everybody seems to ask the same question: Is it my firm conviction that the police in Washington were told to show restraint and that they followed orders and did a commendable job? They showed restraint. No building is worth the price of one human life; however,

we have taken the position—and I will say it before anybody—that the Government defaulted on its obligation to protect the individual and the property rights of its citizens, that is, the people living in the buildings and the people who owned the buildings.

I watched people who have been in business as long as 75 years put out of business without a show of force. It seems to me there has been too much talk about shooting. Nobody wants to shoot anybody.

If our President had gone on television Thursday night and had said, "We have had some kind of internal disturbance and, if necessary, we will call out the entire militia to repel it," and if the troops had been on the streets Friday morning, there would have been no looting and there would have been no shooting.

That is what I have to say.

Thank you.

Mr. WHITENER. What is your view of the legislation before us, which is now pending?

Mr. LISS. H.R. 16948?

Mr. WHITENER. Both bills, H.R. 19641 and H.R. 16948?

Mr. LISS. Would you please tell me a little bit more about H.R. 16948?

Mr. WHITENER. That is the bill which would authorize the District of Columbia not to issue a permit for a parade or demonstration if the issuing officer has evidence that a civil disturbance might result from the parade or the demonstration, unless the applicant first put up a bond guaranteeing payment for the damage.

Mr. LISS. I do not want to get into an area that I am not an authority on. I speak as a private citizen. I think everybody has a right to protest under our constitutional rights, but I think that the Government has a duty to see to it that it does not turn into chaos.

Mr. Winn mentioned that we do not want to be calling out the troops every time. I do not want to either. We do not want to live under a bayonet. I think that if we do not take some simple measures that we might be living under the bayonett. Nobody wants to live under the bayonet.

Mr. WHITENER. What about the other bill (H.R. 16948) with reference to the District of Columbia Government bearing the expense of the removal of the debris and the rubble?

DISPLACED EMPLOYEES

Mr. LISS. I think that the Government of the District Columbia should most certainly remove the debris. I would like to comment a little bit on the citizens. There has not been enough said about the people who lived in the buildings nor the employees of the businesses. I like to deal in facts. I can tell you this, that on 7th Street alone there were 1,034 people put out of work and there were some people on 7th Street of both races in that category, and the majority of the employees were Negro, and there were some Negro employees that I know that were making \$12,000 a year. They could not get a job on Connecticut Avenue for \$90 a week, whether they are black or whether they are white, and if I were looking for a job today, I do not think that anybody would give me \$100 a week, and I have had 25 years of experience.