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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:	EXTENSION	NO.
Legislative Counsel	6121	
		DATE 18 JUN 1975

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. Director				Attached are statements on electronic surveillance made by members who are sponsoring legislation which would prohibit all warrantless electronic surveillance. Notwithstanding the many references to protecting the rights of American citizens, these bills will, in fact, go far beyond this. The main bill pending before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice is HR 214 which the subcommittee itself states "effectively abolishes national security surveillance for intelligence purposes."
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8.				You may recall reviewing this office's memorandum on electronic surveillance legislation last month. This memo has been forwarded to the White House, the Ad Hoc Group, and at your suggestion, our oversight committees. We are also briefing several key Senators and I have recommended to you that John Warner raise this issue with the general counsels of USIB agencies in conjunction with their legislative counsels.
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12.				
13.				
14. STATINTL				[redacted]
15.				George L. Cary Legislative Counsel

FORM 610 USE PREVIOUS EDITIONS ☐ SECRET ☐ CONFIDENTIAL ☐ INTERNAL USE ONLY ☐ UNCLASSIFIED

the Veterans' Disability Compensation Survivor Benefit Act (H.R. 7767). I was conferring with some other Members and missed the vote.

Had I voted, I would have voted for passage of the act.

PERSONAL EXPLANATION

(Mr. KEMP asked and was given permission to address the House for 1 minute).

Mr. KEMP. Mr. Speaker, on the Armstrong amendment I was temporarily delayed in my office with constituents. Had I been present I would have voted "aye."

GENERAL LEAVE

Mr. DOWNEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Pennsylvania (Mr. EILBERG).

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVACY RIGHTS AND GOVERMENT SURVEILLANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MOSHER) is recognized for 60 minutes.

(Mr. MOSHER asked and was given permission to revise and extend his remarks.)

Mr. MOSHER. Mr. Speaker, in recent years we have become increasingly aware of the dangers that are posed to the rights to privacy of American citizens. In particular, we have become aware of the dangers of warrantless Government surveillance activities.

It is the purpose of this special order to publicly express the concern felt by many Members of Congress over the dual issues of rights-to-privacy and Government surveillance activities.

Joining me today as cosponsor of this special order is the gentleman from Wisconsin (Mr. KASTENMEIER). We believe a bipartisan group of Members will join us in this dialog.

When we requested the time for this order we could not know that it would come just a few days after the release of the Rockefeller Commission's report to the President. Certainly that report makes this special order especially timely and topical today.

Mr. KASTENMEIER and his Subcommittee on Courts, Civil Liberties and the Administration of Justice have done a commendable job of disclosing and documenting questionable surveillance activities, and other congressional panels also are bringing to light various abuses of the Government's surveillance authority.

Other Members participating in this special order may be discussing those specific abuses or usurpations of rights-to-privacy, and these will be helpful in illustrating the power of the problem.

But I think it also is important for us to look beyond the actual events to their implications.

Mr. Speaker, I am especially concerned by the "chilling effect" of warrantless Government surveillance. The number of persons who are actually subject to surveillance is relatively small, but a far larger number of people do begin to fear that they are being secretly monitored by the Government.

It is not uncommon for me, or for any Member of Congress, to receive a letter from a constituent that begins or ends, "I know I'll probably end up in some FBI or CIA file for making this complaint * * *" Of course, such fears are essentially needless, but they are real and widespread nonetheless. I suggest we should examine here why law-abiding citizens live in fear of being spied upon by their own Government.

We have no way of measuring how many citizens fear to petition their elected representatives for a "redress of grievances" simply a right assured by the Constitution, fear because they believe their names will be placed in some ominous Government file. We cannot count how many citizens have been kept away from political gatherings for fear that they would be photographed and indexed into someone's file. No one knows how many individuals decline to contribute to political organizations for fear of being identified as "subversives" by their Government.

We have no way of telling how many people are afraid to talk freely on their telephones, because they suspect that a click or a buzz on the line may be a telltale sign of a wiretap installed by Big Brother.

The point of all this is that many individuals are living in fear that their private activities may be monitored by the Government. The chilling effect of this is that many citizens consequently refrain from writing to their representatives, refrain from writing letters to newspaper editors, stay away from political meetings, and otherwise shy away from the lawful exercise of their constitutional rights. It is a shame that any American citizen would live in fear of our own Government—the Goverment which is supposed to protect and preserve our rights.

To remedy this situation, Senator MATHIAS and I have introduced the Bill of Rights Procedures Act (H.R. 214). I am pleased to note that we are joined by more than 70 cosponsors in the House; and I see that many of them are here to participate in this evening's special order.

Essentially, the Bill of Rights Procedures Act provides that no agent of the Federal Government can conduct any form of surveillance on an American citizen—for any reason—unless a court order is obtained upon a showing of probable cause. Any person who participates in a warrantless wiretap or any other warrantless surveillance activity would be personally liable to criminal penalties.

Mr. Speaker, I think we must recognize that surveillance, or any other infringement of a person's basic right-to-

zen's constitutional rights. In my view, only the courts should have the authority to permit abridgments of the individual's constitutional rights.

Presently, we have yielded to the executive branch frightening amounts of discretionary authority in the area of surveillance. I think it is now time that we in the Congress move to restore the proper safeguards for citizens' rights.

The Bill of Rights Procedures Act is not the only rights-to-privacy bill now pending in the Congress. There are many other bills as well. Regardless of which bill or bills finally are accepted, the object remains clear. We must act quickly to assure private citizens that they shall not be subject to capricious surveillance by the Government.

We must remove the Executive's discretionary authority to invade citizen's privacy. We must restore the courts to their proper role as arbitrator between the citizens' rights to privacy and the State's need to protect society.

It is our hope that this special order will help to illustrate the intensity of congressional feeling on rights-to-privacy and the dangers posed by our present state of virtually unlimited authority for Government surveillance activities.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield to the gentleman from Wisconsin.

(Mr. KASTENMEIER asked and was given permission to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, as chairman of the House subcommittee now considering a number of legislative proposals designed to limit the scope of Government surveillance of Americans I am pleased to join with my colleague from Ohio, Congressman MOSHER, in sponsoring today's special order.

The scope of surveillance practices and resulting invasions of personal privacy is so vast that it is difficult to define narrowly the subjects requiring close congressional scrutiny and legislative reform.

For example, the eavesdropper may be a Federal investigator or an intelligence agent, a local policeman, or a private investigator, a soldier or a civilian. He may use a wiretap or a bug. He may choose a method totally unrelated to electronic technology, such as examining our credit, bank, medical, or business records. He may open mail or he may cover mail—examine outside of envelopes sent to us. He may engage in eavesdropping pursuant to a court order or he may simply claim that the national security requires it. His surveillance may be legal or illegal.

My Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice has already held a number of days of hearings both this session and in the 93d Congress each dealing with a different aspect of the problem, and we intend to continue our work with the twin goals of providing the Congress with sound legislation and assuring the enforcement of existing laws through vigorous oversight.

These hearings have, without a doubt, established that the fundamental right [illegible] America is today in a state

of siege. Consider for a moment these examples from the testimony presented to our subcommittee.

National security wiretapping: Despite the plethora of revelations cascading down upon us almost daily during the last year about the abuses of the so-called national security rational for Goverment surveillance, the Department of Justice continues to conduct approximately 100 warrantless wiretaps each year. These wiretaps are not supervised by any court; they are not reported to the Congress; the subject of the wiretap is never notified that he has been surveilled; he has no protection except the goodwill of the intelligence gathering bureaucracy. These national security wiretaps may go on indefinitely. Indeed, we heard testimony about one tap directed against a domestic organization which lasted for 25 years.

Telephone company monitoring: In addition to indefinite warrentless wiretapping by Government intelligence agencies we have also received extensive evidence of the highly questionable eavesdropping practices of the Nation's largest telephone system—American Telephone and Telegraph Co. Between 1965 and 1970, according to testimony of Bell executives, the company secretly monitored over 30,000,000 telephone calls made by its customers. The subjects of these surveillances were never notified even though the purpose of the monitoring was to gain information which might lead to criminal charges against them. I should note that this practice is justified under a questionable exception to Federal wiretap laws which allows the phone company even greater freedom in conducting wiretapping than law enforcement agencies enjoy.

Police wiretapping: The subcommittee heard testimony from the chief of police of a major U.S. city describing systematic use of illegal wiretapping by police officers. In some cases this wiretapping was conducted with the knowledge of the very Federal law enforcement agents charged with enforcing existing anti-eavesdropping laws. What is particularly shocking is that evidence from these wiretaps was often disguished as having come from unidentified informants and used as the basis for search and arrest warrants which ultimately led to convictions and prison terms for the unwitting subjects of the surveillances. This is completely repulsive to our centuries old concept of due process of law.

Illegal private political wiretapping: The same police chief who revealed extensive police wiretapping also made the shocking observation that any person in his city in a "controversial position which possibly includes everyone in political life" is probably wiretapped "on a fairly regular basis," in many cases by private wiretappers operating wholly outside the law.

Other forms of surveillance: We have also learned that the pervasive use of surveillance does not stop at wiretapping. It includes inspection of personal, supposedly private records as well. For example, the way the famous White House plumbers found out that Daniel Ellsberg was using the services of Dr. Henry Fielding, a psychiatrist whose office they burgled, was by examining records of his checking account, supplied by a friendly bank teller.

Not only are our telephones and private records subject to outside scrutiny, but our mail as well. The Chief Post Inspector of the United States told our subcommittee that for 20 years the Central Intelligence Agency opened and read the mail of American citizens, knowing that this practice was a violation of existing Federal law.

Not only has mail been opened and read, but every year the correspondence of thousands of Americans is monitored regularly, by the process known as a mail cover—the systematic recording of information contained on the outside of envelopes. By this means any State, local, or Federal body claiming to be an investigative agency can find out how many letters you send or receive and with whom you are corresponding. There are presently no statutory safeguards against abuses of this practice. The Postal Service admits that it regularly conducts mail covers for agencies with such questionable connections with normal police work as a local real estate commission, a welfare department, and a State fish and game commission.

Fortunately, the abuses of Government power and of modern technology which I have just described have not gone unnoticed by Members of the House. At the present time 24 bills directed to the problem, sponsored by over 100 Members, are pending in my subcommittee.

It is my hope that after further analysis by the subcommittee and the full Judiciary Committee, this House as a whole, will have an opportunity to debate and vote on one or more of these proposals.

I am taking the liberty of inserting into the RECORD a short description of these pending bills.

Mr. Speaker, at this time I would request unanimous consent that the record remain open for 5 business days so that Members not present may submit their views on this important subject.

SURVEILLANCE BILLS PENDING IN SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES AND THE ADMINISTRATION OF JUSTICE

H.R. 141 by Mr. Kastenmeier (Surveillance Practices and Procedures Act of 1975). Requires a court order for national security wiretaps. Also mandates regular reports to House and Senate Judiciary and Foreign Affairs Committees on national security wiretapping and electronic surveillance.

H.R. 142 by Mr. Kastenmeier (Freedom from Military Surveillance Act of 1975). Makes investigation, surveillance, and record keeping regarding the beliefs, associations, political activities or private lives of civilian citizens by the military a crime punishable by up to two years imprisonment or $10,000 fine. Also provides for civil cause of action, including class action, for actual and punitive damages in the case of such surveillance.

(Identical bills are: H.R. 266, Boland. H.R. 2753, 2754, 2862 and 3284, 4339 Steelman and 49 others.

H.R. 539 by Holtzman and H.R. 2556 by Abzug are the same bill with slightly different language).

H.R. 171 by Ms. Abzug. Makes wiretapping and electronic surveillance conducted with the consent of one party to the conversation illegal, unless pursuant to a court order. (Same effect as H.R. 620 by Long.)

H.R. 214 by Mr. Mosher (Bill of Rights Procedures Act of 1975). Prohibits interception of any communication by electronic or other devices, surreptitious entry, mail opening, or the inspection or procuring of bank, telephone, credit, medical, or other business or private records without a court order based on probable cause a crime has been or is about to be committed. Because probable cause is required, this bill effectively abolishes national security surveillance for intelligence purposes.

(Identical bills are: H.R. 414, Fish and H.R. 2330, 2603, 2604, 3113, 3467, 3855, 3874, Mosher and 71 cosponsors.)

H.R. 620 by Mr. Long of Maryland. Same effect as H.R. 171 by Ms. Abzug. Makes wiretapping, recording, and electronic surveillance conducted with the consent of one or more parties to a conversation, but without the consent of all parties, illegal unless authorized by a court order.

(H.R. 620 has 13 co-sponsors; H.R. 2453, an identical bill, has 1 cosponsor for a total of 14 co-sponsors.)

H.R. 1603 by Mr. Drinan. Makes all wiretapping and electronic surveillance illegal by deleting those sections of the law currently authorizing such activity when authorized by a court order.

H.R. 1864 by Mr. Kastenmeier (Freedom from Surveillance Act of 1975). Makes investigation, surveillance, and record keeping regarding the beliefs, associations, political activity or private affairs of American citizens punishable by one year imprisonment, $10,000 fine or both, unless such activity is conducted upon reasonable grounds to believe that the subject of the surveillance has committed a felony or is an applicant for federal employment.

BILLS WITH MULTIPLE COSPONSORS

H.R. 214 (Bill of Rights Procedures Act, Mr. Mosher, chief sponsor) total—72 Sponsors.

H.R. 414 (H.R. 2330, Mosher and 25 co-sponsors): Fish, Abzug, Anderson (Calif.), Badillo, Conte, Conyers, Coughlin, Duncan, Forsythe, Harrington, Helstoski, Holtzman, McCormack, McKinney, Moorhead (Calif.), Pettis, Quie, Regula, Roe, Ruppe, Sarasin, Seiberling, Stark, Talcott, Charles Wilson (Tex.), Won Pat.

H.R. 2603, Mosher and 14 co-sponsors): Anderson (Ill.), Andrews (N.D.), Ashley, Bell, Brown (Calif.), Esch, Frenzel, Heinz, O'Brien, Pritchard, Richmond, Solarz, Symington, Whalen.

(H.R. 2604, Mosher and 7 co-sponsors): Goldwater, Conlon, Heckler, Hinshaw, Horton, Lagomarsino, Thone.

(H.R. 3113, Mosher and 13 co-sponsors): Biester, Boggs, Cohen, Fenwick, Hechler (W. Va.), Jeffords, McCloskey, Melcher, Mitchell (Md.), Patterson (Calif.), Rangel, Schroeder, Studds.

(H.R. 3467, Mosher and 8 co-sponsors): Baldus, Fauntroy, Howe, Jeffords, Matsunaga, Spellman, Steelman, Stokes.

(H.R. 3855): Hammerschmidt.

(H.R. 3874, Mosher, Hammerschmidt and 2 others): Keys, Long (Md.).

H.R. 142. (Freedom from Military Surveillance Act of 1975, Mr. Kastenmeier, chief sponsor, and Mr. Steelman, total 72 sponsors.)

H.R. 266: Boland.

H.R. 3753: Steelman, Goldwater, Horton, Koch, Vigorito, Martin, Melcher, Regula, Forsythe, Solarz, Spence, Pritchard, Mathis, Thone, Keys, Charles Wilson (Tex.), Brown (Calif.), Symington, Charles Wilson (Calif.), Hefner, Edgar, Ryan, Anderson (Ill.), Mosher, Talcott.

(H.R. 2754 Steelman, Goldwater, Horton, McKinney, Edwards (Calif.), Mitchell (Md.), Studds, Anderson (Calif.), Heckler (Mass.).

H.R. 2862: Charles H. Wilson (Calif.).

H.R. 3284 (Steelman, Goldwater, Horton and 15 co-sponsors): Gude, Tsongas, Harrington, Pattison, Obey, Coughlin, Quie, Riegle, Lent, Leggett, Hannaford, Biester, Matsunaga, Chisholm, Buchanan.

(H.R. 4339 Steelman, Goldwater, Horton and 3 co-sponsors): Hammerschmidt, McCormack, Hawkins.

H.R. 620 (Abolishing One Party Consent Eavesdropping, by Mr. Long (Md.) chief sponsor): Hechler (W. Va.), Riegle, Brown (Calif.), Chisholm, Moss, Charles Wilson (Tex.), Mitchell (Md.), Diggs, Rangel, Helstoski, Collins, Harrington, Mink.

H.R. 2453 (Long and one cosponsor): Leggett.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. Yes, I will yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding.

(Mr. DRINAN asked and was given permission to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, when the newspapers and the committees of Congress only a few years ago began to uncover the surveillance activities of the executive branch into the lives of our citizens and elected officials, few persons ever expected such revelations to reach the magnitude they have. The initial disclosures, such as the wiretaps of the 17 public officials and newspaper reporters in connection with alleged national security materials, were considered by many to be abberations by an overzealous Executive seeking, in good faith, to protect the Nation against subversion.

THE WIDENING SCOPE OF SURVEILLANCE

What followed, however, was a series of disclosures which widened the circle of persons who were considered proper subjects of surveillance by the investigatory units of the executive branch. We soon learned, for example, that during the sixties and the seventies, the U.S. Army, in cooperation with the FBI and other agencies, engaged in an extensive program of surveillance over the lawful activities of American citizens who were merely exercising their constitutional rights in protesting a terrible war in Southeast Asia and other social and political injustices.

Civil rights groups, dissident organizations, splinter political parties, and others became the targets of extensive surveillance by Federal and State investigators into permissible and protected conduct.

These surveillance activities did not, to be sure, stop at the organizational level. Not only did Government agents consider members of these groups as fair game for their intrusions into political beliefs, but they also spied on persons who had any connection with such groups or their members. A few years ago, a high school student in New Jersey wrote to an organization which was then the subject of Government surveillance, apparently because someone in the Justice Department disagreed with its political viewpoint. The student had written for some information in connection with a course in political thought. Because the FBI then had a [illegible] group, the student's name was acquired and an inquiry into her activities was undertaken. Of course, the investigation did not uncover any unlawful activity nor anything resembling illegality. But the data collected was used to open an FBI file on the unsuspecting student and retained by the FBI until the U.S. district court ordered it destroyed.

Nor did the surveillance activities stop at the borders of the United States. Federal agents kept watch over the activities of Americans in foreign countries, including members of the Armed Forces. I am sure this body recalls the snooping by Government agents into the lives of American citizens residing in Germany. It appears that such surveillance was directed again at war dissenters and persons who supported the Democratic candidate for President in 1972. Such surveillance must be considered a serious invasion of the constitutional rights of citizens.

Federal agents have not allowed the doctrine of separation of powers to interfere with their information gathering on Members of Congress. We do not yet have an accurate picture of the extent to which the FBI and other agencies maintained files on elected Members of the National Legislature. When Attorney General Levi appeared before the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, of which I am a member, he sketched the scope of the surveillance activities of the Federal agents into the lives of legislators. While admitting that this data collection was totally unwarranted, Mr. Levi declined to give us anything but the most general outline of these intrusions in the legislative sphere.

Since that time, the Justice Department has steadfastly refused to provide sufficient access to our subcommittee so that we might make an independent determination of the nature and scope of these surveillances.

A CASE STUDY OF UNWARRANTED SURVEILLANCE

Only by actually examining one of these files can one fully appreciate the unwarranted invasion of privacy and the wastefulness of the activity engaged in by the FBI. I recently had occasion to examine my own file which the FBI has maintained for many years. After I had spent more than 2 months pursuing my rights under the Freedom of Information Act, Director Kelly finally released to me a copy of most of the material contained in my file. He refused to provide certain documents. Director Kelly stated that I had never been a subject of a criminal investigation. Nevertheless, the FBI had assiduously collected 81 pages of material concerning public activities of mine both before and after my election to Congress.

I will reproduce in the CONGRESSIONAL RECORD, in the immediate future, a copy of the file provided to me by the FBI. I will also attach an exchange of letters with Attorney General Levi on this subject. I am placing this material in the RECORD so that all of my colleagues can see for themselves how the FBI is spending the taxpayers' money. Nowhere in the statute which establishes the FBI is there any authority to amass information on civil rights work, antiwar speeches, or any of the other entirely lawful activities described in my file. Nowhere is the FBI or any other agency given the power to monitor the political beliefs and activities of American citizens who are exercising their constitutional rights under the protection of the law.

Because the Justice Department has refused to cooperate fully with our subcommittee, it is impossible to specify the scope of this type of surveillance and recordkeeping by the FBI. If my file is any indication, however, the total number of persons and documents involved is staggering. Based on the limited information available to us, it is fair to say that the FBI presently has millions of entries describing perfectly lawful activities of American citizens. How many more such files are maintained by dozens of other Federal and State investigatory agencies is unknown. We can only speculate on how many of the FBI's 19,178 employees and huw much of the Bureau's $444.2 million budget is wasted on this insidious and unauthorized activity.

THE EXECUTIVE BRANCH HAS NOT CURBED ABUSES

What has been the Government's response to these revelations? It has been a grudging admission of the surveillance activities, a limited attempt to disclose publicly their extent, and a total failure to take adequate remedial measures. The press and the committees of Congress have not even been able to get a complete picture of the matter. For example, only after many, many months of pitched battle did the Justice Department give up documents, highly "sanitized," to the press and to our subcommittee regarding the Cointelpro program, the operation to disrupt lawful activities of private groups. The Justice Department, including the new Attorney General, has been equally reluctant to provide us complete information on other surveillance activities. Thus the attempts by Congress to exercise its proper oversight responsibilities have been thwarted by the executive agencies, which, in my judgment, have an obligation to disclose such data to the Congress when requested to do so.

Of course, some of these agencies, which engaged in surveillance, claim they have taken corrective steps. After Senator Ervin's inquiry into the Army surveillance program, that department stated that it had destroyed its files relating to the lawful conduct of Americans. No one has ever really checked to confirm that action. Even if the Army has destroyed the files, it is important to note that the Army was never the sole repository of the data collected. Such information was freely circulated among various Federal investigatory agencies, including the FBI. It was part of the coperative effort of these agencies to carbon copy every bit of information collected and distribute it to the participating agencies. We have never received any assurances from these other units that the "Army files" were destroyed.

The Justice Department takes the view that, if any citizen seeks access to his or her file [illegible] Freedom of Information Act, such data will be disclosed. One of the problems with this approach is

that many citizens, who may have been subjected to surveillance, do not know that information about them is on file at the FBI or another investigating agency. For example, in connection with the Cointelpro operations, the Federal agents must have collected thousands of names and indexed them in files which still exist. When Attorney General Saxbe and then Levi admitted that much of this activity was improper, they were asked if the Justice Department planned to contact all persons who were affected by the program. They declined to do so.

If the Department of Justice refuses to advise citizens that they were subjects of improper Government activity, such as the insidious Cointelpro program, and if the Department refuses to disclose fully the nature of such activities to the Congress, what other avenues do we have to check unbridled executive behavior in these sensitive areas? The only answer is continued attempts by Congress to exercise its oversight responsibilities and to enact legislation which will control such operations. And if we have to legislate partly in the dark because the executive refuses to divulge sufficient data, I am one Member who is prepared to do so.

LEGISLATIVE REMEDIES ARE NEEDED

The Congress began last fall to enact legislation to control the executive branch in its data collection activities. First, we passed the Freedom of Information Act amendments over the veto of President Ford. That any President should dare to reject a measure which seeks to secure constitutional freedoms by opening up files to citizens should stand as an indication that the present Chief Executive will not, on his own, exercise the necessary restraint in managing the executive bureaucracy.

Second, in December, Congress passed the Privacy Act of 1974. Although this law does not take effect until September 27, 1975, it will open additional files to private citizens wishing to learn what records their Government is maintaining on them. While the law has a number of deficiencies, it should provide a new remedy for those who wish to look behind the paper curtain which executive employees have drawn across their file cabinets.

There are a number of other measures which Congress must enact if the constitutional rights, including privacy, of American citizens are to be restored to their proper place in our scheme of government. At a minimum, we must: First, press our right to examine clearly the operations of the executive branch. If the Justice Department or any other agency refuses to disclose data which we consider essential in performing our overight functions, this House must be prepared to issue subpenas to obtain the materials; second, enact laws which will prohibit executive agencies, particularly the FBI, from collecting any information which is unrelated to investigations into criminal conduct or into the qualifications of a nominee for high office. We cannot permit the agencies which we established to have unbridled investigatory authority to look into any activities of citizens which they choose to investigate.

Additionally, Congress should: Third, amend existing laws to allow easier access by citizen to files maintained about them. Despite the new amendments to the Freedom of Information Act, there are indications that additional changes may be necessary. A recent article in the Nation, "You Still Need a Can Opener," catalogs some of the difficulties which have arisen under the new act; and fourth, at least with respect to investigatory agencies, we should alter our rules so that the legislative committees have authority over the appropriations of those units. It makes little sense for the subcommittee of one standing committee to examine the budget of the FBI, while another subcommittee of another standing committee conducts oversight of its activities. If Congress really means to check excesses of the Executive, it must be prepared to reform its own legislative machinery to maximize its ability to restrain the other branch. The pending resolution which would assign appropriations authority over the Justice Department to the Judiciary Committee should be passed at the earliest possible time.

We must act swiftly to prevent the unwarranted surveillance and information gathering which has gone on for so long to continue into the future. Before appropriating funds to the Department of Justice for the upcoming fiscal year, we should insure that these funds will not be used to conduct surveillance and maintain files which are outside the bounds of the Department's legitimate law enforcement responsibilities. Consequently, when appropriation bills for the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies come before the House next week, I intend to offer an amendment to prohibit any sums appropriated for the activities of the FBI to be used to gather information and maintain investigative files which are not related to criminal investigations or other specific responsibilities of the FBI which are authorized by law. The adoption of such an amendment will save the American taxpayers the money presently being used to collect the kind of information reflected in the contents of my own file.

Mr. Speaker, I extend my gratitude for arranging this special order to the gentlemen from Ohio (Mr. MOSHER) and from Wisconsin (Mr. KASTENMEIER), who is also the distinguished chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which has examined some of these problems in depth. It provides an opportunity for each of us, outside the normal course of our legislative duties, to bring to the collective attention of other Members different thoughts and perspectives on the whole range of problems created by the untoward and outrageous surveillance activities of the Executive.

But speeches alone are not adequate for the task of eradicating the evils which flow from the indiscriminate surveillance by government of the lives of our citizens. The words must be reinforced by action. If the bicentennial anniversary of our democracy is to have significance, we must reaffirm in deeds the principles upon which our ancestors found this Nation 200 years ago. Nothing short of that should be our goal.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. Yes, I will yield to the gentleman from Maryland.

(Mr. MITCHELL of Maryland asked and was given permission to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, for many years I have argued that the most grave threat to the democratic form of government does not come from the Union of Socialist Soviet Republics, nor from the People's Republic of China, but that it comes from within this Nation. That threat is the illegal trammeling of civil rights and civil liberties done in the name of national security. The threat grows out of an over reaction to peaceable protest, an almost paranoic reaction to the exercise of the right to dissent, and an all pervasive, unreasoning fear about "the Communist takeover."

The recent disclosures about the illegal and unethical practices of the Central Intelligence Agency, the Federal Bureau of Investigation, the Internal Revenue Services, and other agencies of Government reveal how widespread and endemic have been these practices.

I think we in this Congress have not done enough to disclose the extent to which local police departments, acting in collusion with Federal agencies, have violated the constitutionally guaranteed rights of citizens, especially black citizens and those who protested against the illegal war in Vietnam.

On March 4 I testified before the subcommittee on Courts, Civil Liberties, and the Administration of Justice. I testified in support of H.R. 3113.

In my testimony, I established the extent to which unlawful surveillance of citizens was done by the Baltimore City Police Department. This evening I want to share portions of that testimony with you.

On February 14, 1975, 131 persons sent the following statement to the Governor of the State of Maryland:

As we approach the bicentennial of the founding of our Nation, we are troubled by mounting evidence of police enroachment on rights guaranteed to citizens in the Amendments to the Constitution. The published list of names of 125 organizations on which the Baltimore Police Department gathered information suggests the frightening and indiscriminate scope of their activity. When there are real crime problems, why has the Police Department wasted half a million dollars a year of taxpayers money in surveillance of such groups as the National Association for the Advancement of Colored People, the American Friends Service Committee, the Baltimore Tutorial Project and the Interdenominational Ministerial Alliance?

While we recognize the necessary role of the police to maintain order and to prevent crime, for the Police Commissioner to justify blanket surveillance of these groups listed to "prevent disorder, revolution and strife" is absurd and tragic. The majority of people involved were not remotely connected with any activities that could be considered crim-

inal. They were persons who care about America and were exercising their Constitutional rights as assemble, to enjoy free speech, a free press, to seek redress of grievances, hoping to make the nation more free and more just.

With Justice Oliver Wendell Holmes, we believe our Constitution was made for people of fundamentally differing views. The strength of the United States has been in diversity, in capacity to accept difference and to profit from dissent. Civil Rights victories were won in the 1960s because citizens used their right to protest against inequality and injustice. The Vietnam war was halted in large measure because citizens used their right to dissent.

Although some were aware of the presence of police photographers and infiltrators in the 1960s and early 1970s struggle for human rights and peace, only now is the magnitude and threat of police spying in Baltimore becoming apparent. We are shocked by reports from the newspapers, the American Civil Liberties Union and others, and by the Police Commissioner's own admissions concerning: Infiltration of Peace and Civil Rights groups. Routine photography of demonstrators for several years.

Collection of information on reporters writing stories unfavorable to the Police Commissioner, or on controversial issues.

Surveillance of persons who write letters to editors of Newspapers.

Surveillance of Congressman Parren Mitchell; infiltration of a meeting of the Congressman's campaign staff.

Surveillance of numerous other public officials, including the Baltimore State's Attorney and the head of the Community Relations Commission.

Surveillance of Black Clergymen.

ISD collection of reports on recent striking hospital workers.

ISD collection of reports on individuals and license numbers of persons entering the Friends Meeting House and other places in Charles Village.

As citizens concerned for the well being and enhancement of Baltimore, Maryland and the nation, we ask you as head of State and as the authority to whom the Commissioner of Police is responsible, to bring to an end the illegal and immoral activity of the Police Department and to help restore an atmosphere of respect and trust in this branch of the government. We urge that you:

(1) End all surveillance of peaceful activity by the Police.

(2) Inform the public of the nature and scope of the activity (methods, not disclosure of individual files), of the "Red Squad."

(3) Inform persons if they have been under political surveillance and no criminal charges have been filed against them. Grant them the right to examine their files, to destroy them if they wish, and authorize the destruction of duplicate files.

(4) Develop written standards controlling Police Department surveillance and infiltration; restrict Police investigation to areas where there is evidence of criminal activity.

(5) Develop a system of accountability, giving an independent civilian body the power to review Police methods, files, etc.

(6) Place the Office of Police Commissioner under the Mayor, and encourage leadership sensitive to individual liberty and sympathetic to the rights of privacy.

Included among the 131 signers of this statement were the names of over 40 religious leaders including Bishop Joseph Gossman, the Reverend Hugh Dickinson, and the Reverend Vernon Dobson; from the NAACP, Enolia P. McMillan, president, and Leonard L. Saunders, vice-president; also representatives from Johns Hopkins University and Medical Institutions; representatives from Goucher, Townson State, Loyola and CCB; from the American Civil Liberties Union, the director, John Roemer, along with 10 lawyers; included also are representatives of the American Friends Committee.

Based upon information made available to me to date, I am firmly convinced that a national domestic espionage apparatus existed in America. I further firmly believe that this apparatus involved the Federal Bureau of Investigation; the Army Intelligence; and local police departments. In this domestic espionage apparatus, information gathered, without benefit of court orders, was exchanged between local police departments and Federal agencies. The information was gathered and exchanged on persons and organizations that were not involved in criminal activity.

Obviously had the provisions of H.R. 3113 been in effect, this dreadful Kafkaesque situation could not have developed in my city and in other cities across the Nation.

H.R. 3113 is a good, needed bill. I have one or two areas of concern that hopefully can be cleared up today.

The first is with the language referring to "private dwelling used and occupied as a dwelling." I think this language needs to be broadened and I shall explain why. During my primary campaign in 1974, infiltration of my campaign headquarters took place. Here is the story as reported by the local press:

Leonard Jenoff, the secret police operative who worked for dope trafficker John (Liddie) Jones' lawyer, also infiltrated the offices of Rep. Parren Mitchell, it has been learned.

Jenoff volunteered to work "morning, night, plus weekends" in Rep. Mitchell's last election campaign. He also took photographs of Mitchell's campaign workers.

Jenoff is an admitted supplier of information to the police department's Inspectional Services Division (ISD), a clandestine intelligence gathering unit that reports directly—and only—to Commissioner Pomerleau.

One of Mitchell's aides said Jenoff asked if he could take pictures of campaign workers "for a photography course he said he was taking." He turned over 10 to 15 pictures to us. I don't know if any were given to the police.

There is strong evidence to suggest that in my previous congressional campaigns similar infiltrations by paid or unpaid police agents took place. These persons could have, and I believe did, inspect records of telephone calls, credit records, and the like. Therefore, I would like to see the language broadened to cover that kind of situation.

My second area of concern deal with section 2519, "Reports concerning intercepted wire, oral and other communications." I am aware of the complexity of legal, bona fide information gathering by agencies and I am keenly aware of the need for confidentiality to govern such operations. However, I do feel that the person on whom information was gathered ought be advised somewhere down the line that he was the object of such activities. Obviously, if the intercepts result in a specific criminal charge, then the person would know.

However, if intercepts do not result in such a charge—or charges—or if indeed intercepts prove that the individuals conduct and behavior has not been inimical to the best interests of the country, I think the person has the right to know that he was under surveillance and why the surveillance took place.

Hopefully, you can clarify these two problems for me. I have and will continue to support H.R. 3113 because it is legislation needed to protect basic civil liberties which are guaranteed by the Constitution.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. MOSHER. I yield to the gentlewoman from New York.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Speaker, I would like to extend my appreciation to the gentleman from Ohio (Mr. MOSHER) and the gentleman from Wisconsin (Mr. KASTENMEIER) for the foresight and insistence that this issue of surveillance and privacy be significally aired at this time.

Mr. Speaker, I believe that it is important because we have yet to complete the responsibility that is placed upon us by the Constitution and by the electorate to make certain that those pacts which we uncovered at Watergate will not be covered over by a continuation of those same activities through various agencies of the executive branch of Government.

My own committee, the Subcommittee on Government Information and Individual Rights, has jurisdiction, as the Members know, over the Freedom of Information Act and the Privacy Act, and in both of those connections we are pursuing very extensively the oversight of various agencies which have been collecting information on the American people. Our citizens have the right to know, and under the Privacy Act they have the right to obtain all of the information and data which these agencies have maintained.

In the course of our preliminary hearings to date, we have been shocked to find that there have been extensive and deep violations of fundamental rights of privacy, as well as first amendment rights, of many, many untold numbers of American citizens in this country.

Mr. Speaker, only last week we discovered that instead of the Army's having really destroyed all of the files of civilians whom they have had under surveillance, they discovered by accident some more files, now numbering at least 9,000. The Secret Service has indicated it is maintaining surveillance on 47,000 citizens, although they admit only 300 of those persons could actually constitute a threat to the life and safety of the President or his family and other persons under their protection.

The CIA, as we all know, has conducted massive surveillance over the activities of American citizens. These facts have been developed in hearings being conducted by the Select Committee of the Senate, by my committee, by other committees in Congress, including the Committee on the Judiciary, as well as the Rockefeller Commission.

We find there have been serious invasions of privacy through surveillance not only by the CIA but also by the FBI in an unauthorized manner, including vio-

lation of the postal laws, in that first-class mail was illegally opened. We have also discovered unauthorized wiretaps, infiltration of political groups, and outright burglary.

Legislative control must be exercised in this area. The Congress must not only continue its oversight activities, but must enact legislation which will stop the kind of abuse we have recently discovered.

My subcommittee will continue its oversight in our jurisdictional area of Government information and privacy. We will also consider legislation designed to control the excesses of the Government police agencies. Hearings have already begun on amendments to the Privacy Act. These amendments will remove the blanket exemptions granted to the CIA and the Secret Service in the original bill. The facts that have recently come to light make it imperative that the CIA and the Secret Service be held accountable to each American citizen whose rights have been abridged by their activities.

In addition I am considering legislation which will control the spread of computers throughout the Government—especially the linking of various computers through advanced communications networks. I have also introduced legislation which would prohibit the interception of certain communications unless all parties to the communication agree to the monitoring or interception.

Mr. Speaker, I especially want to compliment again the gentleman from Ohio (Mr. MOSHER), who brought this special order, because we can do a lot more to bring this matter to the attention of the Congress and the public.

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

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

Mr. MOSHER. I yield to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I want to join my colleagues in commending the gentleman from Ohio (Mr. MOSHER) for his concern about this problem and for his focusing the attention of the Congress and of the people on this problem. It is a problem that has not gone away, and it will not go away unless all of us express the kind of concern that he has shown.

There is a feeling extant in the country that if one has nothing to hide, if one has done nothing wrong, what difference does it make if somebody is following him around or if somebody is listening in on his telephone conversations? And indeed there is also a feeling that, after all, if a few thousand people or even 10,000 people are being watched and spied upon and their activities are being reviewed, in a country containing 213 million citizens this somehow is not a very serious problem.

Mr. Speaker, I think, in addition to the violations of the rights of people who are being followed and who are being interdicted and their freedom threatened, that there is a much more serious problem, and that is the deterrent effect that this kind of activity has on the whole free society, because there is the danger that, through surveillance or even because of the popular belief that there is the existence of surveillance, we will discourage the kind of full, free, and unrestrained exchange of ideas and viewpoints on which democracy is based. When people and citizens and participants in political debate feel they must restrain their utterances, that they must watch their tongues, that they must have a care about which groups they join or which candidates they vote for and who they write letters to or who they receive letters from because somebody might be watching them, we are taking that first step—but it is a very long step—toward the very totalitarianism that these activities are proclaimed to prevent and deter; then we are in our way in America reaching toward the kind of closed society that the CIA, the FBI, and all the other intelligence-gathering agencies assure us in the defense of their actions they are trying to keep from happening.

It has long been the hallmark of totalitarian societies that only approved persons ought to participate in the political process.

If we did not have the right ideas, if we did not vote for the right people, and if we did not have the right relationships with other people in the public arena, then we ought not get involved.

There was and is a deliberate effort in totalitarian states to keep people from getting involved in political processes, and if we do not want that kind of deterrent here, then we must finally put a check on the kind of Government surveillance of activities, particularly in the political arena, which is going to put a chill on that kind of thing in the political arena.

I suppose that one of the problems about trying to do anything about it is that most of the time the Government agencies which are involved end up by saying, "We did not do it, and we promise to stop."

It is always a very ephemeral kind of proof that one has about who is being wiretapped, and about where the extent of the surveillance exists. There is always some kind of justification for it.

Mr. Speaker, I would only say that if the Congress does not begin to treat with seriousness of the problem that the gentleman from Ohio (Mr. MOSHER) suggests and my distinguished colleague, the gentleman from Wisconsin, my former chairman, suggests, I think we are going to deserve the kind of trouble we have because, when all is said and done, if we cannot abide the very freedom that distinguishes this society from totalitarian states, then the Government agencies which are engaged in that surveillance are going to be the best justification of all for engaging it because we will not be able to exist in any other way.

Mr. Speaker, I thank my colleague for yielding.

Mr. MOSHER. Mr. Speaker, I especially appreciate the emphasis the gentleman from Illinois (Mr. MIKVA) has just placed on the chilling effect that the atmosphere of fear has, which I emphasized in my earlier remarks. This seems to me to be a matter of extreme concern.

Mr. Speaker, I now yield to the gentleman from New York (Mr. BADILLO).

(Mr. BADILLO asked and was given permission to revise and extend his remarks.)

Mr. BADILLO. Mr. Speaker, I want to commend the gentleman from Ohio (Mr. MOSHER) and the gentleman from Wisconsin (Mr. KASTENMEIER), for having brought up this special order which I think is particularly appropriate for discussion at this time in view of the report of the Rockefeller Commission.

I think that the statements and the recommendations of the Rockefeller Commission, which merely call upon the President to tell the postal authorities and the CIA not to do it again, that is, not to violate the law, cannot be accepted by this Congress. I think in view of those recommendations, it is urgent that our subcommittee and the Committee on the Judiciary, of which I am a member, take action at this session to pass either the bill advocated by the gentleman from Ohio (Mr. MOSHER) or an appropriate bill that will deal with the question of surveillance.

I just want to cite one example of the need for urgency. The Rockefeller Commission report points out that there were a limited number of mail openings that took place during the 20-year period where the mail was being opened, but Mr. Cotter, who testified before our subcommittee and who is the chief postal inspector, indicated clearly that the arrangement for the opening of the mail was such that there really was no way in which the postal inspectors could know how many letters, in fact, were opened by the CIA and the FBI personnel who were involved.

Therefore, in the light of that, to suggest that it is enough merely for the President to say to the agencies involved not to take this action, I think is totally inadequate. I think, therefore, we should take action now.

I think we have to go even further, frankly, because the report also points out that the Justice Department had agreed for a period of 20 years not to prosecute anyone who was violating the law and who was a member of the CIA because they agreed to let the CIA, in effect, investigate itself.

I think, under those circumstances, the fact that President Ford said last week that he was referring all of the materials received from the Rockefeller Commission to the Justice Department is an inadequate recommendation because it is the Justice Department which itself is violating the law.

I think that not only do we have to take action on a bill this session, but I think we have to establish a special prosecutor to see to it that those who are responsible for illegal acts are prosecuted, including those people who are within the Justice Department right now.

So I think it is very appropriate that we begin a dialog on this subject, and

that we complete the bill, report out a bill from our subcommittee, the full committee, and on the floor of this House, and from the other body.

Mr. MOSHER. Mr. Speaker, I very much welcome the expression of support of the gentleman from New York (Mr. BADILLO) for the legislation that is before the gentleman's committee.

Mr. KOCH. Mr. Speaker, I am pleased to participate in the special order on privacy called for by our colleagues, CHARLES MOSHER and ROBERT KASTENMEIER. In the 93d Congress on April 2, 1974, Congressman BARRY GOLDWATER, Jr. and I sponsored a special order on the issue of privacy and we were pleased with the response of the members to our concerns. The 94th Congress must be concerned with the preservation of the individual's right of privacy and I am hopeful that today's dialog will elicit some new thoughts and serious discussion on this issue.

Last December 31, the President signed into law the Privacy Act of 1974. This was the culmination of a 6-year effort on my part and that of many of our colleagues to place controls on the Federal Government's collection, use and dissemination of personal information about citizens.

Earlier this year Congressman GOLDWATER and I introduced H.R. 1984 which provides that controls similar to those in the Privacy Act be placed on State and local governments and organizations in the private sector. The provisions of this bill are by no means sealed in cement. We have sent a questionnaire to organizations affected by this legislation to ascertain the reactions to it. Approximately 500 responses have been received and we will be tabulating the results shortly. The results will be made available to our colleague, DON EDWARDS, who chairs the Judiciary Subcommittee on Civil Rights and Constitutional Rights, and who will be holding hearings during this Congress on the legislation.

The legislation which BARRY GOLDWATER, Jr. and I have introduced and which we consider the basic draft is for the purposes of eliciting comments. Undoubtedly, there must be additions, deletions and changes. That is why the Privacy Protection Study Commission came into being so as to provide the forum for that testimony.

The Privacy Act of 1974 calls for the establishment of a privacy commission which will report to the President and the Congress in 2 years on the results of its study on data banks in governmental, regional, and private organizations. The Commission is to determine what must be done to protect personal information, and the privacy of individuals. The Commission members are Minnesota State Senator Robert Tennessee; William Dickinson, retired managing editor of the Philadelphia Bulletin; William O. Bailey, executive vice president of Aetna Life and Casualty; David F. Linowes, a partner with Laventhol, Krekstein & Horwath; Willis H. Ware, corporate research staff member of the Rand Corp.; Congressman BARRY GOLDWATER, Jr., and myself.

The Privacy Commission has had nearly a 6-month delay in getting started because all of its members had not been appointed. But now that the President has announced his appointments, all seven members will get together shortly to begin our work. I am pleased that the private sector and State governments are represented on the Commission. I intend, as I hope the other members do, to pursue hearings regarding the impact of privacy legislation with an open mind. We have to be made aware of much information from the private sector in developing our report and I encourage organizations to submit their reactions to us.

The special order called for today is devoted to the specific issue of domestic surveillance activities of the U.S. Government. Last year the Annual Chief Justice Earl Warren Conference on Advocacy sponsored by the Roscoe Pound-American Trial Lawyers Foundation held a conference on the subject of Privacy in a Free Society. Three areas were discussed—data banks and dossiers, electronic surveillance, and political informing. I am appending from the report of the conference, in which I participated, the recommendations on electronic surveillance.

The material follows:

FINAL REPORT—PRIVACY IN A FREE SOCIETY

PART A—RECOMMENDATIONS: ELECTRONIC SURVEILLANCE

Summary

(Note: Final Recommendations on Electronic Surveillance emanating from the Conference together with commentaries follow this summary.)

The Conference undertook the study of electronic surveillance in two areas—domestic intelligence and law enforcement. The Conference expressed strong opposition to electronic surveillance for domestic intelligence purposes. It opposed, by a narrow margin, the use of electronic surveillance for law enforcement purposes.

In discussing two methods of electronic surveillance, the Conferees were opposed to both telephone tapping and room bugging. However, they felt that room bugging was more insidious than telephone tapping because of the much greater and less controllable invasion of privacy resulting from room surveillance.

A broad consensus of the Conferees revealed general skepticism toward electronic surveillance as a tool and towards methods for control of its use. It is interesting to note that this general skepticism was shown among members of such a diverse group including many with long experience in law enforcement and in law. The opponents of electronic surveillance based their conclusions on a belief that electronic surveillance was of relatively little value to conventional law enforcement, was used primarily for minor offenses, produced very serious invasions of privacy, and was quite difficult to control. It should be noted that there was some discussion about the validity of the available statistics, which indicated that electronic surveillance was invoked most often in cases of "minor offenses."

There were Conferees supporting some electronic surveillance for law enforcement purposes, who believed that the technique should be used only for crimes of the utmost gravity and only if controls are strengthened and, together with those currently in the statute are more effectively enforced. The Conference stressed that, if there were to be any electronic surveillance, regardless of its form, of American citizens, it should be only with prior judicial scrutiny and approval—with a court order. A substantial majority recommended that no surveillance for intelligence purposes be permitted. However, if any electronic surveillance were authorized, it should be only for solving specific crimes and not for obtaining general intelligence about particular individuals or groups.

The Conference also overwhelmingly recommended a series of procedural and other controls. It suggested a requirement that, whatever federal electronic surveillance is done, it should be conducted only by the Department of Justice, subject to criteria and procedures examined at public hearings, and under close scrutiny by congressional committees. Also, the Conference urged that persons subjected to illegal electronic surveillance be permitted to recover damages from the governmental agencies engaging in such activity.

RECOMMENDATION I

There should be no electronic surveillance for domestic intelligence purposes.[1]

(Adopted by substantial majority)

Commentary: While disagreement remained as to whether electronic surveillance, with restrictions, is permissible when related to detection and prosecution of specific crimes, a majority of the Conferees determined that electronic surveillance for domestic intelligence should not be permissible.

RECOMMENDATION II

There should be no electronic surveillance for law enforcement purposes.[2]

(Adopted by narrow margin)

Commentary: This vote represents the fundamental division among the Conferees. While there was general skepticism regarding the effectiveness of electronic surveillance, a narrow majority believed that law enforcement authorities should not be allowed to use electronic surveillance even for crime detection purposes, and a minority believed that electronic surveillance should remain available for law enforcement, though this group insisted that it be used only for very serious offenses, and under very strict controls. There was a group of Conferees who, whatever their individual predilections on this issue, made the point that our current knowledge concerning electronic surveillance at all levels of law enforcement (federal, state and local) is inadequate. Additional empirical studies are needed to determine the extent and the effectiveness of its use.

RECOMMENDATION III

State and local authorities should not be allowed to engage in electronic surveillance.[3]

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[1] Mr. Michael Kenney wanted to be on record as being opposed to all electronic surveillance. His single Recommendation in this area would be: "There should be *no* electronic surveillance."

[2] Mr. Kenneth Conboy dissents from this Recommendation and adds the following statement: "I cannot subscribe to the dubious logic of the proposition that, because too many gambling warrants have been issued in the past several years, no authority, regardless of how circumscribed in execution, should be vested in the courts to issue warrants in cases involving, for example, imminent bombings, aircraft hijacks, random killings or barbarous political murders."

Ms. Mary C. Lawton wished it noted that she abstains on propositions relating to electronic surveillance. She felt that more precise definitions of terms used in the discussions were needed.

[3] Mr. Conboy did not support the Recommendation but supports the conclusion that state authorities have been

(Vote evenly divided)

Commentary: There was a sharp split over whether state and local law enforcement officials (as opposed to federal officials) really need electronic surveillance, whether they have used it excessively and indiscriminately, and whether the judicial and other controls in the statute do or can function properly on the state level.

RECOMMENDATION IV

No electronic surveillance should be carried out without a court order for any purpose on American citizens on United States soil or on American citizens in foreign countries.

(Adopted overwhelmingly)

Commentary: The Conferees drew attention here to the Supreme Court's decision the *United States vs. U.S. District Court*, 407 U.S. 297, 92 S. Ct. 2125, 32 L. Ed. 2d 752 (1972), which suggested in an 8-0 decision that, in all cases of electronic surveillance on American citizens or organizations for intelligence purposes, that is, for purposes unrelated to solution of a specific crime, a court order is required. Also, the Executive Branch has no inherent power to invade a citizen's right to privacy without satisfying an impartial magistrate that a justification exists for such an intrusion.

This Recommendation expresses the Conference's conviction that there be *no* warrantless electronic surveillance, under any circumstances on American citizens.

RECOMMENDATION V

To the extent that electronic surveillance is permitted for law enforcement purposes, it should be limited to crimes of the utmost gravity.

(Adopted by large majority)

Commentary: While there was some discussion on the meaning of "crimes of utmost gravity," the Conference reached no final definition of the concept, except that it would almost certainly include an imminent threat to life.

RECOMMENDATION VI

If used at all, electronic surveillance for law enforcement purposes should be permitted only by court order and on probable cause subject to the following conditions:

(A) It must be directly related to specific criminal acts or activities;

(B) There must be a specific limitation of the time during which the device remains in place or in use; and the length of time permitted should be the shortest possible;

(C) There must be a definite demonstration of the need for installation of the device;

(D) There must be no other law enforcement technique available for obtaining the information, and the applicant must demonstrate this fully;

(E) There must be restraint—responsible action and accurate reporting by the law enforcement officials carrying out the order.

(Adopted overwhelmingly)

Commentary: This Recommendation reflects specific problems in the present operation of the electronic surveillance statute, and is intended to supplement and make more effective the statutory controls.

RECOMMENDATION VII

Even when electronic surveillance is used with regard to crimes of utmost gravity, there should be no electronic surveillance of rooms—no bugging of a room.

(Adopted by large majority)

Commentary: Bugging should *not* be utilized under any circumstances. Bugging was seen as a more serious invasion of privacy than wiretapping since, while one can refrain from using a telephone and thereby avoid a wiretap, the presence of a room bug in one's home or office makes it impossible to be free from surveillance.[4]

RECOMMENDATION VIII

If any federal electronic surveillance is to be permitted, the authority for all warrants for wiretapping should be limited to a single governmental agency—the United States Justice Department. The Justice Department should be the only federal agency to install wiretaps on United States soil and on American citizens abroad.[5]

(Adopted overwhelmingly)

Commentary: Since electronic surveillance is difficult to detect in the first place, a proliferation of federal agencies engaged in wiretapping would ineluctably result in more privacy abuses than would result if all legal wiretapping were the responsibility of only one agency.

The Conferees were mindful of the diversity of government agencies engaged in electronic surveillance which were uncovered during the Watergate investigations—some of them accountable to no one but the President—with the Justice Department and the courts being entirely by passed.

RECOMMENDATION IX

The procedures and criteria by which wiretaps and other forms of eavesdropping are sought, and warrants for their use issued, should be clearly and properly prescribed by the United States Justice Department only after complete public hearings on these procedures and criteria, such hearings to be held in various parts of the country.

(Adopted overwhelmingly)

Commentary: If the Justice Department is established as the only agency with the responsibility for federal electronic surveillance, the citizenry should be made aware of this. Furthermore, the citizenry should be made aware of the precise processes by which eavesdropping is permitted by the courts and carried out by the Justice Department. In this way the widespread fear that government eavesdropping is pervasive can be countered by a precise vesting of limited authority—and accountability for any abuse of that authority—in this one agency.

RECOMMENDATION X

A very strong congressional oversight committee should be established in both branches of Congress to review all wiretaps by federal agencies. This would apply to the United States Justice Department if it were established that it were the only governmental agency authorized to wiretap.

Commentary: The unanimous approval of this Recommendation reflects the strong conviction of the Conferees concerning the establishment of an active monitoring system by Congress—representatives selected by the citizenry—to ensure accountability on the part of those involved in limited, carefully restricted, use of electronic surveillance.[6]

RECOMMENDATION XI

A reporting system should be undertaken by the Justice Department, subject to proper regulations to maintain confidentiality, so that all information disclosed by taps can be given to Congress for it to properly exercise its oversight function.

(Adopted unanimously)

Commentary: The information would include: the duration or the wiretap; the need for the tap; an affidavit submitted for the issuance of a warrant for the tap; the authorization by the Attorney General of specific taps; what information the tap revealed and the consequences of the tap, that is, whether there was an arrest, conviction or any other disposition.

RECOMMENDATION XII

A specific minimum amount of damages, plus attorney's fees, should be available for any violation of the wiretapping or other eavesdropping statutes by federal, state or local officials. These damages should be recoverable in a federal court from the particular governmental agency engaged in such eavesdropping.

(Adopted overwhelmingly)

Commentary: The Conferees believed that effective sanctions must be provided against all who violate statutes concerning the use of electronic surveillance.

Mr. BIESTER. Mr. Speaker, I wish to commend the distinguished gentleman from Ohio (Mr. MOSHER), and the distinguished gentleman from Wisconsin (Mr. KASTENMEIER), for their leadership in further bringing to the attention of the House and of the American public the need for legislation in the field of Government surveillance of private citizens. I know firsthand the dedication to civil liberties and indiivdual rights which these two Members of Congress have exhibited in their work in the House.

In March of this year, it was my privilege to appear before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, chaired by Mr. KASTENMEIER. I testified on behalf of legislation known as the Bill of Rights Procedures Act, introduced by Mr. MOSHER in the House, and by the distinguished gentleman from Maryland, Mr. MATHIAS, in the Senate.

The Bill of Rights Procedures Act would require any Federal agent to obtain a court order before he or she could conduct any form of surveillance on a private citizen. The Government would be required to demonstrate probable cause that a crime had been or was about to be committed before any warrant for surveillance could be issued. The legislation is intended to be comprehensive in scope, to cover all forms of surveillance, including bugging, wiretapping, and all other forms of electronic surveillance, opening of mail, mail covers, entering of dwellings, and the inspection or procurement of the records of telephone, bank, credit, medical, or other private transactions.

Mr. Speaker, I believe the need for new legislation in the field of governmental surveillance of private citizens is clearcut. The fourth amendment to the Constitution of the United States proclaims the right of the people to be "secure in their persons, houses, papers

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more discriminating in the use of electronic surveillance than federal authorites. For example, the huge number of gambling warrants obtained were predominantly obtained by the FBI. Also, jurisdiction over the most serious crime in terms of penalty—murder—is almost exclusively with state officials."

[4] Mr. Conboy dissented from this Recommendation and explained how he saw its result: "the law would simultaneously authorize (wiretapping) and condemn (room bugging) electronic surveillance of the imminent criminal, contingent solely upon the mode (phone conversation or face to face meeting selected by him.)"

[5] Professor John Elliff suggests that "the United States Department of Justice should not be the agency to install wiretaps overseas, since its investigative jurisdiction is primarily within the United States. However, the Attorney General might properly be required to approve any wiretaps installed by another agency on American citizens abroad."

[6] Mr. William D. Ruckelshaus informed the Conferees that during the period of time during which I was Acting Director of the FBI, was I called on to testify before Congress about the FBI's involvement in [illegible] not in the public interest for any such activity to go unmonitored by the Congress."

and effects against unreasonable searches and seizures." Security, however, must be more than an abstract legal proposition. If security is to have any meaning at all, it must be a sure perception of one's condition.

I seriously doubt that the American people today consider themselves secure against unreasonable searches and seizures. Twentieth century technology has given governments and indeed private institutions the ability to intrude into the private realm of an American's life with staggering efficieincy, sophistication, and secrecy. The technological capacity for an unprecedented degree and scope of governmental intervention into peoples lives exists today. Without new, stricter safeguards and more effective means of oversight and control, there is little reason to doubt that such technology will eventually be used, if indeed aspects of it have not already been employed.

The American people today are suspicious of government. They are skeptical not only of its ability to solve problems, but they even question government's basic motives. That skepticism is healthy to the degree it results in demands that the Congress of the United States act forthrightly to end unnecessary and illegitimate intrusions into people's private lives. Only by responsibly addressing itself to this very basic but complex problem can Congress restore to the American public a firm sense of security, a justified perception that one is indeed safe against unreasonable and arbitrary or capricious governmental intrusion.

Clearly the questions at stake in consideration of the whole issue of governmental surveillance go to the very core of the democratic process. This issue forces us to contend with perhaps the most basic question faced by a free society: where do we draw the line between the rights of the individual and the legitimate and necessary functions of society as embodied in the Government?

Such a question has never been easy to answer, and it is particularly difficult in this complex and technically sophisticated age. The introduction of national security considerations further complicates the issue.

As a member of the Committee on International Relations, a member of the Subcommittee on National Security during the 93d Congress, and a former member of the Judiciary Committee, I would particularly like to examine the question of governmental surveillance in matters pertaining to national security.

Clearly all those in positions of public responsibility must approach national security considerations with a weighty concern for the dangers inherent in the prevailing international political system, and the peculiar obligations which our position within that system imposes on the Government of the United States. Few would dispute the need for the Government to deal with some especially sensitive matters in secrecy. Few would dispute the need for the Government to preserve international trust in the confidentiality of diplomatic discussions.

But equally clear [illegible] deal with such legitimate national security concerns within our constitutional framework—to subject governmental surveillance to proper and reasonable standards of procedure, and to minimize the scope for individual caprice or abuse of power.

With regard to national security, what balance do we properly strike? Where, indeed, do we draw the kind of line which protects both the individual and society at large?

I would contend that under existing procedure, the rights of the individual under the fourth amendment are inadequately protected.

The law presently allows surveillance to be undertaken on the authority of the President—with such authority usually executed by the Attorney General—when national security is considered to be at stake.

It seems clear to me that such a procedure—involving individual interpretation of such a broad and ambiguous term as "national security" does, indeed, allow for abuse of power.

The Bill of Rights Procedures Act would rectify that situation by linking all surveillance—including that undertaken on grounds of national security—to a court order based on probable cause that a crime had been or was about to be committed.

In the case of national security, such an order would have to be linked to suspected sabotage, espionage, treason or similar crimes.

Is this an unreasonable restraint on executive power? Would such a requirement hamper the proper stewardship of our national safety? Would it indeed swing the judicial pendulum dangerously in the direction of individual rights at the expense of societal security?

I think not. Such a requirement is inherently reasonable and proper, and would not have to subject our society to risk.

I am supported in this belief by the Honorable William D. Ruckelshaus, former Deputy Attorney General and former Acting Director of the Federal Bureau of Investigation. Hardly a man oblivious to legitimate national security considerations, Mr. Ruckelshaus last year stated before joint hearings of the Senate Committees on the Judiciary and Foreign Relations that he sees "no reason why all wiretaps should not be subject to court warrant."

To restrict wiretaps and other forms of surveillance to instances approved by a Federal court, simply means the Government must establish to the satisfaction of an independent arbiter that a reasonable suspicion exists as to the commission of a crime affecting the national security of the United States. The Bill of Rights Procedures Act would thus not bar necessary national security surveillance; it would simply subject the need for that surveillance to prior assessment by the judicial branch. Such a prior assessment simply, but significantly removes national security surveillance from the realm of possibly arbitrary, capricious action.

Government surveillance divorced [illegible] suspected criminality and [illegible] restrained by any check—imperils our constitutional system, and thus undermines the very national security it is ostensibly designed to protect.

If we are to protect our genuine national security interests as well as safeguard individual rights within our constitutional framework, Congress must respond to the complex challenge of enacting new legislation on surveillance. I feel confident that with dedicated Members like CHARLES MOSHER and BOB KASTENMEIER helping to lead the way, Congress will adequately meet this difficult challenge.

Mr. GOLDWATER. Mr. Speaker, I am very pleased that my distinguished colleague from Ohio, Representative CHARLES MOSHER, and the chairman of the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Representative ROBERT KASTENMEIER, have taken this special order on the subject of surveillance and the interception of communications by electronic and other devices of citizens of the United States. I have had the pleasure of testifying before Mr. KASTENMEIER's subcommittee on Congressman MOSHER's bill, H.R. 2604, the Bill of Rights Procedures Act of 1975. I am a cosponsor of that legislation, as I was in the preceding Congress. This is important legislation and Congressman MOSHER is to be congratulated for being its author and chief proponent in the House of Representatives.

I do not believe that there is anyone who can question the interest of myself or my family in the quick and successful combating of individual and organized crime in the United States. I agree fully with former Chief Justice Earl Warren's statement that the modern law enforcement community must utilize all that is legitimately available to it, including the fruits of modern technology, in its battle to stop crime and end lawlessness. The quality of our life and the future of our society are at stake in this battle against crime.

My support for this bill stems from my deep and sincere belief that the inalienable rights and liberties found in the Constitution and the Bill of Rights—especially the 1st, 4th, and 14th amendments relating to freedom of speech and association, security in one's property and personal possessions, and the right to due process—are being erroded by the increasing use of surveillance as a primary tool and investigative aid by the law enforcement community. There is loose an idea that electronic gadgets and surveillance are by definition helpful in the prevention of crime and in the successful prosecution of criminals. This attitude is apparently an outgrowth of American technocracy: that things scientific and technical in their general application to daily life are good, healthy, and desirable. It causes citizens and members of the law enforcement community to assume that the activity is compatable with our basic rights and liberties. But, such applications, when left unquestioned, can clearly lead to abuse and misuse.

This [illegible] recently received its confirmation in the Watergate break-in

and in the illegal surveillance conducted by the so-called plumbers unit. There, surveillance was conducted that directly violated our Constitution. Some of it was accomplished through the misuse of legitimate law enforcement operations. In a few instances, Federal law enforcement personnel unwittingly contributed to the problem because they had no comprehensive, commonly identified and agreed with criterion for judging the legitimacy of the activity.

I have a sense of urgency about this area of activity for each of us knows that recent events do not stand alone. They are not an abberation. To varying and often lesser degrees, we know of events like Watergate and of excesses in the general law enforcement community going back over 30 years. And, the current situation at the Federal level cries for improvement. Simply put, there is too much vaguely defined administrative authority within the executive branch that applies to the area of surveillance. Operational authority is so widely dispersed as to undermine standardization of surveillance criterion and decisions. And, the situation has not been made any better by the recent conflicting and contradictory court decisions that have been added to the "surveillance mix."

Clearly what is needed is legislation that defines the term surveillance, restricts and regularizes the authority for undertaking surveillance, and that establishes strong penalties for violations of basic civil rights through illegitimate surveillance. The Mosher bill, H.R. 2604 does these things. For that reason I commend it to the careful attention of the House. And, I thank my colleague for arranging for this special discussion and giving me the opportunity to participate.

Mr. METCALFE. Mr. Speaker, everywhere we turn today, we see Government infringing on the civil liberties of its citizens. This Government surveillance, this keeping of dossiers, these dirty tricks seem to pervade every level of American Government today. These activities have taken many forms, they have been overt and covert, they have been insidious and they have been undisguised.

The list of those Government departments and agencies involved in this spying seems endless. The White House, the FBI, the CIA, the IRS, the Secret Service, the U.S. Army, and State and local government in at least four States, have allegedly been involved in maintaining files or improper surveillance on tens of thousands of American citizens.

A pattern of abuse is clear. On every governmental level, we see elected representatives of the people and their agents conducting improper and illegal surveillance activities for the sole purpose of identifying and harassing dissenters and political opponents who, for the most part, exercise their constitutionally guaranteed rights in a legal and lawful manner.

Abuses on the Federal level have been well documented in recent months. The laundered Rockefeller Commission report, even with its extensive gaps, is simply the latest in a long and sad series on revelations concerning misuse of power within the Federal executive branch.

These same kinds of abuses, on State and local levels, have not yet been so well documented. Enough of these activities have been disclosed, however, to give us a strong indication that the Federal Government was not alone during the past 10 years in its illegal surveillance.

We have seen cases of State and local agencies, in some cases using Federal funds, maintaining improper and possibly illegal surveillance on private citizens. In my home city of Chicago, for example, it has become clear that the police intelligence division was used, at least in part, to maintain surveillance upon thousands of Chicago area residents who never had been the subject of criminal investigations. Police officials have acknowledged after months of denials, that surveillance was maintained and files were kept on literally thousands of Chicagoans whose only "crime" was some connection with any one of dozens of political, civic, and community groups within the city who the administration perceived as a threat to its policies. Files were maintained on, among other people, Senator CHARLES PERCY; myself; Father Theodore Hesburgh, president of Notre Dame University; Arthur Woods, chairman of the board, Sears, & Co.; Illinois State Attorney Bernard Carey; and Illinois State representative; and at least three aldermen of the city of Chicago.

In addition, secret grand jury testimony of the former superintendent of the Chicago Police Department, made available to the press indicates that the Superintendent was aware of illegal surveillance activities, including wiretapping and burglaries which were undertaken by the intelligence division.

The General Accounting Office has recently completed, at the request of myself and others, an investigation into the use of Federal funds for these activities.

It has determined that nearly $10 million was spent on the police intelligence division between 1972 and 1974. Nearly $5 million of these funds were Federal moneys—$3.9 million to LEAA funds and between $539,000 and $779,000 in revenue sharing funds.

The GAO was unable to determine whether or not revenue sharing funds were used to pay salaries of those officers who engaged in the political spying of the intelligence division. Its lack of subpena power and a continuing State grand jury investigation severely limited its investigation in this respect.

Enough information was gathered by the GAO, however, to warrant further investigation. Therefore, I have written Chairman RODINO of the House Judiciary Committee and Chairman ULLMAN of the Ways and Means Committee, whose committees, of course, do have subpena power, asking them to determine precisely what role Federal funds played in the political intelligence activities of the Chicago Police Department.

In the case of the revenue-sharing funds, I have also informed the Office of Revenue Sharing of the GAO report and intend to forward such information as may be gathered in congressional investigations for them to act upon.

The Office of Revenue Sharing has the authority to conduct its own investigation into matters such as this. If they determine that "improper" use of revenue-sharing funds has occurred, they may take action on one of several levels, including demanding that the funds improperly used be returned to the Federal Treasury.

There is no doubt that the responsibility of the Office of Revenue Sharing is clear in these cases of policy spying. Illegal surveillance certainly constitutes improper use of Federal funds. If it can be determined by either the courts or by a committee of the Congress, that such surveillance was, indeed, illegal, I would hope that the Office of Revenue Sharing uses its authority in this matter to apply the most strict penalties against States and cities that use Federal revenue-sharing funds in this manner.

The General Accounting Office report outlined the use of LEAA funds, as well, by the police intelligence division. Nearly $4 million of these funds was used by the city of Chicago to establish a computer system to which many city agencies, including the intelligence division, seem to have had access. In light of the widespread misuse of such data banks by both government and private groups, this too would seem a matter for further study.

The General Accounting Office obtained information on one other aspect of intelligence activities in the Chicago area. This concerned the 113th Military Intelligence Group and its alleged support of right-wing terrorist activities. According to these reports, this Regular Army unit provided information and weapons to militant groups such as the Legion of Justice and assisted them in the systematic disruption of various liberal organizations in the Chicago area. These same reports alleged that the 113th Military Intelligence Group exchanged information and received assistance from the intelligence division of the Chicago Police Department.

The GAO, in its investigation, could only determine that most files of the 113th Military Intelligence Group had been burned in 1972 and those that had not been destroyed "were not readily available."

Mr. Speaker, Chicago may be one of the most blatant examples of such misuse of authority by high administrative officials, but it is certainly not the only example. Similar cases have been reported in Philadelphia, Baltimore, and Houston in recent months and this, too, may only be the tip of the iceberg.

At the time the GAO report on police intelligence activities in Chicago was released, I called the activities it outlined "an obscene misuse of governmental authority."

What I said about Chicago is equally true about other cities where this may have happened and equally true about the Federal Government's illegal surveillance activities.

These abuses have infected nearly

every level of government in this country, and in almost every single case, the Federal Government seems involved, either directly or indirectly.

Whether it is the use of Federal money to fund the intelligence activities of local police departments or the improper use of Federal data banks or Army support of right-wing terrorists or Cointelpro or the White House plumbers or any of the others, these sickening abuses of the Constitution have gone far enough.

If unchecked, these activities could in a very real sense, mean the end of American democracy as we know it. Should they continue on the massive scale that they have existed in recent years, a cornerstone of our system of government—the right of dissent—would be in serious jeopardy.

Corrupt and power hungry officials and petty despots to the contrary, however, the first amendment is still with us.

Those of us who see injustice and inequality in this country will continue to speak out in order to make this a better country. We will not be deterred. We will not be intimidated.

Activities such as those I have outlined here today, will only redouble our efforts to speak out against these abuses.

This Congress, however, must put a stop to these activities wherever they occur. If 1 cent of Federal money, money that we appropriate, is used for these abuses, it is our responsibility, our obligation, to expose it and end it, once and for all.

Mr. GUYER. Mr. Speaker, as indicated by Vice President ROCKEFELLER'S recent report on the CIA, there is a definite need for more powerful legislation to further protect the individual's right to privacy. Despite the fact that most States have enacted laws to protect the individual, the right of privacy is often routinely violated. I am referring to cases in which individuals are victimized by information on mailing lists that Government agencies unethically make available. Citizens are forced to provide personal information about their public and private lives to such organizations as census bureaus, credit associations, police files, and others. Even information from personal income tax reports is often not kept confidential.

Personal records are almost as readily available as the daily newspaper—and all too often, the individual is unaware that the information contained in his records is being clandestinely used.

The continuance of invasion of personal privacy is not only degrading and embarrassing but is an outright contradiction to the spirit of the fourth amendment. In a nation where individuality is so greatly treasured, tolerance of such invasion is unpardonable.

From my participation in the Republican task force on privacy, I became acutely aware of the many abuses made on the individual with regard to loss of privacy. During our concentrated efforts to protect the rights of juvenile offenders, we unearthed countless cases where, due to readily accessible court and police records, these individuals have been branded "criminal" for life, and thus have been denied equal opportunities with other citizens of the country. There is an obvious need to eliminate such stigmatizing effects and to allow the individual to become a member of society with a clear slate.

I am especially hopeful that violations of the right to privacy will soon become a relic of the past. The right to privacy is a freedom that should be guaranteed and cherished by all.

Mr. KEMP. Mr. Speaker, I wish, first, to commend my colleague, the gentleman from Ohio (Mr. MOSHER), for providing Members an opportunity this afternoon to address the problems associated with assuring the individual's right to privacy. The gentleman has been in the forefront of efforts to safeguard privacy—efforts which have been, and are continuing to be, transformed into legislation and enacted into law. Together with other Members, such as the gentleman from California (Mr. GOLDWATER), he has helped to increase substantially the consciousness of Members and the public on the nature of the threat to personal privacy.

This has been one of the principal issues in which I have been involved also. I think the protection of personal privacy is fundamental to the rights of free men and women—the specific rights enumerated in our Constitution and the premises which underlie them. It is a protection against the unwarranted intrusion of someone else into the life of the individual, and if one examines the multitude of actual and alleged violations of this right to privacy in recent years one can see quite clearly that "someone else" is most often an instrument of government.

The intrusions upon privacy and the growth of government have been coexistent.

Nothing is more to blame for the rise in government interference and intervention in our private lives and security than the notion that government can solve all our problems and must be given, therefore, the unrestricted range of authority to do so.

Only when we come to full grips with those notions will we ever secure ourselves and our posterity against infringements on the right of privacy.

Jefferson observed that:

> It is the natural course of events that liberty recedes and government grows.

While accurate, Jefferson's observation stated only one specific aspect of a larger and more complex equation. To wit: As external, collective human control over, and interference with, a person's life intensifies, individual liberty shrinks proportionally.

In this larger sense, the real threat to individual liberty is the collective will of any institution or group of people which has the power—economic, political, or whatever—to coerce, intimidate, control, deny, or even give. The recognition that it is the natural course of events for liberty to recede as government grows is, then, only one manifestation of threats to liberty, albeit the most evident threat in both Jefferson's and our times.

The lessons of history teach us that this growth of collective power can come [illegible] power

ment. The problem is not singularly the "bigness" of these institutions, in relation to the individual and the exercise of free choice, but such "bigness" does accentuate the problem. It tends to reduce the range of alternative choices of conduct available to the individual.

In the 20th century, particularly in our Nation, it has been the growth of—the "bigness" of—government which has posed the single greatest threat to human liberty. This growth in government is occasioned by the erroneous notions that only government can solve the major social, economic, and societal problems of our era, and that government schemes and regulations are preferable to the laws of supply and demand and the exercise of free choice by individuals.

Woodrow Wilson, a doctor of philosophy in history and a recognized scholar on the processes of maintaining individual rights before coming to the Presidency, warned that—

> Liberty has never come from government. . . . The history of liberty is the history of limitations of government power, not the increase of it.

In contradistinction to the classical liberalism embodied in these profound observations of Jefferson and Wilson, despite the clear warnings from history as prior human experience, and even despite the all-too-apparent results of the rapid growth of government in our modern age, we seem, as a people, to have learned little. For, that government has grown disproportionately to the whole of society is factually indisputable, and that such growth has occasioned an ever-growing threat to individual liberty is, in my opinion, equally indisputable.

In both absolute and percentage terms, government's growth has been virtually without restraint during the past nearly half century. It has exceeded all bounds of necessity and perspective.

What are the facts?

Between 1940 and 1976—

The Federal Government's gross annual revenue rose by 42 times—from $7 billion to $297.5 billion;

Total Federal expenditures rose by 35 times—from $10.1 billion to $349.4 billion—and will probably go even much higher in 1976;

The Federal debt outstanding rose by 14 times—from $42 billion to $605-plus billion;

Federal expenditures per person rose by over 15 times;

The Congress enacted nearly 15,000 public laws;

Federal employment zoomed to over 2.8 million people;

Federal forms, to be painstakingly filled out by individuals and corporations, grew and grew in number and complexity;

Federal investigatory surveillance, and monitoring staffs grew to enforce each and every measure;

The number of Federal initiatives, most of which are reinforced through interventionist regulatory powers and policies, mushroomed; and

The Federal agencies which execute these powers and policies—and, frequently, call for more—grew accordingly. It is almost impossible to itemize the areas of conduct now subject to Federal

control because there are so many, but a cursory examination of any Government organization chart shows us the areas of our lives now subject to Government regulation: health, education, welfare, labor, commerce, housing, transportation, finance, agriculture, environment, communications, wages and prices, energy, labor-management relations, trade, alcohol, tobacco, firearms, savings, community relations, civil affairs, land and natural resource uses, recreation, commodities, securities, insurance, marketing, consumer affairs, productivity, nutrition, research, forestry, product standards, travel, economic development, shipping, vocational and career opportunities, employment standards, occupational safety, child development, retirement and income security, rehabilitation, interest rates, credit availability, land sales, aviation, railroads, highways, safety, institutionalized voluntarism, arts and humanities, equal employment opportunity, export-import terms, trucking, small business, veterans, postal service, ad infinitum.

The unfortunate, yet perhaps inescapable, impact of the exercise of this vast amount of Government authority was infringement upon privacy.

The manifestations were myriad: data banks, wiretapping, electronic surveillance, eavesdropping, credit histories, medical histories, income tax information, information systems, regulatory report filings, disclosure statements, data exchanges.

Separately—and, most assuredly, when taken collectively—these devices and procedures add up to a growing infringement on the right to be let alone, the right to privacy.

We simply must come to better understand the relationship between the extent of government and the threats to privacy. Government can carry out its almost unlimited functions only through information gathering, analysis, dissemination, and exchange. Thus, we should reduce the range of those functions.

We can, and we should, do those things which we think are necessary to protect the right of privacy, and such measures as the Privacy Act of 1974 are definitely steps in the right direction.

I think most Members are aware of my efforts in that regard—the sponsorship of legislation which was incorporated into that act, the Goldwater-Kemp privacy amendments to the Federal Energy Act of 1974, the support for additional protection of student records, the introduction of the first comprehensive medical privacy proposal. But throughout that work I was, and I remain, constantly aware of the more fundamental causes of the intrusions we are trying to guard against—the growth in Government intervention in our private lives.

We can address the causes of invasion of privacy with substantial effectiveness only when we address the size and extent of government and set about to reduce and limit it.

This, I think, we must very soon do, or our entire way of life will be substantially altered—and it will not be for the good.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order today of the gentleman from Ohio (Mr. MOSHER).

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

There was no objection.

The SPEAKER pro tempore. (Mr. MCFALL). Under a previous order of the House, the gentleman from Pennsylvania (Mr. COUGHLIN), is recognized for 60 minutes.

[Mr. COUGHLIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

ANNIVERSARY OF THE LENINGRAD TRIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG), is recognized for 30 minutes.

Mr. EILBERG. Mr. Speaker, on this date 5 years ago the Russian Government shocked, and outraged the world by sentencing 11 persons, 9 Jews and 2 Christians, to death or lengthy prison terms for simply trying to act as free men are supposed to be allowed to act.

The sentences, which were imposed to deter other persons from their "dissident" activities were partially reduced after protests poured in from around the world.

Despite the harshness of the sentences and other continued and brutal harassment by the Soviet Government the Jews of Russia are still trying to emigrate to freedom.

Last month I visited Russia with some other Members of Congress and we were able to meet with some of these men and women in Moscow and Leningrad. In Kiev the people whom we were supposed to see were ordered out of the city for the duration of our visit, but we were able to meet with the wife of one of the men who had applied for an exit visa.

In Moscow we spoke with: Vitaly Rubin, Leonid Raines, Irma Chernyak, Sophia Belotserkovskaya, Alexander Lerner, Ida Nudel, Vladimir Slepak, Anatoly Scharansky, and Joseph and Dina Beilin.

Our Leningrad meetings were with; Leopold Ekchilevsky, Boris Krumgalz, Mark Freydin, Vladimir Sverdlin, Alexandr and Oksana Chertin, George Sakiriusky, Ilia and Elleonora Ginsburg, Jeanlette "Janna" Kartseva, Felix Aronovich, and Ilya Shostakovsky.

As I stated previously, the people with whom we were supposed to meet in Kiev were ordered out of the city. Their names are: Ilya Zlobinsky, Vadim Sheinis, Aleksandr Mizrukhin, Vladimir Kislik, and Kim Fridman.

We were, however, able to meet and talk to Mizrukhin's wife, Mila.

Every one of these people, without hesitation, said they wanted their cause and themselves individually to get as much publicity and support as possible. They all asked us to mention their names to the Russian officials with whom we would be meeting later.

They absolutely contradicted the people in this country who claim we are hurting them or the cause of Soviet Jewry by publicly supporting them or putting pressure on the Soviet Government in their behalf.

At this time Mr. Speaker, I would like to place on the RECORD a statement of support for the persons sentenced 5 years ago today at the Leningrad trials and the more than 40 Soviet Jews who have been imprisoned for trying to reach freedom.

STATEMENT OF SUPPORT FOR PERSONS SENTENCED

Five years ago today, justice was a victim of the Soviet legal system.

On this date in 1970, the Soviet government shocked the world with the arrest of eleven persons. All received harsh prison terms, some as long as 15 years. One was sentenced to death, but in response to cries of outrage from the free world, the sentence was commuted to 15 years.

Nine Jews and two Christians. They were the "criminals" of the First Leningrad Trial.

For keeping typewriters in their homes, they were criminals.

For owning books with the word "Jew" in them, they were criminals. And for possessing letters from relatives in Israel, they were criminals.

What followed their arrest was part of a systematic plan to subdue the remarkable Jewish national movement that emerged in the USSR. It was a plan whose goal was to silence and intimidate Jews seeking to emigrate to Israel. The defendants were charged with such crimes as "betrayal of the fatherland;" "responsibility for the preparation of a crime and for attempted crimes;" "misappropriation of State or public property;" "anti-Soviet agitation or propaganda;" and "participation in an anti-Soviet organization."

Sadly, the Leningrad Trial was only the beginning. Since then the Soviet Union has used its legal system to harass Soviet Jews whose only crime is the desire to emigrate to their ancient homeland, Israel—a right guaranteed by Soviet law and international law.

Within recent months Mark Nashpits and Boris Tsitlionik were arrested and sentenced to five years in exile for demonstrating on behalf of Soviet Jewish prisoners of conscience; including those convicted in the Leningrad Trials of 1970.

Mikhail Leviev, a Soviet Jew who sought an exit visa, was tried and sentenced to death for "economic crimes"; and Dr. Mikhail Shtern, a highly respected Vinnitsa physician, has been sentenced to eight years hard labor on trumped-up charges of accepting bribes from his patients.

In these and other cases the defendants were refused counsel of their choice. Testimony on their behalf was suppressed and documents fraudulently altered in order to convict them.

The arrests that took place on June 15th, 1970 are a reminder of the extremes to which Soviet authorities will go in seeking to prevent Soviet Jews from emigrating to Israel.

But those arrests were not accepted in silence by men and women of conscience throughout the free world. Just today, for instance, more than 500 lawyers from throughout Greater Philadelphia have joined to publish a newspaper advertisement voicing their outrage at this mockery of justice.