

as we seek in teachers; and with compensation related to the high responsibility.

3. Improved classification procedures to insure separation of incorrigibles from others.

4. A balanced program of productive work, intensive basic education, vocational education, and recreation.

5. Communication with inmates.

6. A system of justice in which judges, prosecutors and defense counsel recognize that prompt disposition of cases is imperative to any hope of success in the improvement of those convicted.

INSTITUTIONS AND FACILITIES

I will not dwell on the subject of institutional housing since most of you are better informed on the facts and more knowledgeable as to the needs than I am. I fear that if we took a realistic national inventory and determined how many states meet minimum standards that most of us would agree on, the result would be a melancholy commentary on a 20th century society. The rise in crime has crowded most prisons beyond any reasonable bounds and new structures are needed. We know, however, that many of our problems flow from having institutions that are too large, that are poorly located and inaccessible to the family of the inmates, too far away from facilities for work release programs, and located in areas that do not provide adequate housing for personnel of the institution.

As you well know, bricks and mortar do not make a sound correctional institution any more than bricks and mortar make a university, a newspaper, or a hospital. People and programs are crucial. The recent events in two of the largest and most affluent states are evidence that more than good "plant and equipment" are needed. With all that has been said and written about the problems in New York and California, there has been almost nothing communicated to the public about the fact that the particular institutions in question are among the more modern penal institutions in a physical sense. Attica and San Quentin serve to remind us that even the best of buildings have not provided solutions.

So even when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have enormous problems left to solve. It will take millions of dollars to accomplish the changes needed, but it must be done and we must have new thinking about what constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

PERSONNEL

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. "Just anybody" cannot make a sound correctional institution any more than "just anybody" can make a good parent or a good teacher. We have yet to understand that the people who operate prisons, from the lowest guard to the highest administrator, are as important in the whole scheme of an organized society as the people who teach in the schools, colleges and universities.

I suspect some experts would say that is an understatement in the sense that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prison inmates are not mentally and emotionally healthy and therefore need something more than normal people require. Guards and guns are not enough.

As we are now slowly awakening to the need for more intensive training for policemen on the beat and in the patrol cars, we must sense that the guards, the attendants, the teachers, and the management of prisons must be specially selected for their temperament and attitude and then specially trained for their crucial part in the task of helping prisoners to help themselves.

I am sure that every person here must be elated over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training program of the FBI Police Academy. The management and operation of penal institutions has desperately needed such a nationally coordinated program to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.

This decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

IMPROVED CLASSIFICATION PROCEDURES

In many institutions we know that overcrowding and understaffing have led to a breakdown of classification procedures and practices. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders and first offenders with recidivists, incorrigibles, drug addicts and others who are seriously mentally disturbed. A very high priority must be given to separating inmates, and this is particularly important today with respect to the riot-prone inmates. Those who would disrupt and destroy a penal institution must be separated to protect those who are trying to learn and to prepare themselves for the future. Every inmate has a right to be insulated from those who are bent on lawless acts.

A BALANCED PROGRAM

We need look only at the median age of inmates to see at once the need for athletic and other recreational facilities so that these young men can burn off the surplus energies of youth as many of them would be doing if they were free. The corrosive impact of enforced idleness at any age is bad enough, but on young men it is devastating. Playing cards, watching television or an occasional movie, with nothing more, is building up to an expensive accounting when these men are released—if not before. Such crude recreation may keep men quiet for the time, but it is a quiet that is ominous for the society they will try to reenter.

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "coddling of criminals" let him visit a prison and talk with inmates and staffs. I have visited some of the best and some of the worst prisons and I have never seen any signs of "coddling" but I have seen the terrible effects of the boredom and frustration of empty hours and a pointless existence.

RECREATION AND EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in schools and in life.

When society places a person in confinement, it deprives him of most normal opportunities and much of the motivation for self-improvement. When society does this, it has a moral obligation to try to change that person—to make a reasonably successful human being out of him. Common sense and the self-interest of society dictate this even if we lay aside all considerations of human decency and our religious beliefs as to redemption.

Here perhaps our failure is the greatest. The percentage of inmates in all institutions who cannot read or write is staggering. Another, and largely overlapping category, is made up of those who have no marketable skills on which to base even a minimally successful life.

The figures of literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner had learned to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the market place of the outside world to which he must some day return and in which he must compete. Since the

best of human beings need motivation and hope, why have we thought prisoners can do without both? We should develop sentencing techniques to impose a sentence so that an inmate can literally "learn his way" out of prison as we now try to let him earn his way out with "good behavior."

We know that today the programs of education range from non-existent to inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced for substantial terms must be given the opportunity, the means and the motivation to learn his way to freedom.

Meanwhile, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moon-lighting" on second jobs to make both ends meet, there is no reason why every healthy prison inmate should not be required to work to earn at least a part of his "keep." Moreover, every consideration of rehabilitation demands that inmates be kept busy with productive work, with learning and self-improvement. With this must come an expansion of psychological and religious counseling to instill motivation and maintain hope.

COMMUNICATION

We know that one of the deepest hungers of the human being is communication with others on his hopes, his fears, his problems. Inside the walls of a prison this basic need of Man does not vanish and indeed we know it is greater than ever. A means of regular communication should be established between inmates and those who run the institution. We cannot turn the management of a prison over to the inmates, but society, as represented by the "keepers," can listen to what the inmates have to say.

To that extent it is feasible and consistent with orderly administration, therefore, the inmates need to have a chance to regulate some limited part of their lives, however small, by the processes of deliberation and choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk when we let him loose. Within limiting regulations necessary for basic order, inmates should be allowed to think and walk and talk as we will demand that they do when they are released. What can be wrong with allowing prisoners to practice, on a small scale, the very things we will insist they do when they are again free?

SPEED IN ADMINISTRATION AND JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. Time does not permit discussion of standards for sentencing and related matters that you are dealing with in "work shops" and seminars, but I am confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly as possible and that the appeal is swiftly heard and decided. In some places the time lag between arrest and trial is hardly less than a public disgrace. Some of this is due to the maneuvering of lawyers who misconceive their function and seek to postpone the trial date as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts—and some to poor management of the courts.

Whatever the cause, the impact of the delay in disposing of criminal cases covers a range of consequences:

(a) For any person, guilty or innocent, a long pretrial confinement is a corrosive experience; it is an enforced idleness in an environment often worse than the poorest correctional institution.

(b) Prolonged confinement after sentence and before commitment to a conventional corrections institution is likely to erode whatever may be the prospects of making a useful and law-abiding citizen out of the convicted person.

(c) We have all seen examples of defendants who have exploited procedural devices to postpone the final verdict of guilt for years with the result that their warfare with society has embedded and intensified their hostilities and rendered prospects for future improvement virtually zero.

(d) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release on bail is exploited to commit new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that when finally brought to justice he will receive concurrent sentences for multiple crimes. The measure of these risks can be found in the increasing percentage of recidivists on the criminal dockets of every court in the country.

We in the legal profession and the judiciary have an obligation to put our own house in order, and to this end the Judicial Conference of the United States in October approved programs to expedite trials and appeals in federal courts and to establish means of identifying the cases in which there is a likelihood that delays will occur. Other programs have been instituted and yet others are to come, all directed to insure the speedy justice to which every accused is entitled and which the society has a right to demand for the protection of all its members.

The statistics of the federal courts are only a small fraction of the total picture and they show nearly 42,000 new criminal cases annually, an increase of 45% in 10 years.

PRISON VISITATION

Two and one-half years ago, in discussing corrections problems at the ABA meeting in Dallas, Texas, I urged that lawyers and judges—and indeed citizens generally—visit prisons and form their own judgments. The Young Lawyer's Section of the ABA took on the burden of promoting a Prison visitation Program.

I am not currently informed on all the details but I do know that in some states a very large number of such visits have been organized and that more and more judges and lawyers are finding out about prisons. Few things would help more than having the public fully informed on the problems of prisons and the burdens of those who administer them. Most administrators know a great deal of what ought to be done and none of my cursory observations at this Conference present anything new to you. What is desperately needed is that you have the resources and the authority that only public support and legislative action can provide. The people of this country can bring that about if they will see firsthand how their institutions are being run and what support they receive. We know that not all offenders can be salvaged, as we know that not all lives can be saved from disease, but like the physician, we must try.

It is most fortunate that one of the great organizations in the country saw, two years ago, that a national effort was called for to improve our correctional processes. The ABA created not one of the usual committees of lawyers, but a Commission that includes leaders of Labor, Industry, Judges, lawyers, penologists, and other specialists, including some of the most distinguished correctional administrators in the country, and a professional staff to carry on their work. All of the members of that Commission are invited members of this Conference and I know that Governor Richard J. Hughes, its Chairman, will cooperate in every way with you.

What I have been trying to express is my deep conviction that when society places a person behind walls we assume a collective moral responsibility to try to change and help that person. The law will define legal duties but I confess I have more faith in what a moral commitment of the American people can accomplish than I have in what

can be done by the compulsion of judicial decrees.

The great tradition of America comes to us from the people who came here and by work, faith and moral fortitude turned a wilderness into a nation. Most of them were the poor and the oppressed of Europe. All of them wanted something better than the life they had abandoned.

Part of the American tradition has been to give of our bountiful treasure to others to restore them from the ravages of wars and natural disasters. We have not always shared our resources wisely but we have shared them generously.

Now we must try to give leadership and guidance to see that this generous spirit and this American tradition are applied to one of the large unsolved problems of Mankind and surely one of the unsolved problems of our society.

You accept this as your obligation by being here and I accept it as part of mine. Together we must let the people and the lawmakers know what needs to be done.

CUBAN DECLARATION OF FREEDOM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, last Sunday was the sixth anniversary of the adoption by 1,500 Cubans in exile of a statement of principles of liberty, freedom, and democracy.

These are the principles embodied in our own Declaration of Independence, and I set them forth in a House Joint Resolution 294, which I introduced on January 23, 1969. In this Congress I reintroduced these principles in House Joint Resolution 138, commending the Cuban Declaration of Freedom and expressing the hope that a government embodying these principles will soon be established in Cuba.

I commend these eternal principles to all those who seek restoration of a free Cuba. I urge our own Government to take special note of these aspirations of the Cuban people, as represented in our country by these exiles from the Castro Communist regime.

Let us as Americans pledge our determination to secure for the great people of Cuba the liberty and independence we cherish for ourselves.

THE YEAR 1972 WILL BE DIFFICULT AND CHALLENGING FOR WORKERS AND UNIONS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, I am including in the RECORD today a challenging statement made by AFL-CIO President George Meany on January 1, 1972:

For the workers and unions of the United States, 1972 will be a difficult and challenging year. The economic roadsigns are not encouraging; the social problems grave; leadership of America has shown no competence for dealing with these problems which spell suffering and hardship to millions of our citizens.

To itemize America's problems is to demonstrate the magnitude of the tasks ahead:

Unemployment remains unchecked with five million jobless, millions more under-

employed and uncared thousands too discouraged to even seek gainful employment. Throughout America, the fear of losing their job haunts workers.

The prices workers must pay for everything they buy continue to mount while the much publicized price control program, with no effective enforcement mechanism, promises much and delivers little.

Workers' wages are rigidly controlled by a governmental mechanism which provides no elasticity to meet inequitable situations and which is undermining collective bargaining. As a result, wages are not even catching up with past increases in the cost of living.

The ranks of the poverty stricken continue to swell at an alarming rate. Welfare rolls are at the highest level in history, sapping the financial strength of the already overburdened states and cities who continue to underpay their employees.

School systems stagger under the burden of trying to meet the equally vital needs for quality education, equal opportunity for children without regard to any barrier of race, creed or color and the rights of teachers and other school personnel to decent salaries and proper status.

The aged in America have little financial security in their twilight years as Social Security benefits fall to match the economic needs of the time.

The children of the poor face the prospect of dim years ahead because the nation fails to provide jobs for mothers who would work and day care centers for their young while their mothers are working.

Everyone in America fears illness of any sort for the cost of medical care in the nation has grown astronomically while the delivery system for medical care has virtually collapsed.

Crime in America has reached epidemic proportions despite the hollow campaign promises of the current Administration. In the year just passed, fatal assaults on peace officers hit a record high, demonstrating the crying need for law, order and justice in the nation.

The Administration's abrupt, unexplained shifts in foreign policy confuse the people of America who no longer know what, if any, principles govern the international policies of the United States.

And, most serious of all, the public's confidence in its government has been seriously corroded as a result of sudden and disconcerting changes in policies, abandonment of principles for monetary political gain and the reliance on gimmickry, government by surprise and the wholesale destruction of candor by an Administration that cannot resist politicizing even its statistical-gathering agencies.

Yet American workers and their unions face the uncertain year ahead with a marked degree of confidence born from the knowledge that self-delivery is available through the most precious possession of free people—the ballot.

That is why the organized labor movement of the United States will make political action our most important undertaking of the coming year.

Through our votes, we are firmly convinced we can achieve a fully-employed nation, dedicated to improving the life of her ordinary citizens, protected against the virus of inflation, secure in the knowledge that both the young and the old will be governed with compassion, understanding and concern.

We are convinced we can achieve a government whose policies will be based on equity, dedicated to peace, determined to end the misery, privation and suffering of her people.

All this we are confident we can do with our votes in November. And to assure that result, we dedicate ourselves to a year of decisive, effective hard work.

cat" across communist paths of aggression, the fundamental question is at what cost will these encounters be sustained, at what price to freedom?

FOOTNOTES

- ¹ UPI, Moscow, USSR, October 7, 1971.
- ² "Nikita Khrushchev," *The Washington Post*, September 12, 1971.
- ³ Stephen S. Rosenfeld. "Khrushchev's Mark on the U.S.," *The Washington Post*, September 17, 1971.
- ⁴ For this history see the writer's book *The Vulnerable Russians*, New York, 1967.
- ⁵ Stephen S. Rosenfeld. "Khrushchev's Life: Peasant, Hero, Dishonor," *The Washington Post*, September 12, 1971.
- ⁶ "Pragmatic, Say Eaton, Harriman." *The Washington Post*, September 12, 1971.
- ⁷ "Nikita Khrushchev," *The Sunday Star*, Washington, D.C., September 12, 1971.
- ⁸ "Hardly A Friend," *The Chicago Tribune*, September 14, 1971.
- ⁹ Fred Dell, "Comment," *The Arlington News*, Arlington, Virginia, September 15, 1971.
- ¹⁰ "Good Ole Khrushchev," *Congressional Record*, vol. 117, pt. 27, p. 35364.
- ¹¹ *The Crimes of Khrushchev*, Hearings, Committee on Un-American Activities, U.S. Congress, 1959.
- ¹² Roger Jellinek, "The Last Word: That Khrushchev Book," *The New York Times Book Review*, May 16, 1971.
- ¹³ "Philly Surfaces," *The Washington Post*, August 21, 1971.
- ¹⁴ *Khrushchev Remembers*, Boston, 1970, p. vii.
- ¹⁵ *Ibid.*, p. xvi.
- ¹⁶ *Ibid.*, p. xvii.
- ¹⁷ *Ibid.*, p. 23.
- ¹⁸ *Ibid.*, p. 62.
- ¹⁹ *Ibid.*, p. 9.
- ²⁰ *Ibid.*, p. 15.
- ²¹ *Ibid.*, p. 113.
- ²² *Ibid.*, p. 106.
- ²³ *Ibid.*, pp. 200-202.
- ²⁴ *Ibid.*, p. 343.
- ²⁵ *Ibid.*, p. 33.
- ²⁶ *Ibid.*, p. 90.
- ²⁷ *Ibid.*, p. 145.
- ²⁸ Henry C. Wolfe. "Khrushchev Didn't Remember," *The Wall Street Journal*, May 11, 1971.
- ²⁹ "Nixon's Testimony of American Bewilderment," Chapter II, *The Vulnerable Russians*, p. 28.
- ³⁰ *Ibid.*, p. 77.
- ³¹ *Khrushchev Remembers*, p. 461.

COMMUNITY CHEST MARKS 50TH ANNIVERSARY—UPSTATE ORGANIZATION BECOMES THE UNITED WAY OF CENTRAL NEW YORK

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 29, 1972

Mr. TERRY. Mr. Speaker, February 29 marks a significant date in the history of Community Service Organizations of Onondaga County. On this date, the community chest of Onondaga County completes its first 50 years of service to the central New York area.

During that period of assistance to the area, the community chest has worked diligently to meet the needs of the various organizations which it has assumed responsibility for providing financial assistance.

At the beginning of March, the community chest will take a new name: The United Way of Central New York. Its purpose will not significantly change, but

its scope of operation will broaden. It is hoped that cooperative efforts from adjoining communities can be developed.

The president of the community chest for the past 2 years has been Stuart P. Raleigh, Jr. During his term of office, the community chest improved its operation and expanded its area of involvement into various service groups of the community.

The new slate of officers are: Leonard Markert, Jr., president; Hendrix Ten Eyck, senior vice president; O. Mark DiMichele, vice president for community relations; and John Morrissey, vice president for agency operations; all long time personal friends of mine to whom I extend every wish for a successful term.

As the United Way of Central New York begins its second 50 years, it deserves the congratulations and gratitude of the community. It is a pleasure to join with the residents of central New York in saluting this outstanding organization.

HON. HASTINGS KEITH'S LATEST NEWSLETTER ALSO SENT TO HIGH SCHOOLS

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 29, 1972

Mr. KEITH. Mr. Speaker, for many years I have made it a practice to consult with my constituents as to their views on major issues facing our Nation. Periodically, this is done by questionnaires.

Because many high school seniors, and perhaps juniors, will be voting this year, I have had an extra number of current questionnaires printed in order to sample their views on these matters.

I feel that it will help these young people to be asked to reflect upon these matters and to participate in this activity. It will certainly help me to have the benefit of their points of view.

It will be informative, interesting and pertinent to see in what, if any, way their outlook differs from older constituents—and to see how, if at all, their views may vary from grade to grade or from school to school.

A supply of these questionnaires is being sent to each high school in Massachusetts 12th District. I have asked each principal who wishes to participate, to distribute them to the students on a class-by-class basis and return them to me for tabulation.

One of the advantages of coordinating this activity with the school system is that we should get a much better cross section of student thought than if we were to send additional questionnaires to their homes.

Hopefully, this activity will encourage further participation in politics and government by our young people. At the very least, it will be helpful to me in casting my votes here in the Congress.

The text of the questionnaire follows:

FEBRUARY 1972.

DEAR FRIEND: As your Congressman, I'm interested in your thoughts on major issues. This questionnaire lists some of them.

I'd appreciate it if you'd give me the benefit of your views by filling in this questionnaire and mailing it back to me.

I know it's difficult to answer such questions with a simple "Yes" or "No." But that's what I have to do on every vote—no matter how critical or complicated the issue may be.

Sincerely,

HASTINGS KEITH,
Member of Congress.

1. I favor the Nixon Peking and Moscow visits.
2. We should give the Communists everything they demand in Vietnam in order to get our troops and prisoners back home.
3. The draft should be replaced with an all-volunteer armed force.
4. Foreign imports should be limited if they hurt our industry and jobs.
5. The Federal Government's wage and price control program is working.
6. Social Security benefits (and payroll deductions) should be automatically adjusted to cost-of-living increases.
7. The minimum wage should be increased to \$2 an hour.
8. I favor National Health Insurance.
9. I favor National no-fault auto insurance.
10. Deficit spending is all right if it helps the economy.
11. Foreign aid should be cut—increased—kept as it is—.
12. We should spend more money on space exploration.
13. I favor compulsory arbitration to settle long strikes that threaten the National safety.
14. U.S. Presidents should be elected by direct, popular vote.
15. U.S. Presidents should be limited to one 6-year term.
16. The Federal Government's attitude toward pollution goes too far—not far enough—is just about right—.
17. I favor more Federal anti-pollution programs even if they mean higher utility rates.

DETACH AND SAVE

If you have comments or suggestions regarding the Federal Government, or if I can be of service to you and your family in any way as your Representative in the Congress, please contact me.

THE THREAT TO INDIVIDUALISM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 29, 1972

Mr. RARICK. Mr. Speaker, It was reported that the California Supreme Court banned the death penalty as "degrading, dehumanizing, and incompatible with the dignity of man." Another report revealed that 135,000 abortions were performed in California last year. In California it is illegal as well as degrading, dehumanizing, and undignified to take the life of a convicted criminal who has committed first degree murder, yet in California it is legal to take the life of an unborn child.

The Governor of Oregon has proposed that his State study the possibility of legalizing euthanasia—mercy killing, so sick, elderly persons may choose death to a life of suffering.

In Sweden, the epitome of theoretical liberalism, suicide has become an acceptable means of terminating life.

In a disconcerting review of a new book on Sweden entitled, "The New

Totalitarians" by Roland Huntford, editor Alexander Campbell of the Toronto Star, indicates the alarming degree to which Socialist Sweden has been transformed into the "brave new world" of Aldous Huxley. Education in Sweden serves to mold persons for the new anti-hill society. Competition, individuality and imagination are discouraged. The news media functions not to inform people, but rather to form opinions for them.

Where are we going? To watch Swedes may be to watch ourselves as we may be in the future.

I insert several newsclippings in the RECORD:

[From the Washington Evening Star, Feb. 24, 1972]

CALIFORNIA COURT CONFUSED POLICY WITH LAW

(By James J. Kilpatrick)

Last week's decision of the California Supreme Court, banning death sentences in that state, raises anew some old questions of law and public policy. In my own view, the decision was clearly wrong.

The California court construed California's own state Constitution. The decision is therefore final and not subject to further appeal. It applies solely to California, and serves to nullify only those death sentences that had been imposed by California courts upon more than 100 prisoners awaiting execution.

Yet the action of the California court cannot be viewed so narrowly. On Jan. 17 the U.S. Supreme Court heard arguments in four cases (the most heinous of them, ironically, from California) that directly challenge the concept of capital punishment as a violation of the 8th Amendment. The Amendment says that "cruel and unusual punishments" shall not be inflicted.

The problem presents two separate questions: The first is: Is capital punishment unconstitutional? The second is: Is it immoral, unwise, or ineffective? The questions have nothing to do with one another.

I do not see, for the life of me, how capital punishment, as such, possibly could be held unconstitutional. The 5th Amendment implicitly sanctions it. "No person shall be held to answer for a capital . . . crime, unless on a presentment or indictment of a Grand Jury." Both the 6th and the 14th Amendments give further sanctions in terms of due process of law.

Justice Potter Stewart made the point during oral argument last month: "One of the things that bothers me about the 14th Amendment," he said, "is that the deprivation of life is expressly prohibited without due process of law—and therefore by implication is approved when there is due process. And this is why I say that to me it is more than just a semantic problem. Now we're not talking about the express wording of the Constitution."

Precisely. Even if one embraces every activist theory ever advanced about our "living," or "flexible," or "evolving" Constitution, only the two adjectives of the 8th Amendment would be subject to judicial interpretation: Is a particular method of execution "cruel and unusual"? Dismembering a prisoner, or boiling him in oil, might thus be unconstitutional. But unless the legislative judgment of 41 states is to be discarded altogether, the electric chair and the gas chamber cannot be regarded, at law, as constitutionally impermissible.

The California court confused the two questions. The majority declared that capital punishment, as such, "degrades and dehumanizes all who participates in its processes." Such punishment is "incompatible with the dignity of man." Very well. But these are not arguments of law; they are arguments

of policy; they are arguments of a legislative committee room.

We ought to keep these things straight. It simply does not follow that a given practice is unconstitutional because it is viewed by some judges as degrading, dehumanizing, or "incompatible with the dignity of man." Human slavery exhibited all those evils; yet human slavery was expressly sanctioned by the Constitution and was ended, as a matter of law, only by the 13th Amendment. By the same token, to deny women a right to vote is unfair; but it was not constitutional prior to the 19th Amendment.

If capital punishment is to be abolished, it ought not to be abolished by judicial decree. This is to vest in judges the power effectively to amend the Constitution. It ought to be abolished by the Congress, as to federal crimes, and by the individual states, as to state crimes. Or it ought to be abolished by outright amendment of the Constitution.

Reasonably minded men may well disagree on the wisdom of capital punishment. As a public policy, perhaps it ought to be abandoned. But "the express wording of the Constitution," in Stewart's phrase, has to be upheld.

COMPETING CONCEPTS OF PUNISHMENT

(By James J. Kilpatrick)

Put the questions of constitutional law to one side. Solely as a matter of public policy, should the death sentence be abolished or retained?

In the wake of this month's decision in California, the issue is before us once again. The California Supreme Court, construing a provision of the state's own constitution, banned capital punishment in an opinion "grounded not in sympathy for those who would commit crimes of violence, but in concern for the society that diminishes itself whenever it takes the life of one of its members."

The language tells us something of a court that would "ground" a judicial opinion not in law, but in "concern." But no matter. Does society "diminish itself" by imposing the death sentence, however infrequently, as punishment for particular crimes?

Certainly a great man theologians, penologists and legislative bodies have thought so. More than 200 years ago, the Italian penologist Cesare Beccaria was urging the unwisdom of capital punishment. His views attracted the support of such eminent Americans as Franklin and Paine. England and Canada, among many other Western nations, have abolished the death sentence. It has been abandoned in nine of our own fifty states. Nearly five years have passed since the last execution in the United States. Plainly the trend is against it.

Part of the trend results of new enlightenment (if it is enlightenment) on the whole business of crime and punishment. The theory rejects the ancient concept that crime should be punished. In this view, crime is not crime; it is sickness. We do not punish sickness; we treat it. By extension, there are no criminals; there are only sick people. And surely it is degrading and debasing for society to claim the life of a sick man.

This reasoning appears to be implicit in the opinion of the California court. Punishments are matters of degree. If a society "diminishes" itself by taking the life of a prisoner, society also "diminishes" itself by taking the liberty of a prisoner. Life and liberty are coupled in our concept of due process. If it is cruel to execute, it is also cruel to imprison. The theory of the new enlightenment cannot condone punishment in any degree, for again, it is wrong to punish the sick.

So much for metaphysics. The more familiar argument against capital punishment is that it offers no deterrent to heinous crime. The argument requires a close look. To impose sentence solely as a deterrent—

that is, to punish one man as an example to others—is to use the prisoner as a means to an end; someone else's end. And as C. S. Lewis has written, "this, in itself, would be a very wicked thing to do."

Perhaps the deterrent concept can be used partly as a justification for capital punishment. Is it a deterrent? The evidence is inconclusive. It is reasonable to suppose that in perhaps 70 percent of all homicides, the possibility of a death sentence provides no deterrent whatever. These are the murders—11,000 of them in the U.S. in 1970—that were classed as crimes of passion. Persons in a blind rage will not see reason.

My own view—I advance it tentatively—is that the old concept of crime and punishment ought to be preserved. If a criminal can be "treated," fine; if a convict can be "rehabilitated," fine; if a sentence has the effect of deterring others, well and good. But punishment ought not to be imposed because it is therapeutic; but because it is just.

Thus I would retain the death penalty for a small list of crimes: murder as part of a felonious act; the murder of a prison guard or law enforcement officer; assassination; the selling of hard drugs. There might be others. In each such case, I would require full-scale judicial review as a matter of right.

If a death sentence were affirmed, so be it. The execution of a cold-blooded killer, found guilty after a fair trial, is not an act of social depravity; it becomes an act of elementary justice.

[From the Washington Post, Feb. 27, 1972]

NO RUSH TO CALIFORNIA FOR ITS EASY, LEGAL ABORTIONS

(By Kathleen Neumeier)

LOS ANGELES.—Abortions in California are legal, easy to obtain and inexpensive—but there has been no great upsurge in demand for them since California liberalized its abortion laws in 1967.

Planned Parenthood of Los Angeles reported that there were 135,000 abortions performed in the state last year, compared with an estimated 120,000 abortions, legal and illegal, per year before the law was changed.

And although California is among the easiest places in the United States to obtain a legal abortion with no residency requirement, there appears to be no rush from out of state.

Figures recently released by the National Family Planning Council, a nonprofit research organization endorsed by the Los Angeles County Health Department, indicated that only 8 percent of the women they questioned in a year-long study came from out of state. Planned Parenthood, however, said as many as 30 percent of the women who sought that organization's help were from outside California.

California allows therapeutic abortions in cases of incest or rape, and where the physical or mental health of the mother would be harmed by giving birth.

Some hospitals require a psychiatric examination in questions of mental health, but this is not required by law. The law demands only that two physicians concur on the advisability of the operation, and abortion counselors say this has become a rubber stamp procedure.

California abortions can cost as little as \$150, and they are sometimes performed in 10 minutes.

A woman faced with an unwanted pregnancy can arrange an abortion through her own gynecologist, Planned Parenthood, or any of a number of abortion counseling clinics, many of them prominently advertised in the underground press.

"Nobody knows the abortion laws better than these abortion counselors," the district attorney's office said.

If a woman is uncertain of her pregnancy, the counselor will arrange a test to confirm that she is pregnant. Next she is advised of the alternatives open to her—bearing and keeping the child, adoption, abortion.

The National Family Planning Council said of 9,391 women who considered undergoing an abortion, less than 50 per cent went through with it.

But if the woman does choose to terminate the pregnancy, the operation can be scheduled for the next day, in most cases.

If a woman is 12-20 weeks pregnant, the maximum time allowable for a legal abortion, she must undergo a saline infusion procedure, which takes several days and costs about \$375, compared to \$1,500 two years ago.

OREGON'S GOVERNOR PONDER'S "DEATH WITH DIGNITY"—EUTHANASIA STUDY URGED

LINCOLN CITY, OREGON (UPI). Gov. Tom McCall has proposed that the state of Oregon study the possibility of legalizing mercy killing so sick, elderly persons can choose "death with dignity" instead of "life as a vegetable."

He said many elderly persons fear "leading their life a long time in a hospital, possibly unconscious and with a great deal of pain . . . doing nothing, no hope, no enjoyment of life."

To be able to choose life or death legally is "a need that is agonizingly overwhelming in the minds of the elderly," the 59-year-old governor said.

"I'm old enough to understand the fear."

He made his suggestion in a speech to 400 liberal Republicans attending a weekend conference on such controversial issues as legalization of marijuana, amnesty for draft evaders and a state lottery.

Gov. McCall said Oregon's delegation to the White House Conference on Aging reported to him that euthanasia—so-called mercy killing—should be one of the top priorities for consideration. He said he would call a seminar next month to consult physicians, sociologists and philosophers.

Sen. Robert Packwood, R-Ore., and Republican State Chairman Hank Hart said they thought the idea should be studied further and seriously debated.

But State Rep. Morris Corthers, a physician, said he did not think any new laws were called for.

"Doctors should not be put in the position of being executioners," he said.

[From the Sunday Star, Feb. 27, 1972]

IF THIS IS THE BRAVE NEW WORLD, WE'RE IN TROUBLE

(By Alexander Campbell)

The New Totalitarians. By Roland Huntford. Stein & Day. 348 pages. \$10.

In Aldous Huxley's "Brave New World," a satirical novel about the future, a small boy is placed under observation for possible abnormality when he runs howling from a small girl who wanted to play at sex in the bushes. Roland Huntford says the future has already arrived, in Sweden, where "the word 'freedom' is almost entirely confined to the sexual field."

Huntford is the London Observer's Stockholm correspondent, and he quotes Dr. Gosta Rodhe, head of the department of sexual education in the Swedish Directorate of Schools: "We don't care at what age children start going to bed with each other." Dr. Rodhe believes that "emotion has got to be removed from sex," but Huntford says that what Sweden has is "compulsive sexuality." Kids who don't really want to have sex feel compelled to.

Emotions as distinct from physical acts were heavily frowned on in Huxley's Imaginary World State, whose motto was "Community, Identity, Stability", achieved by "self-indulgence up to the very limits imposed by hygiene." Only one character in "Brave New World" has real individuality and he commits suicide. Sweden's suicide rate is the fourth highest in the world, not the highest, but many Swedish intellectuals commit suicide. Huntford says it's "as if something like a third of the leading poets,

novelists and playwrights in England and America" were to kill themselves.

His book will make many Swedes mad, but they may have a hard time refuting it. Huntford doesn't deny that the Swedes are swimming in welfare, or that they've succeeded in creating a high-technology, mass-market economy, where capital and labor seem to be at peace with each other, and unemployment is kept down to only 2 percent. He gives the credit for all this to the Social Democrats, who have held unbroken power since 1932, and have dominated Swedish politically since about 1918.

But Huntford, as his title indicates, also accuses the Social Democrats of having created a virtual dictatorship. Everyone has welfare, but all power belongs to a small elite of bureaucratic planners, and whoever dissents is in trouble. "Perfectly reasonable parents", he claims, go in terror of having their children taken away from them by a child welfare board, if they don't "conform absolutely" to the bureaucrats' ideas. The population of Sweden is about 8 million; in 1968, 21,000 children were removed from their parents. The name of the game is consensus.

Sven Moberg, Sweden's deputy Minister of Education, told Huntford: "The purpose of education is to turn out the correct kind of person for the new society. The new school rejects individuality . . . It rejects competition . . . Individuality is discouraged."

Huntford reports that a Russian education official who toured Sweden was shocked at the Swedish system, and lectured Stockholm schoolchildren on the need for competition in learning, as "the only way to efficiency." But a Swedish manufacturer, who had built up his own firm from scratch, told Huntford: "I don't want my children and grandchildren to be taught to be individuals. They'd only be unhappy." And the head of a chemical research institution in Stockholm is quoted as complaining that his younger workers seem devoid of initiative. They fear to rise above the level of the group, and their work is generally poor and unimaginative. Huntford quotes from an official Swedish teaching guide, which says, "We must avoid encouragement of young people's imagination."

They appear to have succeeded only too well, according to Huntford, who says that the great majority of Swedes thoroughly approve what their planned society does.

However, the bureaucrats have taken steps to ensure that rebels against the system don't infiltrate their ranks. Anyone, man or woman, who wants a top university appointment in sociology, political economy and education has to be a Social Democrat, Huntford maintains. Swedish military officers, too, have to be men of the left.

In art as well as politics, Swedes are taught to be left-handed. The Swedish National Theatre is run by a Social Democrat, Erland Josephson, who declares, "I won't allow any plays that glorify the individual." This, by Josephson's own account, cuts out Ibsen, Schiller, and the first Scandinavian playwright, Holberg, who was "aristocratic, and we've got to be democratic." England's Bard scrapes by, at least with "Coriolanus," because that particular play of Shakespeare "can be interpreted in a radical way . . . We put it on as an attack on bourgeois values." Josephson boasts that, in Sweden, "all private theaters will disappear within 10 years."

It's the same with the media. The official function of radio and TV in Sweden, Huntford says, is not to inform people, but to form their opinions for them. *

TV sets are more concentrated in Sweden than in other countries; one news program has as its audience 50 percent of the total population. The tenor of programs follows government thinking. Huntford declared that from 1968, when the government adopted an anti-American policy, mainly but not entirely over Vietnam, "producers were

told that no program on the United States would be considered unless it was unfavorable." A Stockholm newspaper published a number of letters, from children, that suggested the anti-American propaganda was working. "I think", a 6-year-old wrote, "that all Americans are swine."

Dr. Olof Lagercrantz, the editor of Sweden's biggest newspaper, the Stockholm Dagens Nyheter, doesn't believe that news should be "objective." If it's "objective," he argues, that means it's "conservative," whereas "news must be used to change society and influence people."

Doesn't anybody ever kick? Seldom or never, maintains Huntford, and he reports one of the rare exceptions. At the ceremony in Stockholm at which the Russian writer, Alexander Solzhenitsyn, was awarded the Nobel Prize, a dissenting Swedish scientist, Professor Arne Tiselius, seized the chance to complain out loud that "truth is no longer fashionable" in Sweden, and that words "have been manipulated in order to indoctrinate people and give power to the already powerful mass media."

Although Tiselius is himself a Nobel Prize winner, his comments were almost totally ignored in the Swedish press, and on the radio and TV. However, says Huntford, "the other speeches at the ceremony were reported to their full platitudinous extent."

Dissenting intellectuals, it seems, simply resort to suicide if they find they really can't conform.

What evidently worries Huntford, more than the apathy of the welfare-swaddled, brainwashed Swedes, is the appalling thought that what has happened there may quite soon be happening everywhere if planners and bureaucrats get their way. "To watch present Swedes," warns Huntford, "may be to watch our future selves."

A disturbing book.

Alexander Campbell is an editor of The Toronto Star.

JOHN GEIGER COMMENTS ON THE PROBLEMS OF AMERICAN VETERANS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 29, 1972

Mr. HILLIS. Mr. Speaker, this morning John Geiger, national commander of the American Legion, appeared before the Veterans' Affairs Committee to offer the Legion's position on the problems of American veterans. I thought Mr. Geiger's comments during his annual appearance before the Veterans' Committee were quite valuable and should be of interest to all Members of Congress. I am therefore submitting Mr. Geiger's statement before the committee for the review of my congressional colleagues. Included in his statement are resolutions passed by the American Legion at its national convention last September in Houston, Tex. I am certain these resolutions will receive serious study by all of us.

The resolutions follow:

STATEMENT OF JOHN H. GEIGER, NATIONAL COMMANDER, THE AMERICAN LEGION, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, TUESDAY, FEBRUARY 29, 1972

Mr. Chairman and Members of the Committee: I appreciate the opportunity of appearing today before this distinguished Committee of the Congress to represent the

If we are to have a successful national health insurance plan we also need extensive reorganization of our health care delivery system.

Our present health system is made up of many separate pieces. Each piece is worthy by itself, but must be put together with the others to make the whole function properly. In other words we need a national health policy. That policy must stimulate a healthy balance of resources between the delivery of health care services, the education of health care providers, and basic research. The latter must encompass both biomedical research and research involving the delivery system. None of the pieces can bring their maximum benefit to bear upon the health of the American people without the complementary aspects of the others.

Unfortunately the 1974 Budget makes no contribution toward pulling the parts together. We cannot depend upon the administration. Congress should act now on its own initiative.

INTERVIEW WITH NEW YORK STATE SENATOR MARCHI

Mr. BUCKLEY. Mr. President, the May issue of the *Intellectual Digest* contains an interview with New York State Senator John Marchi, who is currently a candidate for election as mayor of New York City. I have known and admired Senator Marchi for some time and I want to bring to your attention his qualities of intellectual excellence and political astuteness both of which are evidenced throughout this interview. I ask unanimous consent to have printed in the *RECORD* the interview with Senator Marchi.

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

THE REMARKABLE MR. MARCHI

John J. Marchi, a most congenial conservative candidate and a proudly independent man, has served in the New York State Legislature for 20 years. In 1969 he first ran for mayor of New York City, on the Republican-Conservative ticket, and lost to incumbent John V. Lindsay. But en route to defeat he left a lasting mark on the minds of voters, many of them liberals, who were astonished by his qualities. Bruce and Naomi Bliven found those qualities intact when they talked recently with Senator Marchi in his large, bright, still bare office in the unfinished legislative office building in Albany.

BRUCE BLIVEN. Do you define the word "conservative" in a particular way?

MARCHI. I think the English language is the most marvelous language—the richest. But there is also a great deal of imprecision. I don't know whether it is an American characteristic, or whether it is going to be the way of people in the future, not to be closely riveted to definitions. Some damage is done as we adjust language to accommodate evolving approaches to life and problems.

Take a word like "discrimination." It now has an odious connotation. But a man who practices discrimination in the sense that he is discriminatory in values and tastes—I think that is one of the great heritages and one of the great rights we want to preserve for Western civilization. If the word signifies prejudgment, then that is something else. So the pejorative is only one sense.

I remember getting into quite a discussion with Judy Michaelson [a *New York Post* reporter] on the significance of "law and order" as a code phrase. I said "My understanding is that the rule of law and the idea of order are ethical concepts." She said, "Yes, but the message you convey by using 'law and order' may mean pounding some disadvantaged person over the head." In fairness to Judy, I did look up the words in several dictionaries published in the thirties, and the primary meaning then was ethical: "a distributive fairness," that kind of justice. But when I looked it up in the new *American Heritage Dictionary*, I found that there has been a shift. "Law" becomes the application of law, and nothing more. The judge who sentenced Susan B. Anthony was applying law, the law then. Her appeal was to a sense of law, rooted in justice [see ID, September 1972].

NAOMI BLIVEN. Natural law.

MARCHI. Right, exactly. I think we—speaking as a professional class, those in government—have to tidy up our language and our concepts. The neat packaging for the public is a technique for getting something across very fast. But we do violence to well-structured thinking, not always a very conscious process but one that knows certain disciplines. Sometimes we avoid the bewildering conflicts and contrasts—for example, how do you define a conservative?

BRUCE BLIVEN. How do you?

MARCHI. In Italy a "liberal" is one who believes in the unrestricted movement of people and goods, with minimum interference by government in anything. The classic liberal would object to laws that govern the length of the working day. When they suggested reducing the workweek of women in coal mines in England in the 1800s, the liberals felt that this would lead ultimately to the abridgement of the right of contract. Well, I guess it does, but after all . . . In this country there are people who vote conservative, feel conservative and may be conservative about behavior, but they don't believe in an unbridled economy without any interference. And there are other conservatives who feel that we shouldn't legislate in matters such as the use of drugs or promiscuity of any kind—sexual deviancy and the rest of it. So what does conservative mean?

NAOMI BLIVEN. That is classical liberalism. I think many people in the United States who are reactionaries are nineteenth-century liberals gone sour.

BRUCE BLIVEN. The extreme Right, just short of the nut Right, really is liberal by traditional definition.

MARCHI. Those nations that are within the Anglo-Saxon tradition, as far as political institutions are concerned, are primary pragmatic in the sense that they look to the solution of a problem and are not that firmly rooted in a political philosophy. You can see that by the very fact that we have common law, as against code countries that describe law minutely in terms of codes. England usually has two parties, though they have had three, so Parliament is rectangular in shape. You're either in or you're out. The fan-shaped French Parliament allows you to move—if you feel you're a bit more to the left, you may move over one row or so. But is that important? Or is the Anglo-Saxon tradition the saving factor in our experience—tending to look to a final objective, and finally squaring one's political thinking and one's so-called philosophy to arrive at the end product?

NAOMI BLIVEN. In the thirties what was state and local, as against federal, was thought of as conservative. Now what is local—the community, usually—is a radical issue. Community control is an issue most often raised by the Left. Is a section of the Left becoming conservative without knowing it?

MARCHI. I don't think they are far enough away from the picture to evaluate it. It can't be seen in any kind of real perspective yet. In the 1930s, Roosevelt was saying things that would be eminently desired by conservatives today. In those years, the exercise of power by the Supreme Court in knocking down acts of Congress was a conservative bulwark in the defense of freedom. The same phenomenon in the fifties and sixties brought cries to impeach the Court for abusing its authority. I suppose nonphilosophic conservatives rationalize in terms of personal impact, and then from there they go out and find their reasons. Again, very pragmatic, and sometimes not a really well thought-out process.

BRUCE BLIVEN. Still, the practical problem is to say where you stand with a single word, though all the words are everchanging. We can't come to the conclusion that the meaning of "liberal" or "conservative" is so diffuse that those words won't be used.

MARCHI. No, we can't.

BRUCE BLIVEN. Perhaps we are trying to come down to a least common denominator, and "conservative" comes down to a life style, or a style of approaching problems.

MARCHI. I suppose there must be considerable discussion among ideological conservatives as to exactly what conservatism means. To one voter it may mean paying a little less in taxes; to somebody else it may mean walking the streets at night without getting clobbered. But I don't know whether we have consciously developed a conservative or liberal ideology that is easily identified. In terms of general institutions, on the other hand, it is surprising that liberals and conservatives in this nation, and I suspect in England and in most Anglo-Saxon-tradition countries also, are closer—much closer—than in countries where the ideological sorting-out process is more precise—going from left to right in France, Germany or Italy. There the differences are enormous. But not here. The American liberal is not necessarily committed to anything other than the private ownership of means, provided it's socially oriented. Most American conservatives, or those who vote the Conservative line, can agree with that. The difference in the United States is minuscule. Its range might be covered by one party expressing one point of view, because the institutional values are much the same.

NAOMI BLIVEN. I once heard a Republican say, "I think we need the Democrats to think of far-reaching, innovative social programs, but then we need the Republicans to administer them."

MARCHI. It depends on where a man comes from. We don't have a Democratic party and a Republican party in the United States; we have 50 Democratic and 50 Republican parties. I find myself perhaps in far greater agreement and more at home in approaching problems with Democrats in New York or, say, California, than I do with Democrats or Republicans from the Midwest. We don't have party congresses for ideological discussion. The Republicans agreed on some ideological content in 1964, and it didn't meet with overwhelming approval from the American people. Similarly, where the Democrats had the same experience with McGovern, last year, they suffered the same fate at the polls.

There has seldom been any great departure, except in times of great stress—Roosevelt after 1932—but even then Roosevelt was elected by trying to be more Republican than Hoover: he was going to cut expenses, and we were going to try to collect money from those nations in Europe that hadn't honored their World War I debts. Of course, the realities turned him about very quickly. It was the fact that people were marching the streets and were out of work that produced the change, not so much his ideological appeal to the people.

NAOMI BLIVEN. Are you interested in pol-

itics in Italy, even though you visit there as a private person?

MARCHI. Oh, I am. I get immersed in it. It's the difference between having a two- and a three-dimensional photograph, where you begin to see things in perspective.

NAOMI BLIVEN. When we talk about the fact that we don't seem to have hard-and-fast ideology in American politics, and that Europe seems to have more. . .

MARCHI. Yet we *have*. We have it in the really deep institutional sense, both we and the British. But we don't let it interfere with the resolution of day-to-day problems.

NAOMI BLIVEN. Do you imagine Italian politics being able to coalesce into a two-party system?

MARCHI. Not unless it were restructured. We have the single-seat constituency, so the person who gets the largest number of votes is the one who gets elected. This tends to winnow down to two alternatives: those who are in and those who would like to be in. It is possible, in structuring your form of representation, to compel this either-or situation. France has gone over to this in great measure, the choice is now between the Gaullists and the non-Gaullists. In Italy, the Christian Democratic party is an anomaly, because it was put together to oppose a Communist alternative—a sort of catchall—and this is why they have so many problems in the Christian Democratic party. They are a mass party, as are the Republican and Democratic parties in this country.

The Andreotti government has within it today the Socialists—those who are aligned with the Western nations—as well as the Christian Democrats. It has the Republicans, who have hardly any reason to exist any more because Italy is a republic, and the Liberals, who are business oriented. These center parties just give the government a bare majority. There are those within the Christian Democratic party who feel that the Andreotti coalition is too fragile and who would rather go to the Left, feeling perhaps that the Communist party is sufficiently bourgeois so that it is not thinking of blowing up all democratic institutions.

NAOMI BLIVEN. Everyone makes the point that West European Communists since Czechoslovakia have perhaps gotten over their infatuation with the Soviet Union.

MARCHI. There's a wide range even within the satellite countries. In some you still have private ownership of land; in others you even have a measure of business flourishing. Others are more orthodox with respect to Marxist theory—Bulgaria, for example. I suppose it is the same thing that happened within the Church, to some extent—a nationalization of a spiritual patrimony that then is broken down into national components that acquire their own national characteristics. We don't know what would happen in the satellite nations but for the pressure of the Soviet military. I don't think they would automatically swing into some kind of democratic, capitalistic orbit.

On the other hand, looking down the long tunnel of history, how do we know a hundred years from now just how far the so-called state capitalists, moving and responding to social changes, which seem to ignore geographical boundaries, might move in our direction—with the same thing happening to us? The Communists, on a very rational plane, felt that they ought to organize farming on an industrial basis—that's what they were really saying. So they went about it, and they had their miseries, and they still have 40 percent of their people trying to raise food—and their effort is insufficient for the total population. We, on the other hand, serve what we like to believe is a private-enterprise system—industrial development of land. And our big producers of food, perhaps, are closer to the Soviet collectives—in substance, I mean. [Laughs.] These are the

curious things. Economics and so many other factors impose their own disciplines.

BRUCE BLIVEN. Are we speaking about the lack of clear definition in this country as a rather sad thing?

MARCHI. Well, no. I just say it's a fact of life, it just puts a little extra burden on us to define better.

BRUCE BLIVEN. Quite hard, I think, especially on a man who is running for office and wants to explain himself.

MARCHI. This is the big problem. During the mayoral campaign, I'd get on a program and they'd say, "Mr. Lindsay, Mr. Marchi, will you please make a statement on the financial problems of the city of New York—in two minutes?" Now how in heaven's name could he or I talk to the economic problem of New York City in 120 seconds? The people who were trying to advise me said, "You've got to hit the high spots. People are paying too much in taxes! Business is running out of the city Bing, bing, bing, bing!"

It was not that I have difficulty making up my mind. I have made a lot of what I think have been very difficult decisions—on school restructuring, and the like. It's not that I am afraid to make the decision, but why should we indulge in such gross intellectual violence? We wouldn't tolerate the quick cliché in ordinary discussion. Things ought to be simple, but they're not. Happily or unhappily, we are trying to measure concepts of distributive justice and concepts that will generate well-being, and there are a lot of intangibles, variables—life is complex. What can you say in 120 seconds? There is a violence done by those gross oversimplifications.

BRUCE BLIVEN. Perhaps we've come to an essential part of conservatism: refusal to indulge in gross oversimplification.

MARCHI. It means many things to many people, but in that sense I would be a conservative.

BRUCE BLIVEN. I didn't mean to force you into labeling yourself.

MARCHI. I don't know. I might be classified a conservative in terms of my own personal life style. I believe in God and I believe that there is a hereafter. I also believe that we are subject to a moral law capable of some definition. . . . It becomes more difficult as you go away from the Ten Commandments and get down to. . . .

NAOMI BLIVEN. The finance bill.

MARCHI. Right! Or whether you are going to vote for a striped-bass bill. The dilemma of human existence, the problem of being and nonbeing—this is something that has plagued man since Adam and Eve—and I have a feeling that my challenge, and the right I have to select among good things, morally, is a premise of the human condition, of human existence.

NAOMI BLIVEN. Perhaps the distinction isn't really political but theological: between people who believed in original sin and people who believed in the perfectibility of man.

MARCHI. You are getting into something here that interests me personally. Whether this is something that matters to the voters or not, I don't know. As we make our choices in life, I think that our options are for choices that are morally good. This is very difficult. You have to have a spiritual content, because spirituality is a fact, and it's almost unscientific not to take it into consideration when you are considering man. There is an added element to the human personality that is. . . . well, I'll call it divine. To me, there is something more involved than just what makes us up. The problem with Marxism is Marxist dialectical materialism, which reduces man. . . . This also happens with everybody else who has the same materialistic outlook on man but comes out with different theories: the social compact, what is

useful. We don't kill each other, because none of us benefits by that. . . . Our law, of course, is structured on natural law and divine law. We have crimes that are *malum prohibitum*—things that are prohibited because they are wrong by statute—and *malum in se*—things that are prohibited because they are wrong of themselves, such as killing. Much of our law is structured on the old tradition of *malum in se*. This moral factor is introduced. In the Nuremberg trials, there was an absence of a law that covered the situation—but, I suppose, there was a reference back to *malum in se*.

BRUCE BLIVEN. When you look back in history, do you have any heroes?

MARCHI. I have a gut reaction and sympathy for the person who struggled and perhaps did not come up with the right answer, but I have no conscious models.

BRUCE BLIVEN. I think that George Washington was a conservative.

NAOMI BLIVEN. Although he was a revolutionary.

MARCHI. He was a revolutionary, yet his federal system did not contemplate our type of democratic recourse, except in the most indirect way. He wanted some kind of enlightened aristocracy—good people who would make final decisions on the formulation of government. A remarkable era, because politically I don't think we've had anything stimulating since the Revolution. I mean with Jefferson and Madison and so on. Nothing has happened since. Events have happened—the Civil War—and America has developed, but not that kind of thinking. Oh, and I want to mention a Tuscan who I think had an influence on Jefferson—Philipp Mazzei.

NAOMI BLIVEN. They were an enormously cosmopolitan lot, the Founding Fathers. When I read their correspondence, they were discussing, for example, Cesare Beccaria. . . .

MARCHI. Ah, yes. *Tratto dei Delitti e delle Pene*. [Essay on Crimes and Punishments, published in 1764.]

NAOMI BLIVEN. They had to know what all European thought was, and they were terribly up to date on it.

MARCHI. When we had a vote on capital punishment, I voted to abolish it, of course. I had read Beccaria in Italian—it's just a little thin volume—and I finally located some English copies, and I circulated them to a few of the senators.

I'm against capital punishment, because I think that the state brutalizes itself—an execution only excites and promotes morbid propensities. Furthermore I believe that the certainty of punishment, rather than the severity, is the deterrent.

BRUCE BLIVEN. When you first came to Albany, 20 years ago, did you have a different view of political life?

MARCHI. No, I don't think so. I went to law school because I felt that here was a vast discipline, a tremendous area, that dealt with human beings. As a youngster, I was interested in what other people were doing. And then there is this three-dimensional thing I spoke of. The primary language at home was Italian. So I not only could measure in perspective the significance of words but also could appreciate that you have to look at the rest of the world and see why easy assumptions aren't that easy. I love this work. I think it is the most exciting thing that I could do. You take in the whole range of man—all his problems—heredity, philosophy, everything comes into it.

BRUCE BLIVEN. Were the problems less complex?

MARCHI. I suppose they were less complex. I just see it in terms of the workweek. Here is something that I want to meet, but it's tough, and how are you going to do it?

Sometimes you cannot give meaningful answers to people. You really can't tell them why, in the way they deserve to be addressed. Is it my shortcoming? Or isn't there enough time? But since everybody has the problem, it's tougher than it was in the early fifties, no question about it. That doesn't make it less exciting, however.

People have asked, "Why don't you go to Congress?" which to me would be a sort of slow death, sitting around as a freshman congressman. Here, having the opportunity to speak, I have a respectable platform. In Congress I would not be able to make an input—really to see something happen. I see things I've done—maybe some of them are a disaster—but, for weal or woe, they've happened and I've been part of it.

Even when I was running for Mayor, I said I didn't think I'd be as happy had I won as I have been in the work of the state senate, which is small in numbers. Being a committee chairman, I've had a chance to get into a wide variety of things. The Mayor has that chance, of course, in an operative sense. In some ways it is a little tougher. The Mayor has to explain why the snow wasn't taken away. You could do both as in the parliamentary system, where the executive keeps legislative responsibilities, and a prime minister is also a deputy, or a member of Parliament.

BRUCE BLIVEN. State government hasn't been much in the news, what with our city problems and those of the federal executive; it's refreshing to hear you make the point that state government is so satisfactory.

MARCHI. Central government seems too remote. Strictly grass-roots government can sometimes lead to disaster—you know, one-acre zoning. Middle government can conciliate, and I think it has great possibilities. Here's an area, a very interesting area, that I feel will be broadened and deepened in the future—an intermediate level of government, that is, state government.

BRUCE BLIVEN. We've enjoyed seeing Albany. We hadn't seen the Mall.

MARCHI. Everybody accuses the Governor (eternally Nelson A. Rockefeller) of having an edifice complex, but actually we seem to have a guilt complex when it comes to spending for anything public. I remember in Staten Island the Parks Department put some flowers in the beds in front of Borough Hall and up in Silver Lake Park, and there were letters to the papers objecting to the waste of taxpayer's money. Yet those same letter writers try to keep their gardens looking nice.

BRUCE BLIVEN. But out of their own pockets.

MARCHI. Yes. So there is this feeling of guilt here about doing anything public. In Milan they rebuilt La Scala before they even tackled anything else. Isn't there something to be said, if it's done right for building a capital? We had a lot of fighting, the same way, about the New York State Council on the Arts—spending money to subsidize something like the Metropolitan Museum of Art, for instance. We ought to have that much presence. If everything has to pay its way, if you can't have educational television unless it pays it own way—well, there must be some accommodation, somewhere, for purely public interest.

We can meet practically all our objectives without depriving or limiting our intellectual horizons. I remember, as a youngster, going to W.P.A. concerts, the Federal theater. I don't know that everything the New York State Council on the Arts supports is good. There may be work that, in 20 years, will look so bad we'll wonder why we did it. It was a mistake. But if you're afraid to make mistakes in government or the arts, that's the end of innovation, the end of creativity.

HOW MANY WAYS ARE THERE TO WASTE DEFENSE DOLLARS?

Mr. PROXMIRE. Mr. President, recently the Department of the Army sent out a news release in the southern California area under an official business stamp and Government-paid postage.

One of these releases was addressed to the Blade-Tribune Publishing Co. in Oceanside, Calif. The envelope was specially marked "Very Important."

Now one might think that this was an announcement of great importance. After all, it was marked "Very Important" and sent under U.S. postage and classified as official business. One might presume that it contained the announcement of a large defense contract for that area or news of a base closing that would affect thousands of employees. Or maybe it contained information about returning POW's.

Mr. President, such was not the case. Let me quote from the lead paragraph from this "Very Important" official business immediate release:

Mrs. Louis Kaufman, wife of the 63rd ARCOM's Commanding General, hosted the Senior Commander's Wives Tea as a prologue to the 63rd Army Reserve Command Dinner Dance. The gathering was held at the Presidential Suite of the Universal Sheraton Hotel in Los Angeles.

It went on to say that wives of other generals from throughout southern California were in attendance and the tea was an informal occasion so that they could get to know one another.

This is what the taxpayers' money is being spent on. Announcements of teas for general's wives. This was the "very important" message which was distributed throughout southern California.

Mr. President, it struck the managing editor of the Blade-Tribune the same way it did me. He immediately wrote back to Maj. Burton Q. Watterson at the Headquarters of the 63d U.S. Army Reserve Command in Los Angeles with a stinging rebuke. Mr. Missett told Major Watterson:

The enclosed release is without question the grossest misuse of American tax funds that we have ever experienced. To mark the envelope "Very Important" was incredulous. We regret misusing the already overburdened mails to return it to you with our objections, but we have no other choice. Please remove us from your mailing list immediately.

How can the Army come to Congress with a straight face and announce that no money should be cut out of their budget because it would endanger national security. Let them explain how this announcement of a tea party contributes to keeping the Nation strong. Let them explain why the Government funds were used for this purpose.

It is only a small example of the waste that goes on at every level of the military and especially at the top. In terms of money, it is very, very small. But it is symptomatic of a greater problem.

Mr. President, I ask unanimous consent that the Army press release and a letter from the Blade-Tribune be printed in the RECORD.

There being no objection, the press release and letter were ordered to be printed in the RECORD, as follows:

THE BLADE-TRIBUNE,
Oceanside, Calif.

Senator WILLIAM PROXMIRE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: As one of the very few champions of the dire plight of the waste of government, I'm sending you the American taxpayer vis-a-vis the budgetary enclosures for your information.

For an Army major to devote his time writing such drivel, or any serviceman for that matter, is simply sheer stupidity.

To mark an officers' wives' tea-party "very important" is adding insult to injury.

Then to use the U.S. mails to deliver such a waste of time and money to all the news media of Southern California, which this no doubt was, is misuse of tax monies, clear and simple.

We've attached Xerox copies of the letter and envelope, as well as our terse reply, for your perusal.

Thank you for your time on this matter, as well as the countless other causes which you have devoted your time in attempting to cut government waste.

WILLIAM J. MISSETT, Jr.,
Managing Editor.

MAJOR WATTERSON: The enclosed release is without question the grossest misuse of American tax funds that we have ever experienced.

To mark the envelope "very important" was incredulous.

We regret misusing the already overburdened mails to return it to you with our objections, but we have no other choice.

Please remove us from your mailing list immediately.

THE BLADE-TRIBUNE.

DEPARTMENT OF THE ARMY,
Los Angeles, Calif.

Mrs. Louis Kaufman, wife of the 63rd ARCOM's Commanding General, hosted the Senior Commander's Wives Tea as a prologue to the 63rd Army Reserve Command Dinner Dance. The gathering was held at the Presidential Suite of the Universal Sheraton Hotel in Los Angeles.

In attendance were wives of Senior Commanders from units throughout Southern California, Nevada, Arizona, and various other locations in the United States. Among those in attendance were wives of, 6th U.S. Army Commander, Lieutenant General Richard G. Stilwell, retired Major General, William J. Hexson, Chief Judge Army Judiciary (Mississippi), Brigadier General Edmond W. Montgomery, Commander of the 311th Support Brigade, Brigadier General Joseph Rebman, Deputy Assistant to the Surgeon General, Brigadier General Jon Zumsteg, Deputy Commander of the 63rd ARCON, Brigadier Darel R. Sievers, and Captain Mark Smith, a recently released P.O.W. of the Vietnam conflict. Also in attendance was/were ———.

The tea served as an informal gathering so that the many wives could get to know one another more closely.

Planning the event was Mrs. Kaufman. She was assisted by Mrs. Sievers, wife of Brigadier General Darel R. Sievers.

THE LEARNING EXCHANGE

Mr. PERCY. Mr. President, I have been pleased in the past few years to bring to the attention of my colleagues the founding and growth of a unique organization, the Learning Exchange of Illinois. The Learning Exchange has been growing by leaps and bounds in recent months, and I look with pride on the success that Illinoisans Denis Detzel, G. Robert Lewis, and their associates have had with this

be guaranteed when they would be most needed.

Why should we worry about such considerations when the Administration and other proponents of the treaties claim that the United States is assured rights of intervention to preserve the canal's neutrality and of priority in ship-transits? The main reason is that there is much doubt that the U.S. interpretation of the treaties can be upheld. For example, General Omar Torrijos, in September 1977, declared: "If the United States interprets this (right to preserve neutrality of the canal through intervention) as a right to intervene, then this is just the interpretation of a major power which intervenes not only in Panama but throughout the world."

We must keep in mind that the history of 60 years of U.S.-Panama relations shows that Panama has continually employed negotiating devices of setting forth demands, getting agreement from Washington, signing a pact, and then presenting more demands.

The pitfalls of joint-defense arrangements with Panama are as evident in 1977 as in 1940-41. At that time, Panama delayed, for over a year, Washington's request that Panama provide defense sites outside the Canal Zone as "guaranteed" by the treaty of 1936. U.S. Army forces finally had to occupy the sites, without any agreement by Panama, just eight months before Pearl Harbor.

We should recognize that the Soviets will use their naval power in maneuvers short of war to support political and economic objectives in the Caribbean-Latin American area. Moscow's goal is to isolate the United States from its allies and its sources of raw materials by measures short of all-out war. There is no easier way to gain domination over the United States.

Whether the treaties of 1977 are approved or rejected, all signs point to the unhappy likelihood that the political future of the Torrijos regime will be stormy and possibly chaotic. It seems only prudent for the Senate to ensure that any new diplomatic pact with Panama must include iron-clad rights of the United States to maintain operational control of the canal and its surrounding land and water areas. To do otherwise will lead inevitably to U.S. military incursions into Panama with somber consequences.

General Torrijos' regime seized power by a military coup in 1968. His hold on the populace is undoubtedly tenuous. For the U.S. government to conclude two treaties, which, in effect, relinquish complete U.S. control of the canal and the Canal Zone, in the hope that these treaties will best serve our national security interests by "guaranteeing" unimpeded use of the waterway, is unrealistic and unsupportable by the historical record. In the light of all these factors, the United States should not allow the canal, a major strategic asset, to pass from our operational control.

CRIME IN AMERICA

Mr. EAGLETON. Mr. President, as we know, in the past decade the explosion of crime has become a problem of national—and alarming proportions. To paraphrase a magazine article that I would like to call to your attention, "all anyone knows with any certainty about crime is that there is a lot of it and that everyone cares a lot about it, especially those holding or running for office."

It is on this premise that a September 26, 1977, article in the New Yorker magazine by writer Richard Harris begins in examining the problems of crime in New York City; problems, the writer suggests, that are of a greater magnitude than the published crime statistics would ever indicate. As Mr. Harris notes:

Considering the extremely small chance, statistically speaking, that one will be punished for committing a given crime, it is not surprising that thousands of young recruits go into the crime business every year.

It is a bleak picture he paints, of crime in New York and of crime in America. But out of the bleakness, and this is the thrust of this enlightening article, there is room for hope. Although little is being done to remedy the causes of crime, much has been done lately in New York, for example, to bring under control the comparatively small number of criminals who commit most of the crimes afflicting residents of that city.

I would ask that your attention, then, be directed to selected passages of this recent article, in which the writer reports his interviews with five of New York's leading law enforcement officials in that city's battle against crime.

In the words of Michael J. Codd, the police commissioner of New York City:

[T]he basic problem in narcotics is the same as in the rest of our crime. That problem is delay in the criminal justice process, and the solution is speedy disposition of criminal cases, swift and certain justice . . . [T]he prime factor is that criminals perceive little danger of incarceration or any meaningful penalty being meted out to them if they commit a crime.

The future, Commissioner Codd says, is hopeful.

There is a closer working together of the different parts of the criminal justice system in New York City than we've ever had before. We used to stand in corners and point fingers at one another. That's not so much the case now . . . We're meeting together, talking with one another, and working more cooperatively on the problems of crime and law enforcement in this community.

Robert M. Morgenthau, former U.S. attorney for the southern district of New York and district attorney of New York County, echoed Commissioner Codd's analysis of the basic problems of the justice system:

The goal of our criminal justice system should be prompt disposition on a fair and certain basis. That's the only true deterrent to criminal behavior.

To this end, Mr. Morgenthau related that his office had instituted procedures allowing assistant district attorneys to concentrate their efforts on the repeat offenders. In his words:

We are finding that a relatively small number of criminals seem to commit a very large proportion of the serious crimes in this city. If we can control them—probably by putting them away for long periods—we'll have time to pay sufficient attention to lesser crimes . . . I think the serious repeater of violent crimes should be treated very severely . . . I don't see what to do with him except to take him off the streets for a very substantial length of time.

Mr. Morgenthau then directed the writer's attention to what he saw as the relationship between white collar crime and street crime:

One reason people get involved in crime is their feeling that the economic and social system is unfair. They figure that if you learn the ropes you can steal and not get caught, that if you reach a high enough status you are beyond the reach of the law. To a certain extent they're right. Slum kids . . . read in the tabloids about business crooks,

big-business crooks. And they see rich men driving big cars, wearing fancy clothes, going into expensive restaurants with beautiful women—the works . . . Kids don't know how to get into the big time, but they know they can learn to pick a pocket, or snatch a purse, or break into an apartment and steal a TV set or mug somebody. They figure that if they start that way, they'll learn the rest, make contacts, hit the big money . . .

To discourage this attitude among the city's younger criminals, Mr. Morgenthau said vigorous prosecution of white collar crimes is vital:

Prosecution of white collar criminals demonstrates the evenhandedness of the law. Without that, we'll have no faith in our law-enforcement system, and without faith we'll just have more crime everywhere.

To insure speedier justice, David Ross, the administrative judge of the city of New York, instituted almost revolutionary docketing procedures that won the support of colleagues throughout the city's justice system.

I discovered that half of all the cases in supreme court [which handles serious crimes] ended up as misdemeanors, which should never have been there. They were clogging up the supreme court calendar and causing most of the backlog . . . So I decided to frontload the court system, instead of backloading it as before, by settling minor cases at the time of arraignment, the first step in the court process. Now we get rid of roughly half of all arrests at the time of arraignment . . . The impact on the D.A., on corrections, on the supreme court has been tremendous, because now everyone can concentrate on dealing with serious offenders. . . . [S]erious crimes have declined because district attorneys are concentrating on serious offenders, and we're sending more and more of them to prison for longer terms . . . We're reducing the relatively small number of violent criminals, the repeaters, who commit most of the serious crime here.

The concentration of effort on the repeat offenders, the "heavy hitters," as Benjamin J. Malcolm, New York's Commissioner of Correction called them,

. . . is the only solution. It certainly has changed the corrections business. There used to be prostitutes, pimps, addicts, shoplifters in prison, but very few misdemeanants end up there now. The theory is that the new approach reduces the crime-school effect of prisons. The people we're putting away now already know just about everything bad there is to know.

But what can be done with these "heavy hitters" once they leave the corrections system, Commissioner Malcolm was asked.

I would set up an industry-supported, labor-supported plan to have training programs for work on the outside. . . . Everyone would be in a work-release program. . . . That way, each man would have a chance to become a member of a family and a community and a work force—a chance to become a man, maybe for the first time, and to have some confidence in himself. As it is now, we just send them out blazing with anger, without hope, ready to rip off the first person they can. . . . Work-release programs and halfway houses are the only answer.

Nicholas Scoppetta, New York's Deputy Mayor for Criminal Justice, drew encouragement from the changes in the courts and the district attorney's office:

We are trying to coordinate these separate approaches, so that the most serious cases are treated most seriously. It is proving to

be a very attractive approach and may be the only solution; the only way to attack the dreadful scourge that has plagued our city. . . If we focus on career criminals—the violent repeaters—and keep them out of society, that would greatly reduce the crime that most frightens people. It would let us all breathe more freely again. Our strategy really looks as if it will work. But if it doesn't prove to be cost-effective we're going to be in real trouble.

In conclusion, I should say that these selected passages I have shared with you give us but a glimpse of the problems facing New York's law enforcement agencies and of some of the relatively creative solutions their top officials have devised to remedy those problems. New York's problems with crime, however, are not unique, and for that reason I urge each of you to read this worthy article in its entirety.

Mr. President, I ask unanimous consent that the Harris article be printed in the RECORD.

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

[From the New Yorker, Sept. 26, 1977]

A REPORTER AT LARGE: CRIME IN NEW YORK

All anyone knows with any certainty about crime in New York City is that there is a lot of it. While specific crime statistics are continually cited to demonstrate how serious the crime rate here is—for instance, the Police Department states that 658,147 felonies were reported to it last year—no one knows how many crimes were actually committed, what kinds of crimes were committed, who committed them, or who the victims were. No one knows because the crimes that were reported have a wholly uncertain relation to the crimes that were committed. It is often said that only one out of every three crimes is reported, but it is impossible to say whether that estimate is even remotely accurate. Studies conducted in confidence over the past six years among residents of Phoenix House, which runs centers for rehabilitating addicts, revealed that some of the young people there had been arrested only once for every hundred and twenty-five crimes they had committed, and had been convicted only once for every six arrests. In other words, they had committed seven hundred and fifty crimes for each conviction. Since half of all the felonies that are reported here are committed by people under the age of twenty-one, the Phoenix House studies raise the possibility that all earlier estimates of the crime rate have been astronomically out of whack.

The cause of the disparity between reported and actual crime is probably to be found in one verifiable statistic: three-quarters of the murders reported here are committed by nonwhites against nonwhites. In all likelihood, the great majority of lesser unreported crimes are committed within the same group. Poor people have always been reluctant to call on the police when they are in trouble, because for them the police usually mean more trouble. Black and Hispanic poor people have even greater reason to be reluctant. For one thing, they believe it is a betrayal of their own kind to run to the Man, who is held accountable for most of their misery, when that misery is increased by a colored person. For another, some of the victims are illegal aliens from the Caribbean and Central America and want no contact with officialdom. For still another, getting involved with the police and courts means a loss of time and is often purposeless. And, finally, since so few criminal acts end in imprisonment, anyone who reports a crime

and identifies the criminal must be prepared for vengeance.

As long as the crime rate was relatively low and as long as relatively few whites were victims, the whites who were in charge of law enforcement were not hard pressed politically. But with the explosion of crime in the past decade or so the white share has grown proportionately, and now everyone cares a lot about crime—especially anyone running for or holding office. Considering the extremely small chance, statistically speaking, that one will be punished for committing a given crime, it is not surprising that thousands of young recruits go into the crime business every year—although considering the large number of crimes they commit individually, it is also not surprising that almost all of them are bound to be arrested and imprisoned sooner or later.

What is most surprising is that there aren't more young criminals, since the basic causes of crime—poverty, disintegration of family life, poor education, unemployment—get worse every day. Perhaps the most encouraging aspects of the crime problem are, first, that most young people who resort to crime to get money, experts say, give up that pursuit as they get older, and, second, that apparently a comparatively small, and possibly controllable, number of criminals commit most of the crimes that afflict residents of this city.

Although little is being done in New York City (or in the United States) to remedy the causes of crime, there are some new and concerted efforts being made here to control criminals, as I learned in the course of several talks that I had during the past few months with the five top law-enforcement officials in the city, starting with Police Commissioner Michael J. Codd. Any police commissioner of New York City has an unenviable job. Hammered at on one side by an apprehensive public and by the mayor, who appoints him, he is pummeled on the other side by the most benighted municipal union in town, the Patrolmen's Benevolent Association. When I met Codd—a tall man of about sixty with yellowish-gray hair, a very Irish face, and a slow, deliberate manner—he looked as if he would happily settle for a beat in Canarsie.

As we sat down opposite each other at a coffee table in his spacious office in the new Police Headquarters building, not far from City Hall, I asked him what he was currently occupied with.

He gave me a weary look and said, "The Son of Sam. It's like looking for a needle in a haystack, except we don't even know where the haystack is." The search for the capricious murderer known as the Son of Sam seemed to me a good example of the effects of political pressure on the Commissioner—pressure largely generated by the daily press. I asked Codd how he felt about having to assign several hundred police officers to the needle-in-an-unknown-haystack task of finding the murderer, when, say, a hundred of those officers might have been assigned to track down a major narcotics dealer who had been responsible for thousands of robberies, assaults, and deaths. The Commissioner gave me an even wearier look and shrugged.

There are said to be at least seventy thousand heroin addicts in this city, and they are said to spend an average of fifty dollars a day apiece to support their habits—some three and a half million dollars daily, or one and a quarter billion dollars a year. Since much of the money they spend on drugs is believed to be obtained illegally, the drug problem here obviously must have a lot to do with the crime problem here. Ordinarily, police departments would give up their guns before they would surrender any of their powers, but last winter Commissioner Codd called on federal law-enforcement officials to help New York police control the narcotics

trade—a clear admission that local authorities couldn't cope with it. I brought this up, and the Commissioner said, "The truth is that the major drug—heroin—is not indigenous to this country. It is the federal government's responsibility to stop production of heroin at the source, by persuading foreign governments to cooperate. That failing, it's up to the federal government to stop it at the gates of this country. And the federal government also has a distinct responsibility on the local level, since street sales of drugs are as much federal offenses as smuggling is. We should also have harsher penalties for the sale of hard drugs. The dudes aren't being punished, and everybody on the streets knows it."

Not long before, I had seen a report on the effects of the stiffest law ever enacted in this country to punish drug offenders—the so-called Rockefeller Drug Law, which was passed in 1973. The study showed that in the three-year period after the law went on the books, and after seventy-six million dollars were spent on implementing it, heroin use was as widespread as it had been before, serious drug-related crimes had increased sharply, and, despite mandatory sentences for repeaters, the risk of imprisonment for second-felony offenders was lower after the law was put into use than before. I mentioned this report's findings, and Codd said, "It's not the penalties that are wrong. It's that the courts demand such strict proof before they will impose the penalties. That's why we're hamstrung."

A few days earlier, I had walked through Washington Square Park and had seen at least two drug transactions take place in no more than five minutes. I described my experience, and the Commissioner nodded.

"That's true," he said. "You can see that every day of the week. People looking out windows from buildings on the park or people walking through the park and seeing what you saw think that since they can see these transactions taking place the police must see them, too, but just look the other way."

However, what these citizens see is not evidence. It's enough to convince *them* that illegal drug sales are taking place, and it's enough to convince *us*, but it's not enough to convince *judges*. It's not evidence. Evidence is very, very difficult to obtain, because a police officer must hand over marked bills and receive the drugs before he can make an arrest, and most pushers will sell only to addicts they know. What's more, to show that a pusher is a real pusher, and not just a one-sale amateur or one junkie selling the stuff to another junkie, the police have to buy drugs from the pusher more than once."

The Commissioner paused for a moment, then went on, "Part of the drug problem is that in some of the neighborhoods where drug use is prevalent people out on the streets are regarded as brothers by the people who live there and who won't turn them in or try to stop them because of this feeling of brotherhood. But in the past year or year and a half, there have been signs of a turnaround in this attitude. More and more parents have begun to see the effects on their children—the effects of affluence among peddlers and the effects of addiction among users. This has resulted in a greater awareness among parents of the problem we are trying to deal with and thus greater cooperation with us and greater interest in our being aggressive. I think the main remedy for the drug problem, aside from keeping the stuff out of this country, is public education about the results of narcotics use. The glamour has to be taken out of it. For a kid in Harlem, a pusher in a Cadillac is glamorous. We even see pictures in papers and magazines of jet-setters with tiny silver spoons hanging on necklaces. What does this do but

glamorize drug use? Most of any educational effort will have to be aimed at parents, so they can stop the glamour from filtering down to their kids. But the basic problem in narcotics is the same as in the rest of our crime. That problem is delay in the criminal-justice process, and the solution is speedy disposition of cases, swift and certain justice."

The telephone rang, and Commissioner Codd got up to answer it. When he returned to his seat, I asked him to expand on this point. "There is a nationwide, a worldwide increase in crime," he said. "There is also an increase in crimes by people under twenty-five. There are also more arrests. Why is all this so? Part of the reason may be the large increase in population. But I think the prime factor is that criminals perceive little danger of incarceration or any meaningful penalty being meted out to them if they commit a crime."

The criminal who is arrested sees it only as a misfortune that he was caught, and if he is finally punished the delay before he is punished is so great that he sees little relationship between his act and the punishment for it. It is absolutely crucial that the system be speeded up, so that within a reasonable time frame the criminal sees punishment as the inevitable result of his conduct. Then he won't be let out to commit more crimes while waiting for his case to be disposed of, the victim will see quick vindication, and society will find the system credible."

In 1973, Abraham Beame promised in his mayoralty campaign to hire three thousand more policemen. By 1977, Mayor Beame had got rid of five thousand police. More than three thousand of those laid off were from the precinct patrol force, which the department considers its front line in the war on crime. Still, between sixty-five hundred and seven thousand police officers out of the patrol's remaining sixteen thousand are on the street every day—the same number as before the reduction. Commissioner Codd made up for the layoffs in the precinct patrol by transferring policemen from desk jobs and by adding ten days a year to the duty time of every policeman in the department. Ten additional days means one million six hundred thousand more hours on duty a year for the police force as a whole. In 1976, the year following the layoff of one-tenth of the city's police force, the rate of the most serious kinds of violent crimes here declined for the first time in many years. One wouldn't have known it from the local press. The Times, for instance, ran a front-page story, with a four-column overrun on a rear page, under the headline:

SHARP RISE REPORTED FOR SERIOUS CRIMES IN ALL FIVE BOROUGHES—1976 FELONIES SET A RECORD

The article—by Selwyn Raab, a Times crime reporter—contained fifty paragraphs. In the forty-fourth paragraph, Raab wrote, "Violent crimes, which are murder, rape, robbery and assault, climbed by 1.5 percent last year. All categories decreased except robbery, which was up 3.6 percent. Robbery is considered by criminologists and law enforcement experts as the most accurate measurement of violent street crime." While crime experts may consider robbery the most accurate measure of violent street crime, the people who were not murdered, raped, or assaulted last year—one thousand twenty-two fewer than were murdered, raped, or assaulted the year before—might think otherwise. Of course, the public fears these most violent crimes most of all, and the decline in them was the real news. Apparently, though, the Police Department along with those who report on it are not anxious to reveal that its task is getting even a little lighter.

In any event, I heard that the changes

CXXIII—2381—Part 29

in the Police Department had made it leaner and more efficient, and asked the Commissioner if this might have contributed to the decline in such violent crimes. He shook his head and answered, "The decline is a reflection of our anti-crime programs—that is, specific programs utilizing plainclothes officers dressed to blend with the local scene." I gathered that he meant the department's decoy operation, in which police officers disguise themselves as old people, drunks, and helpless-looking young women, and wait to be attacked while backup teams of other police officers hide nearby. The decoy program was started here in 1971, and now has two hundred and fifty officers working with it and an arrest record of twenty thousand assailants in six years, ninety per cent of whom have been convicted. That is an extremely high conviction rate, and may be explained by the fact that both the victims and witnesses are police officers. In New York City last year, the police force as a whole arrested a hundred thousand people on felony charges, but only twenty thousand of them, or twenty per cent, were indicted for committing felonies, and only twelve thousand six hundred of them were convicted.

I mentioned this disparity, and asked the Commissioner whether his men had made a large number of bad arrests that grand juries threw out for insufficient evidence.

"Those weren't bad arrests," he said firmly. "Possibly not all the evidence was there at the time the grand jury was considering the offense. Or possibly the arresting officer didn't have the time or the staff to present the best case to the grand jury. It's a question of not having infinite resources."

As I got up to go, I asked Codd how the future looked to him.

"In the current time frame, I look forward to a good year—that is, a better year for law-abiding citizens and a worse year for law-breakers," he said. "That's mainly because there is a closer working together of the different parts of the criminal-justice system in New York City than we've ever had before. We used to stand in corners and point fingers at one another. That's not so much the case now. There's been a marked change. We're meeting together, talking with one another, and working more cooperatively on the problems of crime and law enforcement in this community. I'm very hopeful."

Robert M. Morgenthau was United States Attorney for the Southern District of New York for nine years and has been District Attorney of New York County for three years. A slender man in his late fifties, Morgenthau has a rather drawn face, gray hair that is thin on top and bushy in back, and old-fashioned horn-rimmed glasses. He is soft-spoken and has the shy smile of a small boy, and he is known as a very tough prosecutor. "Crime in New York City is a blight and a great public concern," he said to me as we sat in an enormous conference room just off the smaller room that he uses as his office, in the Criminal Courts Building, at 100 Centre Street, a couple of blocks from Police Headquarters. "But, compared with Detroit or Washington or even Atlanta, this is a relatively safe place to live. Most people here have no contact with crime. The greatest threat to the residents of this city is still crossing the street." I was about to ask him if he was referring to white residents and comparing street accidents with reported rather than actual crimes when he continued, "Crime here is mostly committed against poor people. They are frequently the victims of crime. But the continuing rise in crime, its increasing spillover into the white community, and the failure of our criminal-justice system to cope with the problem adequately have created apprehension and fear among a great many citizens, black and white. What frustrates and angers them most

is that someone commits a crime and before that crime is disposed of within the system the defendant commits another crime. When that happens, as it does over and over and over, the politicians want to solve the problem by assigning more police. That way, there are more arrests, but the politicians never think about who is going to prosecute these additional defendants, or who is going to judge them, or who is going to hold them in prison. For instance, last year the State Legislature passed a law enabling the police to make arrests of women loitering and soliciting for the purposes of prostitution. We get maybe a hundred and twenty-five arrests a week under this law, or more than six thousand arrests a year. I said at the time it was passed that we'd need five hundred thousand dollars more a year to enforce it. They gave us nothing. Then, there's the Mayor's Midtown Task Force, which was set up to get rid of the massage parlors and pornography shops in the Times Square area. We got a federal grant of fifteen thousand dollars to handle hundreds of these cases. Impossible.

It's the same story again and again. Every study—half a dozen made in the past few years—has pointed out this problem. But nobody does anything about it. So there are more arrests, more defendants sent back to the streets before they can be prosecuted, more crimes, more public frustration and cynicism. The trouble is that the public and the Legislature look at the opening of the tunnel but not at the middle or the end of it. The goal of our criminal-justice system should be prompt disposition on a fair and certain basis. That's the only true deterrent to criminal behavior. Almost everything I've been doing is to speed up the system here. We've made a lot of progress, but we have a long way to go."

Morgenthau paused to light a large cigar, and once he had it going he examined the lighted end of it for a moment, puffed a couple of more times, and then said, "Above all, we need more resources. The total budget for the city last year was thirteen and a half billion dollars. The total criminal-justice budget was about ten per cent of that. Of that sum, a billion and a quarter dollars went to the police. The Manhattan District Attorney's Office got seven million dollars, or much less than one per cent of the total criminal-justice budget. If we hadn't got another three and a half million dollars from the state and federal governments, we would have had to let at least a third of our staff go. We have around two hundred assistant district attorneys, who handle over a hundred thousand cases a year, or more than five hundred cases per assistant. That's a crushing case load. The average policeman costs the city thirty thousand dollars a year, while the average assistant D.A. costs the city eighteen thousand dollars a year. Arresting people won't solve the crime problem. They have to be tried and imprisoned, too. Citizens say they want something done about crime. Well, not enough will be done until they force the city and state governments to provide realistic funds for somebody besides the police."

Since the city and state governments have done little so far to combat crime, and seem unlikely to do much more in the future, I asked Morgenthau what he could manage to do within the narrow financial limits imposed on his office.

"Actually, we're making rather surprising progress, considering those limits," he answered. "There's been a decline in our backlog of felony cases, a higher conviction rate, more cases tried, fewer cases dismissed in court, less time spent per case, and a rise in the number of convictions that result in imprisonment. This office once handled cases on an assembly-line basis, with some assist-

ants handling only complaints, others handling only arraignments, and still others handling only trials.

Now we have what I call 'vertical integration,' under which each assistant handles cases from complaint on through final disposition. That has speeded things up tremendously. For instance, in 1974 there was an average delay on felony cases between arraignment and disposition of forty-four weeks. Now the delay is seventeen weeks. We set up an 'early case-assessment bureau,' or ECAB, in May of 1975, which helped greatly, too. With ECAB, we can determine at the start what kind of charge will be brought against a defendant at arraignment. By this means, we've been able to settle sixty per cent of our cases at that stage. This has made it possible for the courts to develop their own special procedures to speed up cases there. But the most important innovation here is that we are now concentrating much more than before on serious crimes and on repeaters of serious crimes, instead of on building a statistical record. For example, take the case we handled recently where two guys followed a seventy-two-year old woman into her apartment, at Broadway and Seventy-third Street. They grabbed her and put a pillowcase over her head and tied her up with a light cord. Fortunately, they didn't hurt her. All they found in the place was nine dollars in her handbag. They took the money and left. In the past, that would have been treated as a perfunctory case. But we checked the defendant's records, and found that one of them had twenty-five arrests and the other had twenty-six arrests and neither of them had ever been locked up for more than sixty days. So we treated the case as a serious offense, and each of them got three to six years in prison. I think that the serious repeater of violent crimes should be treated very severely. I have come to this conclusion reluctantly, but I don't see what to do with him except to take him off the streets for a very substantial length of time. Of course, our new policy of concentrating on the most serious crimes means that lesser crimes aren't getting the attention they deserve. Since there are far more of these crimes—small burglaries, shoplifting, obscene behavior, car theft—there are more victims to get mad at us, and in the end public anger toward the system is probably greater than ever. But our policy is working. We are finding that a relatively small number of criminals seem to commit a very large proportion of the serious crimes in this city. If we can control them—probably by putting them away for long periods—we'll have time to pay sufficient attention to lesser crimes. Our success is encouraging. Of the people who have been indicted for felonies, seventy-eight per cent are now being convicted. This is far higher than in Manhattan in past years. We also send a higher percentage of convicted defendants to state prison than any other county in the state."

I raised the issue of drug control, and the District Attorney said, much the same as the Police Commissioner had said, "The trouble is in obtaining admissible evidence on the sale of drugs. Observation of narcotics sales will not stand up in court under most circumstances. And even if the police get very strong evidence, we don't have the resources to try these cases promptly. Say a narcotics case is held up for nine months. That's a long time for a drug seller. During that time, he's out on bail, back on the street selling more drugs."

It has long been popularly believed that organized-crime syndicates are behind the drug trade in this country, and I asked Morgenthau if his experience bore this out.

"They're involved in it, but not to a great extent—at least, not to the extent they used to be," he answered. "Organized crime does affect the lives of the people directly or indirectly in a number of ways, though. Most

thefts are fenced through organized-crime outlets, which, of course, encourages thieves. Organized crime is involved in labor racketeering, which affects wages and prices. And organized crime is deeply involved in gambling and loan-sharking, in trucking and carting, and in various other lines. They've tried to get into legitimate business and commit white-collar crimes, but fortunately they're not very smart."

His cigar had gone out, and he paused to relight it, reexamine it, then puff on it thoughtfully in silence for a minute or two. "Speaking of white-collar crime," he said finally, "I've always thought there was a relationship between that kind of crime and street crime. One reason people get involved in crime is their feeling that the economic and social system is unfair. They figure that if you learn the ropes you can steal and not get caught, that if you reach a high enough status you are beyond the reach of the law. To a certain extent, they're right. Slum kids know that the numbers racket and the narcotics racket are being run by someone up above. They don't know who it is, but they know someone's got to be running things and getting away with it. Then they read in the tabloids about business crooks, big-business crooks. And they see rich men driving big cars, wearing fancy clothes, going into expensive restaurants with beautiful women—the works. The kids figure it's the same thing—that somebody's raking off plenty in so-called legitimate business. To a certain extent, they're right again. Kids don't know how to get into the big time, but they know they can learn to pick a pocket, or snatch a purse, or break into an apartment and steal a TV set, or mug somebody."

They figure that if they start that way they'll learn the rest, make contacts, hit the big money. Whenever I speak to business groups, they always want to hear about street crime and I always want to talk about white-collar crime. When I was U.S. Attorney here, I frequently spoke at banking conferences. They wanted me to tell them how to protect their banks against robberies, and I wanted them to tell me about far more serious crimes, such as the transfer of illegal funds through their banks. I'd say, 'You handle funds from organized crime—huge sums of cash that were almost certainly obtained illegally—and I wish you'd tell us when that happens.' But they won't. Nine out of ten businessmen know when they are dealing with criminals, but nine out of ten businessmen do nothing about it. That encourages crime—in this case, organized crime. And that encourages white-collar crime. And both encourage street crime. We do our best here to prosecute white-collar criminals, but it takes a special effort. We have homicides, rapes, robberies, assaults by the tens of thousands in this city, and when the police hand us evidence of such crimes and the people who supposedly committed them, we have to proceed. Nobody brings us white-collar crimes. We have to take the initiative. It's very hard work—there's no corpus delicti, no fingerprints, no buttons or hair, just a lot of financial records—and it produces few statistics. Still, I think that prosecuting such crimes is vital. Their cost to society is enormous—upward of fifty billion dollars a year, it's said. But, most important, prosecution of white-collar criminals demonstrates the evenhandedness of the law. Without that, we'll have no faith in our law-enforcement system, and without faith we'll just have more crime everywhere."

Morgenthau went on to say that the alarming rise in crimes committed by young people—especially impoverished young people—had made youth crime one of his most pressing concerns. He pulled a loose-leaf notebook from the bottom of a pile of books and papers on one corner of a table nearby, and opened it. "Take homicides in New York," he said. "Last year, sixteen

hundred and twenty-two people were murdered here. Half of them were killed by people between the ages of sixteen and twenty-five. Then take other felony crimes. Fifty per cent of all felonies in New York City last year were committed by people under the age of twenty-one. A basic change that has just been made in our state law was amending the prohibition against letting judges see the police records of juvenile offenders—kids under the age of sixteen—who came before them.

Many of these kids are very tough, hardened criminals by that age. Judges should have had their records all along, so they could see who were the repeaters and treat them accordingly at the time of sentencing. These kids are dangerous. With the amended law, the courts are beginning to deal with the serious juvenile offenders much more seriously." He paused for a moment, then went on, "Prosecution—especially in the case of kids—is a very imperfect way of dealing with criminal conduct, because it's after the crime. I wish there were more one could do in this job to keep people from getting involved in crime. Take these kids who go wrong. There is now thirty-five to seventy per cent unemployment among teen-agers, depending on the area they live in and the time of the year. If they don't have any way of earning money, many of them are bound to steal. Something has to be done to give them jobs. But other things have to be done, too. I guess I'm a frustrated social worker. I've been involved in youth work for twenty-five years. I've been president of the Police Athletic League since 1962. It's the one organization I've ever been connected with that I feel if it had twice as much money it would do twice as much, maybe three times as much, good. Eighty thousand kids are enrolled in PAL programs here—fifty play-street programs that some twenty thousand kids participate in, another twenty thousand in track, and many more thousands in eight hundred basketball teams, seven hundred hardball teams, five hundred softball teams, six drum-and-bugle corps, twelve libraries, twenty-five full-time and part-time recreation centers, photography clubs, glee clubs, drama clubs. We take kids no other organization will have. They're the ones who need help most."

A few minutes later, I got up to go, and at the door the District Attorney said, "What we're trying to do here most of all is make punishment of the guilty and release of the innocent faster and more certain. We make every effort to be sure that defendants are treated fairly. They are being treated much more fairly than they were ten years ago, and get much better legal representation at an earlier stage now. If defendants aren't treated fairly, they will never be rehabilitated. Resentment is a great creator of crime. But we still don't treat victims and witnesses as we should. More citizens see their government in action in courtrooms than anywhere else. It's small wonder that most of them go away disgusted. We shouldn't call victims and witnesses time after time and push them around and then send them away because of some delay that's no fault of theirs. Then call them back to go through the whole unpleasant business again."

The present treatment discourages people from coming forward and reporting crimes or offering to testify as witnesses. That's a very serious shortcoming, because every time someone gets away with a crime, that encourages more crime."

I asked Morgenthau what he thought the ratio between reported crimes and actual crimes might be, and he shrugged. "We have no idea—none whatever," he said. "Anyway, we would decrease the ratio, whatever it is, if we treated victims and witnesses better. We have a two-person victim-aid bureau to help people who need compensation as a re-

sult of crimes. It was privately funded, but the money ran out and the federal government wouldn't subsidize it. It was about to expire, but then we got some money from the city for it, and have been able to continue the program. It not only is humane but it has had a very direct effect on the willingness of people to come forward. We also now have a separate waiting room for victims, so they don't have to sit in the intimidating atmosphere of the court or mill around in the halls until their cases come up. I tried, but failed, to get money for a Volkswagen bus, so we could drive victims home if they had to stay until dark to appear in court. They come down here and spend all day after being hit on the head by some mugger, and then they have to take a long subway ride and walk the dark streets to their homes. We should do more to help them. Justice should be more decent."

When I went to see David Ross, the Administrative Judge of the City of New York, I found him to be an energetic man in his mid-fifties with brown hair, a sandy mustache, black-rimmed glasses, and a big cigar. He got up from behind the desk in his modest office and waived a sheaf of papers at me. "Statistics! Statistics!" he cried. "I'm not a statistician, I'm a lawyer, but we spend half our time here on statistics. We've got to find out where the problems are numerically before we can deal with them humanly." I had been thinking about the bureaucratic misuse of figures—what might be called the statistical lie—to make records look better. Of all the statistical lies produced in this city, probably the greatest whopper is the Police Department's practice of claiming that an arrest made is a crime "cleared"—which suggests to the layman that it was solved. In other words, since the police arrested a hundred thousand people last year on felony charges, the implication is that they solved a hundred thousand cases. Actually, as I knew, only twenty thousand of the accused felons were indicted, and only about twelve thousand of them convicted. In sum, around twelve per cent of the felony cases that the police claimed to have "cleared" were really solved.

I brought up these figures, and asked if this sort of misrepresentation prejudiced the public against the courts, since so many arrests were made and so few of those arrested were convicted.

"Absolutely," Judge Ross said. "Take the police claim that they arrested a hundred thousand felons. It is not up to the police to determine the gravamen of a case—whether a crime is a felony or a misdemeanor and what grade felony or misdemeanor. That is the task of the district attorney and the grand jury. If they find that an arrest is a bad arrest, it is their duty to throw out the case. People who accuse the courts of coddling criminals simply don't know, or ignore, the facts. One fact is bad arrest. Another fact is that New York City and the rest of New York State each have about the same number of indictments, but the latest report from the state correction office shows that of the seven thousand five hundred commitments to state prisons in 1975 more than five thousand came from New York City. So we send more than twice as many people to prison as they do in the rest of the state. Or, to put it another way, a person who commits a serious crime here is more than twice as likely to go to prison as a person who commits a serious crime elsewhere in the state. Still another fact is the comparison between plea bargaining here and plea bargaining in the rest of the state. The key to whether a sentence is heavy or light is the extent of plea bargaining—that is, the greater the plea bargaining in the system the shorter the sentences handed down. In recent years, the use of plea bargaining here has been constantly going down, and the number of cases tried

has been constantly going up. Last year, about two-thirds of our dispositions were by plea. The plea figure for the rest of the state was three-fourths. So our sentences were higher, too."

I asked the Judge what conclusions could be drawn from the statistics compiled in his own office, and he answered, "That there is no such thing as a criminal-justice system here. I'm a justice of the state supreme court, and I took over, in January of 1971, as administrative judge of the criminal courts in New York City. They're the lowest criminal courts, and deal ultimately with misdemeanors. The first question I asked when I got here was how many cases we had. It turned out that no one knew! Now, I'm a simple guy from the South Bronx, and I don't believe in computers. I believe in people and plain arithmetic. I told my staff to begin counting. When they reached sixty thousand, I called a halt. We were in a state of shock. No one had dreamed there were that many cases.

We never found out how many there actually were. Anyway, I had to find out where the problems were, what was causing this immense backlog, so I began observing arraignments evenings, weekends. I would watch a rather low-gravamen case go through the process—say, somebody was arrested for smoking in the subway—and eight weeks later a five-day sentence or a fine was handed out. On a cost-accounting basis alone, it made no sense. The cost to the public was tremendous. Every time a case is put over—because the lawyer isn't there, or the arresting officer isn't there, or a witness isn't there, or the defendant isn't there, or the prosecutor has two cases to try at the same time, or some official papers are missing—eight or nine court employees are involved and a lot of paperwork has to be processed. This is not to speak of the poor quality of justice being meted out. Then I found that if a criminal-court judge wasn't able to decide the gravamen of a case, it was sent on to a grand jury as a probable felony, then there was an indictment, then a supreme-court hearing was held, then the case was put on the supreme court calendar, then when it came up for trial all too frequently the D.A. would tell the judge, 'This is actually a Class A misdemeanor, not a felony.' So it never should have been in supreme court at all. It should have been tried in criminal court—probably a year before. More likely than not, the defendant was detained in jail unjustly during that year, because he couldn't raise the high felony bail. I discovered that half of all the cases in supreme court ended up as misdemeanors, which should never have been there. They were clogging up the supreme court calendar and causing most of the backlog. The greater the backlog, of course, the longer the delay, the worse the effect on the defendant, who gets more resentful, tougher, more skilled in the ways of crime every day he spends behind bars. Also, the longer the delay the less likely he is to be finally convicted, because witnesses' memories fade, people move away, victims give up and drop charges. In short, the longer the delay the more the system falls."

Judge Ross took the wrapper off a fresh cigar and lighted it. He puffed contentedly for a minute, then went on, "After I saw what was happening, I asked myself, 'Why not dispose of small cases at once?' So I decided to frontload the court system, instead of backloading it as before, by settling minor cases at the time of arraignment, the first step in the court process. We began disposing of low-gravamen cases—say, Class B misdemeanors, which means six months or less in jail, and smaller cases—by way of fines, probation, and suspended sentences. Now we get rid of roughly half of all arrests at the time of arraignment.

That figure is for the whole city. In Man-

hattan, it's around sixty per cent. The new system works remarkably well, and it's now accepted as the norm, as if we had always done it that way. Before, trial judges couldn't hope to handle cases fairly, but now that we have cut their case load in half they have a lot more time to try each case. Today, we dispose of cases in criminal court in an average of three to three and a half weeks, and we're cut the backlog down to fewer than twelve thousand pending cases. The impact on the D.A., on corrections, on the supreme court has been tremendous, because now everyone can concentrate on dealing with serious offenders."

I mentioned that the Police Commissioner had attributed last year's decline in the most serious offenses—murder, rape, and assault—to the police decoy program, and that a newspaper story I had read recently had reported that there had been a further decline in serious crimes during the first six months of this year but that the police were at a loss to explain it.

Judge Ross smiled. "I know," he said, leaning back in his chair and smiling more broadly. "They just can't figure out what's happened." Suddenly he sat forward and said, "I'll tell you what's happened. Those serious crimes have declined because district attorneys are concentrating on serious offenders, and we're sending more and more of them to prison for longer terms. So there aren't as many of them on the streets as there used to be. We're reducing the relatively small number of violent criminals, the repeaters, who commit most of the serious crimes here. That's why the rate of serious crimes has fallen." He puffed angrily on his cigar for a few moments, then went on, more calmly, "Of course, to accomplish this we had to revise the work of the supreme court, too, since that's where serious crimes are handled. In 1974, I was made administrative judge of all the trial courts in the city. I found that we had quite different problems in supreme court. Fellows charged with serious crimes were being detained ten, twelve, fourteen months before trial. It was often hard to find those who were out on bail because of their great numbers. We tried to use in supreme court the principle we had developed and used in criminal court. But the problem was different. Obviously, you can't dispose of a serious crime—murder, for instance—at the arraignment stage. We had to cut down on delays and get rid of the backlog somehow. My solution was to create teams of judges. One judge up front was in charge of the general trial calendar for his team of three or four trial judges. He handled all the administrative work—the legal bookkeeping, so to speak.

Then, when a defendant and his lawyer and the prosecutor appeared, after all the hearings and paperwork were out of the way, this judge could say, "You're ready? O.K., go across the hall to courtroom such and such." The judge there would greet the principals and tell his clerk, "Impanel a jury." It works. We're disposing of our felony indictments now in an average of twenty-three to twenty-four weeks, or less than six months. But that figure is an average, and we haven't reached our goal of no more than six months for every case. When we reach that, I'll make the goal five months. We're on our way.

I recalled occasionally reading newspaper articles about defendants still being held for over a year before trial, and when I mentioned this, Judge Ross nodded. "One of our worst problems was that our old cases were getting older and older," he said. "So we devised a special program for long-term detainees, who are invariably the most serious offenders. We had three hundred and fifty of them, equally split among Manhattan, Brooklyn, and the Bronx. The main cause of delay, I discovered, was that we had too few

judges. The number of supreme-court judges is fixed by the state constitution, so I took some lower-criminal court judges and some civil-court judges and made them acting supreme-court judges. Before I could do that, though, I had to get some more money, and finally I got a five-million-dollar grant from the Law Enforcement Assistance Administration. With it, we set up three extra court parts in each of these three boroughs, complete with judges, court personnel, assistant D.A.'s, correction officers, and so on. By the time we got the operation running, in June of 1976, we had over four hundred long-term detainees. Now there are only thirteen left. All in all, we're succeeding. Never have our courts, with less fiscal capacity, been doing as much as they're doing today."

I asked what that capacity is at present, and he answered, "Eighty-five million dollars a year, or less than one per cent of the city's budget. The claim that we have three coequal branches of the government is nonsense. As long as the executive and legislative branches control the judicial budget and dole money out to us as they please, we won't be coequal. And as long as the so-called criminal-justice system is a funnel, with tens of thousands of cases pouring into the top and then inevitably clogging up at the narrowest part down near the bottom, we'll always have a serious crime problem. There's no question that crime can be dealt with—if the government's priorities, which are all backwards now, are sensibly revised.

In our case, the solution may not be more courts and more judges. Most of all, we need more nonjudicial personnel—the back-room staff. Second, we need a greater trial capacity. Even if a courtroom is empty part of the time, it's essential that it be there, ready for use. If trial courts are full, defense lawyers, knowing there will be a delay, which is almost always to their clients' advantage, ask for trials. On the other hand, if trial courts are available the same lawyers will take a plea rather than go to trial. That speeds up dispositions, reduces the detainee load on corrections, deters defendants out on bail, and satisfies victims and the public in general. Severity of sentence has absolutely nothing to do with deterrence. It's not the severity, it's the celerity that counts. Third, when a new law is passed, we should be given the capacity to carry it out as intended. Fourth, the state corrections system has to be enlarged. It's bursting and simply can't keep up with us. If there were enough prison beds we could cut court delay below six months easily. As it is, there's no room for the guys we're sending them now. Most of all, we should reopen the Tombs, which was closed in 1974 after a federal judge ruled that that place was so awful that incarceration there constituted cruel punishment. If the Tombs were fixed up and reopened, we'd have a real handle on crime in this city. What's being done now is economic madness, and will cost far more than renovation of the Tombs. There are about nine hundred beds in the Tombs, but most detainees are being held way out on Riker's Island, up in the East River. Instead of simply being brought from the Tombs, across the street, into the court building, prisoners now have to be transported all the way from Riker's. The wrong prisoners are brought, the vans are late—delay, delay, delay. All of this could be solved if the public cared. It's entirely up to the people of this city. When they really want the crime problem solved, it will be solved."

Benjamin J. Malcolm, the Commissioner of Correction—a powerfully built light-skinned black man in his mid-fifties, with sloping shoulders, a large bald head, horn-rimmed glasses, and a mustache—told me that in the course of last year around fifty-four thousand people were held prisoner by the Department of Correction, most of them on Riker's Island and the rest in smaller houses

of detention in the Bronx, Queens, and Brooklyn and in prison wards at city hospitals. A third of them were sentenced prisoners serving less than a year, and two-thirds were detainees held for varying periods while waiting for the courts to dispose of their cases. "We probably suffer most for all the mistakes made in the criminal-justice system here," Malcolm said. "We're the only ones who have no control over who comes in when or who goes out when.

Back in 1972, we had an average daily census of thirteen to fourteen thousand inmates, or twice our cell capacity. Overcrowding is a prime cause of riots, and we had a couple of bad ones. But then Judge Ross made his brilliant move to frontload the court system. That reduced our enormous prison load, which now average six to seven thousand inmates. The overall concentration on the heavy hitters in crime—in the D.A.'s office, the courts, and here—may be the only solution. It certainly has changed the corrections business. There used to be prostitutes, pimps, addicts, shoplifters in prison, but very few misdemeanants end up there now. The theory is that the new approach reduces the crime-school effect of prisons. The people we're putting away now already know just about everything bad there is to know."

I remarked that a couple of the officials I talked with had said that there is no criminal-justice system.

"That's right," Malcolm said. "We have a criminal-justice industry. A whole mob of us make livings out of this non-system. Out of a total Correction budget of ninety-two and a half million dollars last year, seventy-seven million dollars went for personnel. It costs twenty-two thousand five hundred thirty-eight dollars and seventy-five cents to keep one prisoner at Riker's for a year. And since 1970 we have spent over a hundred million dollars on new corrections facilities. In short, it's a very expensive system. What does it accomplish? It holds people. It is a warehouse system. Our purpose should be to prepare inmates to live within the community outside without assaulting it. Do we do that? Emphatically, no! In this country we are still living in the nineteenth century, penologically speaking. In fact, we are just getting around to pushing ideas that were advocated by Benjamin Rush and Cesare Beccaria in the eighteenth century. In Europe, they are much more advanced than we are. I went over there to study prison reform, and found they're making real progress. In West Germany, government officials, businessmen, and trade-union leaders got together and set up prison plants to manufacture highly intricate automobile and aircraft equipment. Union workers trained prisoners, who proved that they could do the most complicated kind of precision work. It's been a great success. But here you couldn't persuade either businessmen or unions to go along with that. Both are too afraid of losing money and power.

Not long ago, I discovered an 1896 state law that prohibits the sale of any commodities made within the prison system outside that system. We didn't have much in the way of unions then, so it was a businessmen's law. But now the unions are even worse. Let's say we repealed that law, and then trained inmates in marketable skills. The next thing would be to give them union cards, so they could get jobs. But you can't do that. Unions won't allow it, so politicians won't even listen to such a proposal. Three or four years ago, I wrote City Hall and said we have a bakery at Riker's Island and if you can arrange with union bakers to come in and train inmates, we'll supply all the bread for city hospitals, school-lunch programs, and so on. All we need is an agreement with the bakers' union. I never got an answer. Therein lies the root of recidivism. Union members in this country have to make a choice—either accept a slight risk to their job security or accept the increasing likelihood that they

or members of their families will be victims of criminals whom they prevented from getting jobs. People blame crime on prisons, but it isn't the prisons that are at fault. It's the people themselves. I was a parole officer for more than twenty years, and I saw thousands and thousands of men destroyed by this system—men who wanted only a chance to go to work at an honest job but were denied it."

I asked Commissioner Malcolm if he would place the blame for the failure to rehabilitate prisoners chiefly on unions, and he quickly and vigorously shook his head. "That's just one symptom of public indifference," he said. "Take the resources that are allocated for so-called corrections—around one per cent of the total city budget. If people were serious about doing something to reduce crime, they would do something. As it is, this is purely a punitive system. That seems to be what the people want. Why don't they admit it? Why be such hypocrites? After all this time, it's clear that punishment makes most criminals worse criminals. So if we lock them up, give them practically no training that they can use on the outside, then release them—and ninety-five per cent of them get out at some point—it is inevitable that they will assault society again. They have little choice, because there is simply no way for them to survive otherwise. Which does the greatest damage to the inmate—what's done to him inside prison or what's done to him when he gets out? Of the three Ps—prosecution, punishment, and persecution—the last does the greatest harm. We persecute ex-convicts forever. Unions say, 'This guy has a record, we can't trust him.' We say, 'But he's paid his debt to society. He's a well-trained bricklayer or carpenter. He deserves a chance to remake his life.' When we deny him that chance, we drive him back to a life of crime. I've heard so many ex-cons say this. It's society that has to change.

While it would cost more in the short run to make our system truly corrective, it would save immense sums of money and huge amounts of human pain in the long run. But the people don't want that. They want punishment. And in the end they are punished, too."

Since Commissioner Malcolm probably had more direct experience than the other officials I had interviewed with the fastest-growing and most alarming group of criminals in the city—youthful criminals—I asked what hopes he had of turning them away from careers in crime.

"The ones we have in the system now are the hard core," he answered. "I'd be the last one to let them out. Last January, we took a sample census of eleven hundred prisoners who were between sixteen and twenty years old. Ninety to ninety-five per cent of them were there for murder, assault, armed robbery. Twenty-four per cent were in for murder. The courts, until very recently, were too lenient with kids. It's only been in the past year that courts and legislators have begun to take stock of the youth role in crime—that is, the flood of youth crime. In 1976, almost seventeen thousand kids under the age of sixteen were arrested here for committing very serious crimes. At least ten per cent of them should be held in secure facilities. The Juvenile Justice Reform Act, which went into effect last February, was based on the legislature's new awareness of how serious many youth crimes are, and it gave judges the authority to commit the more violent juvenile criminals to secure facilities for one year. But we have only two hundred and seventy-five beds in the whole state for them. Of course, it didn't take long to use up the few vacant beds there, so judges had to go back to applying the old law to juvenile criminals."

"What would you do to reform the correctional system if you had the money and the authority?" I asked.

The Commissioner stared off toward a window for a minute or two, then turned back to me. "I would have two different systems—one for detainees, one for sentenced inmates," he said. "Take detainees first. We've found that nowadays sixty to seventy per cent of them are hard-core criminals. They must be brought to trial speedily, within ninety days. If a defendant is innocent or there isn't enough evidence to prove him guilty, let him go. If he's guilty, satisfy the victim and society.

During the ninety-day waiting period, we must have educational programs really intensive programs. It's pointless to try to train someone in vocational skills in such a short period. But we could have intensive courses in reading, writing, simple arithmetic. We've got to bring prisoners up to the equivalent of high-school graduates, so they can function outside. The program should be conducted seven days a week, instead of five days as now, in order to obtain maximum results and also to stop riots, which usually occur on weekends, when prisoners have little to do. All in all, I would do just as much as possible to get detainees out of the prison system as fast as possible. Next, take sentenced inmates. Anyone coming into the prison system should be given enough time to do him some good—six months at a minimum, maybe even a year. Those now being given thirty days should get six months. Those now being given six months should get a year. I would set up an industry-supported, labor-supported plan to have training programs for work on the outside. To reduce the cost of the program, I would set up a series of residential, or half-way, houses in communities where inmates intend to live and work after release. Under the law, I should have the authority to execute warrants to withdraw good time earned by inmates who don't behave. Everyone would be in a work-release program. Say a man has a one-year sentence. He would spend eight months being trained in prison and four months on work-release outside. We would pay him for his work during the last four months, so that when he goes back on the street he will have a bankbook with several hundred dollars to help him start again, and he would have a skill to start with. We would give him heavy attitudinal counseling. When he's ready to go out, we would help him get a job, find a place to live, and take additional training if he needs it. That way, I would have a group of men who would know, from Day One, what the contract is and what violation of it means. That way, each man would have a chance to become a member of a family and a community and a work force—a chance to become a man, maybe for the first time, and to have some confidence and pride in himself. As it is now, we just send them out blazing with anger, without hope, ready to rip off the first person they can. And we could set up a large part of this program on our current budget. Say we have a thousand inmates and each stays an average of two hundred days. If we cut the stays of detainees, who make up two-thirds of our inmate population, down to a hundred days, that would cut housing and overhead costs by more than half. Then we would use the money we saved to pay for work-release programs for sentenced inmates.

We'd probably need more funds to provide real training programs in the prison system as a whole, but the cost would be small compared to the social savings over the long haul. Work-release programs and halfway houses are the only answer. And they'd be much cheaper, once set up, than the warehouse system we're running now. All this may sound idealistic, but we've got to strive toward such an ideal if we're going to save our society. Otherwise, it will be swamped, simply swamped, by crime."

Last winter, Mayor Beame appointed Nicholas Scoppetta, an experienced prosecutor and the city's Commissioner of Investi-

gation, to be Deputy Mayor for Criminal Justice. Shortly after he had settled into the job, I went to see him. Scoppetta—a pleasant man in his mid-forties, with receding, dark hair and a rather plump face—met me at the door to his large office, at 130 John Street, and led me to a pair of chairs facing each other beside a wall of windows overlooking the East River. We sat down, he lighted a huge cigar, and, once he had it going, he said, "The chief power of this office is that the coordinator, or deputy mayor, has the duty to make the recommendations to the mayor on budgets for the criminal-justice system. There were two hundred and twenty thousand arrests in the city last year, but there was, and is, no system to deal with them comprehensively. Actually, we learned this through the fiscal crisis. The cutback in city funds forced us to examine the criminal-justice system for the first time, to see where we could save money and do things more efficiently. That's how we discovered that there was no system—just a great hodgepodge of people running around in the dark bumping into each other."

The statement seemed to me an astonishing admission of bungling on the part of the city government, which had spent untold millions of dollars over many years to deal with the crime problem, and which had then learned what the basic problem was only because it had to stop spending so much money on the problem. Before I could bring this up, Scoppetta went on, "Of course, each part of the system needs more resources. For instance, there's talk in Washington about disbanding the Law Enforcement Assistance Administration, and if that happens we'll have to fire a third of our assistant D.A.'s. And the courts need more judges. If we increased court time by just one hour for each court part, we would have the equivalent of three dozen more court parts, which would speed up our disposition of cases greatly."

On the other hand, Judge Ross had said that he wasn't at all sure he needed more judges, and after my talk with him I had learned that although crime in New York was increasing, the time supreme-court judges in the city spent on the bench had been decreasing. In Manhattan and Brooklyn, a study of the court system revealed, these judges sat for less than half of their official working day, which is only six and a half hours as it is. After the study was distributed among court administrators—including Judge Ross, I assumed—the judges began spending more time on the bench, and the backlog began decreasing. What is more, I had read in the *Times* that Mayor Beame had left twelve criminal-court and seven family-court judgeships vacant for periods ranging up to a year—reportedly because he hadn't been able to find the appointees who would provide the best political balance. These vacancies constituted an eighth of the normal complement of judges on the criminal courts, which handle more than two hundred thousand cases a year, and a fifth of the normal complement of judges on the family courts, which handle all juvenile crimes. While the other officials I had spoken with wanted more money for their parts of the system, each of them had convinced me that his own part was working better than ever before on less money. In fact, the system was beginning to function more as a system largely because reduced resources had compelled them to find better ways to do their jobs. The Police Department seemed to be operating more effectively with fewer police officers; the Manhattan District Attorney's office was handling more cases more rapidly with more convictions and more criminals being imprisoned; the courts had greatly reduced delay in disposing of cases; and the Department of Correction had been able to concentrate on fewer and more serious accused and convicted criminals. All in

all, I found what I had learned encouraging, and it seemed, at best, misguided for officials to want more money when they acknowledged that, to a significant degree, they hadn't known what they were doing with the money already in their budgets. But I sensed that the Deputy Mayor for Criminal Justice might not wish to endorse the salutary effects of reduced budgets for criminal justice, so I let it pass.

"What we need is more coordination," Scoppetta continued. "Most of all, we need a computerized criminal-justice information service. There's one being used now in the District of Columbia, called the Prosecutors Management Information System, or PROMIS. It provides an enormous range of services. For instance, with a PROMIS system we could find out in seconds when defendants have more than one case pending—a search that now may take days. If a witness calls and wants to know when he is to come to court and what courtroom, with our present system it's very, very difficult to find the information. The PROMIS system can notify witnesses automatically when the date for their appearance approaches, and can tell them which courtroom to go to. It could help courts by printing calendars for upcoming cases. Also, it would provide invaluable assistance to judges by providing defendants' past records for use at the time of sentencing." (As it happens, District Attorney Morgenthau had applied for a federal grant to enable him to install a PROMIS system three years ago, and it has finally been installed and is now being tested.)

"Given our present non-system," Scoppetta went on, "any rational approach to all these daily time-consuming problems is impossible. As it is, we don't know what we're doing. We don't even know what to do with the resources we have. Speaking of sentencing, that's a big topic of discussion in criminal-law circles these days, but it's only recently that it was addressed at all. Punishment for the same crime may range from a suspended sentence to eight years in prison. Of course, that's a fundamental inequity. Prisoners have known about it for a long time—in fact, it seems to be one of the basic causes of resentment among them—but we've just begun to examine it in a serious way. This morning, we had a meeting here to figure out how we could get convicted prisoners out of the city system more quickly—that is, speed up the time between conviction and sentencing. All prisoners should be sentenced within four weeks of conviction, but delays in presentencing reports and the courts' jamup in general extend the period to as long as three months. That's intolerable—especially for the prisoners who are going to get suspended sentences or probation and be set free."

I said I had been wondering whether bureaucratic inefficiency might be the cause of many of the problems afflicting the criminal-justice operation, and Scoppetta thought for a few seconds, while he trimmed the ash of his cigar on an amber-colored ashtray beside him, then nodded slowly. "That's true to a degree," he said. "For instance, we have such an enormous number of cases that the police are tied down much of the time in court—often, we learned, unnecessarily.

In a study we made of the situation in Manhattan and Brooklyn, we found that twenty-two per cent of the felony arrests were cases that would be held for grand juries—that is, they were actually felonies. The total was thirteen thousand cases. We knew from earlier studies that an arresting officer spends an average of four hours in court at the time of arraignment. In felony cases, there is no need for the arresting officer to be in court, because a grand-jury indictment determines the arraignment. So after Morgenthau's success with the early case-assessment bureau, one was set up in each D.A.'s office to decide who should be

prosecuted on what charge. Now, when the D.A. has a case come in, his ECAB studies it and determines whether it's a felony. When it is, the arresting officer doesn't go to court for arraignment, so in Manhattan and Brooklyn alone we can save fifty-two thousand on-duty hours for the police. Citywide, it would be at least double that."

A little later, we got onto the subject of crimes committed by addicts. "What do we do about narcotics violators?" Scoppetta said. "We don't know what to do. We tried to contain the spread of heroin by dealing with new addicts, who preach the joy of being a user after their first high. That didn't work. Then we tried cracking down and putting more drug pushers away. Last year, we sent twice as many pushers to prison as the year before, but we have found that there is very little ripple effect from jailing sellers. There are thousands waiting to take their places. So that didn't work. We have to deal with the problem, but how?"

I asked whether any consideration had been given to using the English system of providing addicts with drugs at low cost to keep them from stealing to pay for drugs at high cost.

Scoppetta shook his head, and answered, "The English approach would be impossible here politically, because it would be called genocide if we kept addicts, most of whom are black, permanently addicted. What we need most of all is a greater federal effort. For instance, three per cent of the federal government's expenditures for drug controls is spent in New York City, which has half the country's addicts." (According to the National Institute on Drug Abuse, New York City has only about one-eighth of the country's addicts.) "Ultimately, it will probably be up to Washington to find some way of keeping the stuff out of the country altogether—just as it is up to Washington to control guns. If we could get rid of drugs and guns, we could cut crime here by half."

I asked Deputy Mayor Scoppetta what he had found to be most encouraging in the work he had done so far in his new job.

"Look at crime citywide and ask what is the kind of crime that is having a major impact on the quality of life in New York," he said. "Of course, it's crime in the streets—violent crime. And that's precisely what we are going after most vigorously and most successfully. We have a major-offense bureau here, which is in line with District Attorney Morgenthau's and Chief Judge Ross's major-felony approach. We are trying to coordinate these separate approaches, so that the most serious cases are treated most seriously. It is proving to be a very attractive approach and may be the only solution, the only way to attack the dreadful scourge that has plagued our city. We are close to confirming a big discovery—that only twenty to twenty-five per cent of the criminals here commit around eighty per cent of all our serious crimes. So the crime problem may not be as big, or as insoluble, as it once appeared. If we focus on career criminals—the violent repeaters—and keep them out of society, that would greatly reduce the crime that most frightens people. It would let us all breathe more freely again. Our strategy really looks as if it will work. But if it doesn't prove to be cost-effective we're going to be in real trouble."

RICHARD HARRIS.

GLENN WATTS ON THE ENERGY CRISIS

Mr. PERCY. Mr. President, I would like to call the attention of my colleagues to an excellent article on the energy problem written by Glenn E. Watts, a member of the board of directors of the Alliance to Save Energy

and president of the Communications Workers of America. This short, concise article contributes valuable insights into our national debate on energy policy. While Mr. Watts expresses reservations about certain aspects of President Carter's energy plan, he gives a ringing endorsement to the President's emphasis on conservation.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

ENERGY CRISIS IS FOR REAL

(By Glenn E. Watts)

Recent actions, and mostly inaction, by Congress in the field of energy have forced President Carter to take the case for his energy program to the people. This is good in many respects, for the issue is an extremely important and complex one and deserves general airing and broad debate.

And I believe it is likely that the public may show a greater wisdom in recognizing the true nature of the energy crisis than their elected representatives have to date.

For the energy crisis is real, it is still with us and it will be for a long time. President Carter knows this, and he knows that a comprehensive, on-going energy program is absolutely essential.

The President has correctly emphasized the need for energy conservation as an important aspect of national policy, a concept which Congress so far has not taken very seriously. Efforts such as those called for by the private sector Alliance to Save Energy, of which I am a member, will have to be undertaken by industry and by citizens or else we are going to be in real trouble in the future.

The reason is that our reserves of fossil fuels are indeed finite, and in the case of petroleum and natural gas, we are dangerously near to exhausting the supplies which can be readily developed. The U.S. is still much too dependent upon foreign petroleum sources, and the outlook for the future in this respect is not good.

Thus, the emphasis on more production at the expense of conservation, taken by the petroleum industry and by the Congress, is short-sighted. The President's description of the attempt to deregulate oil and gas prices as a monumental "ripoff" is an accurate one, I believe.

In fact, the price of "new" gas rose by nearly 450 percent between 1972 and 1976. During this period, gas production actually decreased by 12 percent, giving the lie to industry's argument that ever higher prices are needed as incentive for new explorations.

How much incentive is needed, a 2,000 percent increase? That's exactly what the producers are seeking with deregulation, a price equivalent to the monopoly price set by OPEC.

The energy industry lobbyist have out-gunned the American consumers so far, and their arguments and interests seem of much concern to members of Congress. It's time for the average citizen to get into the act, for American consumers to start writing to Congress and expressing their point of view.

When the President outlines his energy program on national television, as he plans to do shortly, we must all listen carefully and thoughtfully. We may not like all that we hear, for some aspects undoubtedly will involve a personal sacrifice for everyone. And the nature of such sacrifice will and should be debated thoroughly, such as the question of whether and how a tax on so-called gas guzzlers can be imposed without unfairly penalizing working people who often must drive long distances to work.

I have mixed feelings about some of the points in Carter's program at the moment, but I believe the main thrust of his program is in the proper direction. Most important, he is dramatizing the serious nature of the energy crisis, and insisting that we must have a comprehensive and long-range national policy to deal with it.

THE SURVIVAL OF A FARM

Mr. HUMPHREY. Mr. President, the November issue of Atlantic Monthly magazine contains a very interesting article, "Making Milk: The Survival of a Farm," by Mark Kramer.

I would like to share this article with my colleagues because it provides a description of a segment of agriculture that has changed dramatically during the past decade, the business of dairying. Our dairy farmers must be both hard working and innovative to survive today's competitive markets. The dairy farmers of Minnesota are among the most productive of the world. Through the use of a wide range of modern technology, Minnesota has experienced a surge in total output, despite a sharp decline in the number of dairy cattle.

Even with the advances of science and technology so evident in dairying, the life of a milk farmer is much the same as it was early in this century. To a large degree, existing dairy farmers milk approximately the same numbers of cows twice-a-day in family operations. There are exceptions to this, but not many.

Mr. President, I have seen few articles with as much insight as "The Survival of a Farm." To further the understanding of American agricultural practices, I would like to share this essay with my colleagues. Therefore, I ask unanimous consent that this article be printed in the RECORD.

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

MAKING MILK: THE SURVIVAL OF A FARM

(By Mark Kramer)

Leland Totman appears, a sort of agricultural centaur, head and then tractor rising up from behind a hill. He is far down the roadway that climbs from the bottomland at the fork of the South and Deerfield rivers, up through a grandstand of pastures and mowings and cornfields to the dooryard of his farm. Surrounding him, all along the road, are the fields that feed the cows that make the milk that he sells. The nearest mowing needs to be mowed again. It looks like a roughly overgrown lawn, rolling downhill for a few acres. It ends abruptly at a field of tall corn whose leaf-tips have browned from a touch of early frost. This is corn-chopping season in Conway, Massachusetts, time to make silage, and there is a corn-chopper hitched on behind Lee's tractor. Its bulky green metal housing sprouts silvery tusks and a yellow sheet metal snout like an elephant's trunk lifted to trumpet. A sharp October breeze blows straight up the road, and the air smells sweet and thick from the day's work.

The tractor arrives, stops, and Lee leaps to the ground. He is short, broad, blond, and blue-eyed, built ruggedly and in the shape of a trapezoid, wide end up, narrow end down. He carries himself heartily. He is forty-three. He flashes the mischievous, conspiratorial, and boyish grin of a twelve-year-old who has just set into motion a complex practical joke.

gas if allowed to be used in new electric utility boilers would have an unfair advantage over other fuels such as coal.

In such an environment, the Federal Government would be promoting utility use of natural gas through these price controls. This is certainly an unfair energy policy and there can be no doubt that it would reduce future coal demand.

The sponsors of H.R. 4277 should be placed on notice that if section 601 is retained, it will have a far-reaching adverse impact on employment in the Nation's coalfields.

For these reasons, if H.R. 4277 is brought to the House floor, I will offer an amendment to strike section 601(a)(2) of the bill. I would urge my colleagues who are concerned with the consumer and employment impacts of this provision to support my effort.●

AN APPRECIATION OF PHILIP
MAZZEI—AN UNSUNG AMERICAN PATRIOT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. BIAGGI. Mr. Speaker, American history especially around the time of the American revolution is filled with heroes and patriots. Some of these are well known and have been treated kindly by history. Others have languished in greater depths of obscurity—but their contributions to the establishment of the American Nation are just as important. One such individual is Philip Mazzei—who played a quiet but powerful role in the shaping of the early American Nation and especially its system of government.

I wish to insert into the RECORD an excellent essay about Philip Mazzei written by Sister Margherita Marchione a noted professor of history at Fairleigh Dickinson University in New Jersey. Sister Marchione is the author of a number of books and articles about Philip Mazzei including some that feature his writings on issues such as the Constitution. Sister Marchione is an historian with impressive credentials. Her work on Mazzei has and will continue to do a great deal to get him the recognition he so richly deserves.

Sister Marchione's essay follows:

This year we celebrate the 200th Anniversary of the founding of the Constitutional Society by Philip Mazzei, an Italian and a great American patriot, who wrote in 1776: "We think that if we could have but one and the same Constitution for all the united Colonies, our union would be infinitely stronger."

Philip Mazzei used the World as his classroom and helped educate people everywhere to democratic ideals. He did this by word-of-mouth and by his writings on the political, financial, and social conditions in the Colonies. One appreciates Mazzei's faith in free speech and the power of exposure, and recognizes his ideas on freedom, sex, property,

And as he was conscious of man's injustice to woman, so too was he conscious of the injustice of man to man: slavery.

Not only men and agricultural products accompanied Mazzei to Virginia, but products of the mind and the lessons he, like Machiavelli, had learned from the study of Roman history. He also brought the ideas he had gathered from his reading of the Encyclopedists and Cesare Beccaria, and from his association with the best minds in Italy, France, and England.

Mazzei was a prolific writer and a proponent of religious and political freedom. Born December 25, 1730, in Tuscany, he lived in 20 cities in Italy, Turkey, Austria, England, United States, France, Holland, Russia and Poland during the 86 years of his life. In London he met Franklin and other members of the American colony, and learned that Virginia was climatically not unlike Tuscany. His imagination caught fire and as early as 1771 he drew up a plan for the organization of an agricultural company. He disposed of his London assets, went to Tuscany to procure men, plants, seeds, cuttings, implements, and knowledge necessary for the success of his new venture, and set sail on September 2, 1773, arriving in Virginia several months later.

Mazzei took his farming venture seriously, and organized a company to finance the implementation of the plan he had drawn up in London. Shares were sold and 31 colonial leaders, among whom were Lord Dunmore, Washington, and Jefferson, invested in the enterprise. This was perhaps the first "Wine Company."

Mazzei's involvement in political affairs was constant. Indeed, his greatest contribution to the cause of the American Revolution was as propagandist. Not sharing the reluctance of the colonists to sever all ties with Great Britain, it was easier for him to advocate a complete break. He defended the American cause to European readers and fought against the misunderstandings and deliberate misrepresentations disseminated by European newspapers.

A concrete example of his desire to participate in the drafting of a constitution for the state of Virginia is the document "Instructions of the Freeholders of Albemarle County to their Delegates in Convention." In these "Instructions" Mazzei wrote: "The glory of having been the founders will afford such a gratification to our hearts as to over balance all the inconveniences and labours." It is the "missing link" which places Mazzei with our Founding Fathers.

There is no doubt that this document-draft of "Instructions" was written by Mazzei. Its importance was recognized in 1952 when Julian Boyd stated in an editorial note (The Papers of Thomas Jefferson, Vol. 6) that Jefferson's "own draft-constitution of 1783 was influenced by these views of the Albemarle inhabitants." Boyd printed the clerk's copy found among Jefferson's papers. He was not aware that the document was Mazzei's.

When the Colony of Virginia was in need of money and army supplies, Governor Patrick Henry commissioned Mazzei to seek help in Europe, and authorized him to borrow 900,000 pounds at a maximum of five percent interest. On June 20, 1779, off the eastern coast, the ship was captured by an English privateer, and Mazzei was forced to throw his credentials overboard and remain in New York and Long Island for three months. While held prisoner on Long Island, he observed the preparations being made by the British, and so devised a plan of his own to bottle up the enemy by having superiority on water. He not only wrote this to Jefferson, but he also discussed it in Paris and sent a sketch to General Rochambeau.

His plan was not carried out in New York because the British in the meantime had moved south. Was Mazzei's plan of attack put into operation at Yorktown instead?

Mazzei returned to Virginia in 1783, and began plans for the organization of The Constitutional Society which was as new as his 1776 revolutionary concept of "one and the same Constitution for all the united Colonies." Two years later he joined Jefferson who had become Minister to France.

In 1788, Mazzei published his 4-volume "Recherches historiques et politiques sur les Etats Unis de l'Amérique septentrionale." The work went through two French editions and a German adaptation. It is a reminder of the links between American and French political thought in the year immediately preceding the French Revolution. Mazzei's principal involvement with the Revolution was as an observer and a reporter. His participation in French affairs was related to his involvement with Polish affairs. He lived in Paris and functioned as an employee—first as agent and then as chargé d'affaires—of King Stanislaus. He succeeded in reestablishing diplomatic relations between France and Poland. Soon after reading Mazzei's "Recherches," the King invited him to Warsaw. Mazzei arrived there early in 1792, to be both friend and advisor. He wisely urged Stanislaus not to issue paper money, and wrote "Reflections on the Nature of Money and Exchange."

In 1802, at age 72, Mazzei traveled to Russia to claim Polish pension. When he returned to Pisa, he resumed the cultivation of his own little garden, happy to be just plain Pippo l'ortolano as his friends called him (Phil the gardener). He continued to offer his services to his adopted country. His final gesture of friendship to the United States was the hiring of two sculptors in 1802 for work in the national capital, Washington, D.C. From Pisa, at age 75, Mazzei set out for Rome, and hired Giovanni Andrei and Giuseppe Franzoni to bring their Italian artistic talents to the United States.

Mazzei's last years were spent gardening and writing his memoirs. His death on March 19, 1816, did not go unnoticed. Newspapers in New York, Pennsylvania, and Virginia printed lengthy and accurate obituaries. A proposal to publish Mazzei's memoirs was also printed.

Philip Mazzei was remembered even though he had not returned to America in over 30 years. Jefferson commented in a letter to the American Consul in Leghorn: "He was of solid worth; honest, able, zealous in sound principles, moral and political, constant in friendship and punctual in all his undertakings. He was greatly esteemed in this country. . . ."

Philip Mazzei was more than a transmitter of ideas, prolific writer, and cultivator of important political friendships. He was an active participant in world events. His "Memorie" give us an eyewitness account of the three great national upheavals of the late eighteenth century—the American and French revolutions, and the events which led to the second partition of Poland.●

SOUTH AFRICA: THE OTHER
EVIL EMPIRE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 12, 1984

● Mr. COYNE. Mr. Speaker, a recent column by Mr. Carl Rowan reminds us that our Government is less than even