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NOTES FOR PANEL ON CRIME AND LAW ENFORCEMENT 2/20/69
St. Louis, Mo

Judge Weinstein

WHERE ANTI-CRIME LEGISLATION IS CONCERNED, THE 91st CONGRESS HAS A VERY TOUGH ACT TO FOLLOW. THERE IS NO DISPUTING THE FACT THAT THE 90th CONGRESS ENACTED MORE LEGISLATION AND MORE SIGNIFICANT LEGISLATION IN THIS FIELD THAN ANY OTHER CONGRESS IN HISTORY. AMONG THE MAJOR BILLS IN THE FIELD OF LAW ENFORCEMENT AND CRIMINAL JUSTICE WHICH BECAME LAW DURING 1967 -- 68 ARE:

1. A STATUTE MAKING IT A FEDERAL CRIME TO INTIMIDATE WITNESSES AND OTHERWISE OBSTRUCT FEDERAL CRIMINAL INVESTIGATIONS;

2. A COMPREHENSIVE OMNIBUS CRIME CONTROL BILL, PARTICULARLY FOR THE DISTRICT OF COLUMBIA;

3. ANTI-RIOT PROVISIONS IN THE CIVIL RIGHTS ACT OF 1968;

4. ANTI-LOANSHARK OR EXTORTIONATE CREDIT TRANSACTION PROVISIONS IN THE CONSUMER CREDIT PROTECTION (TRUTH-IN-LENDING) ACT; AND

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5. THE FEDERAL GRANT-IN-AID PROGRAM ESTABLISHED IN THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT TO ASSIST STATE AND LOCAL GOVERNMENTS IN COMBATTING JUVENILE DELINQUENCY.

THE 90th CONGRESS ALSO ENACTED MEASURES WHICH, WHILE NOT SPECIFICALLY ANTI-CRIME MEASURES IN THEMSELVES, NEVERTHELESS WILL HAVE AN EFFECT IN THIS AREA BY GENERALLY SPEEDING UP THE PROCESS OF CRIMINAL JUSTICE. BOTH THE FEDERAL MAGISTRATES ACT, WHICH UPGRADED AND EXPANDED THE FUNCTION OF THE OLD OFFICE OF U.S. COMMISSIONER, AND THE BILL

ESTABLISHING A FEDERAL JUDICIAL CENTER ARE ENACTMENTS OF THIS TYPE.

BUT, FAR AND AWAY THE MOST SIGNIFICANT ANTI-CRIME ENACTMENT OF THE 90th CONGRESS WAS, OF COURSE, THE WIDELY HERALDED OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

ITS SEVERAL PROVISIONS INCLUDE THE FOLLOWING, ANY ONE OF WHICH MIGHT PROPERLY HAVE BEEN A SEPARATE BILL ITSELF:

1. THE ESTABLISHMENT OF A MULTI-MILLION DOLLAR FEDERAL GRANT-IN-AID PROGRAM TO ASSIST STATE AND LOCAL LAW ENFORCEMENT;

2. THE CREATION OF A NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE TO CONTRACT FOR AND CARRY ON TRAINING, EDUCATION, RESEARCH AND DEMONSTRATION PROJECTS ON THE STRENGTHENING OF LAW ENFORCEMENT, CRIME PREVENTION AND CORRECTION PROCEDURES;

3. THE ESTABLISHMENT OF "VOLUNTARINESS" AS THE PRINCIPAL CRITERION UPON WHICH THE ADMISSIBILITY OF CONFESSIONS IN FEDERAL COURTS IS DETERMINED;

4. MODIFICATION OF THE SO-CALLED "MALLORY RULE" CONCERNING CONFESSIONS IN THE DISTRICT OF COLUMBIA (UP TO

SIX HOURS -- NO VIOLATION);

5. A PROVISION WHEREBY EYEWITNESS TESTIMONY IDENTIFYING A DEFENDANT AS THE PERPETRATOR OF A CRIME IS ADMISSIBLE REGARDLESS OF WHETHER THE SUSPECT'S LAWYER WAS PRESENT AT THE TIME THE IDENTIFICATION WAS MADE;

6. A COMPREHENSIVE ELECTRONIC SURVEILLANCE STATUTE, OUTLAWING ALL FORMS OF SUCH SURVEILLANCE EXCEPT BY LAW ENFORCEMENT OFFICERS ENGAGED IN THE INVESTIGATION OR PREVENTION OF CERTAIN ORGANIZED-CRIME TYPE OF OFFENSES, AND THEN ONLY PURSUANT TO COURT ORDER AND UNDER STRICT COURT SUPERVISION;

Att. Gen. Mitchell

7. A BROAD WITNESS IMMUNITY STATUTE APPLICABLE TO MOST ORGANIZED-CRIME TYPE OF OFFENSES;

8. A COMPREHENSIVE STATE FIREARMS CONTROL ASSISTANCE PROVISION PROHIBITING AND REGULATING INTERSTATE TRAFFICKING IN FIREARMS;

✓ 9. THE BANNING FROM FEDERAL EMPLOYMENT FOR UP TO FIVE YEARS OF PERSONS CONVICTED OF RIOT-CONNECTED OFFENSES;

✓ 10. A PROVISION REQUIRING SENATE CONFIRMATION FOR FUTURE NOMINEES TO THE POSITION OF DIRECTOR OF THE F.B.I.;

11. A PROVISION MAKING IT A FEDERAL CRIME FOR

CERTAIN PERSONS (e.g. CONVICTED FELONS, MENTAL INCOMPETENTS, ETC.) TO TRANSPORT FIREARMS IN INTERSTATE COMMERCE;

✓ 12. A PROVISION AUTHORIZING THE GOVERNMENT TO APPEAL FROM PRE-TRIAL DECISIONS OF FEDERAL JUDGES GRANTING MOTIONS FOR THE RETURN OF SEIZED PROPERTY OR TO SUPPRESS EVIDENCE;

✓ 13. MODIFICATION OF THE FEDERAL LAW CONCERNING THE ISSUANCE OF SEARCH WARRANTS IN ORDER TO AUTHORIZE SEARCHES FOR PURELY EVIDENTIARY MATERIAL IN ADDITION TO CONTRABAND AND THE FRUITS AND INSTRUMENTALITIES OF THE CRIME; AND

14. A NEW LAW PROHIBITING EXTORTION AND THREATS IN THE DISTRICT OF COLUMBIA.

THUS, IT SHOULD BE EVIDENT TO ALL THAT THE 90th CONGRESS PRODUCED A TREMENDOUS AMOUNT OF LAW ENFORCEMENT AND CRIMINAL JUSTICE LEGISLATION. OTHER WORTHWHILE BILLS WERE INTRODUCED WHICH, FOR ONE REASON OR ANOTHER, DID NOT PASS EITHER OR BOTH HOUSES OF CONGRESS. MOST OF THESE HAVE BEEN REINTRODUCED IN THE 91st CONGRESS AND IT IS REASONABLE TO EXPECT THAT SOME OF THEM WILL BE FAVORABLY ACTED UPON. THERE ARE, MOREOVER, SEVERAL NEW MEASURES THAT HAVE BEEN INTRODUCED

THIS YEAR FOR THE FIRST TIME AND AGAIN IT IS REASONABLE TO EXPECT THAT SOME, AT LEAST, WILL RECEIVE FAVORABLE ACTION DURING THE NEXT TWO YEARS.

LEGISLATION THAT HAS ALREADY RECEIVED CONSIDERABLE ATTENTION AND WIDESPREAD NOTORIETY DURING THE EARLY DAYS OF THIS CONGRESS IS THAT INVOLVING "REFORM OF THE BAIL REFORM ACT OF 1966." THE 1966 ACT HAD AS A LAUDABLE OBJECTIVE THE ELIMINATION OR CURTAILMENT OF THE REQUIREMENT THAT CRIMINAL DEFENDANTS POST MONEY BOND AS A CONDITION OF THEIR RELEASE PENDING TRIAL. THE MONEY BOND SYSTEM IS ANALAGOUS TO

"IMPRISONMENT FOR DEBT" AND IT IS GENERALLY RECOGNIZED THAT ONLY THE BOUNDSMAN PROFITS FROM IT. TO COUNTERACT THIS, CONGRESS IN 1966 ESTABLISHED AN ELABORATE SYSTEM FOR FEDERAL COURTS WHEREBY MOST DEFENDANTS EXPECT THOSE CHARGED WITH CAPITAL OFFENSES COULD OBTAIN PRE-TRIAL RELEASE ON THEIR OWN RECOGNIZANCE, SUBJECT TO THE CONTROL AND SUPERVISION OF AGENCIES CREATED FOR JUST THAT PURPOSE.

HOWEVER, EXPERIENCE WITH THE 1966 ACT HAS DEMONSTRATED, PARTICULARLY IN THE DISTRICT OF COLUMBIA, THAT THIS SYSTEM JUST ISN'T WORKING OUT. FOR ONE THING THERE HAVE

BEEN MANY COMPLAINTS EVEN FROM THE JUDGES WHO ADMINISTER THE ACT, THAT THE LANGUAGE OF THE ACT IS SO RIGID THAT THE ONLY THING THEY MAY CONSIDER IN DECIDING WHETHER TO RELEASE A DEFENDANT IS WHETHER HE WILL SHOW UP FOR TRIAL. THE NATURE OF THE OFFENSE AND THE POTENTIAL DANGER TO THE COMMUNITY OF THE RELEASED OFFENDER MAY NOT BE CONSIDERED. AS A RESULT OF THIS IT HAS BEEN DETERMINED THAT A SUBSTANTIAL NUMBER OF CRIMES ARE BEING COMMITTED BY PERSONS WHO HAVE ALREADY BEEN CHARGED WITH ONE CRIME AND WHO HAVE BEEN RELEASED TO THE STREETS ON THEIR OWN RECOGNIZANCE AWAITING TRIALS WHICH MAY

BE AS MUCH AS A YEAR IN THE OFFING. ANOTHER CRITICISM OF THE WAY THE 1966 ACT HAS WORKED OUT CONCERNS THE PRACTICAL ASPECTS OF MAINTAINING CLOSE SUPERVISION OVER THE ACTIVITIES OF THE RELEASED DEFENDANTS. IT MAY BE PRECISELY AS MANY HAVE CLAIMED -- THAT CONGRESS HAS NEVER APPROPRIATED ADEQUATE FUNDS TO STAFF THESE SUPERVISORY AGENCIES, BUT IT MAY ALSO BE THAT THE REQUIRED DEGREE OF INDIVIDUAL SUPERVISION CAN NEVER BE ATTAINED REGARDLESS OF STAFFING SO LONG AS THESE RELEASED DEFENDANTS HAVE NO REAL INCENTIVE TO REFORM FROM COMMITTING ADDITIONAL CRIMES.

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21 on our side

IN THE FIRST WEEK OF JANUARY I, ~~ALONG WITH ABOUT TWENTY OTHER HOUSE REPUBLICANS~~, INTRODUCED A BILL WHICH ATTEMPTS TO DEAL WITH SOME OF THESE PROBLEMS. I WOULD CALL THE BILL "REFORM OF THE BAIL REFORM ACT." A SIMILAR BILL HAS ALREADY THIS YEAR BEEN THE SUBJECT OF HEARINGS IN THE SENATE BY SENATOR SAM ERVIN'S CONSTITUTIONAL RIGHTS SUBCOMMITTEE OF THE SENATE JUDICIARY COMMITTEE.

I HAVE FOLLOWED THOSE HEARINGS AND I THINK IT IS ACCURATE TO PREDICT THAT SOME REFORM WILL BE RECOMMENDED BY THAT COMMITTEE AND THAT SOMETHING IN THIS AREA WILL ULTIMATELY

BE ENACTED BY THE 91st CONGRESS. THE PRINCIPAL BONE OF CONTENTION AT THIS TIME CONCERNS WHAT HAS BECOME KNOWN AS "THE ISSUE OF PREVENTIVE DETENTION." I FAVOR EXPANDING THE DISCRETION OF THE COURTS SO THAT THEY MAY CONSIDER A DEFENDANT'S POTENTIAL DANGER TO THE COMMUNITY IN DETERMINING WHETHER HE IS ENTITLED TO PRE-TRIAL RELEASE. I RECOGNIZE THAT THIS IS A FORM OF "PREVENTIVE DETENTION." I KNOW THAT CONCEPTUALLY IT IS ABHORRENT TO THE AMERICAN SYSTEM OF JUSTICE.

SENATOR ERVIN HAS INDICATED OPPOSITION TO

PREVENTIVE DETENTION IN ANY FORM, AND HE HAS A GREAT NUMBER OF ALLIES. AT THE SAME TIME, SENATOR JOSEPH TYDINGS, OF MARYLAND APPROVES OF IT, IN A LIMITED FASHION. HE TOO HAS CONSIDERABLE SUPPORT, EVEN AMONG CIVIL LIBERTARIANS AND THE TRADITIONALLY LIBERTARIAN-ORIENTED WASHINGTON POST.

I BELIEVE A COMPROMISE OF VIEWS WILL EVENTUALLY COME ABOUT. PROBABLY POTENTIAL DANGER TO THE COMMUNITY WILL NOT BE A PERMISSIBLE FACTOR TO CONSIDER WHERE FIRST OFFENDERS ARE CONCERNED. ON THE OTHER HAND, WHERE AN INDIVIDUAL IS ALREADY CHARGED WITH ONE CRIME AND IS THEN ARRESTED FOR A

SECOND, IN THIS INSTANCE, DANGER TO THE COMMUNITY WILL BE A FACTOR TO BE CONSIDERED AND IN THOSE SITUATIONS AT LEAST, A FORM OF PREVENTIVE DETENTION WILL BE THE RESULT.

UNDOUBTEDLY, CONGRESS WILL BE ASKED TO APPROPRIATE ADDITIONAL FUNDS TO STAFF BOTH PRE-RELEASE INVESTIGATIVE AGENCIES AND POST-RELEASE SUPERVISORY AGENCIES. THAT IS ALL WELL AND GOOD SO LONG AS SOMETHING IS ALSO DONE TO MAKE IT EXTREMELY UNATTRACTIVE FOR PERSONS TO COMMIT ADDITIONAL CRIMES WHILE AWAITING TRIAL ON A FIRST CHARGE. I HAVE HIGH HOPES THAT SOMETHING ALONG THESE LINES WILL BE THE VERY

LEAST THAT WILL COME OF OUR EFFORTS IN THIS AREA.

AT THE PRESENT TIME AND PARTICULARLY IN THE DISTRICT OF COLUMBIA, WHEN AN INDIVIDUAL IS ARRESTED FOR A CRIME AND THEN RELEASED TO THE STREET TO AWAIT TRIAL, THERE IS REALLY NO INCENTIVE OR, CONVERSELY, NO DETERRENT FOR HIM TO REFRAIN FROM COMMITTING OTHER CRIMES. BECAUSE OF COURT BACK-LOGS AND THE TRADITIONAL TENDENCY OF BOTH COURTS AND PROSECUTORS TO OBTAIN A CONVICTION AND SENTENCE ON ONE CHARGE AND FORGET THE REST, A DEFENDENT USUALLY FEELS THAT HE CAN COMMIT ADDITIONAL CRIMES AT NO RISK OF ADDITIONAL IMPRISONMENT.

HE BELIEVES HE WILL BE TRIED ON ONE CHARGE AND THE OTHERS WILL BE DROPPED, OR THAT EVEN IF HE IS TRIED ON MORE THAN ONE CHARGE, CONCURRENT RATHER THAN CONSECUTIVE SENTENCES WILL BE IMPOSED.

IT IS HERE THAT I BELIEVE WE WILL MAKE A SUBSTANTIAL CONTRIBUTION IF WE ENACT A LAW THAT WILL PROVIDE FOR STIFF, MANDATORY, ADDITIONAL PENALTIES FOR PERSONS CONVICTED OF OFFENSES WHILE ON RELEASE TO THE STREET PENDING TRIAL FOR PRIOR OFFENSES.

THIS LEADS UP TO A SECOND AREA THAT I BELIEVE WILL

BE THE SUBJECT OF CONGRESSIONAL ACTION THIS YEAR OR NEXT -- THAT OF MANDATORY PRISON TERMS, PARTICULARLY FOR OFFENSES INVOLVING THE USE OF FIREARMS. I AM AWARE OF THE FACT THAT THERE IS A BODY OF OPINION TO THE EFFECT THAT MANDATORY PRISON TERMS, IN ALL FORMS, ARE BAD. THEY HAVE BEEN TERMED ARCHAIC AND BARBARIC AND EVEN COUNTER-PRODUCTIVE IN THAT JURIES ARE SAID TO SOMETIMES ACQUIT RATHER THAN CONVICT WHEN THEY KNOW THAT TO CONVICT IS TO SEND A MAN TO PRISON AUTOMATICALLY FOR A LONG PERIOD OF YEARS. MOST OF OUR EXPERIENCE WITH MANDATORY MINIMUMS HAS BEEN CENTERED

ABOUT THE NARCOTICS LAWS WHERE SIMPLE POSSESSION ON THE FIRST OFFENSE RESULTS IN A MANDATORY FIVE-YEAR PRISON TERM.

RECOGNIZING THE VALIDITY OF ALL OF THIS, I NEVERTHELESS BELIEVE THERE IS A PLACE IN OUR LAWS FOR MANDATORY TERMS SO LONG AS THEY ARE NEITHER OPPRESSIVELY LONG NOR ARBITRARILY UNSUITED TO THE OFFENSE TO WHICH ATTACHED. I BELIEVE THERE SHOULD BE ATTACHED TO EVERY FEDERAL OFFENSE WHICH INVOLVES THE USE OF A FIREARM A MANDATORY PRISON TERM OF NOT LESS THAN ONE YEAR AND UP TO FIVE YEARS FOR THE FIRST OFFENSE. THE SCALE SHOULD BE FIVE TO TWENTY-FIVE YEARS FOR

SUBSEQUENT OFFENSES, WITH THESE TERMS IMPOSED IN ADDITION TO AND NOT CONCURRENT WITH THE SENTENCE ON THE SUBSTANTIVE OFFENSE FOR WHICH THE INDIVIDUAL IS CONVICTED. THESE ADDITIONAL TERMS SHOULD NOT BE SUBJECT TO SUSPENSION OR PROBATION.

THE HOUSE PASSED PRECISELY SUCH A MEASURE IN THE 90th CONGRESS AS AN AMENDMENT TO THE GUN CONTROL ACT OF 1968. WE PASSED IT OVERWHELMINGLY, 412 to 11, BUT THE MANDATORY PROVISIONS WERE CONSIDERABLY WEAKENED IN THE SENATE VERSION WHICH EVENTUALLY PREVAILED. THE AMENDMENT, ~~FIRST SPONSORED~~

~~BY CONGRESSMAN DICK POFF,~~ HAS BEEN REINTRODUCED AS A SEPARATE BILL THIS YEAR. ~~I BELIEVE~~ THERE IS AN EXCELLENT POSSIBILITY THAT IT WILL PASS BOTH HOUSES THIS TIME.

THERE ARE TWO OTHER ITEMS OF LEGISLATION WHICH DEAL WITH SENTENCING THAT WILL, IN ALL LIKELIHOOD, BE THE SUBJECT OF SOME ACTION BY THE 91st CONGRESS. THE FIRST IS THE MATTER OF EXTENDED TERMS OF IMPRISONMENT FOR CERTAIN HARD-CORE OR PROFESSIONAL CRIMINALS. THE PRESIDENT'S CRIME COMMISSION RECOMMENDED A SEPARATE PENALTY STRUCTURE APPLICABLE TO LEADERS OF ORGANIZED CRIME CONVICTED OF

FEDERAL CRIMES. THE COMMISSION SPOKE IN TERMS OF EXTENDED SENTENCES -- OF UP TO 30 YEARS -- FOR RACKETEERS ONLY. I BELIEVE THE SAME SORT OF ADDITIONAL PENALTY STRUCTURE ALSO IS APPROPRIATE FOR HABITUAL OFFENDERS OR RECIDIVISTS. UNLIKE MANY OTHER JURISDICTIONS, THERE IS NO RECIDIVIST STATUTE IN THE FEDERAL SYSTEM. I SUPPORT LEGISLATION WHICH WOULD CREATE SUCH A LAW.

THE SECOND AREA OF POSSIBLE LEGISLATIVE ACTION IN THE FIELD OF SENTENCING CONCERNS APPELLATE REVIEW OF SENTENCES. THE AMERICAN BAR ASSOCIATION, AMONG OTHER GROUPS, SUPPORTS

SUCH REVIEW. WHILE I AM NOT COMMITTED ONE WAY OR THE OTHER ON THE SUBJECT, I DO FEEL THAT IF STEPS ARE TAKEN TO PROVIDE DEFENDANTS THE RIGHT OF REVIEW OF LENGTH OF SENTENCE, WITH A VIEW TOWARD DOWNWARD ADJUSTMENT, CONSIDERATION OUGHT ALSO TO BE GIVEN TO PROVIDING FOR UPWARD ADJUSTMENT OF SENTENCES IN APPROPRIATE CIRCUMSTANCES, AT LEAST WHERE A DEFENDANT MAKES AN APPEAL.

THE SPECIAL PROBLEM OF ORGANIZED CRIME WILL DEFINITELY BE THE SUBJECT OF ADDITIONAL LEGISLATION DURING THIS CONGRESS. SENATOR McCLELLAN OF ARKANSAS HAS ALREADY

INTRODUCED AN OMNIBUS ORGANIZED CRIME BILL IN THE SENATE, AND HAS ANNOUNCED HIS INTENTION TO HOLD ORGANIZED CRIME HEARINGS BEFORE HIS CRIMINAL LAWS SUBCOMMITTEE IN THE NEAR FUTURE.

ONE MEASURE I HAVE ALWAYS FAVORED IS THE CREATION OF A JOINT CONGRESSIONAL COMMITTEE ON ORGANIZED CRIME. REPRESENTATIVE BILL CRAMER OF FLORIDA INTRODUCED A RESOLUTION ESTABLISHING SUCH A COMMITTEE DURING THE 90th CONGRESS. IT RECEIVED WIDE BI-PARTISAN SUPPORT AND THE SPECIFIC ENDORSEMENT OF THE PRESIDENT'S CRIME COMMISSION. LATER,

ANOTHER RESOLUTION ESTABLISHING A JOINT COMMITTEE ON CRIME IN GENERAL REACHED THE FLOOR OF THE HOUSE. ~~A SUBSTANTIAL NUMBER OF REPUBLICANS LINED UP BEHIND IT WHEN IT WAS SPECIFICALLY AGREED THAT A SEPARATE SUB-COMMITTEE ON ORGANIZED CRIME WOULD BE CREATED WITHIN THE FULL COMMITTEE.~~ THE RESOLUTION PASSED THE HOUSE BY A WIDE MARGIN [with agreement on the establishment of an organized crime sub-com.] BUT IT NEVER CAME TO A VOTE IN THE SENATE.

THERE ARE ~~TWO~~ REASONS, APART FROM THE PURELY LEGISLATIVE FUNCTION, WHY A JOINT COMMITTEE OUGHT TO BE ESTABLISHED TO INVESTIGATE ORGANIZED CRIME IN PARTICULAR.

FIRST, THE CONGRESS HAS A VERY IMPORTANT AND PROPER ROLE IN EXERCISING OVERSIGHT OVER THE CONDUCT OF THE AFFAIRS OF THE EXECUTIVE BRANCH -- IN THIS CASE, ITS CONDUCT OF THE WAR AGAINST ORGANIZED CRIME. ~~LAST YEAR REPUBLICANS SUPPORTED THIS MEASURE WHEN THERE WAS A DEMOCRATIC ADMINISTRATION, AND WE SHOULD NOW CONTINUE TO DO SO.~~ THE SECOND REASON WE SHOULD CREATE SUCH A COMMITTEE CONCERNS THE RIGHT OF THE AMERICAN PUBLIC TO BE INFORMED CONCERNING THE DANGERS OF ORGANIZED CRIME. ~~IT IS NOT THE FUNCTION OF THE JUSTICE DEPARTMENT TO DO THIS. UNLESS CONGRESS UNDERTAKES THIS LEGITIMATE ROLE~~

AND EXERCISES IT THROUGH THE HEARINGS PROCESS, THEN THE ENTIRE TASK WILL BE LEFT TO THE NEWSPAPERS ON A CATCH-AS-CATCH-CAN BASIS.

IT IS REASONABLE TO EXPECT THAT CONGRESS WILL ALSO ACT UPON A BROAD GENERAL WITNESS IMMUNITY STATUTE DURING THIS CONGRESS AND WILL ALSO EXPAND THE REACH OF THE FEDERAL CRIMINAL LAWS IN THE GAMBLING AND NARCOTICS FIELDS. LAST YEAR PRESIDENT JOHNSON ASKED THE NATIONAL COMMISSION ON THE REFORM OF THE FEDERAL CRIMINAL CODE TO GIVE PRIORITY ATTENTION TO REVISING THE NARCOTICS LAWS, SO WE CAN EXPECT TO HEAR

SOMETHING ON THAT. ALSO LAST YEAR THE SUPREME COURT VOIDED THE ENFORCEMENT OF THE FEDERAL WAGERING TAX LAWS. A BILL RECENTLY WAS INTRODUCED IN THE HOUSE TO REINSTATE THIS TAX AND RETURN THE ENFORCEMENT POWERS OF THE TREASURY DEPARTMENT TO THE FIELD OF INVESTIGATING GAMBLING VIOLATIONS. I THINK THERE WILL BE ACTION ON THIS PROPOSAL, TOO.

I HOPE THAT TWO OTHER ORGANIZED CRIME BILLS RECEIVE ATTENTION THIS YEAR. BOTH ARE AIMED PRIMARILY AT RACKETEER INFILTRATION OF LEGITIMATE BUSINESS -- SOMETHING WE HAVE SEEN A GREAT DEAL OF IN RECENT YEARS. THE FIRST BILL

PROHIBITS THE INVESTMENT OF INCOME DERIVED FROM CERTAIN SPECIFIED CRIMINAL ACTIVITIES, OF THE USUAL ORGANIZED-CRIME TYPE, IN ANY BUSINESS AFFECTING INTERSTATE OR FOREIGN COMMERCE. ORGANIZED CRIME HAS MADE SUBSTANTIAL INROADS INTO THE LEGITIMATE BUSINESS COMMUNITY THROUGH THE INVESTMENT OF MONEY ACQUIRED FROM GAMBLING, BRIBERY, EXTORTION, COUNTERFEITING, NARCOTICS TRAFFICKING, WHITE SLAVERY AND SO FORTH. THE PROPOSED STATUTE OUTLAWS THE INVESTMENT OF FUNDS DERIVED FROM THESE AND RELATED RACKET ACTIVITIES AND IT ALSO GIVES FEDERAL INVESTIGATORS BROADER AND MORE CERTAIN JURISDICTION

TO INVESTIGATE THE ACTIVITIES OF SYNDICATED CRIME AND IDENTIFY ITS SOURCES OF ILLEGAL REVENUE.

THE SECOND BILL WOULD AMEND THE SHERMAN ANTITRUST ACT TO PROHIBIT THE INVESTMENT OF INCOME, UPON WHICH FEDERAL INCOME TAX HAS NOT BEEN PAID, IN ANY BUSINESS AFFECTING INTERSTATE OR FOREIGN COMMERCE. APART FROM ALL OTHER CONSIDERATIONS, IT IS AXIOMATIC THAT RACKETEERS WHO DO NOT PAY INCOME TAXES HAVE SUBSTANTIAL ADVANTAGES IN COMPETING WITH HONEST BUSINESSMEN. THIS BILL IS INTENDED TO DIMINISH THAT ADVANTAGE. IT HAS THE ADDITIONAL FEATURE OF BRINGING

TO BEAR THE MULTIPLE DAMAGES PROVISIONS OF THE SHERMAN ACT WHERE IT CAN BE SHOWN THAT BUSINESSES HAVE, IN FACT, BEEN DAMAGED BY UNFAIR COMPETITION FROM RACKETEERS.

CONGRESS, OF COURSE, WILL ALSO BE CALLED UPON TO MAKE APPROPRIATIONS FROM THE OPERATION OF THE GRANT PROGRAM ESTABLISHED IN THE OMNIBUS CRIME BILL AND FOR VARIOUS INCREASES IN LAW ENFORCEMENT AND COURT PERSONNEL WITHIN THE FEDERAL SYSTEM. PROMPT ACTION ON THESE APPROPRIATION REQUESTS IS TO BE ANTICIPATED ALTHOUGH IT IS TOO EARLY TO SAY WHETHER ALL THE AMOUNTS SOUGHT WILL BE APPROVED. I MIGHT POINT ~~OUT~~

THAT THE OMNIBUS BILL AUTHORIZED AN EXPENDITURE OF UP TO $101 MILLION FOR FISCAL 1969 AND OF UP TO $300 MILLION FOR FISCAL 1970. THE AMOUNT ACTUALLY APPROPRIATED FOR FISCAL 1969 WAS IN THE NEIGHBORHOOD OF $62 MILLION. THERE IS MUCH MORE REASON TO EXPECT A FULL APPROPRIATION UP TO THE AUTHORIZATION FOR FISCAL 1970, HOWEVER, SINCE THE GRANT PROGRAM OUGHT TO BE IN FULL SWING BY THE BEGINNING OF THAT YEAR.

ONE LAST AREA I WOULD LIKE TO TOUCH UPON IN THE ANTI-CRIME FIELD INVOLVES THE SADLY NEGLECTED PROBLEM OF OUR

CORRECTIONS AND REHABILITATION INSTITUTIONS. IT IS A FACT THAT THEY NEITHER CORRECT NOR REHABILITATE. A SUBSTANTIAL AMOUNT OF OUR STREET CRIME TODAY -- PERHAPS AS MUCH AS 50% -- IS COMMITTED BY REPEATERS, THOSE WHO HAVE BEEN PREVIOUSLY CONVICTED OF A CRIME ON ONE OR MORE OCCASIONS. ANOTHER ALARMING STATISTIC IS THAT FULLY TWO-THIRDS OF OUR RELEASED CONVICTS COMMIT ANOTHER CRIME AND ARE RETURNED TO PRISON WITHIN THREE YEARS. CONGRESS MUST TAKE STEPS TO BREAK THE CYCLE OF RECIDIVISM, AND IT CANNOT BE CONTENT TO WORK REFORMS SOLELY IN THE FEDERAL SYSTEM. FROM 90 TO 95% OF OUR

PRISON POPULATION IS HOUSED IN STATE INSTITUTIONS. SO IF FEDERAL PROGRAMS ARE TO HAVE ANY MEANINGFUL IMPACT AT ALL THEY MUST BE EXTENDED TO STATE SYSTEMS.

DOUBTLESS STATES MAY USE GRANTED FUNDS UNDER THE OMNIBUS BILL TO UPGRADE THEIR PRISON SYSTEMS. BUT BECAUSE SO MANY OTHER LEGITIMATE NEEDS OF LAW ENFORCEMENT AND THE POLICE EXIST, IT IS MY FEAR THAT NOT VERY MUCH WILL BE DONE IN THIS AREA, AT LEAST AT THIS TIME. I BELIEVE THERE IS A NEED FOR A SEPARATE FEDERAL CORRECTIONS AND REHABILITATION PROGRAM -- AIMED PRIMARILY AT STATE INSTITUTIONS -- AND THAT IT WILL

TAKE SEPARATE LEGISLATION TO CREATE IT.

I AM NOT SURE AT THIS POINT WHAT FORM THIS PROGRAM SHOULD TAKE. ~~CONGRESSMAN DICK POFF HAS MADE A VERY INTERESTING PROPOSAL, HOWEVER, AND~~ I FEEL THAT IT OUGHT TO BE AT THE LEAST A STARTING POINT FOR CONGRESSIONAL HEARINGS ON THIS PROBLEM. ~~CONGRESSMAN POFF BELIEVES, AS I AND SO MANY OTHERS DO, THAT~~ THE KEY TO REHABILITATION LIES IN EDUCATION AND JOB TRAINING. I ~~HE~~ SAYS THAT GOVERNMENT -- FEDERAL, STATE OR LOCAL -- IS UNABLE TO PROVIDE SUCH TRAINING, ~~BUT~~ As an alternative I SUGGEST~~S~~ THAT PRIVATE INDUSTRY IS. I ~~HE~~ WANT~~S~~ TO "BRING PRIVATE INDUSTRY

INTO THE PRISONS -- BEHIND PRISON WALLS" TO TEACH INMATES JOB SKILLS AND, IF NECESSARY THE EDUCATIONAL FUNDAMENTALS. I suggest ~~HE WOULD~~ DO THIS THROUGH ECONOMIC INCENTIVES -- EITHER ON A STRAIGHT CONTRACT BASIS OR THROUGH TAX ADVANTAGES.

I REALIZE THAT THIS HAS BEEN DONE AND IS BEING DONE RIGHT NOW, BUT ON A LIMITED BASIS. I AM TOLD THAT AN AIRCRAFT MANUFACTURING COMPANY HAS GONE INTO ONE PRISON TO TRAIN AIRCRAFT MECHANICS AND THAT, AFTER THEY ARE TRAINED, THEY OFFER TO PLACE THESE MEN IN JOBS. THIS IS VERY GOOD. BUT EVERY ONE DOES NOT HAVE THE APTITUDE TO BE A MECHANIC. I THINK

THIS TYPE OF THING SHOULD BE DONE IN AS MANY FIELDS OF OCCUPATIONAL SKILL AS POSSIBLE. I ALSO BELIEVE A FEDERAL BONDING PROGRAM MIGHT BE NECESSARY TO ENABLE THOSE CONVICTS WHO HAVE BEEN TAUGHT SKILLS IN PRISON TO COMPETE FOR JOBS ON AT LEAST AN EVEN BASIS WHEN THEY ARE RELEASED. THESE ARE BUT TWO OF THE MORE WORTHWHILE PROPOSALS THAT HAVE COME TO MY ATTENTION IN THIS AREA AND WHICH I HOPE CONGRESS WILL GET GOING ON BEFORE TOO LONG.

NOTES ST. LOUIS, MO. FEB. 20, 1969

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