that these problems are complex and certainly will not yield to any single or simple solution, I submit that the time is long overdue for the Congress to take some positive and firm steps toward stamping out the traffic in pornography in the District of Columbia, which is certainly a factor, and a substantial one, in destroying the moral fiber of the city's young people and inciting them to acts of degradation and crime.

Mr. CONYERS. Mr. Speaker, I would like to join those who are opposing the adoption of the conference report on H.R. 5688, the omnibus District of Columbia crime bill, and strongly urge its recommittal or defeat.

Certainly we should be particularly careful about authorizing police procedures in the local jurisdiction for which we have special jurisdiction, the District of Columbia, for the entire country will be guided by our actions today.

My colleagues, I joined with 130 of my colleagues on March 22, 1965 in opposing this bill when it first passed the House because it was so clearly unconstitutional. At that time the opponents to the bill were led on the floor of the House by our colleague, the gentleman from California [Mr. SISK], who was quite strongly opposed to the bill. The fact that Members of this House having such different views on the future governmental structure of this city could have joined in opposing the District of Columbia crime bill shows how starkly unconstitutional the District of Columbia crime bill is.

Unfortunately the conference report has changed the bill somewhat but only superficially. The major defects of the bill are still present. The Senate conferees were extremely reluctant to accept the District of Columbia crime bill as is shown by the fact that the conference committee has been meeting for almost this entire year. As Senator BIBLE of Nevada, the chairman of the Senate conferees indicated, the main reason why the Senate finally accepted the bill was that the conferees representing the House District Committee indicated they would not allow other vital District of Columbia legislation to pass this Congress unless the Senate conferees accepted the crime bill in the basic form passed by the House. We should not allow legislative blackmail to force this House to pass a measure so clearly unconstitutional.

Let me discuss for a moment some particular aspects of the bill.

Titles I and III of the omnibus crime bill—as they now stand—would give the police powers over the citizens of the District of Columbia which would be appropriate only in a most totalitarian society. As such, they could not withstand a challenge under the Constitution. The pervasive device which renders these proposals illegal is that they leave vital questions of personal liberty to the complete discretion of the police, who are responsible only to other police.

This is what could happen to a "suspect" in the District of Columbia if these proposals become law. A policeman comes upon a citizen whom the policeman suspects—with probable cause—has committed a crime. Under title III of the bill he questions the individual, and dissatisfied with the answers he "detains" him and interrogates him further for 4 hours. Under this proposal the suspect is not advised of his right to counsel nor if he is aware of that right that he be provided counsel. At the end of this 4 hours, still dissatisfied, the policeman arrests the suspect and title I of the act comes into play. Then the suspect is told of his right to counsel, and counsel is appointed if the suspect desires. The questioning, however, continues either in the presence of counsel or, if the suspects makes a waiver of counsel, without such assistance. The act in effect provides no limit on the length of detention of a suspect before a preliminary hearing. The only limitation is that if a suspect waives his right to counsel he may be questioned only for a total of 6 hours during his detention. It is only when the police have decided that they have exhausted their need for detention of the suspect that they take him to a committing magistrate so that probable cause for his arrest and detention can be proved and bail set. In effect, these provisions represent an attempt to deprive arrested persons in the District of Columbia of the right to a speedy presentment and the right to bail—both rights which are inherent in the constitutional scheme.

As an attorney and as a member of the House Judiciary Committee, I would particularly like to discuss one other aspect of this bill—the reclassification of a number of more minor crimes into major offenses and the setting of a mandatory minimum sentence for the committing of certain offenses.

The mandatory minimum sentence has been placed into the bill despite the opposition of the District Commissioners, the Chief of Police, the head of the District of Columbia Bureau of Corrections, the Justice Department, and the head of the Federal Bureau of Corrections.

These gentlemen believe as I do that such a provision will act to the detriment of what the proposers of this bill are trying to achieve—a crime-free city. No jury can fail to be cognizant of the consequences of its acts. If a mandatory minimum sentence were established, a jury feeling that such a sentence were too strong might be tempted to acquit a clearly guilty person. This has been done often in capital cases despite the disqualification of jurors who are willing to admit that capital punishment appears to be a too severe punishment to them.

Mr. Speaker, as a Representative of an urban district, I am well aware that crime is increasing during the 1960's to crisis proportions. In Detroit, before my election to this great body, I was actively concerned with the problems of police-community relations, police brutality, civil liberties, and urban crime. I am keenly aware of the necessity to deal with these problems. But if we are to deal adequately with this crisis, we must do it with wisdom and humanity, not with the retrogressive and unconstitutional measures included in this bill.

My colleagues, if we pass this bill we will have overturned the Supreme Court's decisions regarding detention of witnesses in such landmark cases as the McNabb, Mallory, and Miranda cases. There is no doubt in my mind that if this bill is passed and if the President fails to veto, and I hope he will veto it, that the Supreme Court will declare the law unconstitutional. Of course during the interim many people in the District of Columbia will have their constitutional rights severely infringed upon.

Of particular interest is that the authors of this legislation seem not to have paid the slightest attention to even such a proposal as the American Law Institute's model code of pre-arraignment procedure. I would want to point out that many responsible members of the bar and bench have strongly opposed the institute's guidelines as being unconstitutional and violative of individual rights. As a member of the House Judiciary Committee I have followed the discussion of the institute's proposals, including the interchange between Judge David Bazelon and former Attorney General Katzenbach and I find myself in strong agreement that even these proposals violate the Constitution. I have noted with particular interest that these proposals have been opposed by such a leading member of the bench as George Edwards, member of the Federal Sixth Circuit Court of Appeals, who had a distinguished record as Detroit police commissioner.

I have spent time discussing the institute's proposals because this bill does not even follow those guidelines, but instead disregards them and completely returns us to a system of indiscriminatory investigative arrests. If the institute's proposals were adopted, the conferees could at least claim that they had given the police guidelines regarding arrest, detention, and interrogation of criminal suspects that were clear and understandable. This bill does not even do that. It is unconstitutional, confusing, and contradictory.

My colleagues, I call upon you to defeat this monstrous piece of legislation. I urge you not to besmirch the record of the 89th Congress, which has so justly been called the great Congress, and which I am so proud to be a Member, by passing this legislation.

Mr. Speaker, because time is so limited in which to discuss this bill I would like to amplify my remarks by including in the RECORD certain editorials and statements regarding the bill with which I am in complete agreement. For a bill of such importance to the lives and liberties of 800,000 people there should certainly be more than 1 hour to discuss it.

First, Mr. Speaker, I would like to include the minority report on the original House version of the bill which is still quite pertinent to the conference report on the bill.

Mr. Chairman, I particularly want to praise the members of the District of Columbia Committee who filed the minority report on this bill. Their report is cogent and exhaustive in its analysis of the bill. Let me read to my colleagues the three main points the minority report makes in its opening discussion of the bill:

"A. The bill is being rushed through without hearings or adequate consideration.

"B. The bill is badly drafted, unconstitutional, unworkable, unduly harsh, and inadequate for the needs of the District.

"C. The Senate District committee's criticisms of the House bill further illustrate how objectionable H.R. 946 is."

Mr. Chairman, the minority report is of such quality, that I would like to use the opening and closing summary statements of the minority report as my closing remarks in urging the defeat of this bill:

"MINORITY VIEWS—H.R. 5688

"*Opening statement*

"We dissent from the majority report recommending passage of H.R. 5688. We think that the committee amendments are wholly insufficient to correct the basic deficiencies of the bill. We urge the House to reject the bill.

"This bill incorporates many of the worst features of a series of bills which have been considered by this committee in recent years. It proposes harsh and repressive measures to punish the criminal symptoms of the social and economic misery within the District of Columbia. Its disregard of the basic requirements of the Constitution puts human values at the bottom of the legislative scale. It ignores the President's call, in his message to Congress of February 15, 1965 (H. Doc. 87, 89th Cong.), for 'a fair and effective system of law enforcement' and 'imaginative improvements in the entire legal and social structure of our criminal law and its administration.' It takes no account of the President's simultaneous statement that he will 'establish a commission which will concern itself specifically with crime and law enforcement in the District.' And it is inconsistent with the President's recent message to Congress concerning crime (Mar. 8, 1965, H. Doc. 103, 89th Cong.), where he said: 'We are not prepared in our democratic system to pay for improved law enforcement by unreasonable limitations on the individual protections which ennoble our system.'

"CONCLUSION

"This bill is a repressive and unpalatable measure, whether considered section by section, or as a whole. If it were adopted for the District of Columbia, it would undoubtedly serve as a precedent and pattern for the enactment of similar legislation by State and municipal legislative bodies. It thus poses a danger to liberty and freedom and good government, not only in the narrow confines of the District of Columbia, but also throughout the United States.

"We urge and hope that this bill will be rejected and killed.

"WILLIAM L. DAWSON,
ABRAHAM J. MULTER,
B. F. SISK,
CHARLES C. DIGGS, JR.,
CARLTON R. SICKLES,
DONALD M. FRASER,
J. OLIVA HUOT,
CHARLES McC. MATHIAS, JR.,
FRANK J. HORTON."

NOTE.—Congressman GEORGE GRIDER submitted separate dissenting views which also strongly criticized the bill.

The Washington Post has done an excellent job in reporting on the details of the conference report on the District of Columbia crime bill and the legal test that is already being planned to have the bill declared unconstitutional. At this point I place the news articles from the Washington Post in the RECORD:

CRIME BILL AGREED ON BY CONGRESS—MALLORY, DURHAM RULES REWRITTEN IN CONFERENCE

(By Elsie Carper)

The Senate and House, long at odds on how to deal with crime in Washington, reached agreement yesterday on a bill establishing procedures for police handling of criminal suspects and redefining insanity as a defense.

The measure, which doubtless will stir a boiling controversy, modifies the Supreme Court-written Mallory Rule on the admissibility of confessions, rewrites the Durham Rule on insanity as a defense and permits police to hold and question suspects without charge and to detain material witnesses.

Senate District Committee Chairman ALAN BIBLE (D-Nev.) immediately took the agreement to the Senate floor, where it was adopted. It is expected to come up for approval in the House today or Wednesday.

BIBLE explained the conference report to an empty Senate chamber and was the only Member of the Senate present to vote for it.

He said that Sen. WAYNE MORSE (D-Ore.), who was tied up elsewhere in the Capitol, strenuously objected to the compromise bill.

MORSE, a member of the Senate District committee, later filed a minority report, declaring that the sections dealing with the Mallory Rule and arrests for questioning "give the police power over the citizens in the District of Columbia which would be appropriate only in a most totalitarian society."

While the Mallory Rule was written by the Supreme Court itself, the Durham Rule was written by the U.S. Court of Appeals here. Arrests for investigation were banned several years ago by the District Commissioners after a special committee, headed by Charles A. Horsky, now Presidential Adviser on National Capital Affairs, said they were unconstitutional.

POLICE POSITION

Police have fought the Mallory Rule bitterly, contending that it protects the criminal at the expense of the community and that it presents insurmountable obstacles to police investigation. Police also have said they need the power to stop and question a suspect without having to charge him.

Sen. EDWARD M. KENNEDY (D-Mass.) joined MORSE in opposing the bill. KENNEDY's office issued a statement in which the Senator said he found the provisions dealing with arrests, detention and interrogation, "unclear in their scope and subject to police abuse."

"The threat they pose to the civil liberties of this City's citizenry cannot be taken lightly," his statement said.

Sen. JOSEPH D. TYDINGS (D-Md.) agreed to the conference report but issued a statement declaring that he had gone along with it only because the crime bill "has been a stumbling block" to obtaining House District Committee approval of other City legislation.

SEES POSSIBLE CONFUSION

TYDINGS said he doubts the bill will do much good and "may confuse more than it clarifies the law of post-arrest interrogation."

He added that he hopes enactment of the bill wi.. create a climate" in which it will be possible to obtain legislation and appropriations needed to attack underlying causes of crime.

In the short run, TYDINGS said, crime can be substantially reduced by supporting reforms in the Police Department recommended by the President's D.C. Crime Commission, and by allocating adequate funds to improve police service.

In the long run, he continued, crime can be reduced only by solving problems of poverty, ignorance and lack of opportunity.

BIBLE said of the conference report:

"We have done our dead-level best to meet the constitutional objections that undoubtedly still will be raised."

He pointed out that the House and Senate District committees have tried to reach agreement on crime legislation for the last three Congresses.

MALLORY RULE

The bill, he said, "represents what I believe will be an effective weapon in the fight against crime . . by providing procedures to bring the criminal to swift and sure justice, while respecting the civil liberties afforded every American by his Constitution."

The compromise bill sets up two procedures in modifying the Mallory Rule affecting the admissibility of confessions at a trial.

The bill states that delay alone in arraignment will not invalidate an otherwise admissible confession, providing the suspect is advised of his right to remain silent, is warned that any statement may be used against him and is told of his right to an attorney.

But if the suspect waives his right to an attorney, he can be questioned only for a total of six hours, which need not be consecutive.

BIBLE explained that the safeguards written into the bill are those set forth by the Supreme Court last June in the Miranda case.

MANY DETAIN SUSPECTS

On the controversial issue of investigate arrests, the conferees agreed to stipulate that a police officer may detain anyone if he has probable cause to believe the individual is committing or has committed a crime. He may demand of that person his name and address, and an explanation of what he is doing and where he is going.

If the person stopped refuses to identify himself or to explain his actions to the satisfaction of the officer, he may be taken into custody and held for up to four hours. At the end of that period, he must be charged with a crime.

In the event that he is not charged, he must be turned loose and his detention will not be recorded as an arrest.

BIBLE said the safeguards "rule out the possibility of investigative arrests being sanctioned in the District of Columbia."

On material witnesses, the bill provides that in felony cases, where police have probable cause to believe that a witness will disappear, police may take the individual into custody. The individual must be taken "without unnecessary delay" before a court or commissioner. Unnecessary delay is defined as more than six hours.

The bill tightens the definition of insanity laid down in the 1954 Monte Durham case by the Court of Appeals. The rule calls for acquittal by reason of insanity if the crime was "the product" of a mental disease or defect.

Under yesterday's bill, a defendant would be acquitted if, "as a result" of mental disease or defect, he "lacks substantial capacity either to know or appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law."

EFFECT UNCLEAR

It is not clear what impact the new definition, patterned after the formula of the American Law Institute and adopted by court decision in several jurisdictions, would have on criminal trials here. Conservatives favor it partly because it restores "wrongfulness" concepts, but many experts doubt that it will affect the number of insanity acquittals.

Enactment of a different definition is seen by many observers as an attempt to rap the Court of Appeals for liberalizing the insanity rules, which produced large numbers of acquittals when they were first applied.

REQUIREMENTS

The bill would require the defense to give notice of its intention to invoke the insanity defense, a measure that has produced little objection. More controversial is a section forbidding judges from telling juries that, if they acquit on sanity grounds, the defendant will be hospitalized rather than set free.

The bill also toughens penalties for many crimes, including rape, robbery, and burglary.

The minimum penalty for robbery is increased from six months to four years, and breaking into an occupied dwelling carries a minimum penalty of five years.

Under the bill a person convicted more than once of committing a crime with a gun cannot be given a suspended sentence or put on probation.

Another provision is designed to eliminate insanity acquittals based on a defendant's sociopathic or psychopathic personality. The bill says that a mere record of past offenses is not enough to excuse criminal conduct.

INDECENT PUBLICATIONS

A new provision dealing with indecent publications is added to existing law. It makes it unlawful to act in, pose for, record, produce or participate in the production of obscene or indecent publications or matter.

It also goes into the broad area of injunctive powers, authorizing the U.S. Attorney to petition the U.S. District Court for preliminary and permanent injunctions to prevent the sale, gift, exhibition, duplication and reproduction of obscene matter and to restrain the use of real and personal property for such uses.

ACLU To Test Legality of Crime Bill

(By Jim Hoagland)

Civil liberties advocates promised an immediate court test of the District's Omnibus Crime Bill yesterday as the House prepares to take up the measure today.

William W. Ross, chairman of the American Civil Liberties Union, called the bill "a disaster." He said ACLU would urge President Johnson to veto the measure, which was passed by the Senate Monday.

At least two provisions of the bill will face immediate constitutional challenges, says William H. Greenhalgh, director of the Georgetown Legal Intern program. Greenhalgh said he also would urge that the bill be vetoed.

Joseph L. Rauh Jr., past president of Americans for Democratic Action and currently District Democratic Central Committee chairman, also plans to ask the President to veto the bill.

Basing his comments on a report of the bill in the Washington Post, Rauh said he was "opposed to this blunderbuss operation on things that ought to evolve judically."

Even the provisions of the bill that may not be unconstitutional are "unnecessary legislation needlessly enacted," Greenhalgh said. In some instances he felt, they will work against the police and will jam the courts, plus cluttering them with test cases.

Reaction from individual policemen was reported to be highly favorable. But Police Chief John B. Layton declined to comment until he has studied the bill.

The bill's changes in arrest and interrogation procedures were denounced by many lawyers as "clearly unconstitutional." The measure permits police to detain and question a suspect for up to four hours before they formally charge him, and to interrogate him for another six hours, with or without a lawyer, after charging him.

Ross assailed this provision as a step backward to "arrests for investigation," a procedure banned by the District Commissioners in 1961, after a Commission headed by Charles A. Horsky, now presidential adviser on National Capital affairs, said such arrests were unconstitutional.

Horsky declined to comment on the new crime bill yesterday.

"SUBJECT TO ABUSE"

"This permits the police to hold anyone for four hours . . . without any possibility of control or review by a judicial officer," Ross said. "It is subject to abuse, and the sole effective control of abuse is discarded (by the new bill).

"The six hours need not be consecutive. They could stretch over six days. Under this deplorable change in the law, a frightened suspect, or a suspect ignorant of his rights, could be held for long periods, and a confession could be extracted from him and freely used."

Ross disputed police claims that the bill will help them solve crimes. He said that "arrests for investigations are often used as harassing tactics by the police in neighborhoods with high crime rates. This creates such resentment that I think Congress will find the bill will have exactly the contrary effect of that planned."

"The police can keep a suspect for days, never having to prove anything and effectively denying him bail," ACLU lawyer James Siena said. "They can rearrest a suspect on the way out of the stationhouse and question him for another four hours, and so on, indefinitely, without making a charge."

Civil liberties attorney Monroe H. Freedman declared that he had no doubt that parts of the statute would be ruled unconstitutional. "But it is outrageous that the police and prosecutors will use this until the courts declare it unconstitutional. It is disappointing that there are Congressmen who realize this, and who would pass the bill."

Greenhalgh, who called the bill a "monstrosity," said the interrogation provisions clearly violated the Fourth and Fifth Amendments of the Constitution, particularly as set out in the Supreme Court's Miranda decision.

SENTENCES CRITICIZED

He assailed the bill's new stiffer minimum sentences for some offenses, and provisions that increase the possible sentence to life for a crime of violence.

He said the new sentences would impede justice by discouraging guilty pleas, limiting judges' discretion, discouraging juries from returning guilty verdicts, and causing grand juries to be reluctant to indict in felony cases that carry a heavy minimum sentence after conviction. The cases would thus be reduced to misdemeanors and added to the already huge backlog in the Court of General Sessions.

Greenhalgh also scored the shift from the Durham Rule as a defense of insanity. Under that rule a defendant is innocent of a criminal act if it is proved his acts were a "product" of mental disease or defect. The new rule weds to this the old standards of "right and wrong."

The changes "shift the burden of proof to the defendant. He must now establish a 'substantial capacity' not to know right from wrong," Greenhalgh said. "This completely reverses the law of today, and is probably unconstitutional."

Justice Department officials, when asked about the bill, declined to comment. But reliable sources said the Department was "less than pleased."

As a final summary of my position I would like to have printed in the RECORD this morning's editorial from the Washington Post, with which I strongly agree, which eloquently points out the arbitrary and shameful nature of this legislation. The Washington Post is quite correct in calling this bill "colonialism in its worst and most outdated form, reflecting the impatience and the indifference of colonial masters toward a primitive people." My colleagues, I urge you to vote down this legislation. The very fact that it has come this far in the legislative process shows how important it is that the Congress grant local self-government to the people of the District of Columbia. If the District of Columbia enjoyed home rule no such legislation would ever have a chance of passing. If the Congress is to run the local affairs of the District of Columbia let us at least do it wisely and well. Let us not impose on the people of the District of Columbia procedures that almost none of us would advocate for our own constituents.

COLONIALISM

In every aspect, the District crime bill bespeaks contempt for the Americans living in the Capital of the United States. Whether the manner of its adoption or its content is the more offensive, it is hard to say. This is not legislation; it is mere insult.

The genesis and purpose of the bill is punishment. It amounts, in simple candor, to a piece of revenge taken by the Confederate cabal in the House District Committee against the people of Washington because a majority of them are now Negro and because they sought civil rights and self-government. The Senate, in the end, acquiesced in this vengeance out of convenience and apathy; it wants to go home. Senator TYDINGS disclosed the blackmail pressure to which the Senate complacently yielded on Monday when Senate District Committee Chairman ALAN BIBLE presented a conference report to an empty Senate chamber and was the only Member of the Senate present to vote for it.

I have signed the Conference Report on the District of Columbia crime bill primarily because this bill has been a stumbling block to other District legislation. The House District Committee has made agreement on a crime bill the sine qua non of mutual accommodation between the two Houses of Congress on other District matters.

The bill is contemptuous not only of the District of Columbia but of the United States Constitution and of the Supreme Court of the United States as well.

Patently, the bill is an attempt to circumvent the recent Supreme Court decision respecting arrest and interrogation of suspects and to authorize police disregard of rights guaranteed by the Constitution. It is so confused and contradictory in its language as to appear intentionally obfuscatory. Title I and Title III of the bill are in flat opposition to each other. The former makes a perfunctory obeisance to the courts, while the latter empowers the police, in flat defiance of Court rulings, to detain and interrogate suspects for as long as four hours—without recording the detention as an arrest and without any judicial determination as to whether it was justified by probable cause.

The crime bill contains a mishmash of other repressive and reactionary provisions repugnant to a free people. It meddles inconsiderately with a wise judicial rule for the determination of insanity formulated and perfected, as such a rule should be, by the patient process of judicial inclusion and exclusion. It would impose on this community a Yahoo interpretation of obscenity, absurdly imperiling publication and public entertainment. It reduces the discretion of judges in sentencing convicted persons and imposes inflexibly harsh penalties in disregard of the whole trend of contemporary thought in penology. In short, it would set the administration of justice back by half a decade in this Capital City.

As for the affirmative proposals for combatting crime recommended by the President and by the District Crime Commission, the bill does nothing, absolutely nothing. There is not a single State of the Union represented in Congress that would tolerate so regressive a piece of legislation.

The crime bill is colonialism at its worst and most outdated form. It treats the District of Columbia as George III treated his

Conyers- 1966- Oct. 19