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*SAC'S SAFE* Date December 5, 1975

RE: TESTIMONY OF ASSISTANT TO THE DIRECTOR--  
DEPUTY ASSOCIATE DIRECTOR JAMES B. ADAMS  
BEFORE THE SENATE SELECT COMMITTEE ON  
12/2/75

- For information  Retention optional  For appropriate action
- The enclosed is for your information. If used in a future report,  conceal all sources,  paraphrase contents.
- Enclosed are corrected pages from report of SA \_\_\_\_\_ dated \_\_\_\_\_

Remarks:

Re Bureau R/S of 12/4/75 which provided excerpts of Mr. Adams' testimony.

Attached for your information and assistance, is the complete transcript of above-referenced testimony.

*UNEDITED*  
*+ TRANSCRIPT*  
*SAC [Signature]*  
*ASAC [Signature]*

*62-2854-59*

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Vol. 15

# The United States Senate

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Report of Proceedings

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Hearing held before

Select Committee to Study Governmental Operations

With Respect to Intelligence Activities

INTELLIGENCE INVESTIGATION

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Tuesday, December 2, 1975

Washington, D. C.

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WARD & PAUL

410 FIRST STREET, S. E.  
WASHINGTON, D. C. 20003

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11 Senator Tower. The next witnesses to appear before the  
12 Committee are JFK Act 6 (4) Assistant to the Director-  
13 Deputy Associate Director, Investigation, responsible for all  
14 investigative operations; Mr. W. Raymond Wannall, Assistant  
15 Director, Intelligence Division, responsible for internal  
16 security and foreign counterintelligence investigations; Mr.  
17 John A. Mintz, Assistant Director, Legal Counsel Division;  
18 Joseph G. Deegan, Section Chief, extremist investigations;  
19 Mr. Robert L. Schackelford, Section Chief, subversive  
20 investigations; Mr. Homer A. Newman, Jr., Assistant to Section  
21 Chief, supervises extremist informants; Mr. Edward P. Grigalva,  
22 Unit Chief, supervises subversive informants; Joseph G. Kelley,  
23 Assistant Section Chief, Civil Rights Section, General Investiga-  
24 tive Division.

25 Gentlemen, will you all rise and be sworn.

1 Do you solemnly swear the testimony you are about to give  
2 before this Committee is the truth, the whole truth, and nothing  
3 but the truth, so help you God?

4 Mr. Adams. I do.

5 Mr. Wannall. I do.

6 Mr. Mintz. I do.

7 Mr. Deegan. I do.

8 Mr. Schackelford. I do.

9 Mr. Newman. I do.

10 Mr. Grigalus. I do.

11 Mr. Kelley. I do.

12 Senator Tower. It is intended that Mr. Wannall will be  
13 the principal witness, and we will call on others as questioning  
14 might require, and I would direct each of you when you do  
15 respond, to identify yourselves, please, for the record.

16 I think that we will spend just a few more minutes to allow  
17 the members of the Committee to return from the floor.

18 (A brief recess was taken.)

19 Senator Tower. The Committee will come to order.

20 Mr. Wannall, according to data, informants provide '83  
21 percent of your intelligence information.

22 Now, will you provide the Committee with some information  
23 on the criteria for the selection of informants?  
24  
25

1 TESTIMONY OF W. RAYMOND WANNALL, ASSISTANT DIRECTOR,  
2 INTELLIGENCE DIVISION, FEDERAL BUREAU OF INVESTIGATION  
3 ACCOMPANIED BY: JAMES B. ADAMS, ASSISTANT TO THE  
4 DIRECTOR-DEPUTY ASSOCIATE DIRECTOR (INVESTIGATION);  
5 JOHN A. MINTZ, ASSISTANT DIRECTOR, LEGAL COUNSEL  
6 DIVISION; JOSEPH G. DEEGAN, SECTION CHIEF; ROBERT L.  
7 SCHACKELFORD, SECTION CHIEF; HOMER A. NEWMAN, JR.,  
8 ASSISTANT TO SECTION CHIEF; EDWARD P. GRIGALUS, UNIT  
9 CHIEF; AND JOSEPH G. KELLEY, ASSISTANT SECTION CHIEF,  
10 CIVIL RIGHTS SECTION, GENERAL INVESTIGATIVE DIVISION  
11 Mr. Wannall. Mr. Chairman, that is not FBI data that you

12 have quoted. That was prepared by the General Accounting  
13 Office.

14 Senator Tower. That is GAO.

15 Mr. Wannall. Based on a sampling of about 93 cases.

16 Senator Tower. Would that appear to be a fairly accurate  
17 figure.

18 Mr. Wannall. I have not seen any survey which the FBI  
19 itself has conducted that would confirm that, but I think that  
20 we do get the principal portion of our information from live  
21 sources.

22 Senator Tower. It would be a relatively high percentage  
23 then?

24 Mr. Wannall. I would say yes. And your question is  
25 criteria?

1 Senator Tower. What criteria do you use in the selection  
2 of informants?

3 Mr. Wannall. Well, the criteria vary with the needs. In  
4 our cases relating to extremist matters, surely in order to get  
5 an informant who can meld into a group which is engaged in a  
6 criminal type activity, you're going to have a different set  
7 of criteria. If you're talking about our internal security  
8 matters, I think we set rather high standards. We do require  
9 that a preliminary inquiry be conducted which would consist  
10 principally of checks of our headquarters indices, our field  
11 office indices, checks with other informants who are operating  
12 in the same area, and in various established sources such as  
13 local police departments.

14 Following this, if it appears that the person is the type  
15 who has credibility, can be depended upon to be reliable, we  
16 would interview the individual in order to make a determination  
17 as to whether or not he will be willing to assist the FBI  
18 in discharging its responsibilities in that field.

19 Following that, assuming that the answer is positive, we  
20 would conduct a rather in depth investigation for the purpose  
21 of further attempting to establish credibility and reliability.

22 Senator Tower. How does the Bureau distinguish between  
23 the use of informants for law enforcement as opposed to  
24 intelligence collection?

25 Is the guidance different, or is it the same, or what?

1 Mr. Wannall. Well, Mr. Adams can probably best address  
2 the use of informants on criminal matters since he is over  
3 the operational division on that.

4 Mr. Adams. You do have somewhat of a difference in the fact  
5 that a criminal informant in a law enforcement function, you  
6 are trying to develop evidence which will be admissible in  
7 court for prosecution, whereas with intelligence, the informant  
8 alone, your purpose could either be prosecution or it could be  
9 just for purposes of pure intelligence.

10 The difficulty in both is retaining the confidentiality  
11 of the individual and protecting the individual, and trying to,  
12 through use of the informant, obtain evidence which could be  
13 used independently of the testimony of the informant so that  
14 he can continue operating as a criminal informant.

15 Senator Tower. Are these informants ever authorized to  
16 function as provocateurs?

17 Mr. Adams. No, sir, they're not. We have strict regula-  
18 tions against using informants as provocateurs. This gets  
19 into that delicate area of entrapment which has been addressed  
20 by the courts on many occasions and has been concluded by the  
21 courts that providing an individual has a willingness to engage  
22 in an activity, the government has the right to provide him the  
23 opportunity. This does not mean, of course, that mistakes don't  
24 occur in this area, but we take whatever steps we can to  
25 avoid this. Even the law has recognized that informants can



1 engage in criminal activity, and the courts have held that,  
2 especially the Supreme Court in the Newark County Case, that  
3 the very difficulty of penetrating an ongoing operation, that  
4 an informant himself can engage in criminal activity, but  
5 because there is lacking this criminal intent to violate a  
6 law, we stay away from that. Our regulations fall short of that.

7 If we have a situation where we felt that an informant  
8 has to become involved in some activity in order to protect  
9 or conceal his use as an informant, we go right to the United  
10 States Attorney or to the Attorney General to try to make sure  
11 we are not stepping out of bounds insofar as the use of our  
12 informants.

13 Senator Tower. But you do use these informants and do  
14 instruct them to spread dissension among certain groups that  
15 they are informing on, do you not?

16 Mr. Adams. We did when we had the COINTELPRO programs,  
17 which were discontinued in 1971, and I think the Klan is probably  
18 one of the best examples of a situation where the law was  
19 in effect at the time. We heard the term States Rights used  
20 much more then than we hear it today. We saw in the Little  
21 Rock situation the President of the United States, in sending  
22 in the troops, pointing out the necessity to use local law  
23 enforcement. We must have local law enforcement, to use the  
24 troops only as a last resort.

25 And then you have a situation like this where you do try

smn 21

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1 to preserve the respective roles in law enforcement. You have  
2 historical problems with the Klan coming along. We had  
3 situations where the FBI and the Federal Government was almost  
4 powerless to act. We had local law enforcement officers in  
5 some areas participating in Klan violence.

6 The instances mentioned by Mr. Rowe, every one of those,  
7 he saw them from the lowest level of the informant. He didn't  
8 see what action was taken with that information, as he pointed  
9 out in his testimony. Our files show that this information was  
10 reported to the police departments in every instance. We  
11 also knew that in certain instances the information, upon being  
12 received, was not being acted upon. We also disseminated  
13 simultaneously through letterhead memoranda to the Department  
14 of Justice the problem, and here, here we were, the FBI, in a  
15 position where we had no authority in the absence of instruction  
16 from the Department of Justice, to make an arrest.

17 Sections 241 and 242 don't cover it because you don't have  
18 evidence of a conspiracy, and it ultimately resulted in  
19 a situation where the Department called in United States  
20 Marshals who do have authority similar to local law enforcement  
21 officials.

22 So, historically, in those days, we were just as frus-  
23 trated as anyone else was, and when we got information from  
24 someone like Mr. Rowe, good information, reliable information,  
25 and it was passed on to those who had the responsibility to

1 do something about it, it was not always acted upon, as he  
2 indicated.

3 Senator Tower. None of these cases, then, there was  
4 adequate evidence of conspiracy to give you jurisdiction to  
5 act?

6 Mr. Adams. The Departmental rules at that time, and still  
7 require Departmental approval where you have a conspiracy.  
8 Under 241, it takes two or more persons acting together. You  
9 can have a mob scene, and you can have blacks and whites  
10 belting each other, but unless you can show that those that  
11 initiated the action acted in concert in a conspiracy, you have  
12 no violation.

13 Congress recognized this, and it wasn't until 1968  
14 that they came along and added Section 245 to the civil rights  
15 statute, which added punitive measures against an individual  
16 that didn't have to be a conspiracy. But this was a problem  
17 that the whole country was grappling with: the President of  
18 the United States, Attorney General. We were in a situation  
19 where we had rank lawlessness taking place, as you know from  
20 a memorandum we sent you that we sent to the Attorney General.  
21 The accomplishments we were able to obtain in preventing  
22 violence, and in neutralizing the Klan -- and that was one  
23 of the reasons.

24 Senator Tower. What was the Bureau's purpose in con-  
25 tinuing or urging the continued surveillance of the Vietnam

smn 23

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1 Veterans Against the War?

2 Was there a legitimate law enforcement purpose, or was the  
3 intent to halter political expression?

4 Mr. Adams. We had information on the Vietnam Veterans  
5 Against the War that indicated that there were subversive  
6 groups involved. They were going to North Vietnam and meeting  
7 with the Communist forces. They were going to Paris, attending  
8 meetings paid for and sponsored by the Communist Party, the  
9 International Communist Party. We feel that we had a very valid  
10 basis to direct our attention to the VVAW.

11 It started out, of course, with Gus Hall in 1967, who was  
12 head of the Communist Party, USA, and the comments he made,  
13 and what it finally boiled down to was a situation where it  
14 split off into the Revolutionary Union, which was a Maoist  
15 group, and the hard-line Communist group, and at that point  
16 factionalism developed in many of the chapters, and they closed  
17 those chapters because there was no longer any intent to follow  
18 the national organization.

19 But we had a valid basis for investigating it, and we  
20 investigated chapters to determine if there was affiliation  
21 and subservience to the national office.

22 Senator Tower. Mr. Hart?

23 Senator Hart of Michigan. But in the process of chasing  
24 after the Veterans Against the War, you got a lot of information  
25 that clearly has no relationship to any Federal criminal

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1 statute.

2 Mr. Adams. I agree, Senator.

3 Senator Hart of Michigan. Why don't you try to shut that  
4 stuff off by simply telling the agent, or your informant?

5 Mr. Adams. Here is the problem that you have with that.  
6 When you're looking at an organization, do you report only the  
7 violent statements made by the group or do you also show that  
8 you may have one or two violent individuals, but you have  
9 some of these church groups that were mentioned, and others,  
10 that the whole intent of the group is not in violation of the  
11 statutes. You have to report the good, the favorable along  
12 with the unfavorable, and this is a problem. We wind up with  
13 information in our files. We are accused of being vacuum  
14 cleaners, and you are a vacuum cleaner. If you want to know the  
15 real purpose of an organization, do you only report the  
16 violent statements made and the fact that it is by a small  
17 minority, or do you also show the broad base of the organization  
18 and what it really is?

19 And within that is where we have to have the guidelines  
20 we have talked about before. We have to narrow down, because  
21 we recognize that we do wind up with too much information in  
22 our files.

23 Senator Hart of Michigan. But in that vacuuming process,  
24 you are feeding into Departmental files the names of people  
25 who are, who have been engaged in basic First Amendment

1 exercises, and this is what hangs some of us up.

2 Mr. Adams. It hangs me up. But in the same files I  
3 imagine every one of you has been interviewed by the FBI, either  
4 asking you about the qualifications of some other Senator  
5 being considered for a Presidential appointment, being inter-  
6 viewed concerning some friend who is applying for a job.

7 Were you embarrassed to have that in the files of the  
8 FBI?

9 Now, someone can say, as reported at our last session, that  
10 this is an indication, the mere fact that we have a name in our  
11 files has an onerous impression, a chilling effect. I agree.  
12 It can have, if someone wants to distort what we have in our  
13 files, but if they recognize that we interviewed you because  
14 of considering a man for the Supreme Court of the United  
15 States, and that isn't distorted or improperly used, I don't  
16 see where any harm is served by having that in our files.

17 Senator Hart of Michigan. But if I am Reverend Smith  
18 and the vacuum cleaner picked up the fact that I was helping  
19 the veterans, Vietnam Veterans Against the War, and two years  
20 later a name check is asked on Reverend Smith and all your  
21 file shows is that he was associated two years ago with a group  
22 that was sufficient enough, held sufficient doubtful patriotism  
23 to justify turning loose a lot of your energy in pursuit on  
24 them --

25 Mr. Adams. This is a problem.

1 Senator Hart of Michigan. This is what should require  
2 us to rethink this whole business.

3 Mr. Adams. Absolutely.

4 And this is what I hope the guidelines committees as well  
5 as the Congressional input are going to address themselves to.

6 Senator Hart of Michigan. We've talked about a wide range  
7 of groups which the Bureau can and has had informant penetration  
8 and report on. Your manual, the Bureau manual's definition  
9 of when an extremist or security investigation may be under-  
10 taken refers to groups whose activity either involves violation  
11 of certain specified laws, or which may result in the violation  
12 of such law, and when such an investigation is opened, then  
13 informants may be used.

14 Another guideline says that domestic intelligence  
15 investigations now must be predicated on criminal violations.  
16 The agent need only cite a statute suggesting an investigation  
17 relevant to a potential violation. Even now, with an improved,  
18 upgraded effort to avoid some of these problems, we are back  
19 again in a world of possible violations or activities which  
20 may result in illegal acts.

21 Now, any constitutionally protected exercise of the  
22 right to demonstrate, to assemble, to protest, to petition,  
23 conceivably may result in violence or disruption of a local  
24 town meeting, when a controversial social issue might result  
25 in disruption. It might be by hecklers rather than those holding

1 the meeting.

2 Does this mean that the Bureau should investigate all  
3 groups organizing or participating in such a meeting because  
4 they may result in violence, disruption?

5 Mr. Adams. No, sir.

6 Senator Hart of Michigan. Isn't that how you justify  
7 spying on almost every aspect of the peace movement?

8 Mr. Adams. No, sir. When we monitor demonstrations, we  
9 monitor demonstrations where we have an indication that the  
10 demonstration itself is sponsored by a group that we have an  
11 investigative interest in, a valid investigative interest in,  
12 or where members of one of these groups are participating where  
13 there is a potential that they might change the peaceful  
14 nature of the demonstration.

15 But this is our closest question of trying to draw  
16 guidelines to avoid getting into an area of infringing on the  
17 First Amendment rights of people, yet at the same time being  
18 aware of groups such as we have had in greater numbers in the  
19 past than we do at the present time. But we have had periods  
20 where the demonstrations have been rather severe, and the  
21 courts have said that the FBI has a right, and indeed a duty,  
22 to keep itself informed with respect to the possible commission  
23 of crime. It is not obliged to wear blinders until it may be  
24 too late for prevention.

25 And that's a good statement if applied in a clearcut



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case. Our problem is where we have a demonstration and we have to make a judgment call as to whether it is one that clearly fits the criteria of enabling us to monitor the activities, and that's where I think most of our disagreements fall.

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1 Senator Hart of Michigan. Let's assume that the rule  
2 for opening an investigation on a group is narrowly drawn. The  
3 Bureau manual states that informants investigating a subversive  
4 organization should not only report on what that group is  
5 doing but should look at and report on activities in which  
6 the group is participating.

7 There is a Section 87B3 dealing with reporting on  
8 connections with other groups. That section says that the  
9 field office shall "determine and report on any significant  
10 connection or cooperation with non-subversive groups." Any  
11 significant connection or cooperation with non-subversive  
12 groups.

13 Now let's look at this in practice. In the spring of  
14 1969 there was a rather heated national debate over the  
15 installation of the anti-ballistic missile system. Some of us  
16 remember that. An FBI informant and two FBI confidential  
17 sources reported on the plan's participants and activities  
18 of the Washington Area Citizens Coalition Against the ABM,  
19 particularly in open public debate in a high school auditorium,  
20 which included speakers from the Defense Department for the  
21 ABM and a scientist and defense analyst against the ABM.

22 The informants reported on the planning for the meeting,  
23 the distribution of materials to churches and schools,  
24 participation by local clergy, plans to seek resolution on the  
25 ABM from nearby town councils. There was also information on

1 plans for a subsequent town meeting in Washington with the  
2 names of local political leaders who would attend.

3 Now the information, the informant information came as  
4 part of an investigation of an allegedly subversive group  
5 participating in that coalition. Yet the information dealt  
6 with all aspects and all participants. The reports on the  
7 plans for the meeting and on the meeting itself were disseminated  
8 to the State Department, to military intelligence, and to the  
9 White House.

10 How do we get into all of that?

11 Mr. Adams. Well --

12 Senator Hart of Michigan. Or if you were to rerun it,  
13 would you do it again?

14 Mr. Adams. Well, not in 1975, compared to what 1969  
15 was. The problem we had at the time was where we had an  
16 informant who had reported that this group, this meeting was  
17 going to take place and it was going to be the Daily World,  
18 which was the east coast communist newspaper that made comments  
19 about it. They formed an organizational meeting. We took  
20 a quick look at it. The case apparently was opened in May 28,  
21 1969 and closed June 5 saying there was no problem with this  
22 organization.

23 Now the problem we get into is if we take a quick look  
24 and get out, fine. We've had cases, though, where we have  
25 stayed in too long. When you're dealing with security it is like

1 Soviet espionage where they can put one person in this country  
2 and they supported him with total resources of the Soviet  
3 Union, false identification, all the money he needs, communi-  
4 cations networks, satellite assistance, and everything, and  
5 you're working with a paucity of information.

6 The same problem exists to a certain extent in domestic  
7 security. You don't have a lot of black and white situations.  
8 So someone reports something to you which you feel, you take  
9 a quick look at and there's nothing to it, and I think that's  
10 what they did.

11 Senator Hart of Michigan. You said that was '69. Let  
12 me bring you up to date, closer to current, a current place  
13 on the calendar.

14 This one is the fall of last year, 1975. President  
15 Ford announced his new program with respect to amnesty, as  
16 he described it, for draft resisters. Following that there  
17 were several national conferences involving all the groups  
18 and individuals interested in unconditional amnesty.

19 Now parenthetically, while unconditional amnesty is  
20 not against -- while unconditional amnesty is not yet the law,  
21 we agreed that advocating it is not against the law either.

22 Mr. Adams. That's right.

23 Senator Hart of Michigan. Some of the sponsors were  
24 umbrella organizations involving about 50 diverse groups around  
25 the country. FBI informants provided advance information on

1 plans for the meeting and apparently attended and reported on  
2 the conference. The Bureau's own reports described the  
3 participants as having represented diverse perspectives on  
4 the issue of amnesty, including civil liberties and human  
5 rights groups, G.I. rights spokesmen, parents of men killed  
6 in Vietnam, wives of ex-patriates in Canada, experts on draft  
7 counselling, religious groups interested in peace issues,  
8 delegates from student organizations, and aides of House and  
9 Senate members, drafting legislation on amnesty.

10 The informant apparently was attending in his role as  
11 a member of a group under investigation as allegedly subversive  
12 and it described the topics of the workshop.

13 Ironically, the Bureau office report before them noted  
14 that in view of the location of the conference at a theological  
15 seminary, the FBI would use restraint and limit its coverage  
16 to informant reports.

17 Now this isn't five or ten years ago. This is last  
18 fall. And this is a conference of people who have the point  
19 of view that I share, that the sooner we have unconditional  
20 amnesty, the better for the soul of the country.

21 Now what reason is it for a vacuum cleaner approach on  
22 a thing like that? Don't these instances illustrate how broad  
23 informant intelligence really is, that would cause these groups  
24 in that setting having contact with other groups, all and  
25 everybody is drawn into the vacuum and many names go into the

1 Bureau files.

2 Is this what we want?

3 Mr. Adams. I'll let Mr. Wannall address himself to this.  
4 He is particular knowledgeable as to this operation.

5 Mr. Wannall. Senator Hart, that was a case that was  
6 opened on November 14 and closed November 20, and the information  
7 which caused us to be interested in it were really two particular  
8 items. One was that a member of the steering committee there,  
9 was a three man steering committee, and one of those members  
10 of the national conference was in fact a national officer  
11 of the VVAW in whom we had suggested before we did have a  
12 legitimate investigative interest.

13 Senator Hart of Michigan. Well, I would almost say so what  
14 at that point.

15 Mr. Wannall. The second report we had was that the  
16 VVAW would actively participate in an attempt to pack the  
17 conference to take it over. And the third report we had --

18 Senator Hart of Michigan. And incidentally, all of the  
19 information that your Buffalo informant had given you with  
20 respect to the goals and aims of the VVAW gave you a list of  
21 goals which were completely within Constitutionally protected  
22 objectives. There wasn't a single item out of that VVAW that  
23 jeopardizes the security of this country at all.

24 Mr. Wannall. Well, of course, we did not rely entirely  
25 on the Buffalo informant, but even there we did receive

1 from that informant information which I considered to be  
2 significant.

3 The Buffalo chapter of the VVAW was the regional office  
4 covering New York and northern New Jersey. It was one of the  
5 five most active VVAW chapters in the country and at a  
6 national conference, or at the regional conference, this  
7 informant reported information back to us that an attendee  
8 at the conference announced that he had run guns into Cuba  
9 prior to the Castro take-over. He himself said that he during  
10 the Cuban crisis had been under 24 hour surveillance. There  
11 was also discussion at the conference of subjugating the  
12 VVAW to the revolutionary union. There were some individuals  
13 in the chapter or the regional conference who were not in  
14 agreement with us, but Mr. Adams has addressed himself to the  
15 interest of the revolutionary union.

16 So all of the information that we had on the VVAW did  
17 not come from that source but even that particular source did  
18 give us information which we considered to be of some  
19 significance in our appraisal of the need for continuing the  
20 investigation of that particular chapter of the VVAW.

21 Senator Hart of Michigan. But does it give you the  
22 right or does it create the need to go to a conference, even  
23 if it is a conference that might be taken over by the VVAW  
24 when the subject matter is how and by what means shall we  
25 seek to achieve unconditional amnesty? What threat?

