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AMENDING DISTRICT OF COLUMBIA CHARITABLE SOLICITATION ACT

THURSDAY, AUGUST 8, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 4 OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 445-A, Cannon Office Building, Hon. John Dowdy (chairman of the subcommittee) presiding.

Present: Representatives Dowdy, Huddleston, Whitener, Sisk, Broyhill, Horton, and Rouds.

Also present: James T. Clark, clerk; Clayton Gasque, staff director; Donald Tubridy, minority clerk; and Leonard O. Hilder, investigator.

Mr. Dowdy. At the time we set these bills for hearing, we didn't expect the House to be meeting at 11 o'clock, so to take care of as many as possible—and we will not be able to get into more than one bill—I am going to excuse the witnesses who are here on H.R. 6413 and H.R. 6351, because we are going to be cut off at 11 o'clock. We will now commence hearings on the first bill that was set, which was H.R. 5990, a bill concerning the requirements for the issuance of a solicitation permit under the District of Columbia Charitable Solicitation Act. (H.R. 5990 is as follows:)

[H.R. 5990, 85th Cong., 1st sess.]

A BILL To amend the District of Columbia Charitable Solicitation Act to require certain findings before the issuance of a solicitation permit thereunder, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the District of Columbia Charitable Solicitation Act (D.C. Code, sec. 2-2104) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this Act, no such certificate of registration shall be issued after the date of the enactment of this subsection unless the Commissioners shall have affirmatively found and publicly declared that the solicitation which would be authorized by such certificate will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia."

SEC. 2. Notwithstanding the District of Columbia Charitable Solicitation Act or any other provision of law, the certificate of registration heretofore issued to the Mattachine Society of Washington under such Act is revoked.

Mr. Dowdy. As background for this hearing, and the proposed legislation introduced by me, I offer for the record at this point my statement to the House a short time ago, together with certain material included as a part of my remarks at that time. Also staff memorandum.

(The documents referred to follow:)

THE MATTACHINE SOCIETY OF WASHINGTON

Extension of Remarks of Hon. John Dowdy, of Texas, in the House of Representatives, Friday, July 5, 1963

Mr. Dowdy. Mr. Speaker, it came to my attention last fall that the District of Columbia government had granted a society of homosexuals a license to solicit charitable contributions in the District of Columbia. This license was issued to the Mattachine Society of Washington, and at that time, the Superintendent of the License and Permit Division stated that his office had no legal authority to deny such a permit to any nonprofit organization which complied with all the requirements of filing for same. This was fully disclosed in an item carried in the Sunday Washington, D.C., Star, of September 16, 1962, which article I include following these remarks.

I introduced a bill in the last Congress to correct this situation, but it was too late to receive action at that time. Earlier this year, I introduced the bill again, as H.R. 5990, with the earnest hope that it will receive the approval of this Congress.

In order that the Members of Congress may be fully advised, I would call attention to the fact that I believe all of us received a letter from the President of the Mattachine Society of Washington, in August of last year, in which he enclosed an excerpt from the constitution of his society, and a news release which he had just issued. To refresh memory, I include those matters with my remarks.

Mr. Speaker, I regard this situation as highly improper. If the laws of the District of Columbia indeed do not authorize the refusal of a solicitation license or any other official recognition to a society such as this, whose illegal activities are revolting to normal society, then I feel that it is our duty to provide such authority without delay.

The Mattachine Society is admittedly a group of homosexuals. The acts of these people are banned under the laws of God, the laws of nature, and are in violation of the laws of man. I think a situation which requires them to be permitted a license to solicit charitable funds for the promotion of their sexual deviations is a bad law, and should be changed forthwith.

The material follows:

[From the Sunday Star, Washington D.C., Sept. 16, 1962]

GROUP AIDING DEVIATES ISSUES CHARITY LICENSE

The Mattachine Society of Washington, an organization formed to protect homosexuals from discrimination, has been granted a certificate by the District licenses office to solicit funds in Washington.

The application said that the organization wanted to raise funds to help give the homosexual equal status with his fellow men.

District records shows the newly organized society was granted its certificate to ask for contributions under the Charitable Solicitations Act on August 14.

C. T. Nottingham, Superintendent of Licenses and Permits, said his office had no authority to deny a solicitation permit to any organization whose representatives answer all questions on the permit application form.

The license chief added that he had informed society representatives that if the group solicits as much as \$1, he would order them to open their books and records for examination. If such an order is not complied with, he said, the licensing department will move to have the society's permit revoked.

The president of the society, who asked that his name not be used, said that his organization "is dedicated to improving the status of homosexuals in our society in the interest both of that minority group and of the Nation."

The society president said that so far, not funds have been solicited.

Asked how many members the society had in the Washington area, he replied, "We would prefer not to say. It is small but growing rapidly."

He said that the original Mattachine Society was founded in San Francisco 10 or 12 years ago. Other independent Mattachine Societies, he said, have been organized in New York and several other American cities.

The organizations took their names, he said from the mattachines, court jesters in the Middle Ages, who were permitted to make pointed social commentaries which would have been tolerated from no one else.

THE MATTACHINE SOCIETY OF WASHINGTON,
Washington, D.C., August 28, 1962.

Hon. _____,
House of Representatives,
Washington, D.C.

DEAR _____: Enclosed, for your interest and information, is a formal statement of the purposes of the Mattachine Society of Washington, a newly formed organization, devoted to the improvement of the status of our country's 15 million homosexuals.

Included, also, is a copy of our news release, which was submitted to the Washington newspapers and others, and to the various press services.

The question of homosexuality, and the prejudice against it, both personal and official, is a serious one, involving, as it does, more than 1 out of every 10 American citizens, including roughly a quarter-million in each, the Federal civil service, the Armed Forces, and security-sensitive positions in private industry, and at least 10 percent of your constituents.

We feel that the Government's approach is archaic, unrealistic, and inconsistent with basic American principles. We feel, in addition, that it is inexcusably and unnecessarily wasteful of trained manpower and of the taxpayers' money.

We realize that this area presents you with many potential problems, some of them quite subtle and touchy ones of politics and public relations, and that they are not always subject to easy solution, but policies of repression, persecution, and exclusion will not prove to be workable ones in the case of this minority, any more than they have, throughout history, in the case of other minorities. This is a problem which must be worked with, constructively, not worked against destructively, as is now the case. A fresh approach by the Federal Government is badly needed.

We welcome any comments which you may have on this subject.

We will be pleased to meet with you personally, at your convenience, to discuss these and related matters.

Thank you for your consideration of our position.

Sincerely yours,

FRANKLIN E. KAMENY,
President.

EXCERPTS OF THE CONSTITUTION OF THE MATTACHINE SOCIETY OF WASHINGTON

Article II. Purpose:

SEC. 1. It is the purpose of this organization to act by any lawful means:

(a) To secure for homosexuals the right to life, liberty, and the pursuit of happiness, as proclaimed for all men by the Declaration of Independence; and to secure for homosexuals the basic rights and liberties established by the word and the spirit of the Constitution of the United States;

(b) To equalize the status and position of the homosexuals with those of the heterosexual by achieving equality under law, equality of opportunity, equality in the society of his fellow men, and by eliminating adverse prejudice, both private and official;

(c) To secure for the homosexual the right, as a human being, to develop and achieve his full potential and dignity, and the right, as a citizen, to make his maximum contribution to the society in which he lives;

(d) To inform and enlighten the public about homosexuals and homosexuality;

(e) To assist, protect, and counsel the homosexual in need.

SEC. 2. It is not a purpose of this organization to act as a social group, or as an agency for personal introductions.

SEC. 3. This organization will cooperate with other minority organizations which are striving for the realization of full civil rights and liberties for all.

MATTACHINE SOCIETY OF WASHINGTON

The formation of a new social action group in the Greater Washington, D.C., area is announced. This group, the Mattachine Society of Washington, is dedicated to improving the status of the homosexual in our society, in the interest both of that minority group and of the Nation. The society discusses and acts upon all problems relating to the homosexual, both general and specific.

Guest speakers will address the group from time to time on a variety of relevant subjects. The society is also setting up a professional referral service—doctors, lawyers, clergymen, etc.—for the homosexual in need.

The organization feels that the homosexual today is where the Negro was in the 1920's, except that the Negro has had, at worst, the mere indifference of his Government and, at best, its active assistance, whereas the homosexual has always had to contend with the active hostility of his Government. For this reason, it is time that a strong initiative be taken to obtain for the homosexual minority—a minority in no way different, as such, from other of our national minority groups—the same rights, provided in the Constitution and the Declaration of Independence, as are guaranteed to all citizens. These include the rights to the pursuit of happiness, and to equality of opportunity; the right, as human beings, to develop and achieve their full potential and dignity; and the right, as citizens, to be allowed to make their maximum contribution to the society in which they live—rights which Federal policy and practices now deny them.

The society feels that prejudice directed against an individual, for no cause other than an unconventional sexual preference, is unwarranted, and that harsh, discriminatory action taken on the basis of such prejudice, with its incident waste of useful talent and manpower, is not consistent with the national welfare. It is felt that personal and popular prejudice cannot be eliminated as long as official prejudice exists and is indulged.

For this reason, the society's primary effort will be directed to four main areas: First, the clearly improper, discriminatory policies of the U.S. Civil Service Commission, policies which are plainly unconstitutional, and which operate against the best interests of the country, in that they act to deprive the Nation of the services of many clearly well-qualified citizens who have much to offer. That these policies are quite needless is demonstrated by the fact that, despite them, there are at least 200,000 homosexuals in the Federal service, and have been for many years, with no ill effects.

Second, the Armed Forces, needless and harshly administered policies of exclusion. The present practice of giving less than fully honorable discharges to homosexuals is unnecessarily vicious. In view of the fact that the Armed Forces also presently include at least a quarter-million homosexuals in all ranks, without ill effects, and that over a million served well and honorably in World War II, present policy seems open to serious question.

Third, the illogical policies of our security-clearance system for civilian and military Government personnel, and for those in private industry, under which all homosexuals, as a group, are regarded as security risks, without consideration of the merits of each individual case. Despite the continuing presence of some quarter-million homosexuals with security clearances, at all levels, and within the cognizance of all agencies, the number of breaches of security resulting from homosexuality is virtually, if not actually, nil. Examination will show that present policies foster just that susceptibility to blackmail against which these policies are supposed to protect.

Fourth, the area of local law, both its provisions and its administration and enforcement. The society feels that the example of the State of Illinois should be followed, in legalizing private relations on the part of consenting adults, but that, in any case, action must be taken against existing, often flagrant and shocking abuses and violations of due process and of proper rights, liberties, and freedoms in this area.

The organization seeks a reassessment and reconsideration of present, totally unrealistic Federal policy and practice, law and regulation, on homosexuality. A New Frontier approach to official policies and practices which relegate over 15 million Americans to second-class citizenship is long overdue and badly needed. The Government, hitherto, has attempted to sweep this problem under the rug and, ostrichlike, has refused to face the situation or to deal with it in a logical fashion.

The Mattachine Society of Washington is confident that all intelligent, informed, public-spirited citizens will join them in their efforts to achieve a fresh and reasonable approach to this problem.

AMENDING D.C. CHARITABLE SOLICITATION ACT

5

STAFF MEMORANDUM No. 1

(H.R. 5990, by Mr. Dowdy, to amend the District of Columbia Charitable Solicitations Act)

PURPOSE

This bill would provide that prior to issuing a certificate of registration authorizing any organization to solicit charitable contributions in the District of Columbia, the District of Columbia Commissioners must find and publicly declare that such solicitation will benefit the health, welfare, and morals of the city.

Also, this bill would revoke the certificate of registration which was issued to the Mattachine Society of Washington under the Charitable Solicitations Act.

REASON FOR THE BILL

On August 14, 1962, the Mattachine Society of Washington, an organization formed to protect homosexuals from discrimination, was granted a certificate by the District of Columbia Department of Licenses and Inspections to solicit funds in Washington. The application stated that the organization wanted to raise funds to help give the homosexual "equal status" with his fellow men.

Mr. C. T. Nottingham, Superintendent of the License and Permit Division, stated at that time that his office has no authority to deny a solicitation permit to any organization whose representatives answer all questions on the permit application form.

This bill, therefore, is designed to give the License and Permit Division adequate authority to exercise reasonable judgment in such matters.

Mr. Dowdy. The first witness on our list is Robert F. Kneipp, Esq., from the Corporation Counsel's Office.

Would you please come around, sir?

STATEMENT OF ROBERT F. KNEIPP, ESQUIRE, CORPORATION COUNSEL'S OFFICE; ACCOMPANIED BY C. T. NOTTINGHAM, SUPERINTENDENT, LICENSES AND PERMITS

Mr. KNEIPP. I am Robert F. Kneipp, Assistant Corporation Counsel, and I have with me Mr. C. T. Nottingham, Superintendent of Licenses and Permits of the District of Columbia.

Mr. Chairman, the Commissioners have reported to the committee in a report dated August 7, 1963, that I ask be incorporated in the record of hearing.

Mr. Dowdy. It will be made a part of the record.

(The report referred to is as follows:)

GOVERNMENT OF THE DISTRICT OF COLUMBIA,

EXECUTIVE OFFICE,

Washington, August 7, 1963.

HON. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The Commissioners of the District of Columbia have for report H.R. 5990, 88th Congress, a bill to amend the District of Columbia Charitable Solicitation Act to require certain findings before the issuance of a solicitation permit thereunder, and for other purposes.

The District of Columbia Charitable Solicitation Act, approved July 10, 1957 (71 Stat. 278; title 2, ch. 21, District of Columbia Code, 1961 edition), prohibits any person (with certain exceptions authorized by sec. 4 of such act) from

soliciting charitable contributions in the District of Columbia unless he holds a valid certificate of registration authorizing such solicitation. Since the act is a disclosure act only, it does not require that a person making application to be registered thereunder show affirmatively that the solicitation proposed to be made is truly charitable in its nature. However, the first section of H.R. 5990 would add to section 5 of the Charitable Solicitation Act, relating to applications for certificates of registration, the requirement that the Commissioners affirmatively find and publicly declare that the solicitation authorized by any such certificate of registration "will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia."

Aside from the fact that such official finding and public declaration required by the first section of the bill is likely to be considered by members of the public as official endorsement of the registrant by the District of Columbia, the Commissioners consider this portion of the bill objectionable because of the heavy and difficult administrative burden it would impose on the District. It would be necessary to find in each case that a proposed charitable solicitation "will benefit or assist in promoting the health, the welfare, and the morals of the District of Columbia." [Emphasis supplied.] At the present time 163 organizations are registered with the District of Columbia under the Charitable Solicitation Act. Section 4.2 of the charitable solicitation regulations for the District of Columbia limits the validity of certificates of registration issued to such organizations to a period of not more than 1 year. In connection with solicitations of a seasonal nature, some of these organizations may make application for two or three certificates of registration each year. All of this means, therefore, that the District of Columbia would be required by the first section of the bill to conduct a very considerable number of hearings each year for the purpose of determining that each of the solicitations authorized by a certificate applied for under the Charitable Solicitation Act is one which "will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia." The manpower demands and costs involved would not, in the judgment of the Commissioners, be justified.

The Commissioners believe that it can be expected that, under the present language of the first section of the bill, relatively few organizations will be able to qualify for the required certificate of registration. This belief is based on the fact that, since the language proposed to be added is couched in the conjunctive, it will be incumbent on each such organization to demonstrate that the proposed solicitation will benefit or assist in promoting the health, the welfare, and the morals of the District of Columbia. A proposed solicitation directed to improving only the health, or the welfare, or the morals of the residents of the District of Columbia would not, under this language, be qualified for a certificate of registration. Similarly, a proposed solicitation for an educational purpose would not be qualified, unless the educational purpose can in some manner be construed as benefiting or assisting in the promotion of the health, the welfare, and the morals of the residents of the District of Columbia.

The limiting language of the first section of the bill could possibly have the effect of ruling out solicitations of funds for the construction of the proposed National Cultural Center. Further, it would preclude the issuance of certificates of registration to organizations proposing to solicit charitable contributions for the benefit of the health, welfare, and morals of persons residing outside the District of Columbia—even in nearby Maryland or Virginia. Educational and other institutions beyond the boundaries of the District of Columbia would be precluded from seeking contributions within the District to carry on the purposes for which they were established. The solicitation of funds to provide relief to persons in areas of the United States devastated by some disaster also would be precluded by this language of the bill.

In view of the foregoing, the Commissioners are strongly of the belief that the proposed addition to the District of Columbia Charitable Solicitation Act would operate to the detriment, rather than to the benefit, of society, and, accordingly, they recommend against the enactment of this portion of the bill.

The second section of the bill provides that: "Notwithstanding the District of Columbia Charitable Solicitation Act or any other provision of law, the certificate of registration heretofore issued to the Mattachine Society of Washington under such Act is revoked." This section is directed against an organization which, according to its constitution, has the following purposes:

"(a) To secure for homosexuals the right to life, liberty, and the pursuit of happiness, as proclaimed for all men by the Declaration of Independence; and to secure for homosexuals the basic rights and liberties established by the word and the spirit of the Constitution of the United States;

"(b) To equalize the status and position of the homosexual with those of the heterosexual by achieving equality under law, equality of opportunity, equally in the society of his fellow men, and by eliminating adverse prejudice, both private and official;

"(c) To secure for the homosexual the right, as a human being, to develop and achieve his full potential and dignity, and the right, as a citizen, to make his maximum contribution to the society in which he lives;

"(d) To inform and enlighten the public about homosexuals and homosexuality; and

"(e) To assist, protect, and counsel the homosexual in need."

The Commissioners take the position with respect to section 2 that, regardless of the nature of the organization against which it is directed (and the position of the Commissioners is not to be construed as approving homosexual practices), this portion of the bill, by reason of its discriminatory effect, raises grave questions concerning its constitutionality (*United States v. Lovett*, 328 U.S. 303, 315-6).

Notwithstanding the fact that the Commissioners do not desire to encourage homosexual practices, and will continue to enforce all applicable laws which they are charged with enforcing relating to criminal offenses of a homosexual nature, they are, nevertheless, constrained to recommend against the enactment of such section.

Yours very sincerely,

WALTER N. TOBRINER,
President, Board of Commissioners, D.C.

Mr. KNEIPP. The Commissioners object to the enactment of H.R. 5990 for two principal reasons. The first of these is that the first section of the bill, requires the Commissioners to affirmatively find and publicly declare that the solicitation which would be authorized by the certificate of registration issued under the Charitable Solicitations Act will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia.

The Commissioners are of the view that that requirement imposes a heavy and difficult burden on the Commissioners of the District of Columbia.

Mr. DOWDY. Have you got a suggestion for an amendment?

Mr. KNEIPP. I do not have, no, Mr. Chairman, because there are several problems here, and I would like to discuss them, if I may.

Mr. DOWDY. I might say that I have been advised by people in the Government that it would be a touchy subject to try to do something about permitting a bunch of homosexuals to call themselves a charitable institution in order to collect funds from people, and that there would be some rather difficult problems in getting anything done about it. I would like to know what suggestions you would have to take care of this problem.

As you realize, it is a security problem, and if an organization promoting homosexuality is a charitable organization, I have grown up in a wrong age.

Mr. KNEIPP. I would like to explain, Mr. Chairman, the difficulties that the Commissioners see in this bill, and then perhaps I can offer a proposed amendment.

Whether that will cure all the difficulties, I don't know, but the difficulties are these: The language of the first section of the bill would in every instance before a certificate of registration is issued require the Commissioners to have a due process hearing. Now, this would mean a rather involved proceeding of notaries, hearings, attorneys, and so on.

There are 163 organizations currently registered with the District of Columbia, and some of those take out more than 1 certificate of regis-

tration a year, so this means that there would be upwards of 163 hearings each year.

Mr. Dowdy. Let me ask this: I read Mr. Nottingham's apology that was made at the time he issued the solicitation permit here, in which he said that under the law he had no choice except to issue this charitable solicitation permit to this bunch of homosexuals. Now, if that was the only problem, if the law requires him to do it, I want to know if this will not change it. What you would suggest that would change that situation, where his hands are tied, and if he has to issue a charitable solicitation permit to a bunch of characters like this.

Mr. KNEIPP. This is the nature of the law, Mr. Chairman.

Mr. Dowdy. I understand that. What we want to do is to change.

Mr. KNEIPP. This was told to the Congress at the time the law was enacted.

Mr. Dowdy. I wasn't here then.

Mr. KNEIPP. That this is a disclosure-type law, and that all that need be done for an organization to qualify for a certificate of registration is to come in and make a complete statement of its affairs and what it intends doing with the money it collects. This is made available to the public.

It is not a control-type law.

The language of the first section of the bill would change the Charitable Solicitations Act from a disclosure-type law to a control-type law, under which—this is somewhat similar to New York's—under which the authorities in the District could refuse or could revoke or suspend a certificate of registration.

Now, the backlash of the first section of the bill goes in several different directions as it is presently phrased. It not only requires the District to hold hearings, and at some expense to the District. It also requires the charities, the legitimate charities, if you will, to undergo a considerable amount of expense in connection with any such hearing. It would require in the case of appeals from adverse decisions by the District that the courts consider these matters. All of this is an expense which would devolve upon the people of the District of Columbia, and would take the contributions given for charitable purposes away from those charitable purposes to pay for the costs of maintaining the various appeals that would have to be taken.

Mr. Dowdy. Now, you contrast that with the fact that you are permitting them to solicit contributions for the promotion of perversions and immorality. Which is the most important to the community?

Mr. KNEIPP. It seems to me that there is some perspective that should be brought to bear here. This is a relatively small organization. It has disclosed—

Mr. Dowdy. They claim, according to their figures, up in the millions.

Mr. KNEIPP. Of potential adherents, I take it you mean, sir?

Mr. Dowdy. It is a national and international organization.

Mr. KNEIPP. In any event, the impact of the first section of the bill would be much greater on the larger charities for a purpose that is generally considered worthwhile than it would be on this relatively small organization.

The cost, across the board, to the people of the District of Columbia would be rather considerable, to say nothing of the fact that the District might have to increase its fee for these certificates of registration from the \$25, I think it is, to something more than that because the act, the Charitable Solicitation Act in section 3-B requires the District Commissioners to set a fee that is approximately the cost of the District of Columbia providing the services under that act.

Mr. Chairman, I can offer some sort of suggestion, but it will not take care of all of the problems here, and I have to do this on my own because the Commissioners have not authorized me to do it.

Mr. Dowdy. You are speaking for the Commissioners in saying nothing should be done about this, or are you speaking for yourself?

Mr. KNEIPP. The Commissioners have objected to the first section of the bill as imposing a very heavy and very difficult burden on the District of Columbia, difficulty, incidentally, in the sense of determining that an organization is soliciting contributions for a purpose that is to the benefit or will assist in promoting the health, welfare, and the morals. Note that the language is in the conjunctive.

Now, even if it were in the disjunctive, the health, welfare, or the morals of the District of Columbia, this would still rule out many worthy charities, for example, an educational purpose. Is this or is that not for the welfare of the District of Columbia?

Suppose that the contribution is for the benefit of Stanford University or any university outside the District of Columbia. Is that soliciting funds for educational purposes in connection with some activity outside the District of Columbia one that is for the benefit of the welfare of the District of Columbia? This is arguable.

The language here would even rule out a solicitation of contributions for the relief of persons in some disaster area outside of the District of Columbia.

Mr. HUDDLESTON. Mr. Kneipp, wouldn't your objection be met by merely amending this section, "to benefit or assist in promoting the public health, welfare, and morals"?

Mr. KNEIPP. Not "and morals," sir, "or morals."

Mr. HUDDLESTON. "Or morals," would that not meet your objection?

Mr. KNEIPP. In part. It still doesn't answer the educational aspect. That language might even rule out solicitation of funds for the National Cultural Center.

Mr. Dowdy. You know you can find thing to argue about. These people even argue that their actions are moral and there is not any perversion about it. So you can get an argument about anything. Of course, education is important to the welfare of the Nation, but you have just made an argument against it.

Mr. KNEIPP. Mr. Chairman, let me, if I may, suggest this, and I have to say that I have not been authorized by the Commissioners to suggest this, but I think Mr. Huddleston is reaching for a solution to this particular problem, and that is to express this in the negative rather than in the affirmative.

If you say, for example, that "notwithstanding any other provision of this act, any such certificate of registration issued after the date of the enactment of this subsection shall be subject to a finding and public declaration by the Commissioners that the solicitation which would be authorized by such certificate will not benefit or assist in promoting

the health, welfare, and the morals of the District of Columbia," then you—

Mr. HORTON. That is a condition subsequent?

Mr. KNEIPP. Yes.

Mr. HORTON. I don't think that that is getting to the purpose of what we are trying to accomplish here, either.

Mr. KNEIPP. It would authorize the Commissioners to hold a hearing after the certificate has been issued if they had cause to believe that the proposed solicitation or the solicitation being conducted would not be to the benefit of the health, welfare, or the morals of the residents of the District of Columbia.

Mr. HORTON. Mr. Chairman, could I ask a question here?

Mr. DOWDY. Go ahead.

Mr. HORTON. Are the Commissioners against the purpose of this bill, or are they just against the language of the bill?

Mr. KNEIPP. I think they are against the purpose of the bill, sir.

Mr. HORTON. Why are we debating the language here?

Mr. KNEIPP. This is the reason I said that I am only authorized to express the Commissioners' objections to the first section of the bill, as well as to the second section, incidentally.

Mr. WHITENER. May I ask a question?

Mr. DOWDY. Yes, you may.

Mr. WHITENER. I understood the Commissioners' letter to say that they were opposed to the language of subsection D, but that they did not want to be understood to be supporting the right of this particular organization to have a license.

Mr. KNEIPP. No, sir, I don't believe the letter said that. The Commissioners' letter, on page 4, says that:

The Commissioners take the position with respect to the second section of the bill, they object to the first section on the ground it would impose a heavy and difficult burden on the District from an administrative standpoint.

Mr. WHITENER. Do you know who wrote this letter signed by the President of the Board of Commissioners?

Mr. KNEIPP. Yes, sir.

Mr. WHITENER. Who wrote it?

Mr. KNEIPP. I did, sir.

Mr. WHITENER. What did you mean here when you said here in parenthesis on the last page of the letter, "and the position of the Commissioners is not to be construed as approving homosexual practices."

Mr. KNEIPP. It means that the position of the Commissioners is strictly a legal position. They are objecting to the second section of the bill from a legal standpoint as being discriminatory in its nature and partaking of the nature of a bill of attainder, or, more properly, a bill of pains and penalties and would be unconstitutional.

Mr. WHITENER. Would the Commissioners recommend that that section of the code, the Criminal Code entitled "Sodomy" be repealed?

Mr. KNEIPP. No, sir. As the Commissioners say in their letter in the last sentence:

notwithstanding the fact that the Commissioners do not desire to encourage homosexual practices and will continue to enforce all applicable laws which they are charged with enforcing relating to criminal offenses of a homosexual nature, they are, nevertheless, constrained to recommend against the enactment of such section.

In their view, this section of the bill, section 2, would be held to be unconstitutional in line with the decision in the case of *United States v. Lovett*.

Mr. WHITENER. So, as I understand what you are saying, Mr. Kneipp, is that the Commissioners are saying in this letter that you wrote to them that they don't want to encourage homosexual practices, but they are perfectly willing to preserve existing ones?

Mr. KNEIPP. No, sir; that is not their position, either.

Mr. WHITENER. What do you mean by the word "encourage"?

Mr. KNEIPP. They are against homosexual practices.

Mr. HORTON. They don't say that, sir.

Mr. WHITENER. That is not what this letter says.

Mr. KNEIPP. It says "The position of the Commissioners is not to be construed as approving homosexual practices" in the next to the last paragraph.

Mr. HUDDLESTON. In other words, the Commissioners don't take a position on it, on homosexual practices.

Mr. WHITENER. What it says is this, "It is not to be construed as approving"——

Mr. KNEIPP. "The position of the Commissioners is not to be construed as approving homosexual practices."

Mr. WHITENER. But the thing they are concerned about primarily is avoiding encouraging more of these practices?

Mr. KNEIPP. They say in the last paragraph that they will prosecute any criminal offenses of a homosexual nature. I don't take it that that means that they are approving or disapproving. They are just going to carry out the law.

Mr. WHITENER. Do you mean to say that the Commissioners take the position that an offense which the statute provides may be punishable by as much as 10 years' imprisonment?

Mr. HUDDLESTON. Twenty.

Mr. WHITENER. It depends on the age of the party, but between adults, up to 10 years, and if the child is under 16 it might go up to 20, that is 22-3502 of the Criminal Code. That the Commissioners take the position that it would be unfair to have a law which would prohibit the licensing of an organization which by its own charter or its own constitution proclaims to the world that its sole purpose is to see to it that folks engaged in violating this rather severe penal provision of the law may go on unmolested?

Mr. KNEIPP. Mr. Whitener, that is not their position at all. Their position is that regardless of the nature of the organization, this organization under existing law is entitled to come in and register under the Charitable Solicitations Act, and regardless of the nature of that organization, it doesn't have to be this organization, it could be an organization for the propagation of redheads or something of this sort, regardless of the nature the bill is bad——

Mr. WHITENER. I don't think anybody is objecting to propagation of redheads.

Mr. HUDDLESTON. As a matter of fact, as a redhead, we take exception to the comparison, just as I am sure that in the statement which will be read here by a representative of this organization in a few minutes that other minority groups will take exception to the statement here which appears that homosexuals constitute a minority group no

different as such from other minority groups in this country, and I think other minority groups would take exception to that statement.

Mr. KNEIPP. The point I am making, Mr. Huddleston, is that the second section of the bill is directed to a particular organization, and this runs counter to the principles set forth in a number of cases decided by the Supreme Court over a period of years.

Mr. WHITENER. The Smith Act takes cognizance only of the Communist Party. That is an organization.

Your criminal statute here, District of Columbia Code, section 22-3502, takes cognizance of a group of people, and that is the group of people that this so-called Mattachine Society of Washington is trying to protect by protesting against laws which they say are punishing folks for doing what they claim are perfectly normal things.

Mr. KNEIPP. I think there is a distinction, Mr. Whitener, under the Smith Act.

Let me read you the language, if I may, from *U.S. v. Lovett*, decided June 3, 1946. This is 328 U.S. at 315.

"They first discuss the statement in *Cummings v. Missouri*. 'A bill of attainder is a legislative act which inflicts punishment without a judicial trial,' without a judicial trial, sir.

If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties.

They are referring to clause 3 of section 9 of article I of the Constitution.

Mr. WHITENER. There is nothing in this bill that would punish anybody.

Mr. KNEIPP. In a way, there is, sir.

Mr. WHITENER. What?

Mr. KNEIPP. The mere fact that they cannot solicit contributions while any other organization that can qualify for a certificate under the act can.

Mr. WHITENER. But the whole purpose of this act is to fix it so they can't qualify.

Mr. KNEIPP. No; the purpose of this act, section 2, is to revoke its charter.

Mr. WHITENER. That is right, and provide that under no circumstances could it qualify under the Charitable Solicitations Act.

Mr. KNEIPP. I don't read the first section as prohibiting them being issued a certificate of registration.

Mr. WHITENER. Let me ask you this, Mr. Kneipp: Are you, as a lawyer, saying that the term "eleemosynary" or "charitable" or whatever legalistic word we want to use is sufficiently broad to cover activities which are in direct contravention of the criminal laws of this jurisdiction or any other jurisdiction?

Mr. KNEIPP. I don't say it, sir. The Congress of the United States says it.

Mr. WHITENER. The Congress now is trying to repeal it, and you folks are objecting.

Mr. KNEIPP. No, in section 2 of the act of July 10, 1957, the Charitable Solicitations Act, under the definition "charitable" it says:

Charitable means and includes philanthropic, social service, patriotic, welfare, benevolent, or educational except religious.

Mr. DOWDY. What does this concern?

Mr. KNEIPP. The constitution of the Mattachine Society, as I read it, is an educational purpose.

Mr. WHITENER. Do you say that a governing body has no right under licensing acts to go behind the language of a charter or the constitution of an organization?

Mr. KNEIPP. I don't think that there is any need to go behind. The organization is holding itself out as being one that is engaged in an educational purpose. Now, what the act—

Mr. WHITENER. Suppose this organization, if we are going to be ridiculous about it, suppose this organization instead of trying to protect this group of people who if they engage in their practices are violating the penal code of this jurisdiction, suppose instead of that they were trying, had as their purpose the educating of the public to the idea that murder or robbery was not bad. Would you say that was charitable or educational?

Mr. KNEIPP. If there is an educational activity involved, I would say it comes within the purview of the statute.

Mr. HORTON. Would the gentleman yield? Could I ask the witness to define the educational aspects of this organization?

Mr. DOWDY. I have some of their educational material here that probably the witness has not seen.

Mr. HORTON. You are with the Corporation Counsel's Office?

Mr. KNEIPP. Yes, sir.

Mr. HORTON. Of the District of Columbia, is that not right?

Mr. KNEIPP. Yes, Mr. Horton.

Mr. HORTON. I would like to know what your interpretation of the educational aspects of this organization are.

Mr. WHITENER. If the gentleman would yield to me, would you also ask how you can educate without encouraging?

Mr. KNEIPP. Reading just from the constitution of the organization, article 2 of the constitution of the Mattachine Society of Washington states—

It is the purpose of this organization to act by any lawful means * * *. (a) To secure for homosexuals the right to life, liberty, and the pursuit of happiness, as proclaimed for all men by the Declaration of Independence; and to secure for homosexuals the basic right and liberties established by the word and the spirit of the Constitution of the United States; (b) to equalize the status and position of the homosexual with those of the heterosexual by achieving equality under law, equality of opportunity, equality in the society of his fellow men, and by eliminating adverse prejudice, both private and official; (c) to secure for the homosexual the right, as a human being, to develop and achieve his full potential and dignity and the right, as a citizen, to make his maximum contribution to the society in which he lives; (d) to inform and enlighten the public about homosexuals and homosexuality; (e) to assist, protect, and counsel for the homosexual in need.

Now, apparently, there is some effort being made by the society, and I believe the chairman has held up some publication, I don't know what it is, but of an educational nature.

Mr. DOWDY. It is pornography, mostly.

Mr. WHITENER. What about the Declaration of Independence? What part does this carry forward? You mean the revolution was fought over this?

Mr. KNEIPP. I don't think so, but I think that this organization if it has an educational purpose, is entitled—

Mr. WHITENER. The only reason I mention this, Mr. Kneipp, it is obvious to me that the District Government must have just been accepting words written on a piece of paper instead of looking into it, because I am somewhat familiar with the Declaration of Independence and I don't know what provision of that this organization would be furthering.

Mr. KNEIPP. Mr. Whitener, it is an educational aim, apparently, from its constitution—

Mr. WHITENER. That all men are created equal, or something of the sort?

Mr. KNEIPP. Well, I have to revert to the act of Congress that set forth this definition of charitable as including something that is educational in its nature.

Mr. HORTON. To follow up with my question, then, this is what you base, as a lawyer and as a member of the Corporation Counsel's Office, this is what you base your statement on, that this organization has an educational aspect, is that correct?

Mr. KNEIPP. Yes, sir.

Mr. HORTON. Is the act of homosexuality a violation of any criminal statute?

Mr. KNEIPP. It depends on where it occurs, sir.

Mr. HORTON. I say in the District.

Mr. KNEIPP. Yes. The District of Columbia Court of Appeals has held in a case decided in 1960 that it may not be a criminal act. It held that the act, "The present law was not designed and intended"—and I read from the case of *Rittenour v. D.C.*, decided by the District of Columbia Court of Appeals, August 19, 1960, that is 163 Atlantic (2d) 559. The court of appeals said: "The present law in the District of Columbia" relating to lewd, obscene, or indecent sexual proposals or to commit any other lewd, obscene, or indecent act "was not designed or intended to apply to an act committed in privacy in the presence of a single and consenting person."

And then the court ended up saying, "Basically and essentially appellant was arrested, tried and convicted on a charge of being a homosexual but under our law homosexuality is not a crime."

Mr. HORTON. Within the District there are times when it violates the criminal statute and times when it does not?

Mr. KNEIPP. So the District of Columbia Court of Appeals has held, sir.

Mr. HORTON. In those instances in which there is a violation of a criminal statute do you feel that this organization has an educational aspect?

Mr. KNEIPP. I don't take this as educating the public in what constitutes a violation of a criminal statute. I understand the aim of the organization is to educate the public in what constitutes homosexuality.

Mr. HORTON. This is an educational aspect that you feel that the Charitable Contributions Act should permit?

Mr. KNEIPP. It is not a question of should, sir. It does permit it under the existing language.

Mr. HORTON. How would you propose to change it so it doesn't?

Mr. DOWDY. That is the first question I asked.

Mr. KNEIPP. I offered change in the language that doesn't take care of all of the problems. It seems to me that in order —

Mr. HORTON. Excuse me, sir, have you given any consideration, or has your office up to this point given any consideration to language that would accomplish this?

Mr. KNEIPP. No, sir.

Mr. HORTON. Is there a reason why?

Mr. KNEIPP. No, sir. The Commissioners just didn't want to get into the intricacies of that sort of thing.

Mr. SISK. Mr. Chairman, could I ask a few questions?

Mr. DOWDY. Yes.

Mr. SISK. Let me say, Mr. Kneipp, that I feel probably—and I never heard of the Mattachine Society until I read about it in a local paper, so I don't know anything about that particular society, but I do think it is a bit unfortunate that we are involved in what I think could be some rather important legislation placing some particular organization on trial, whether it is this organization or something else. But getting to what I consider to be the crux of the question, isn't there and shouldn't there be some responsibility on the part of the governing body of the District, in this case, of course, the Commissioners, to take some responsibility with reference to organizations who have a right to solicit in the District?

Now, we know this is done throughout the country and various cities, and I know in my own hometown an organization to be permitted to solicit contributions has to appear before a board and justify their right to do that, and in some cases organizations are turned down, I know, in my own particular city.

Some are given permission to solicit. Now, as I understand the present law, there is no limitation at all. Anyone could come in and register and solicit funds.

Mr. KNEIPP. Precisely, just so there is some charitable purpose in the broad sense of that term.

Mr. SISK. Then my question goes to your own opinion and probably the opinion of the Commissioners as to whether or not there should not be some responsibility to take a look at organizations which might be permitted to ring my doorbell and solicit funds from me.

Mr. KNEIPP. Sir, this was considered by the Congress, and I believe, as I recall, it discarded it. The New York law has teeth in it. The attorney general of the State of New York can do just exactly that. He can look at the purposes of an organization, if he determines—and there are standards, incidentally, as I recall it, in the New York law—if he determines that the organization does not measure up to the standards set forth in the law he can revoke its certificate of registration. The New York law has teeth in it.

I think that you can say that the District of Columbia Charitable Solicitations Act has no teeth. It is a sort of toothless wonder.

Mr. SISK. All right. Let me ask you, then, what would be your opinion as to writing a law something similar to New York, in which you did put teeth into it, in which you authorized a board or a commission or the Commissioners—and the Commissioners in the final analysis, I think, would have to be responsible—to review any organization who desired to solicit within the District? I think the citizens of the District are entitled to this type of protection, and I, of course, have been somewhat surprised to find that in the District of Columbia, and I happen to live in the District, own a home in the

District, and it seems to me that the housewife in the District and anyone else whose doorbell is rung from time to time and from which funds are solicited for innumerable causes should at least have the protection of knowing that this organization has been licensed based on its merits to license.

Now, does the gentleman agree or disagree with that, as a matter of philosophy?

Mr. KNEIPP. Sir, I do agree with you. The only difficulty is that the proponents of the present law would not agree with you. They seem to feel that all that was necessary was a disclosure type law. Under that law, they expected the public to run down to the District of Columbia, to the District Building, excuse me, every time anyone asks them for a charitable contribution, and examine the files that would be on record in the District of Columbia government. This was their theory.

That is the theory of our law, a disclosure type law, with no teeth in it from the standpoint of allowing some official in the District, applying standards set forth in the law, to deny a certificate of registration or to revoke one.

Now, as I say, New York has such a law. How much they do in the way of revoking certificates or denying certificates, I have no way of knowing. But I personally think that such a law would be of help.

Perhaps Mr. Nottingham might want to express some views, but I must admit that they are only our own personal views because the Commissioners have not taken any position on this and have not expressed any policy on this point.

Mr. SISK. I don't think I am getting very far here, but let me say that personally I don't know who the proponents of the present type of what seems to me to be a mere matter of registration, it isn't even a matter of judging the merits at all, as I understand it, of any organization—in other words, almost any organization could come in and merely by registering, why, then, they could start soliciting funds under existing law.

Mr. KNEIPP. Sir, I think Mr. Nottingham does apply some sort of standards in that connection.

Mr. SISK. All right, if Mr. Nottingham has any comment, Mr. Chairman.

I do not want to take a lot of time, but I am trying to get to the crux of what seems to me to be the problem we are confronted with which is whether or not we are going to judge organizations on their merits.

As I said in the beginning, I think it is a bit unfortunate that any organization is named in this bill and I probably will oppose and would propose to strike out the mention of this particular organization, because I think what we need is a law determining organizations on their merits, and certainly those that don't permit it would certainly, based on the comments I have heard here this morning. I wouldn't think this would be—maybe it does, I don't know.

Do you have any comments to make on that?

Mr. NOTTINGHAM. Yes; I do.

These, of course, would be my own feelings and not the Commissioners, but I was against this type of legislation when it was first enacted. I thought that it should follow the normal license procedures and that we should have the authority that is contained in 47-2345

of the code, that is the right to deny a license when it is in the interests of public decency, the peace and quiet of the community, general welfare or for any reason deemed sufficient.

The proponents of the bill, as Mr. Kneipp said, were very much against that kind of legislation, but to do this thing and to do it in a manner that is consistent with all of the business in the city, it is the only solution that I see.

Mr. Dowdy. If I understand the criteria laid down by Mr. Kneipp, if the Communist Party comes in and asks you for a license under this Charitable Solicitations Act, you would have to give it to them.

Mr. NOTTINGHAM. I would have to give it to them. They do come in, a member of the Communist Party, for a license, and I turned him down because he was a Communist.

Mr. Dowdy. As far as I know, all of the security risks that have deserted the United States and gone over to the Communists have been these homosexuals. Do you put them on a higher level to do things like that? The defectors are Communists, too, aren't they? They went to the Communists, anyway.

Mr. NOTTINGHAM. I don't have any classification of them that I would discuss at this time.

Mr. Dowdy. Since they defected to Russia, I would assume they were.

Mr. NOTTINGHAM. I have another descriptive term that I don't think would be polite to use.

Mr. WHITENER. Mr. Chairman, may I ask a question?

Mr. Dowdy. Yes.

Mr. WHITENER. As I understand it, Mr. Nottingham, you believe that the Congress ought to take a new look at this proposition and have an effective licensing procedure rather than have you down there just as a signer of papers?

Mr. NOTTINGHAM. That is right.

Mr. WHITENER. And that you would approve a law somewhat like Mr. Kneipp says they have in New York, and Mr. Sisk says they have in his city, like we have in North Carolina, that requires soliciting groups to get approval in my State from the State board of public welfare, whether it is a church or whatever.

Mr. NOTTINGHAM. We license and have defined by Congress the word "solicitor." We now require solicitors to be persons of good moral character. We require a police report on them individually. We require the posting of bonds.

But charitable solicitation is a new thing by this particular bill, and those examinations do not apply.

Mr. WHITENER. From your observation of these laws in other areas—

Mr. NOTTINGHAM. I don't believe—they are beefed up much more than ours, but I don't believe they have the teeth that our present license act has. I would like to see it under a license rather than a registration.

Mr. WHITENER. And you don't see any hardship on a bona fide charitable organization?

Mr. NOTTINGHAM. Not at all.

Mr. WHITENER. If we put some teeth in the law, do you?

Mr. NOTTINGHAM. Not at all; no, sir.

Mr. KNEIPP. Mr. Whitener, I wonder, though, if I might make a comment?

The Commissioners, I believe, would object to any requirement that every charity, before it is issued a certificate of registration, first be given a hearing, because here you are right back at the administrative burden on the District and on the charity and it is carried on over to the people of the District in the matter of cost.

Mr. WHITENER. If other jurisdictions can handle it—I don't know whether they require a hearing or not—it seems to me, Mr. Kneipp, that the District Commissioners ought to be sufficiently interested in the welfare of the citizens here to assume some responsibility, and I am not just talking about this organization but others that come up.

Mr. KNEIPP. What I am saying, sir, is this: that if there were standards set up to guide the Commissioners and their agents in this matter, the Commissioners could hold a hearing to determine whether a certificate of registration should be denied in particular cases.

Mr. WHITENER. You know as a lawyer, just as all the rest of us lawyers know, that even if you put a mouthful of teeth in the bill, that there must be, under the Constitution, some right of a hearing at some point for anybody who is denied the privilege which they seek. So I think we are playing around in the sand now. If the Commissioners are opposed to anybody ever having a hearing, then we might just as well forget about trying to straighten out the law.

But if we want to write a law here, which would prevent Mr. Nottingham as an official of Government to have to, in effect, give his stamp of approval to an organization that he thinks is not worthy of this right, you wouldn't want to leave it with him. He may be just as wrong as he can be in his decision, and so the party who has applied ought to have a hearing if they don't like what Mr. Nottingham's agency or organization says.

Mr. NOTTINGHAM. That system is presently in effect. All decisions—

Mr. WHITENER. There would be no additional hardship?

Mr. NOTTINGHAM. None.

Mr. WHITENER. I don't understand why we are quarreling about a hearing.

Mr. KNEIPP. Mr. Whitener, my statement goes to holding a hearing in every single application.

Mr. WHITENER. I don't think anybody even suggested that except you, Mr. Kneipp.

Mr. KNEIPP. This is the way the bill reads at the present time.

Mr. WHITENER. But we are talking now not about the bill. We are talking about a policy of meeting this problem. I am sure that Mr. Dowdy, knowing him as I do, is not wedded to the language of this bill. What he is trying to do is to bring about what he feels is a desirable result.

Mr. DOWDY. That is the first question I asked him, what suggestions did he have for different wording, and he has none.

Mr. WHITENER. Everything has been suggested.

I am not quarreling with anybody, but we seem to go ring-around-the-rosy about it.

What I am interested in is trying to avoid this fine man here and his colleagues down there being required under the law to give the stamp

of approval which they may feel sincerely is the worst thing that could happen to the community where they have a responsibility.

Mr. KNEIPP. This has been recognized—has been recognized for years, Mr. Whitener.

Mr. DOWDY. But you do not want to do anything about it.

Mr. WHITENER. Mr. Nottingham does.

Mr. DOWDY. Mr. Nottingham does.

Mr. WHITENER. We write the laws and if the Commissioners want to recommend a veto, that is up to them, if they don't want to do their duty.

Mr. SISK. Mr. Chairman, the Commissioners are not taking a position against this based on the fact that just the occasional hearing they are going to have is going to completely swamp the department, are they?

Mr. KNEIPP. No. Their position, Mr. Sisk, is that the bill as presently written would require a hearing in every application, and this would be upward of 163 hearings a year.

Mr. SISK. Of course I don't know of any act anywhere that requires such a thing as that. I am sure the New York law doesn't require any such thing as that.

Mr. KNEIPP. No. The New York law, as I recall it, allows the the attorney general, after investigation, and, I believe, hearing to revoke a certificate of registration issued to some organization if he finds that the organization's aims are not truly charitable in their nature.

Mr. SISK. Let me ask you, then—I am trying to pin down again what I was trying to pin down a while ago—do you know of any objection that the Commissioners would have to, let's say, something similar to the New York law or the New York law, per se, in which the merits of an organization might have an opportunity to be examined as to whether or not they should be permitted to continue to solicit?

Mr. KNEIPP. Subject to my checking with them, sir, I can see no reason why they would object, no.

Mr. SISK. As I say, it seems to me that there is an objective here that I think we all seek, common objectives, and I would hope the Commissioners would seek the same one. This is, frankly, the protection of the population and the people of the District of Columbia against solicitation by groups that, let's say, are not worthy and do not merit that right.

I am sure, as the gentleman from North Carolina has indicated, that no one has any particular pride of authorship in the present bill, but, as the chairman has asked, if you have any recommendations, certainly it seems to me that based on what you people have said this morning, that there is a need for some change in the law, and I am only trying to bring out to what extent there might be objections to possible changes.

Mr. KNEIPP. I know of none except—

Mr. WHITENER. Mr. Chairman, may I ask this—why wouldn't it be a good idea, now that I think Mr. Kneipp knows what the thinking of the committee is, that he go back down to his office and prepare a suggested bill that would accomplish the purposes? I don't think we have any problem about understanding what we are trying to do, do we?

You understand?

Mr. KNEIPP. I take it, sir, that you mean a proposed amendment of the Charitable Solicitations Act, along the lines of the New York law, to allow some official of the District—

Mr. WHITENER. As far as I am concerned, just speaking for me, if you want to repeal the present law and start over from scratch, anything to accomplish this salutary purposes which we have tried to outline here. I think Mr. Nottingham—

Mr. NOTTINGHAM. The present law does have other loopholes in it, the exemption of \$1,500 in sums raised, which has caused a great number of beggars in the city to now come in and try to hide behind this charitable solicitations thing.

Mr. WHITENER. I think this is something that Mr. Nottingham could very well counsel the draftsmen about. I can't speak for the chairman of the subcommittee, but I assume that he would be agreeable to that sort of operation, would he not?

Mr. DOWDY. I think that—

Mr. WHITENER. If it is done with all deliberate speed.

Mr. DOWDY. If it is done with all deliberate speed; yes. I don't think that we should carry into this law the apologies you have made for the homosexual organization. I don't want anything, as far as I am concerned, that would exempt them so that they would be entitled to solicit funds for the promotion of their perversion. Of course, the thing that brought this matter to my attention, was Mr. Nottingham's statement that the District law was such that he just had to, when they asked for it, he just had to give them their license.

Mr. KNEIPP. He is correct.

Mr. DOWDY. There is nothing in this bill that would revoke any charter they may have that the District of Columbia may have given to them.

We are just talking about charitable solicitations right now.

As I understand it, this organization has claimed that contributions made to it would be exempt from income taxes. I think that is false. I don't know whether I have it here before me or not, but I think that is a false claim on their part. Having a right, having the authority to solicitations which are deductible from income tax might be one of the criteria that you adopt.

Mr. KNEIPP. In other words, an organization has a ruling, let's say, from the Internal Revenue Service under section 503, I believe it is, of the Internal Revenue Code—that would be one standard that could be applied.

Mr. DOWDY. That could be applied and be a requirement?

And, of course, there are false claims—I think it is false—that contributions made to them are deductible. It would show fraud on their part.

Mr. KNEIPP. Mr. Chairman, is it the will of the committee that the Corporation Counsel's Office prepare a proposed amendment of the District of Columbia Charitable Solicitations Act to put some teeth into it, as Mr. Whitener has asked?

Mr. WHITENER. Or a new law completely.

Mr. DOWDY. A new law completely would be all right.

Mr. WHITENER. Whatever you think is best.

Mr. DOWDY. It does not have to be based on any particular State law. I just want to get the job done here, and don't have a grandfather clause in it that will exempt organizations like this so they can come back and get—how long are those licenses good for?

Mr. NOTTINGHAM. One year.

Mr. KNEIPP. Not more than 1 year.

Mr. NOTTINGHAM. Not more than 1 year.

Mr. DOWDY. Then this license that was granted that we are talking about here is about to expire, is it not? You have not reissued it, have you?

Mr. WHITENER. He can't avoid reissuing it, he says.

Mr. DOWDY. I just wondered how much time.

Mr. NOTTINGHAM. Yes, this goes to next July 1964. It was just issued last month.

Mr. DOWDY. It was reissued with the knowledge that the bill was pending here on the matter?

Mr. NOTTINGHAM. I believe so; yes, sir.

Mr. DOWDY. I think something should go in the bill to remedy that situation.

Mr. NOTTINGHAM. If the new bill had revocation authority for cause, I think it could possibly apply to those licenses.

Mr. DOWDY. As a practical matter I don't quite follow the reasoning that you have that Congress has no authority to revoke a license to solicit charitable contributions. It is not revoking their charter. It is not revoking a right. It is revoking a privilege unintentionally granted in a former Act of Congress.

Mr. KNEIPP. This comes squarely, I think, within the holding in the *Lovett* case in which the Supreme Court said—

Mr. DOWDY. Was that a charitable solicitation?

Mr. KNEIPP. No, sir; it was not. The Congress in the *Lovett* case in an appropriation act, as I recall it, said that "Congress provided in section 304 of the Urgent Deficiency Appropriations Act of 1943, by way of an amendment attached to the House bill, that after November 15, 1943, no salary or compensation shall be paid" to certain named individuals "out of any moneys then or thereafter appropriated unless they were prior to November 15, 1943" again appointed to jobs by the President. The agencies kept the respondents working but the compensation was discontinued in accordance with the requirement of the law.

That came about before the Supreme Court in the *Lovett* case and the Court, after remarking on what it said in the *Cummings* case, *Cummings v. Missouri*, about a bill of attainder, said at page 315, referring to the *Cummings* case and the *ex parte Garland* case: "Neither of these cases has ever been overruled"—nor as the *Lovett* case, I might mention.

Mr. DOWDY. You can make whatever part of that opinion you want a part of the record. We have the president of the Mattachine Society here who wanted to testify.

You are not going to have long now, Kameny, if you will come around we will hear what you have to say.

STATEMENT OF FRANKLIN E. KAMENY, PRESIDENT, MATTACHINE
SOCIETY OF WASHINGTON

Mr. KAMENY. Mr. Chairman, members of the committee, I appear here today as president of the Mattachine Society of Washington. On behalf of that society, I thank the committee for this opportunity to testify in opposition to H.R. 5990.

My remarks divide themselves into three parts.

PART I

Since this bill is admittedly directed against the Mattachine Society of Washington, I feel that it should be made clear to the committee just what the Mattachine Society of Washington is and what it is not.

The Mattachine Society of Washington is a civil liberties organization. Homosexuals constitute a minority group no different, as such, from other minority groups in this city and this country. We are working to achieve for the homosexual minority full equality with their fellow citizens. We are a reputable, responsible group, working seriously in an area where much work is needed and where very little is being done.

Mr. DOWDY. Let me interrupt you.

You have been a governmental employee, have you?

Mr. KAMENY. I have been, at one time.

Mr. DOWDY. And in what branch of the Government did you work?

Mr. KAMENY. Under an agency of the Department of Defense.

Mr. DOWDY. And you were discharged as a security risk?

Mr. KAMENY. No; I was not discharged as a security risk, Mr. Chairman.

Mr. DOWDY. What was the reason for your discharge?

Mr. KAMENY. Fundamentally, the reason for the discharge was alleged unproven and undemonstrated immoral conduct.

Mr. DOWDY. It was not proven, but you admitted it?

Mr. KAMENY. I did not admit it.

Mr. DOWDY. You do now?

Mr. KAMENY. I do not.

Mr. DOWDY. Very well. Proceed.

Mr. KAMENY. We are not a social organization. Our constitution states in article II, section 2:

It is not a purpose of this organization to act as a social group, or as an agency for personal introductions.

We abide strictly by this prohibition.

We are not interested in recruiting heterosexuals into the ranks of the homosexual—an impossibility anyway, despite popular belief to the contrary.

Our primary effort, thus far, has been an attempt, by lawful means, to alter present discriminatory policy against the homosexual minority—a minority perhaps almost as large as the Negro minority.

We are also interested in altering the criminal law in regard to private, consenting homosexual acts by adults. We are not interested in promoting violations of that law as it stands, but in altering it, and in assisting the members of the homosexual community, individually and collectively, in every way possible.

Finally, we are interested in informing and educating the public in regard to homosexuality, in order that present prejudice may be dispelled.

In short, to quote our society's constitution, article II, section 1, clause (c), we are striving—

To secure for the homosexual the right, as a human being, to develop and achieve his full potential and dignity; and the right, as a citizen, to make his maximum contribution to the society in which he lives.

Surely this is not an objectionable goal for any group of citizens in a country which claims that it has no second-class citizens, but in which, in point of fact, the homosexual, even in the eyes of his Government, has not yet achieved even the height of second-class citizenship.

The society operates in an orderly and fully lawful fashion.

We extend a cordial invitation to members of this committee to attend any monthly meeting, if he wishes.

Its activities are reported in a monthly publication—the Gazette of the Mattachine Society of Washington—which is not the one that the chairman has on his desk, I believe, available to anyone who wishes to see it.

This society, while completely independent and unaffiliated with any other organization of similar or different name, operates in friendly cooperation with about a dozen similar groups over the Nation.

Like all nonprofit, civil liberties groups, we depend largely upon donations and contributions for the support of our operations. Thus, we applied for and received the necessary certificate of registration under the Charitable Solicitations Act. Under this license, we have raised funds by means of a public lecture, entitled, "The Homosexual—Minority Rights, Civil Rights, Human Rights," by the distinguished author, Donald Webster Cory; by an advertisement in our own newsletter, requesting donations; and by personal discussion of members with friends and acquaintances about the work of the society.

PART II

H.R. 5990 was introduced in order to remedy a situation which Representative Dowdy found improper for reasons stated in the Congressional Record of July 8, 1963, pages A4211 and A4212.

We respectfully submit that Mr. Dowdy has been misinformed about the nature of this society. We feel that the record should be corrected.

First, Mr. Dowdy states that the Mattachine Society of Washington is a society of homosexuals. This is not true. Our constitution states in article III, section 2, that "No person shall be denied a membership because of sex, race, national origin, religious or political beliefs, or sexual orientation or preference." In practice, we cross all of those lines, and specifically include heterosexuals not only in our membership but among our officers as well.

Second, Mr. Dowdy refers to our activities as illegal. The activities of this society, as stated earlier, are not illegal. The statement of purpose in our constitution is prefaced by "It is the purpose of this organization to act by any lawful means. * * *" It is never unlawful in this country for a group of citizens to band together in order to change laws, policies, and public attitudes with which they disagree, provided that their methods of effecting the changes are in themselves

lawful. We propose lawful, orderly change of existing law and policy and attitude.

Third, Mr. Dowdy states that our activities are revolting to normal society. What is revolting, is a matter of personal reaction. Certain foods are revolting to most people, but enjoyed by some. Those foods are freely available. Those who like them partake; those who dislike them do not. The parallel is plain.

Mr. Dowdy. Let me ask a question. Isn't it true that your society is devoted to convincing the public that homosexuality or homosexual activity is normal, moral, and worthy of equal status with heterosexual marriage when two homosexuals form an indefinite time alliance for homosexual purposes?

Mr. KAMENY. The question of what you term a homosexual marriage is not one upon which we have a specific policy. It is our feeling that if two individuals wish to enter into such a relationship it is certainly their right to do so as they choose; yes, sir.

Mr. Dowdy. And you want that in spite of everything that is in the laws of the various States and the Bible, both the Old and New Testaments? You oppose all of that?

Mr. KAMENY. We will refer to those matters in a moment. We do—

Mr. Dowdy. We are going to have to adjourn. That is the second bell.

We will recess until 10 o'clock tomorrow.

(Whereupon, at 1:20 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, August 9, 1963.)

AMENDING DISTRICT OF COLUMBIA CHARITABLE SOLICITATION ACT

FRIDAY, AUGUST 9, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 4 OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 445-A, Cannon Office Building, Hon. John Dowdy (chairman of the subcommittee) presiding.

Present: Representatives Dowdy, Broyhill, Huddleston, Whitener, Sisk, Horton, and Roudebush.

Also present: James T. Clark, clerk; Clayton Gasque, staff director; Donald Tubridy, minority clerk; and Leonard O. Hilder, investigator.

Mr. Dowdy. I believe Mr. Kameny was testifying when we finished yesterday.

You may have a seat. I am sorry we had to interrupt you yesterday. Before you start, I have a question or two I would like to ask.

As I gather from your testimony, you say that you are organized under what you consider civil rights wherein you claim you are discriminated against because of race, creed, religion, or something of the sort.

STATEMENT OF FRANKLIN E. KAMENY, PRESIDENT, MATTACHINE SOCIETY OF WASHINGTON

Mr. KAMENY. Something of the sort, yes.

Mr. Dowdy. All right. Now do you consider yourselves to be a separate race from ordinary people?

Mr. KAMENY. I wouldn't use the term "race," no. I would feel that we are a group like—well, let me say, the basic criteria for a minority group in the sense that we usually use the term in these connotations is as a group of people who have one thing in common and otherwise are completely heterogeneous, and on account of this one thing, they are all discriminated against or placed under disability.

Mr. Dowdy. The Constitution says race, creed, color, or previous condition of servitude, I believe, so you don't consider yourselves a separate race?

Mr. KAMENY. No, we do not.

Mr. Dowdy. So it must be a religion that you are practicing.

Mr. KAMENY. No.

Mr. Dowdy. A perversion in pornography, and so on.

Mr. KAMENY. We have nothing to do with pornography or obscenity.

Mr. DOWDY. I have looked at some of your books. Actually, I consider them pornography.

Mr. KAMENY. Well, the Postmaster General allows them to go through the mail. Similar publications have been tested in the Supreme Court and found not to be pornographic. I would like at this point to say those publications are not put out by our group, and would like the committee's permission to place into the record a copy of our own society's Gazette, which also has on its first page a statement of our work to date.

Mr. DOWDY. Hand that to the committee and we will see what it is.

Mr. KAMENY. I have copies for all members of the committee, if you wish.

Mr. DOWDY. Are you a part of this national Mattachine Society?

Mr. KAMENY. The national Mattachine Society, as a group, no longer exists as such. There are a number of totally independent groups in various parts of the country, and, as I stated yesterday in my remarks, we are completely independent and unaffiliated with any other—independent of and unaffiliated with any other group, although we work in friendly informal cooperation with all of them.

Mr. DOWDY. Let me ask you this. Didn't the Philadelphia branch, and the New York branch, come down here to help you organize this last time?

Mr. KAMENY. Members of—two members of the New York group came down for our—we didn't exist as a group then. They came down to give us informal assistance in getting ourselves going. We are nevertheless totally independent of them, although we are in close communication with them.

Mr. DOWDY. Is this Mattachine Society which is active now, is it the same society, Mattachine Society, that was active in Washington in 1958?

Mr. KAMENY. No; it is not.

Mr. DOWDY. Why did you dissolve the first group?

Mr. KAMENY. I was not a part of that group.

Mr. DOWDY. Do you know why it was dissolved?

Mr. KAMENY. I don't think it was dissolved in the sense that anybody took action to dissolve it. As far as I know, it simply became inactive.

To the best of my knowledge, not one of our members was a member of that group.

Mr. DOWDY. You say you are separate from the Mattachine Society of California, which is the national group. Do you have a charter from that society to use its name?

Mr. KAMENY. No; we do not.

Mr. DOWDY. Then what is your legal authority to use a copyrighted and registered organizational name?

Mr. KAMENY. Their name is not copyrighted or registered.

Mr. DOWDY. They didn't register it out in California?

Mr. KAMENY. No. The name of their publication is trademarked but only of the publication.

Mr. DOWDY. I read in some of this material that I have that there was a notice of dissolution of the chapters in 1961.

Mr. KAMENY. In March, that is right.

Mr. Dowdy. And prior to that time, was your chapter a member of the—

Mr. KAMENY. Our chapter was formed in November of 1961.

Mr. Dowdy. When they dissolved that, when they dissolved all the chapters, they withheld the use of their name from any of the local chapters, didn't they, unless they had a charter?

Mr. KAMENY. They made no formal provisions for such a withholding. The New York group still is the Mattachine Society of New York, for example.

Mr. Dowdy. Are you an educational institution as well?

Mr. KAMENY. In an informal sense, in part, yes; although our major activities are devoted more to what we would consider social action.

Mr. Dowdy. You do have some educational—now this social action, that is something that is interesting. Where do you have your socials?

Mr. KAMENY. You are misinterpreting the word "social." By social, I refer to society at large. Our constitution states explicitly that this is not a group devoted to the furthering—not quoting precisely—to furthering of social purposes or as a bureau for making acquaintances. We have had no social activities so far, and we do not intend to. Our meetings are conducted strictly on a business basis and they will continue to be.

Mr. Dowdy. I have here one of the Mattachine Reviews, which is published, I take it, by your national society.

Mr. KAMENY. I emphasize they are not part of us nor we of them.

Mr. Dowdy. You sort of follow along. I believe you say you are closely related with them, however.

Mr. KAMENY. In an informal sense, yes. We write to them, they write to us. We certainly know what they are doing and they know what we are doing.

Mr. Dowdy. Do you use the same educational materials that they use?

Mr. KAMENY. No; we do not.

Mr. Dowdy. Is it the same intent?

Mr. KAMENY. The intent to help dispel prejudice against the homosexual, certainly.

Mr. Dowdy. I notice here in one of the books, the Mattachine Review of April 1960, in one of their educational articles, they use these words in instructing perverts in the transaction of the lives—it says here, and I read the sentence under an article entitled "Never Pay Blackmail"; it says: "it is necessary to exercise caution at all times when soliciting strangers, to avoid tragic consequences." Do you teach your members that, also?

Mr. KAMENY. We have not particularly discussed the question of solicitation with our members.

Mr. Dowdy. Here is another one of the educational statements in this article. It says: "If a choice is necessary between paying him"—that is, blackmail—it says, "never pay the blackmailer. Between paying him and killing him, then killing him is the wiser alternative." Do you teach that, also?

Mr. KAMENY. We tell our members to go to the police department where any matter of blackmailing will be properly handled.

Mr. Dowdy. How many of you go to the police department?

Mr. KAMENY. I have yet to meet the homosexual who has actually been subject to blackmail, so I can't give you a factual answer to that.

Mr. DOWDY. You never have been subjected to blackmail?

Mr. KAMENY. No, I have not and I believe the whole threat of blackmail to homosexuals, in terms of the extent of its actual existence, is much overrated in the minds of the average citizens.

Mr. DOWDY. Do you recall it has only been a few years ago, one of these embassies here had several of their people sent back to—one of the Communist embassies, anyway—some of their people had gone to some of the homosexual schools in Communist countries—were over here having sexual orgies in one of these embassies and taking pictures of the people that were taking part in them and using them for blackmail? You are familiar with that, aren't you?

Mr. KAMENY. I have heard incidents of that sort. I am not familiar with the specific one you are mentioning.

Mr. DOWDY. I want to say that yesterday, when the Corporation Counsel's Office was here testifying, that the District Government didn't want to do anything about this situation, actually I was so shocked as to be left almost speechless that they would take such a position as that. In my part of the country, I don't think we run into any of these perverts.

A person might call another man an animal or a scoundrel or even a skunk, and not expect to receive anything more than a black eye, but if you called him a "queer" or a "fairy," a black eye is the least you could expect out of it.

Mr. KAMENY. This is precisely the kind of public prejudice that we are trying to dispel.

Mr. DOWDY. So that is the reason—it was so shocking to me that any branch of our Government would condone this idea of giving you a permit to go into the apartment houses and the homes of this town to solicit funds.

Mr. KAMENY. If I may say—

Mr. DOWDY. I know I was told before we got into this thing that homosexuality is a rather touchy subject here in the Federal Government, and it would be difficult to get any support for doing anything about it on account of everybody is afraid of it.

I don't know whether all the homosexuals in the country have come to Washington, or what is the reason they are afraid of it.

Mr. KAMENY. No. There is no reason to think the percentage of Texans who are homosexuals is no larger or smaller than any other group elsewhere in the country.

Mr. DOWDY. I haven't heard any of them bragging about it if they are.

Mr. KAMENY. This is a matter on which one doesn't brag but one doesn't have to be ashamed of something for which there is no reason to be ashamed.

Mr. DOWDY. I believe so we can connect up with yesterday's testimony, I believe you testified that you are the president of the Mattachine—is that the way you pronounce it?

Mr. KAMENY. Mattachine Society of Washington.

Mr. DOWDY. How long have you been president of this local chapter?

Mr. KAMENY. I have been president of this group—it is not a local chapter of anything, it is an independent thing—I have been president of this group since its formation on November 15, 1961.

Mr. DOWDY. You stated on page 1 of your statement that you are not a social group, and you quote your constitution, which says, "It is not a purpose of this organization to act as a social group, or as an agency for personal introductions."

Aren't your meetings, in fact, introductions which lead to certain groups—

Mr. KAMENY. No; they are no more so than a church meeting on a Sunday morning may well lead to people meeting and ultimately cementing an acquaintanceship.

Mr. DOWDY. You do relate your perversion to a religion?

Mr. KAMENY. No; I do not. I am simply making an analogy where any place where more than one person assembles may lead to acquaintanceship. They are conducted with formal procedure. They are not social affairs. There is no impropriety nor would it ever be tolerated.

Mr. DOWDY. The very fact that your group exists gives homosexuals from other sections of the country a chance to meet the homosexuals in Washington; doesn't it?

Mr. KAMENY. Not through our group. There are ample opportunities elsewhere.

Mr. DOWDY. There is one thing I would be interested in, since the Commissioners have been said to favor your having their implied approval, at least. I would be interested to have a statement from each one of the Commissioners themselves to see if they actually mean that they favor giving the dignity of the District government to your group.

How do visitors who come here to Washington contact your chapter?

Mr. KAMENY. I don't believe we have had contacts from visitors coming to Washington except in a few instances where people have been moving down to Washington, they have contacted, say, the New York group and have been told how to get in touch with us.

Mr. DOWDY. How large a chapter do you have?

Mr. KAMENY. It is smaller than we would like it to be, growing rapidly. We have approximately 30 to 40 people.

Mr. HORTON. I couldn't hear that. What was it?

Mr. KAMENY. Thirty to forty people.

Mr. HORTON. What?

Mr. KAMENY. Thirty to forty.

Mr. DOWDY. It is smaller than you would like it to be?

Mr. KAMENY. Yes.

Mr. DOWDY. And, of course, it is your purpose then that you would like to be larger, to promote your perversion so that you have more people in your—

Mr. KAMENY. There are quite enough homosexuals in existence. We are interested in people attracted to our group. As I stated specifically in my statement yesterday, we are not interested in recruiting heterosexuals into homosexuality and in point of fact, this is not possible despite popular opinion to the contrary.

Mr. DOWDY. What about this statement, then, in your textbook—

Mr. KAMENY. That is not our publication.

Mr. Dowdy. In which it is mentioned, soliciting strangers to homosexual acts. You do do soliciting, don't you?

Mr. Kameny. I do not.

Mr. Dowdy. Well, others of your group do.

Mr. Kameny. Those are matters of their own private lives, if they do, and have nothing to do with our group.

I might point out that there is little difference between the word "soliciting" as you are using it there, and the meeting of a man with an attractive woman at a cocktail party, which may well lead to sexual acts.

Mr. Dowdy. You correlate those matters?

Mr. Kameny. I certainly do.

Mr. Dowdy. Then you say in your statement that you are not interested in recruiting heterosexuals into the ranks of the homosexual.

Mr. Kameny. It is not possible to do it.

Mr. Dowdy. You say it is not possible. Would you explain that statement in the light of this soliciting business, saying it is impossible?

Mr. Kameny. You are confusing two separate phenomena. There is quite a difference between attempting to introduce someone who has heterosexual inclinations into participating in homosexual acts on the one hand, and interesting—an attempt by a homosexual to interest another homosexual into participating in homosexual acts with him.

Mr. Dowdy. As I understand it, what you are saying is, every member of your society is a homosexual and you can't expect anybody else.

Mr. Kameny. No, certainly not. We have heterosexuals, not only among our members, but among our officers.

Mr. Dowdy. Can you name one of them?

Mr. Kameny. I am sorry. I am strictly prohibited by the constitution of my society from disclosing any identities.

Mr. Horton. Mr. Chairman, will you yield at that point?

Mr. Dowdy. Yes.

Mr. Horton. Is this a secret organization?

Mr. Kameny. May I ask for a precise definition of the term "secret" before I answer that?

Mr. Horton. I want you to define what you consider—

Mr. Kameny. I don't use the term "secret." I will answer your question if you can tell me what the question means.

Mr. Horton. Is this a secret organization?

Mr. Kameny. I need to know what the word "secret" means in this sense.

Mr. Horton. Do you refuse to answer the question?

Mr. Kameny. I don't understand the question.

Mr. Horton. Is it a secret organization?

Mr. Kameny. I don't know what the word "secret" means.

Mr. Horton. Are the members known?

Mr. Kameny. You mean outside of the membership?

Mr. Horton. I say, are the members known?

Mr. Kameny. You mean outside of the organization?

Mr. Horton. Yes.

Mr. Kameny. No; they are not.

Mr. Huddleston. Is your constitution and bylaws available outside the organization?

Mr. Kameny. Yes; of course. They are on file with the District of Columbia. I will be glad to send you a copy, if you wish.

Mr. HUDDLESTON. Do you have a copy with you? I would like permission, Mr. Chairman, to have that inserted in the record.

Mr. DOWDY. We would like to have a copy of it, certainly.

Do you have a provision in your constitution similar to the Mattachine Society, Inc., and this is the pledge: "I pledge myself to uphold the constitution, bylaws, aims, principles, and policies of the Mattachine Society, Inc., and unconditionally to respect the anonymity of the members of the society"?

Mr. KAMENY. We don't have any sort of pledge in those terms. We do expect people to respect the security of the society, yes. I have here a copy of the constitution and the bylaws.

Mr. HORTON. Mr. Chairman, one other question on that matter of secrecies. How frequently does your organization meet?

Mr. KAMENY. Our constitution prescribes one meeting a month.

Mr. HORTON. How frequently do you meet?

Mr. KAMENY. One meeting a month.

Mr. HORTON. Are these meetings open to the public?

Mr. KAMENY. No; they are open to members and invited guests. I extended yesterday a cordial invitation to you and any members of this committee to attend, if they wish.

Mr. HORTON. They are closed meetings?

Mr. KAMENY. Yes; they are. As long as present public policy and Government policy remains as it is, we have no choice. When the day comes when we can have open meetings, we will have won half our battle.

Mr. DOWDY. Do you remember how far you got in your statement yesterday?

Mr. KAMENY. Yes; I do.

Mr. HUDDLESTON. I would like to ask a question.

Mr. DOWDY. Just a second. I want to find out how far he had gotten.

Mr. KAMENY. I had reached approximately the bottom of page 3, the top of page 4. I am going to start on the last paragraph of page 3, if I may.

Mr. DOWDY. We are not ready. I just wanted to check where you were in your prepared statement.

Mr. KAMENY. Yes.

Mr. DOWDY. Mr. Huddleston.

Mr. HUDDLESTON. Mr. Kameny, I would like to know where you hold your meetings?

Mr. KAMENY. We hold our meetings in the apartments of members.

Mr. HUDDLESTON. Various residences?

Mr. KAMENY. Various residences; that is right.

Mr. DOWDY. What kind of notice do you give for a meeting?

Mr. KAMENY. A mimeographed notice is sent out to each member and those who have indicated an interest in attending and whom we have invited.

Mr. DOWDY. How many such notices?

Mr. KAMENY. Approximately 1 week before the meeting, not less than 1 week before the meeting.

Mr. DOWDY. How many such notices do you send out?

Mr. KAMENY. I would have to consult my secretary or our secretary to give a specific answer. My guess would be about 50.

Mr. DOWDY. And how many homosexuals did you say were here in Washington?

Mr. KAMENY. In the Greater Washington metropolitan area, we estimate a quarter of a million.

Mr. DOWDY. A quarter of a million, and what is the population of the area?

Mr. KAMENY. 2,500,000.

Mr. DOWDY. And you have contact with a quarter of a million?

Mr. KAMENY. We have never claimed that.

Mr. DOWDY. How many of them would you say work for the Government?

Mr. KAMENY. In this area?

Mr. DOWDY. In this area.

Mr. KAMENY. I don't know what the enrollment of the Government in this area is. The total Government employment roll is about the same, 2½ million, and we estimate there are about 200,000 to a quarter of a million homosexuals in the Government.

Mr. HORTON. Mr. Chairman, have we ever had a definition from this witness of what a homosexual is?

Mr. DOWDY. I don't believe so. You might define homosexuals for us.

Mr. KAMENY. Certainly. We find that, with rare exceptions, all people have a strong sexual drive. For whatever the reasons are, this drive tends to be polarized.

In other words, one is attracted either toward men or toward women by and large. I am oversimplifying somewhat. Those people who are attracted toward members of their own sex are homosexuals.

Mr. HORTON. Do you have a definition in your constitution or your bylaws what a homosexual is?

Mr. KAMENY. No; we do not, because the membership is not restricted to homosexuals.

Mr. HORTON. When you say, attracted to the same sex, what do you mean?

Mr. KAMENY. Let me put it in terms of almost vernacular. If you were walking down the street, a crowded street, you would be interested in—you would look at or be interested in looking at either an attractive young lady who passed by or an attractive man who passed by. The chances are if you are a normal male, unless you were deep in thought, you would not be totally uninterested.

The chances are small that you would find yourself interested in both. This would define what you are.

Mr. HORTON. Is that a definition of homosexual?

Mr. KAMENY. Someone who—

Mr. HORTON. The attraction?

Mr. KAMENY. The attraction, just as a heterosexual is one who is attracted to those of the opposite sex. One may or may not allow this to lead to sexual acts later on. This is incidental to the definition of homosexual.

Mr. HORTON. And this is your definition of a homosexual?

Mr. KAMENY. Yes; it is.

Mr. HORTON. You don't go into any act or anything like this?

Mr. KAMENY. This is not relevant.

Mr. HORTON. It is not relevant?

Mr. KAMENY. No; just as the heterosexual can abstain from sex completely and be no less a heterosexual for doing so. The woman who is a virgin and wants badly to get married is just as heterosexual as a woman who is promiscuous, and the analogy follows in homosexuality.

Mr. HORTON. So there is no act in connection with your—

Mr. KAMENY. With my definition; no.

Mr. HORTON. Now, how about your organization?

Mr. KAMENY. How do you mean?

Mr. HORTON. I mean, what is your organization's definition?

Mr. KAMENY. Our organization has not set up a formal definition. We are open to anyone who supports our purposes.

Mr. HORTON. Do you make statements at your meetings as to what the definition of a homosexual is?

Mr. KAMENY. One occasionally gets into general discussions of problems of homosexuality. The question comes up. The society has never taken a formal official stand on precisely what the definition of a homosexual is. I do not think that most of them would disagree in substance with what I stated to you, although the wording might be somewhat different.

Mr. HORTON. But there is no act in connection with your definition of homosexual?

Mr. KAMENY. Not of necessity; no.

Mr. HUDDLESTON. I can't understand the organization not having a definition particularly in view of the purposes of the organization as outlined in your constitution and bylaws.

How do you know whether you are fulfilling the purposes of the organization if you don't have any fixed definition as to what you mean by homosexual?

Mr. KAMENY. We have thus far found no clear need. For example, if the Government states that they will not hire homosexuals, we feel this is quite sufficient for us to take as a basis for whatever action we see fit. If an employer states he will not hire an employee because he thinks he is homosexual, this is an example to us of discrimination against homosexuals, and we do not satisfy the need of defining the term.

Mr. HUDDLESTON. You haven't defined the term at all.

Mr. KAMENY. You have a very good point and we may very well adopt a formal definition. We have not done so, so far.

Mr. DOWDY. On page 2 of your statement, you say:

Finally, we are interested in informing and educating the public in regard to homosexuality.

What form of education do you have in mind? Do you want to paint a rosy picture that homosexuality is normal and everybody should try it, or that the homosexual is the pillar of the community or that you hope that your education program will get in the newspapers and on radio, and it will create curiosity and thereby create new members?

Mr. KAMENY. No. What we would like to educate the public to is basically that the homosexuals are not the horrible monsters that they are painted to be and that they are in the minds of so many people, that by and large, they are very ordinary, reputable, respectable citizens who deserve the same rights as stated, in fact, explicitly in our

statement of purpose, and as I stated the other day, "who have the right as human beings to develop and achieve their full potential and dignity and the right as citizens to make their maximum contribution to the society in which they live."

Our society does not allow them to do this and we are trying to dispel the public's irrational prejudice so they can do this.

Mr. Dowdy. To secure the right to develop and achieve his full potential, do you mean by that to achieve his full potential, to broaden the scope of his homosexual activities?

Mr. KAMENY. No, his full potential as a citizen so that he can get a job in those areas in which he is most capable and qualified to get a job and so that he can function fully as a citizen.

Mr. Dowdy. What is the name of this paper or publication that was handed in here a minute ago? The Gazette?

Mr. KAMENY. Yes.

Mr. Dowdy. That is a monthly publication, you say?

Mr. KAMENY. It is intended to be a monthly publication, yes.

Mr. Dowdy. It is sent through the mail?

Mr. KAMENY. Yes; it is.

Mr. Dowdy. How large a circulation does it have?

Mr. KAMENY. At present, approximately 250. In regard to what we are trying to do educationally, I would like permission to place into the record an 8-page statement which we presented in February to the Subcommittee on Employment of the District of Columbia Advisory Committee of the U.S. Civil Rights Commission.

The statement is entitled "Discrimination against the Employment of Homosexuals." This is a severe social problem. We feel that in attempting to do something about it, we are contributing to the welfare of the community.

Mr. SISK. Mr. Chairman, may I direct a couple questions to the witness?

Mr. Dowdy. Yes.

Mr. SISK. As I understand it, I am making this statement for your comment, then I have one question in connection with it. As I understand it, you take the position, as I understand your statement, that it is impossible for a heterosexual person to actually become a homosexual, as I understand your definition, therefore, that a homosexual is a quirk of birth, basically. Is that generally your—

Mr. KAMENY. Not quite right. Let me make one reservation before I answer your question directly, and that is that much as was brought out by Mr. Huddleston a minute ago, the society has not made a formal definition of this. To a considerable extent here, although by no means entirely impressing my own opinions.

Now, in answer to your question, I feel, and I think probably studies made of this sort of thing by Kinsey and others will show that one's sexual orientation, heterosexual or homosexual, is determined in the earliest days of one's life and is probably set certainly by the time one is, oh, say, 3 years old.

Whether or not you are born with it is hard to say. I personally feel you are not and that on this question, you are probably more or less of a blank page at the time you are born, but that shortly thereafter, by circumstances which are still far from clearly defined, one's sexual orientation at that age, of course, largely latently is set.

Mr. SISK. I know medical science of course has made quite a study of this situation. This brings me then to the next question.

I think as late as last Sunday, I believe, in the local press there was an article indicating that certain psychiatrists and other medical people were attempting to cure homosexuals of this or change their sex drive or whatever you want to call it, and that they were using hypnosis, for example.

Mr. KAMENY. Yes; I saw that.

Mr. SISK. And that it had been successful to some extent, but that it required a desire on the part of the individual involved more or less in the same manner that, for example, Alcoholics Anonymous, as you know, as an organization practices the cure of alcoholics, and that can only be done through an honest and sincere desire on the part of the individual to, let's say, be cured of such a condition.

Now, this brings me, then, to the question indicating the direction of your organization and its reason for existence. Is your organization interested or it would it contribute or would it be interested in a medical or scientific approach to bring about a curing of this particular situation, or would you oppose such a thing.

Mr. KAMENY. We certainly would not oppose it. Let me answer your question at some moderate length.

First, as we have stated in one of the documents that I just turned in to the clerk, we feel, and I am reading, that "homosexuality is neither a sickness, a disease, a neurosis, a psychosis, a disorder, a defect, or other disturbance, but merely the matter of an inclination of a significantly large number of citizens."

For that reason, we don't use the word "cure." We prefer to use the word "change." Any citizen who wishes to be changed, we will be more than pleased to send him to proper—to refer him to proper professional assistants.

However, in terms of our basic purpose, we are no more interested in changing the homosexual-heterosexuality than B'nai B'rith Anti-Defamation League is interested in solving the problems of anti-semitism by conversion of ~~just two~~ ^{new} Christians.

We start off by saying here we have these people. They are citizens and human beings, and they are entitled to, although they presently do not have, all of their rights and we are trying to work for the achievement of those.

The NAACP does not try to see what can be done about bleaching the Negro.

Mr. SISK. That brings me to the last question, then, Mr. Chairman, that I would like to ask the witness.

In the language of the bill which has been before us, H.R. 5990, in the first section under "D," outlining what we would propose to do or what is proposed to be done under this legislation, reading from line 6 on page 1 through line 2 on page 2 of the bill, do you feel that your organization would qualify as a charitable organization or an organization that should be licensed to solicit contributions within the District under the definition set forth there?

Mr. KAMENY. Under the definition set forth there, I quote my statement as yet unmade, page 6, we feel that the Mattachine Society of Washington would certainly qualify under this section of the bill.

Mr. SISK. That is all, Mr. Chairman.

Mr. HORTON. Mr. Chairman, coming back for just a moment, with your consent, in your definition a moment ago of homosexual, you apparently eliminated the act?

Mr. KAMENY. Yes, as a necessary condition.

Mr. HORTON. Pardon?

Mr. KAMENY. As a necessary part of the definition, yes.

Mr. HORTON. Now, on page 2 of your statement, you state:

"We are also interested in altering the criminal law in regard to private, consenting homosexual acts by adults."

Mr. KAMENY. Yes.

Mr. HORTON. What do you mean by that?

Mr. KAMENY. Just exactly what it says. In answer to the first, in response to the first part of your statement of an instant ago, I said that acts are not a necessary part of the definition of homosexuality. On the other hand, just as the heterosexual who goes through life without performing any sexual acts whatsoever is very rare, similarly so is the homosexual.

Mr. HORTON. You do condone the homosexual act, do you not?

Mr. KAMENY. We feel that it should not be made criminal.

Mr. HORTON. You do condone the homosexual act, do you not?

Mr. KAMENY. My statement stands. We feel that it should not be a matter of criminal law.

Mr. HORTON. But you do condone and your society certainly condones the homosexual act, does it not?

Mr. KAMENY. Our society takes the position that an adult acting in private with the consent of all involved ought to have the right to perform homosexual acts.

Mr. HORTON. Now, your educational aspect or the educational aspects of your organization's attempt to educate the public or educate the people in your organization that this homosexual act should not be contrarary to the criminal law; is that correct?

Mr. KAMENY. Among other things, yes.

Mr. HORTON. So you are trying to bring about a change in the law, are you not?

Mr. KAMENY. Among other things, certainly.

Mr. HORTON. How do you do this with regard to the public?

Mr. KAMENY. By attempting by whatever means of publicity are available to us.

Mr. HORTON. What means of publicity are available to you?

Mr. KAMENY. Unfortunately, not all that we would like, so far.

Mr. HORTON. What means are available to you?

Mr. KAMENY. For example, there have been several radio programs, none put on by us as yet, I emphasize that we are still a fairly new organization, to attempt to present a truer picture of homosexuality and of the homosexual than the public has in an attempt to alleviate prejudice.

Mr. HORTON. Have you put these programs on the air?

Mr. KAMENY. Our society has not. Other groups have, over the country; yes.

Mr. HORTON. Have you attempted to do it locally?

Mr. KAMENY. Not yet.

Mr. HORTON. What other means of communication do you have? Apparently, you have not used this means of communication.

Mr. KAMENY. We have not had as yet an extensive public relations program; no. Again, I emphasize we are fairly new organization. For example, and this is mentioned in my statement, in June, we sponsored a lecture by a well-known author. The lecture was entitled—this was a public lecture.

Mr. HORTON. Was this open to the public?

Mr. KAMENY. It was open to the public. As a matter of fact, a number of Government officials were invited.

Mr. HORTON. Did you have a limitation on age?

Mr. KAMENY. No.

Mr. HORTON. Were children invited?

Mr. KAMENY. We didn't invite any and as far as I know, none showed up.

Mr. HORTON. Were children present?

Mr. KAMENY. No.

Mr. HORTON. Could children have attended?

Mr. KAMENY. Probably not. The question never arose. To my knowledge, there was no one under 21 in the audience.

Mr. HORTON. What other means of communication are open to you and to your organization?

Mr. KAMENY. This has been one of our problems. The newspapers, to a considerable extent thus far, have been shut to us.

Mr. HORTON. Have you attempted to purchase advertising in the newspapers.

Mr. KAMENY. Yes; we have.

Mr. HORTON. And you have been declined?

Mr. KAMENY. And we have been declined.

Mr. HORTON. Have you attempted to use the mails?

Mr. KAMENY. To the extent, for example, of sending our newsletter out, yes.

Mr. HORTON. I am talking about to the public. You send your newsletter to the members of your organization, do you not?

Mr. KAMENY. To the members of our organization and other people whom we know as individuals may well be interested in receiving it.

For example, several Government agencies are on our mailing list.

Mr. HORTON. Who selects them, your organization?

Mr. KAMENY. Some of them have requested it. Some of them we have selected.

Mr. HORTON. Do you go to the telephone book or some other means of acquiring this list?

Mr. KAMENY. No. We have used no anonymous mailings of any sort.

Mr. HORTON. How many people are on this list?

Mr. KAMENY. I have never counted it out.

Mr. HORTON. Do you have the list?

Mr. KAMENY. No; I do not.

Mr. HORTON. Is the list available?

Mr. KAMENY. No; it is not.

Mr. HORTON. Is it secret?

Mr. KAMENY. In the same sense that our membership is, in a selective fashion, yes. I would certainly be delighted to let you know any of the public officials on the list.

Mr. HORTON. I am asking you if it is open to the public, your list, your mailing list.

Mr. KAMENY. No; it is not.

Mr. HORTON. And how many are on that mailing list?

Mr. KAMENY. I am not certain. I would have to consult with the editor of the newsletter.

Mr. HORTON. Is it 30 or 40?

Mr. KAMENY. As I indicated, the circulation of the newsletter is somewhere near 250 at the moment.

Mr. HORTON. Now, look, you are the president of this organization, are you not?

Mr. KAMENY. Yes.

Mr. HORTON. And this mailing goes out what—once a month?

Mr. KAMENY. Yes.

Mr. HORTON. Is it more than once a month?

Mr. KAMENY. No; once a month. Currently, it is slightly less than that. Our summer edition of several months.

Mr. HORTON. You are telling me now you are the president and you have no idea as to how many people are on that list?

Mr. KAMENY. I have no precise idea.

Mr. HORTON. I am asking you if you have any idea. I didn't ask you about a precise idea.

Mr. KAMENY. I would estimate and I would emphasize this is an estimate, somewhere near a hundred, covering some 10 or 15 States.

Mr. HORTON. Ten or fifteen States?

Mr. KAMENY. States.

Mr. HORTON. You stated earlier that there are a quarter of a million homosexuals in this area.

Mr. KAMENY. In this area.

Mr. HORTON. Where do you get this information?

Mr. KAMENY. A careful reading of the Kinsey report which today is probably the most reliable information we have in regard to statistics on the number of homosexuals indicates that probably somewhere around 13 percent of the population is homosexual.

We feel as a conservative rounded figure, which is probably not too far from the truth; somewhere around, we use a figure of somewhere around 10 percent of the nonjuvenile population.

Mr. HORTON. Have you picked from this group any names for this mailing list?

Mr. KAMENY. We don't know the names of all homosexuals in this city. We don't even know a tiny fraction of them.

Mr. HORTON. You are telling me that this communication that you send out once a month to the public goes to only possibly a hundred people in this area and other areas.

Mr. KAMENY. Very approximately.

Mr. HORTON. How many in this area?

Mr. KAMENY. There I would have to count. We don't have the mailing list sorted by area. I could not say.

Mr. HORTON. Do you consider that a contact with the public?

Mr. KAMENY. A limited one as a start. As I emphasize, our public relations program has been small and we hope to enlarge it.

Mr. HORTON. What other means of communication do you use to communicate your society's purpose?

Mr. KAMENY. To a considerable extent, our work so far has been through the writing of individual letters, largely to Government officials.

Mr. HORTON. Do you have a treasury?

Mr. KAMENY. Yes.

Mr. HORTON. Do you have a treasurer?

Mr. KAMENY. Yes.

Mr. HORTON. Who is the treasurer of your organization?

Mr. KAMENY. He is listed down at the District on our form. His name is Earl Goldring.

Mr. HORTON. Do you have a secretary?

Mr. KAMENY. We do.

Mr. HORTON. What is his name?

Mr. KAMENY. His name is listed on the public record. It is Bruce Schuyler.

Mr. HORTON. Do you have a vice president?

Mr. KAMENY. We do.

Mr. HORTON. Who is he?

Mr. KAMENY. Her name is Mrs. Ellen Keene. It is listed on the public record.

Mr. HORTON. Is she a homosexual?

Mr. KAMENY. To the best of my knowledge, she is not.

Mr. HORTON. Do you have any other officers?

Mr. KAMENY. No, we do not.

Mr. HORTON. Do you have a board of directors?

Mr. KAMENY. We have what we call an executive board.

Mr. HORTON. Who is on this executive board?

Mr. KAMENY. The four officers and three other members.

Mr. HORTON. Who are the other members?

Mr. KAMENY. The other three names are not on the public record and I am prohibited by our constitution from disclosing their names.

Mr. HORTON. They are secret?

Mr. KAMENY. If you wish to term them so.

Mr. HORTON. Now, what other means of communication do you use to communicate your purposes to the public?

Mr. KAMENY. Word of mouth, by discussion. Just as one example—

Mr. HORTON. This is a small group of people of some 30 or 40 people?

Mr. KAMENY. For example, I have publicly addressed the American Civil Liberties Union, just as one example. These are a group of non-homosexuals, at a meeting which was open. The American Civil Liberties Union has some 2,200 members. The address was reported in their publication. This is one possible example.

Mr. HORTON. How much money do you have in your treasury?

Mr. KAMENY. I am afraid I would have to consult our treasurer at the moment. It is—

Mr. HORTON. Do you have a monthly statement?

Mr. KAMENY. No. Our treasurer makes a semianual statement.

Mr. HORTON. And when was the last statement made?

Mr. KAMENY. Early July.

Mr. HORTON. Do you have a copy of that statement?

Mr. KAMENY. No. I do not. I do have with me—

Mr. HORTON. Can you make available to this committee a copy of this statement?

Mr. KAMENY. I would have to consult with my executive board to find out if they would permit it.

Mr. HORTON. Is this secret?

Mr. KAMENY. Those matters—we have turned in a financial statement to the District of Columbia and I have a copy of that.

Mr. HORTON. You mean that you are soliciting funds, charitable funds, and that the disposition of these funds is not made public?

Mr. KAMENY. Quite to the contrary, every cent that we have made a financial statement to the District of Columbia—

Mr. HORTON. I can't hear you when you are talking into your briefcase.

Mr. KAMENY. I am sorry. We have made a financial statement to the District of Columbia in regard to our solicitation, two copies of that as required by law were turned in to them.

Mr. HORTON. I am not talking about that.

Mr. KAMENY. I have a copy here and this is a record of the money solicited publicly.

Mr. HORTON. Mr. Chairman, with your permission, I would like to ask that those be filed with this committee. I also would like to ask that the last statement of this organization be filed.

Mr. DOWDY. That would be relevant, I think.

Mr. KAMENY. I meant, Mr. Horton, this is our own copy of this. May I file a copy of this with the committee?

Mr. HORTON. That is all right with me.

Mr. KAMENY. I will have that made. The District of Columbia has two copies.

Mr. DOWDY. I think it would be relevant to have your annual report that you make among yourselves to check against this.

Mr. HORTON. I was just going to ask if you have an annual report that you make to your members.

Mr. KAMENY. Our treasurer usually makes a semiformal oral report at the July meeting and at the January meeting.

Then three of the members audit our records between January and February and make a report at the February meeting to check the treasurer's statement of the January meeting. These statements are all read to the membership.

Mr. HORTON. You have been authorized for approximately a year under this Charitable Contributions Act, have you not?

Mr. KAMENY. It will be a year next week.

Mr. HORTON. How many contributions has your organization received since you have been permitted to operate under this charitable contributions—

Mr. KAMENY. How many or how much money?

Mr. HORTON. How many.

Mr. KAMENY. We receive an irregular steady flow of small contributions.

My estimate, and again this would have to be an estimate without actually looking down an itemized list, some 20 or so.

Mr. HORTON. This is the extent of the number that you have received in the last year?

Mr. KAMENY. Yes.

Mr. HORTON. And what amount of money is involved in those 20 contributions?

Mr. KAMENY. That would be stated there, and I don't have it by memory but Mr. Huddleston can read it off if he wishes.

Mr. HUDDLESTON. \$321.70.

Mr. KAMENY. Is that the amount that we indicate receiving from contributions?

I think the amount there is \$100-some-odd, isn't it?

Mr. HUDDLESTON. This will be in the record but 121 station personal; mail, \$129; sale of tickets, \$76.50; all other receipts, \$4.20; total receipts \$230.70; and then cash on hand at the beginning of the period for which the statement is rendered was \$91.90, so the total is \$321.70.

Mr. HORTON. Do you have a better recollection of what your treasury might be at the present time?

Mr. KAMENY. It indicated there the approximate size of the treasury. We have had a number of expenses in the last month. It is somewhat less than that. That is all I can tell you.

Mr. HORTON. Do you have a bank account?

Mr. KAMENY. We do.

Mr. HORTON. What bank?

Mr. KAMENY. The National Bank of Washington.

Mr. HORTON. Is that a checking account?

Mr. KAMENY. Yes, it is.

Mr. HORTON. Is that the only checking account?

Mr. KAMENY. That is the only checking account.

Mr. HORTON. Do you have any savings account?

Mr. KAMENY. No; we do not.

Mr. HORTON. Do you have any stock?

Mr. KAMENY. No; we do not.

Mr. HORTON. Or other assets?

Mr. KAMENY. No; we do not.

Mr. HORTON. This is the only asset that this organization has?

Mr. KAMENY. When we are wealthy enough to have stocks we will consider ourselves most fortunate.

Mr. HORTON. This is the only asset that this organization has?

Mr. KAMENY. In terms of money, yes.

Mr. HORTON. Do you collect dues from your membership?

Mr. KAMENY. We do.

Mr. HORTON. How much are the dues?

Mr. KAMENY. The dues are \$1 a month or \$10 a year.

Mr. HORTON. And how much did you receive last year by way of dues?

Mr. KAMENY. I have indicated our membership. If you multiply that by about 10, several hundred dollars.

Mr. HORTON. That is all on this line, Mr. Chairman.

Mr. DOWDY. If you are completely open and aboveboard, why must the membership be secret?

Mr. KAMENY. Because an unemployed member of the Mattachine Society is a rather—an unemployed and starving member of the Mattachine Society or of any other group is a rather ineffective member. As long as people are thrown out of jobs irrationally for being homosexuals we are not going knowingly to lead to their losing their jobs.

Mr. DOWDY. You stated to Mr. Horton, I don't remember exactly what it was, that you would be willing to reveal the Government officials that are involved in something or another you had. Who are they?

Mr. KAMENY. Certainly. First we send—well, you for one have been a recipient of some of our mail.

Mr. Dowdy. And I put it in the record.

Mr. KAMENY. Yes; you did; as has every other Member of Congress. Now that same mailing, before I go on to others, was sent out to all Members of Congress, to the President and all members of his Cabinet, and to some 40 or 50 other Government officials including the heads of the Civil Service Commission, various other agencies and so forth.

We send material to various Defense Department officials. The Commerce Department Bureau of Investigations has asked to be put on our mailing list, for one.

I would have to check our list to give you a further answer but I am quite willing to do so.

Mr. Dowdy. Mr. Nottingham, can you tell me if this is the only secret organization with a license to solicit funds in the District?

Mr. NOTTINGHAM. It is the only one that I know of where we do not have the membership roster.

Mr. HORTON. Excuse me; the District doesn't have the membership roster?

Mr. NOTTINGHAM. We do not on the Mattachine.

Mr. Dowdy. But all others you do?

Mr. NOTTINGHAM. We have never been refused the information when we thought it was necessary.

Mr. HUDDLESTON. Were you refused in this case?

Mr. NOTTINGHAM. Yes.

Mr. HORTON. And you still granted the license?

Mr. NOTTINGHAM. The license was granted; yes.

Mr. Dowdy. And renewed?

Mr. NOTTINGHAM. And renewed.

Mr. HORTON. Could the witness answer now, do you refuse to make available to the District a list of your membership?

Mr. KAMENY. We refuse to make available to anyone besides the four officers the list of our membership.

Mr. HORTON. Even your membership doesn't have a list of your members?

Mr. KAMENY. Not even our entire executive board has a list of the members, only the four officers. In point of fact, we have only one list and that is in the possession of one officer.

Mr. HORTON. Do you refuse to make that list available to this committee?

Mr. KAMENY. Yes, I do.

Mr. HORTON. Just so there has been a request, I request that such a list be filed with this committee.

Mr. KAMENY. With all due respect, speaking for the society, your request must be declined.

Mr. HORTON. You are denying this based on your constitution?

Mr. KAMENY. I am denying this based on the constitution of the society.

Mr. HORTON. You feel that the constitution and your bylaws bind you so that as president you can't make available this list?

Mr. KAMENY. Yes, I do; our constitution, for the record, says, "There shall not be more than two sets of membership records." In

point of fact, there is only one. "These shall be open only to the officers of the organization. Under no circumstances whatsoever shall the membership records or any information therein be disclosed or communicated to or be available to anyone else."

Mr. Dowdy. Who has those two lists?

Mr. Kameny. As I said, there is only one. It is in the possession of one of our officers at the moment.

Mr. Dowdy. Who has it?

Mr. Kameny. I believe our secretary does since he uses that most frequently.

Mr. Dowdy. Who has the other list?

Mr. Kameny. I said there is only one. The constitution allows us to have two. In point of fact there is one.

Mr. Dowdy. And your secretary's name was what?

Mr. Kameny. Mr. Bruce Schuyler.

Mr. Dowdy. Bruce?

Mr. Kameny. Schuyler.

Mr. Dowdy. How do you spell it?

Mr. Kameny. S-c-h-u-y-l-e-r.

Mr. Dowdy. What does he do?

Mr. Kameny. I don't know that his employment is particularly germane to bill H.R. 5990.

Mr. Dowdy. It could be.

Mr. Kameny. I don't see how.

Mr. Dowdy. What does he do?

Mr. Kameny. I am afraid that this is information which—speaking as president of the society—this is information which is not available to me. This is his private life.

We don't inquire into the private lives of our members.

Mr. Dowdy. You don't know what he does?

Mr. Kameny. As president I have no official knowledge of this.

Mr. Dowdy. And he is the secretary?

Mr. Kameny. He is the secretary.

Mr. Dowdy. Is he also the treasurer?

Mr. Kameny. No; he is not.

Mr. Dowdy. Who is your treasurer?

Mr. Kameny. As I indicated earlier and as his place on the public record, our treasurer is named Earl Goldring.

Mr. Dowdy. Earl who?

Mr. Kameny. Goldring.

Mr. Dowdy. How do you spell it?

Mr. Kameny. G-o-l-d-r-i-n-g.

Mr. Dowdy. What does he do?

Mr. Kameny. Again, this is not a matter of concern to me as president of the society. This is his private life.

Mr. Horton. Mr. Chairman, would you yield?

Mr. Dowdy. Just a minute.

Do you mean to say you entrust the money of your society to a man without even knowing what he does?

Mr. Kameny. The officers and members of the society have full faith in Mr. Goldring's honesty and integrity.

Mr. Dowdy. Without even knowing what he does?

Mr. Kameny. My answer must stand. The society feels no doubt about Mr. Goldring.

Mr. Dowdy. Do you have him under bond?

Mr. KAMENY. No, we do not.

Mr. HORTON. I would like to ask the witness his personal knowledge as to the employment of these two officers.

Mr. KAMENY. I am here as president of the society, Mr. Horton.

Mr. HORTON. You are also an individual.

Do you know the employment of these two individuals?

Mr. KAMENY. Yes, I do.

Mr. HORTON. Are they employed in the government?

Mr. KAMENY. I am afraid that I can't give you information as to their employment.

Mr. HORTON. Do you know their address? Do they live in the District of Columbia?

Mr. KAMENY. One does and one does not.

Mr. HORTON. Will you make available to this committee the address of the officers of this organization?

Mr. KAMENY. I am afraid that would be prohibited by the constitutional provision I just mentioned.

Mr. HORTON. This is prohibited by the constitution?

Mr. KAMENY. This is information about the members and it cannot be disclosed.

Mr. HORTON. Mr. Nottingham, is there any requirement that the names of the officers and address of officers be made available for the record?

Mr. NOTTINGHAM. No, sir.

Mr. KAMENY. The names of the officers are on the records.

Mr. HORTON. But the addresses are not?

Mr. NOTTINGHAM. The addresses are not. It is a post office box.

Mr. Dowdy. Is that their true names?

Mr. NOTTINGHAM. That is their names.

Mr. Dowdy. I am asking the witness here, is that their true names?

Mr. KAMENY. Those are the names with which they are registered in the society. I know of no others, as president of the society.

Mr. Dowdy. So that isn't their names. You have got dummies registered with the District as officers of your society?

Mr. KAMENY. As president of the society I know our members under the names with which they are registered.

Mr. Dowdy. And that is not their true names?

Mr. KAMENY. They may or they may not be.

Mr. Dowdy. You are unwilling to tell us that that is their true names, that those are their true names?

Mr. KAMENY. As president of the society I know only what our membership records show.

Mr. Dowdy. All right.

As an individual do you know whether those are their true names?

Mr. KAMENY. I still cannot discuss matters having to do with the identities of members of this society.

Mr. Dowdy. I think that should make a difference to the District of Columbia in granting a permit, either in chartering the organization or in granting a permit, whether you have got some dummies or whether you have got some people.

Mr. KAMENY. The people exist.

Mr. Dowdy. Is that their names?

Mr. KAMENY. Again I know them only as they are registered.

Mr. DOWDY. Then I take it that you are telling us that those are not their true names.

Mr. KAMENY. I am not saying that.

Mr. HUDDLESTON. Did you file the application for charter yourself?

Mr. KAMENY. Yes, I did.

Mr. HUDDLESTON. And you obtained these other signatures on the application for charter?

Mr. KAMENY. I don't know of any other signature needed.

Mr. HUDDLESTON. I mean, these names, you filed it with these names on the application?

Mr. KAMENY. Yes.

Mr. HUDDLESTON. And you filed that without knowing whether those were the true names of the people that they purported to represent?

Mr. KAMENY. Those are the names under which they are registered with the society, and as far as any official business of the society is concerned, those are their names.

Mr. HUDDLESTON. But as far as you know they may be aliases or completely fictitious?

Mr. KAMENY. It is not impossible but I have no reason to think that they were adopted for purposes of fraud. Therefore, I don't think it is particularly relevant.

Mr. HUDDLESTON. I think the very filing of the application for charter with fictitious names on it ipso facto is fraud.

Mr. KAMENY. Not at all.

Mr. HUDDLESTON. Because you have represented certain people as officers in your organization and those people are not in fact officers of the organization.

Those people don't even exist.

Mr. KAMENY. They do exist. They are very real. While I am not an attorney, I know of no law which prohibits an individual from taking any name he wishes to take as long as he is not doing it for illicit purposes or for reasons of fraud, and I think you would have a very hard job demonstrating any purposes of fraud in this case or anything illicit. Writers take pseudonyms, pen names, and use them quite freely and nobody claims fraud.

Mr. HUDDLESTON. I would like to read title II, section 2112, entitled "Penalties: Prosecutions in name of District of Columbia action to enjoin violations of this chapter or regulation," and it reads as follows, subsection (a):

"Any person violating any provision of this chapter or regulation made pursuant thereto or filing or causing to be filed an application or report pursuant to this chapter," this is the chapter on charitable solicitations—"made pursuant thereto containing any false or fraudulent statement shall be punished by a fine of not more than \$500 or by imprisonment of not more than 60 days, or both, such fine and imprisonment."

Now, it doesn't have to be with intention to defraud or fraudulent, but the filing of a false statement in an application under this Chapter 21: Charitable Solicitations, is a criminal offense.

Mr. KAMENY. The names on that certificate, we were asked for the names of the vice president, the secretary, and the treasurer.

Mr. HUDDLESTON. I am not accusing you of the commission of the criminal offense.

Mr. KAMENY. No.

Mr. HUDDLESTON. But I am accusing whoever filed or caused a false or fictitious name to be filed on that application.

Mr. KAMENY. The names of these officers as far as the society is concerned are the names which are on those records.

Mr. HUDDLESTON. I think maybe this ought to be looked into.

Mr. DOWDY. With full knowledge that they are fictitious names.

Mr. KAMENY. Not necessarily.

Mr. DOWDY. Not necessarily. Can you answer my question? Is it with full knowledge that they are fictitious names?

Mr. KAMENY. I know them only by the names given on the record.

Mr. DOWDY. And you know those names are fictitious?

Mr. KAMENY. Not necessarily.

Mr. DOWDY. Can't you answer my question?

Mr. KAMENY. No; I am not going to answer the question.

Mr. DOWDY. This is a serious matter. You do know whether they are fictitious or not, don't you?

Mr. KAMENY. As president I do not.

Mr. DOWDY. As a witness here you do know that they are fictitious, don't you? I am not asking you as president. I am asking your personal knowledge.

Mr. KAMENY. I am afraid I cannot speak on matters of the identity of our members beyond what I have already said. I might point out that it is not unlawful to adopt a pseudonym in the District of Columbia, and that any name adopted by an individual is a true name without the need for legal proceedings. If these people have chosen to adopt this name for these purposes those are their true names.

Mr. DOWDY. Who was that that just gave you that note?

Mr. KAMENY. I do not know.

Mr. DOWDY. Identify yourself.

Mr. FREEDMAN. My name is Monroe Freedman, sir. I am the next witness.

Mr. DOWDY. And you are a member of this society?

Mr. FREEDMAN. I am not here in any capacity other than as chairman of the Freedom of Communications Committee of the National Capital Area Civil Liberties Union.

Mr. DOWDY. Are you a member of this society?

Mr. FREEDMAN. I don't consider that a relevant question.

Mr. DOWDY. I do. Are you a member of this society?

Mr. FREEDMAN. I don't consider that a relevant question, sir.

Mr. DOWDY. What is your occupation?

Mr. FREEDMAN. I am a member of the bar and a law professor at George Washington University.

Mr. DOWDY. Can we assume from your refusal to answer that you are a member of this society?

Mr. FREEDMAN. You may assume anything you choose, sir. I refuse to answer the question. My private associations are not germane to this proceeding.

Mr. DOWDY. We will get to you after we get through with this witness. Now you said some of the members of your society were not homosexuals. Name me one of them.

Mr. KAMENY. Again this would be the disclosure of names. I indicated—no, I am sorry; that would be disclosure of names.

Mr. DOWDY. Then we can assume that all of the members of your society are homosexuals?

Mr. KAMENY. No. You may not assume this because it is incorrect.

Mr. DOWDY. All right. Name me one of them.

Mr. HORTON. Would the gentleman yield right there?

Mr. DOWDY. As soon as he answers. Name me one that is not, then.

Mr. KAMENY. We have one of our members in the audience who is not a homosexual.

Mr. DOWDY. What is your name?

Mrs. KEENE. My name is Ellen Keene.

Mr. DOWDY. Are you the secretary?

Mrs. KEENE. No, I am not.

Mr. DOWDY. The vice president?

Mrs. KEENE. Yes.

Mr. HORTON. Are you a homosexual?

Mrs. KEENE. No.

Mr. KAMENY. I am afraid that is not relevant to H.R. 5990.

Mr. HORTON. Do you refuse to answer the question?

Mr. KAMENY. I have been chosen by the Mattachine Society as their president and to represent them. This is all that is necessary for hearings on H.R. 5990.

Mr. DOWDY. Have you ever performed a homosexual act?

Mr. KAMENY. I do not consider this the proper concern of the U.S. Government or any agency, branch, agent, office, or officer thereof under any circumstances whatsoever nor do I consider the question—

Mr. DOWDY. Do you refuse to answer that question?

Mr. KAMENY. On the grounds given, yes. It is no proper concern of the Government or anyone concerned—

Mr. DOWDY. You signed the application, did you not, to the District of Columbia for the registration under the Charitable Solicitation Act?

Mr. KAMENY. I did.

Mr. DOWDY. And in that application you named the officers. You set forth the name of the president, the vice president, Mrs. Elleen Keene, Secretary Bruce Schuyler, and Treasurer Earl Goldring?

Mr. KAMENY. As stated to you earlier, yes.

Mr. DOWDY. Did you read that at the time?

Mr. KAMENY. Yes.

Mr. HORTON. And you read this application?

Mr. KAMENY. Yes.

Mr. HORTON. You signed it?

Mr. KAMENY. I did.

Mr. HORTON. And you swore to the facts in there to be true?

Mr. KAMENY. To the best of my knowledge and belief.

Mr. HORTON. And you swore that before a notary public?

Mr. KAMENY. I did.

Mr. HORTON. And that was on July 29, 1963?

Mr. KAMENY. It was.

Mr. HORTON. That is the most recent application?

Mr. KAMENY. Yes.

Mr. HORTON. At the time that you signed that application, did you know that the name Bruce Schuyler, that is a pseudonym or it was an

adopted name or it was not the real name of the individual involved?

Mr. KAMENY. I have not granted yet that any of those statements you made are true.

Mr. HORTON. Which one is not true?

Mr. KAMENY. I am not granting that they are true or that they aren't.

Mr. HORTON. Which one is not true? You said that you hadn't granted that it was true. Which one is not true?

Mr. KAMENY. They are all essentially——

Mr. HORTON. Do you refuse to answer which one is true?

Mr. KAMENY. They are all essentially synonymous. You said it is a pseudonym or adopted name or I don't know what terms you used and you said knowing this was true and I said I haven't granted it was true.

Mr. HORTON. But do you know a person by the name of Bruce Schuyler?

Mr. KAMENY. Yes, I do.

Mr. HORTON. Do you know where that individual lives?

Mr. KAMENY. Yes, I do.

Mr. HORTON. Is that individual listed in the telephone directory?

Mr. KAMENY. No, he is not, because he doesn't have a telephone.

Mr. HORTON. Is that individual listed in a city directory?

Mr. KAMENY. I have never looked at the city directory.

Mr. HORTON. Pardon?

Mr. KAMENY. I have never looked at the city directory.

Mr. HORTON. Do you know whether that individual is married?

Mr. KAMENY. That is a matter of his private affairs which are not the concern of the Mattachine Society of Washington.

Mr. HORTON. I asked you if you knew whether that individual is married.

Mr. KAMENY. I don't see that that is relevant to H.R. 5990.

Mr. HORTON. Do you know where that individual lives?

Mr. KAMENY. I do.

Mr. HORTON. Have you addressed that individual by name other than Bruce Schuyler?

Mr. KAMENY. I don't think that is relevant to H.R. 5990.

Mr. HORTON. I say have you addressed that individual by any name other than Bruce Schuyler.

Mr. KAMENY. I do not see that is relevant to H.R. 5990.

Mr. HORTON. Where does this individual live?

Mr. KAMENY. That is prohibited, that information is closed by the constitution.

Mr. HORTON. Do you know of your own knowledge that this individual, Bruce Schuyler, has another name, whichever one is assumed is irrelevant at this point, but do you know that that individual is using another name?

Mr. KAMENY. This information is prohibited by our constitution. I cannot discuss information of this sort with regard to our members. I am free only to discuss what is already on the public——

Mr. HORTON. You made a sworn statement here.

Mr. KAMENY. I am free to discuss only what is on the public record.

Mr. HORTON. You set forth the name of an individual as being secretary of this organization, and you read this and you swore to this.

Mr. KAMENY. As I read to you a moment ago, I am informed that any name adopted by an individual is a true name without——

Mr. HORTON. Is that an adopted name?

Mr. KAMENY. This may or may not be.

Mr. HORTON. Do you know that individual to have another name?

Mr. KAMENY. This I cannot discuss.

Mr. HORTON. In other words, that is secret information?

Mr. KAMENY. Any information having to do with the identities of our members is secret, certainly.

Mr. HORTON. I address the same questions to you with regard to the treasurer.

Mr. KAMENY. The answers are the same.

Mr. HORTON. Do you know if the treasurer has another name?

Mr. KAMENY. The answers are the same.

Mr. HORTON. And you knew this information at the time that you signed this certificate?

Mr. KAMENY. Which information?

Mr. HORTON. The information that these individuals had other names.

Mr. KAMENY. I haven't indicated to you that they have.

Mr. HORTON. Did they have other names?

Mr. KAMENY. You have asked me this some five times and I have indicated as many times that I cannot disclose this.

Mr. HORTON. But you do of your own knowledge know they have other names?

Mr. KAMENY. For the sixth time, no. I cannot answer the question.

Mr. HORTON. Does Earl Goldring live in the District of Columbia, in Virginia, in Maryland, or in the metropolitan area of the District?

Mr. KAMENY. This is information which is closed by our constitution. I can say that he lives in the area, yes. He would pretty much have to.

Mr. HORTON. Does he attend your meetings?

Mr. KAMENY. Attendance at our meetings is not to be divulged. One assumes if he is an officer he does.

Mr. HORTON. Do you mean to say the attendance of your meeting is not public information either?

Mr. KAMENY. No.

Mr. HORTON. Do you solicit the public for charitable contributions for your organization?

Mr. KAMENY. Yes.

Mr. HORTON. And you do that by mail, don't you?

Mr. KAMENY. The only mail solicitation we have done——

Mr. HORTON. I caution you, sir, you have a Mattachine Society today, and I think that in your testimony there is some statement, or you stated it some place—no, I am sorry; it is in your certificate.

Mr. KAMENY. Yes; anything on our certificate——

Mr. HORTON. You do it by mail. It is in your little——

Mr. HUDDLESTON. In their financial statement.

Mr. HORTON. Is it the financial statement?

Mr. HUDDLESTON. Yes; solicitation by mail.

Mr. KAMENY. In using the term "by mail" there that referred to money received by mail, not money solicited by mail.

Mr. HUDDLESTON. The mails were used to receive the funds as a result of other types of solicitations. In other words, the mails were used——

Mr. KAMENY. By the donor; yes.

Mr. HUDDLESTON. I think that comes under the Federal statute.

Mr. KAMENY. Yes. For example, our gazette, of which you have a copy there, has a small statement asking for donations. People have seen this and have put money in an envelope and sent it to us.

That is what I meant by donations in the mail. That solicitation was mentioned in the certificate.

Mr. HUDDLESTON. Did the solicitation refer in any way to drop in the mail to post office box such and such?

Mr. KAMENY. That gave our address; yes, of course.

Mr. HUDDLESTON. A post office box?

Mr. KAMENY. Yes.

Mr. HORTON. So you do use this magazine also to solicit?

Mr. KAMENY. We do not, no; certainly not.

Mr. HORTON. Is there any request in here—

Mr. DOWDY. Where is that gazette he handed in?

Mr. KAMENY. There may or may not be.

Mr. DOWDY. This is the national organization?

Mr. KAMENY. That is not our publication.

Mr. DOWDY. This is your national publication?

Mr. KAMENY. They are a totally independent group at this point. There is no affiliation.

Mr. DOWDY. What is your true name?

Mr. KAMENY. Exactly what I have given it to you as.

Mr. DOWDY. In other words, you are the only one in your organization on the membership that uses his true name?

Mr. KAMENY. I haven't implied, I have not yet granted to you that any of these other names are not true names.

Mr. DOWDY. Do you say you don't know whether they are their true names or not?

Mr. KAMENY. I am saying this information is closed to anyone under our constitution.

Mr. DOWDY. I think it is reasonable to assume they are fictitious names.

Mr. HORTON. Mr. Chairman, I have found now in the application for certificate of registration, which is the application of July of this year, under paragraph 11, in which it is asked:

Outline the method or methods to be used in conducting this solicitation—meaning solicitation of the public—

such as benefits, ticket sales, commodity sales, mail solicitation, personal solicitation, etc. Be specific; describe the exact method used.

It is typed in here:

A request for funds will be placed in each issue of the society's newsletter, the gazette, as previously reported to the Department of Licenses and Inspections.

Additional methods of solicitation may be used but no plans for any organized effort have as yet begun to be formulated. When they have crystallized it will be reported—

and so forth. This society newsletter is mailed out; is it not?

Mr. KAMENY. Part of the distribution is by mail; yes.

Mr. HORTON. And you do solicit funds through that source?

Mr. KAMENY. You will find in the copy you have there a statement, yes. There is a statement in there saying:

The Mattachine Society of Washington is a nonprofit organization licensed under D.C. Certificate 6-320. Contributions gratefully accepted.

Mr. HORTON. You make no accounting to these people that send in these contributions?

Mr. KAMENY. It has never occurred to anyone, I think, to ask for one.

Mr. HORTON. Do you make any accounting to these?

Mr. KAMENY. At our initiative we have not and they have not taken the initiative to request it.

Mr. HORTON. If requested by someone to make a contribution accounting, would you make it?

Mr. KAMENY. The matter has not arisen. It will come up as our next executive board meeting. At this point I cannot answer.

Mr. HORTON. What is your interpretation of the constitution in this respect?

Mr. KAMENY. My interpretation, and I emphasize, I speak now for myself and not for the organization, is that we probably could answer the question. We have done nothing secret or unlawful or illicit with the money we have received. It goes to very mundane things like postage and mimeograph paper and things of that sort.

Mr. HORTON. What are the educational aspects of your organization?

Mr. KAMENY. This has been gone into at some length. As I stated, our program on education has thus far not been an extensive one. A considerable part of it has been an attempt to educate the Federal Government about this subject, an area in which they seem to be totally and woefully ignorant, and this has been done largely by letters, contacts, and discussions with Government officials.

Mr. HORTON. What means have you taken so far to educate the public in regard to altering the criminal law in regard to private consenting homosexual acts by adults?

Mr. KAMENY. No really organized efforts. Discussion. We did sponsor the lecture I mentioned, which dealt with minorities, civil rights and human rights of the homosexuals, and this was a public lecture. We do hope to have further lectures, depending upon the availability of speakers.

Mr. HORTON. The educational aspects of your society would include an attempt to convince the public that a private consenting homosexual act by adults is not contrary to the criminal law, or should not be?

Mr. KAMENY. Should not be.

Mr. HORTON. Should not be contrary to criminal law?

Mr. KAMENY. Yes. This is certainly a perfectly proper objective.

Mr. HORTON. What is your definition of an adult?

What age do you define an adult?

Mr. KAMENY. This I will leave entirely to the law of the locality.

Mr. HORTON. What is it here in the District?

Mr. KAMENY. It is certainly someone over—I defer, incidentally, to anyone with legal training on my answer to this—it is certainly someone over 21. I don't know what the precise definition is for the area between 18 and 21.

Mr. HORTON. Have there been any people that have attended your meetings either as members or otherwise that are under 21 years of age?

Mr. KAMENY. We have not inquired into ages. I am not aware that it is illegal to discuss homosexuality with anyone of any age as far as that goes. Remember, there is quite a difference between discussion and acts.

Mr. HORTON. But the educational aspects of your organization would include attempts to convince the public that those private consenting homosexual acts should not be contrary to the criminal law?

Mr. KAMENY. Yes; certainly.

Mr. HORTON. What efforts have you made so far to accomplish this purpose?

Mr. KAMENY. I think I have indicated them all several times over. The lecture that was sponsored and private discussion. I have, for example, spoken to members of the American Civil Liberties Union. I mentioned this. And other than that by us here, little coordinated activity has been done. Some of the other groups, as I mentioned, have had radio and TV appearances in New York, Philadelphia, San Francisco, Los Angeles; sometimes by groups of as many as 8 or 10 homosexuals discussing their problems and attitudes.

Mr. HORTON. Is one of the problems of the homosexual to find a partner?

Mr. KAMENY. This is not one of the problems which we deal with as the Mattachine Society; no.

Mr. HORTON. Have you ever dealt with this problem as a society?

Mr. KAMENY. No. We have not. We are dealing with discrimination by the public against us.

Mr. HORTON. But you have not dealt with this problem?

Mr. KAMENY. No; we have not.

This is entirely—

Mr. HORTON. How do you assist a homosexual in need?

Mr. KAMENY. By the homosexual in need—excuse me.

Mr. HORTON. How do you assist the homosexual in need?

Mr. KAMENY. We are not referring to the homosexual in need of a sexual partner.

Mr. HORTON. What need are you talking about?

Mr. KAMENY. The homosexual, for example, who may have lost a Government job or other job because of his homosexuality, and is in need of employment.

Mr. HORTON. In other words, your need is restricted to this area and not to the need for a sexual partner? Is this right?

Mr. KAMENY. Very explicitly so. The homosexual—

Mr. HORTON. Where does your constitution and bylaws restrict this?

Mr. KAMENY. It does not. That phrase—

Mr. HORTON. This is your interpretation.

Mr. KAMENY. I don't think anybody in my society would quibble with that interpretation.

Mr. HORTON. But this is your interpretation.

Mr. KAMENY. I think it is the society's. I think at this point I speak for the society.

Mr. HORTON. You also made this statement on page 2 after you indicated you are interested in changing criminal law. You state, "In assisting the members of the homosexual community individually and collectively in every way possible."

What do you mean by that?

Mr. KAMENY. Again in attempting in every way possible in order to achieve just the purpose that I stated before, to secure for him the right as a human being to develop and achieve his full potential and dignity and the right as a citizen to make his maximum contribution to the society in which he lives.

That is rather general. This includes certain specific areas as well. If, for example, he finds himself in trouble with the law on a matter having to do with homosexuality, we will refer him to competent legal assistance. If for him his homosexuality raises psychological problems we will refer him again to proper professional assistance. Wherever he is in need in matters of this sort, in any manner in which we can act lawfully, we will assist him.

Mr. HORTON. What areas are you not permitted to act in?

Mr. KAMENY. Our constitution—

Mr. HORTON. Excuse me; you said something about areas in which you are able to act lawfully. In which areas are you not able to act?

Mr. KAMENY. In advising, aiding, abetting, assisting members to perform acts which are prohibited by law. Let me say that our—and I read from our constitution—"It is not a purpose of this organization to act as an association, group or as an agency for personal introductions." We bend over backward to abide by this, and therefore our constitution does restrict us from assisting members, actively assisting members and engage in activities of social contact.

Mr. HORTON. I am trying to find out where this money goes that you get from these charitable solicitations. Do you get a salary?

Mr. KAMENY. I do not. Quite the contrary; the Mattachine Society is a constant small drain on the purses of every member, particularly the officers.

Mr. HORTON. Where does this money go that you get?

Mr. KAMENY. Part of it is accounted for in your records there. For example—

Mr. HORTON. Excuse me; I am not referring to the buying of postage stamps and all. I am referring to the area in which this money is used for educational purposes.

Mr. KAMENY. Our sponsorship of the lecture I mentioned, our profits from that were small. We indicated an income of some \$70 to \$75.

The expenses were almost all of that. Our newsletter which is to a considerable extent educational, costs us money to put out. We are not charging for that at present. In general, as you have seen, our budget is small, and our activities are limited. This is one reason why we want money so we engage in activities of considerably greater scope.

Mr. HORTON. It is your feeling that your organization qualifies under this Charitable Solicitations Act under the definition of a charitable organization; is this right?

Mr. KAMENY. Apparently that definition is rather broad. Let me—

Mr. HORTON. I would agree with that.

Mr. KAMENY. Yes; I would like to make a point just briefly on a point of history there. We wished last year, last August, to place a small dignifiably worded announcement in the newspaper saying we have been formed, setting forth a summary of our statement of purpose which you have read, and closing saying "Your contributions will be welcomed."

Since this developed raising money, we felt we should check up on the regulations, since we did not wish to violate the law. We went down to the District of Columbia and said, "We are doing this, what regulations must we comply with?"

Mr. HORTON. At that point let me interrupt.

Mr. KAMENY. Yes.

Mr. HORTON. Has your organization received legal advice?

Mr. KAMENY. Not formally so; no. We have consulted from time to time in an informal meeting with attorneys.

Mr. HORTON. Have you ever paid a lawyer?

Mr. KAMENY. No; we have not.

Mr. HORTON. Have you received any legal advice?

Mr. KAMENY. We have spoken, for example, to members of the American Civil Liberties Union, who are attorneys, from time to time.

Mr. HORTON. I am asking, Has your organization received advice, either you as president of the organization or—

Mr. KAMENY. If by legal advice you mean informal consultation or discussion with attorneys, yes.

Mr. HORTON. Who is the lawyer for your organization?

Mr. KAMENY. We have no particular lawyer. This is the point I made. We have never retained an attorney.

Mr. HORTON. With whom have you consulted?

Mr. KAMENY. Mr. David Carliner, chairman of the American Civil Liberties Union. Mr. Freedman, our next witness.

Mr. HORTON. Has Mr. Freedman advised your organization legally such as he advised you here during the course of this hearing?

Mr. KAMENY. I have discussed with him matters having to do with this hearing; yes.

Mr. HORTON. How frequently have you discussed with him legal matters of this organization?

Mr. KAMENY. With Mr. Freedman?

Mr. HORTON. Yes.

Mr. KAMENY. I think I have had some three; maybe four conversations with him in the last week.

Mr. HORTON. Did you discuss with him your testimony here today?

Mr. KAMENY. To a very, very limited extent.

Mr. HORTON. Did you review any aspects of it with him or prepare any aspects of it with him?

Mr. KAMENY. I may have done so; yes.

Mr. HORTON. Did he advise you with regard to legal rights here?

Mr. KAMENY. We discussed pros and cons if you feel discussing pros and cons comes under your definition of advice; yes.

Mr. HORTON. Were you acting upon legal advice when you refused to indicate whether or not the names that you knew here, Bruce Schuyler and Earl Goldring were assumed names and you refused to give your knowledge as to whether they had other names?

Mr. KAMENY. All right.

Mr. HORTON. What is another act, homosexual act, in your definition?

Mr. KAMENY. Another homosexual act in my definition? Well, for example, it might be two men dancing together.

Mr. HORTON. This is a homosexual act?

Mr. KAMENY. It could be interpreted as such.

Mr. HORTON. All right. What is another?

Mr. KAMENY. Another one might be two individuals of the same sex embracing or kissing.

Mr. HORTON. All right; what is another?

Mr. KAMENY. Any of a large, possible, number of varieties of genital contact and activity.

Mr. HORTON. In what respects?

Mr. KAMENY. By two members of the same sex.

Mr. HORTON. Are you talking about one person putting the privates of another in his mouth or vice versa?

Mr. KAMENY. This is one of a large number of possible homosexual acts; certainly.

Mr. HORTON. Is this the type of thing that your organization condones?

Mr. KAMENY. This is the type of thing which our organization feels should not be criminal if it is done in private by adults.

Mr. HORTON. I would like to have from you other acts within this area that we are talking about that you feel are homosexual acts that should not be in violation of the criminal law.

Mr. KAMENY. The criminal law there is fairly explicit.

Mr. HORTON. I am asking you now as to what you are trying to educate the public to. You have already indicated about this one area. Now let's talk about other areas. You said there are others, variations, I think you said.

Mr. KAMENY. We are trying to educate the public to the fact that private consenting sexual acts between individuals regardless of the nature of those acts, if those conditions as stated are private, they are consenting members and the participants are adults should not be criminal without the nature otherwise specified because I don't think it is relevant.

Mr. HORTON. I want you to define what those acts are that your society feels should not be in violation of the criminal statutes.

Mr. KAMENY. Read the criminal statutes.

Mr. HORTON. Let's forget this. I am asking you to give us a new definition of what acts are not going to be illegal, the acts that your society feels should be legal.

Mr. KAMENY. All those acts now specified in the Criminal Code, and there are—

Mr. HORTON. Your society is trying to educate the public, so suppose you tell me what acts. If you have the law I would like to have you read the law.

Mr. KAMENY. I don't have the law.

Mr. HORTON. You are the president of this society.

Mr. KAMENY. 22-3501 and 22-3502. I believe you have them in front of you.

Mr. HORTON. Which ones are they?

Mr. KAMENY. Yes; and we propose that they be given. They do not have their freedom under law now. We are proposing that the law give them this freedom.

Mr. HUDDLESTON. Is the act any different from this statement: "Every person who shall be convicted of taking into his or her mouth"—I will leave out a little bit—"the sexual organ of any other person or who shall be convicted of placing his sexual organ in the mouth of any other person is guilty" under the statute of sodomy.

Is there any difference in the language there than the act that we are talking about here?

Mr. KAMENY. Yes; there certainly is.

Mr. HORTON. What is the difference?

Mr. KAMENY. That statute does not specify the gender of the persons involved. That act, that law makes such acts on the part of married couples equally criminal, which means that a large number of married heterosexuals in this city are criminals continually.

Mr. DOWDY. That is your assumption?

Mr. KAMENY. Nobody has ever questioned it.

Mr. DOWDY. That is your assumption?

Mr. KAMENY. You mean as to the activities going on?

Mr. DOWDY. Yes.

Mr. KAMENY. Yes. I think most people with medical background, psychiatric background, who are aware of these things would substantiate me.

Mr. DOWDY. Then on your assumption you are willing to slander, did you say, the majority of the people here?

Mr. KAMENY. I did not say the majority and I do not consider it a slander. I consider it perfectly proper display of affection and lovemaking.

Mr. HORTON. As the president of this organization what is your definition of the homosexual act? Define it.

Mr. KAMENY. If we step outside the criminal law specifically, and you have that defined there—

Mr. HORTON. You just said that wasn't applicable.

Mr. KAMENY. A homosexual act would be, I should think, almost any act between two members of the same sex. It even includes shaking hands, as far as that goes.

Mr. HORTON. This is a homosexual act?

Mr. KAMENY. I have known people who have defined it as such.

Mr. HORTON. You mean if I shake hands with the chairman I am guilty of a homosexual act?

Mr. KAMENY. I have known people who have defined it as such.

Mr. HORTON. You mean if I shake hands with the chairman I am guilty of a homosexual act?

Mr. KAMENY. I don't think you are guilty of anything.

Mr. HORTON. You condone that action, in other words?

Mr. KAMENY. I think anybody would. I am merely trying to point out that our laws—

Mr. HORTON. I understand—

Mr. KAMENY (continuing). Are vague to the point of—

Mr. HORTON. That is one end of the scale. Now let's go on up the scale.

Mr. KAMENY. No; I was acting under provisions of our constitution.

Mr. HUDDLESTON. Legal advice on that point?

Mr. KAMENY. I do not recall at the moment whether I did or not. However, you raise the question about charitable solicitations. I was discussing that. I went down to the District and said, "What must we do legally to put this advertisement in the newspapers." They said "You have to register under the Charitable Solicitations Act."

I said, "We are not what would normally be considered to be a charitable organization. The money which we raise goes into our treasury for the operations of the society." They said, "Nonetheless you must register under this act."

So I said, "All right; if you say so we will."

There was no misrepresentation involved at any point.

Mr. HUDDLESTON. Coming back, earlier I asked you, I think, when I first started out for a definition of what you as the president of your organization has as a homosexual—

Mr. KAMENY. Yes.

Mr. HUDDLESTON. And you indicated that it had to do with attraction for the same sex.

Mr. KAMENY. With one's inclination or preferences; yes.

Mr. HUDDLESTON. And then during the course of the questioning here this morning I have asked you with regard to the change in the criminal law and you indicated that your society is dedicated to the purpose of changing the law so that the homosexual act is not illegal.

Mr. KAMENY. Dedicated is too strong a term. Actually, this is a secondary purpose.

Mr. HUDDLESTON. You are not dedicated to that purpose?

Mr. KAMENY. This is one of our purposes, but dedicated usually implies an all-consuming direction in one's activities and this is not so. A change of the criminal code, yes; we are interested in that. Thus far it has been very much a secondary portion of our activities.

Mr. HUDDLESTON. I think earlier you told us you did not condone—I don't want to interpret your testimony but I had the impression at least from your testimony that your organization did not condone the homosexual act.

Mr. KAMENY. We do not condone—

Mr. HUDDLESTON. How do you distinguish between this position and the position in which you have indicated in your statement on page 2 where you are working to try to make the homosexual act legal?

Mr. KAMENY. May I ask, please, before I answer that, for a precise definition by you of the word "condone"?

Mr. HUDDLESTON. Don't you know what "condone" means?

Mr. KAMENY. If by "condone" you mean one thinks that people ought to be allowed to do it; yes.

Mr. HUDDLESTON. Put your stamp of approval on that?

Mr. KAMENY. We don't disapprove that provided it is legal. We feel that it should be made legal.

Mr. HUDDLESTON. On page 4 you also stated:

For individuals we proposed that in the area of private consent to all sexual conduct among adult citizens be given their freedom of choice, certainly a fundamental American right.

Here you are talking about the act, are you not?

Mr. KAMENY. Unless I have my numbers incorrect, 22-3501 and 22-3502.

Mr. HORTON. Would you read those?

Mr. DOWDY. Read them aloud so we know what you are talking about.

Mr. KAMENY. I am sorry. I am in error.

I would like to retract my statement about 22-3501.

Mr. HORTON. You read. You tell me the number, but I want your definition of the acts that your organization is attempting to sell the public should not be illegal.

Mr. KAMENY (reading):

Every person who shall be convicted of taking into his or her mouth or anus the sexual organ of any other person or animal or who shall be convicted of placing his or her sexual organ in the mouth or anus of any other person or animal or who shall be convicted of having carnal copulation in an opening of the body except sexual parts of another person shall be fined not more than \$1,000 or be imprisoned for a period not exceeding 10 years.

Mr. HORTON. Those are the acts that your organization condones?

Mr. KAMENY. Provided they are done in private and provided that the participants are adults and consenting.

Mr. HORTON. Then you omitted animals.

Mr. DOWDY. How are you going to get the consent of an animal?

Mr. KAMENY. All right. Omit animals if you like.

Mr. HORTON. Pardon?

Mr. KAMENY. Omit animals if you wish.

Mr. HORTON. It is not a question of me. I am asking you. You are trying to educate the public and I want to know what you are educating the public to. Are you educating the public in the use of animals?

Mr. KAMENY. Not particularly. We are not interested particularly in that.

Mr. HORTON. I am not talking about particularly. I am asking you. You are the president of this organization.

Mr. KAMENY. Drop the mention of animals. I ask that the reference to animals—

Mr. HUDDLESTON. We don't want a compromise here. We want to know what your attitude is.

Mr. KAMENY. My attitude is as I read it with the omission, if you please, from the record as to animals.

Mr. HUDDLESTON. Do you have objection to making sexual relations between man and animal and woman and animal a criminal offense?

Mr. KAMENY. Not particularly, no. I think again if this is done not in public, I think this is entirely a matter of an individual preference.

Mr. HUDDLESTON. In other words, it is a matter of individual preference between man and man; man and woman; and also between man and animal and woman and animal?

Mr. KAMENY. If these people wish; yes.

Mr. HUDDLESTON. In other words, then, it doesn't shock your morals?

Mr. KAMENY. No.

Mr. HUDDLESTON. Sexual relations between man and animal and woman and animal?

Mr. KAMENY. No.

Mr. HORTON. I would like to come back to specifically what acts your society is attempting to educate the public that are going to be not in violation of the criminal law any longer.

Now, apparently your society is attempting to educate the public. You are an educational institution?

Mr. KAMENY. Yes.

Mr. HORTON. Is that right?

Mr. KAMENY. In part, yes.

Mr. HORTON. All right. That is the part I am directing my attention to. Before we do that, what other part do you have? If you are not educational what is the other aspect of your organization?

Mr. KAMENY. Civil rights; civil liberties; civil action organization.

Mr. HORTON. All right. Now let's go back to the education. I want to know what your society is attempting to tell the public, acts that should not be in violation of criminal law.

Mr. KAMENY. We are trying to tell the public the acts which should not be in violation of criminal law are any sexual acts done in private on the part of consenting adults, any which happen to be presently in violation of the criminal law whether of the District or—

Mr. HORTON. Homosexual?

Mr. KAMENY. In our case we are dealing narrowly with the homosexual act. Any which happen to be in violation of the laws of any locality we feel ought not so to be in violation.

Mr. HORTON. What homosexual act are you talking about?

Mr. KAMENY. Those specified in any of the widely varied statutes the country over.

Mr. HORTON. You just listed some of them; shaking hands and dancing.

Mr. KAMENY. Those are not in violation now. You asked me what homosexual acts were. You did not ask me at that point what was in violation of the law.

Mr. HORTON. These acts that you talked about are the ones that you are attempting to educate the public that they should recognize and that they should not be in violation of criminal law?

Mr. KAMENY. Yes; we are also trying to educate the legislators to this.

Mr. HORTON. How do you educate the public as to this?

Mr. KAMENY. Again I have indicated our public education program has been a very limited one.

Mr. HORTON. Excuse me. How much education of the public have you performed so far?

Mr. KAMENY. I have stated that about three times over. Thus far we have had, our organization has had a public lecture by Mr. Corey.

I have spoken to the American Civil Liberties Union. We have distributed our newsletter. There have been many private conversations on a person-to-person basis by individuals.

Mr. HORTON. Do you have a program, an educational program?

Mr. KAMENY. We do not have a formal educational program.

Mr. HORTON. Do you have someone in charge of your educational program?

Mr. KAMENY. No; we do not.

Mr. HORTON. Is this your responsibility?

Mr. KAMENY. It is the responsibility of the executive board when we feel we have reached the point where we can finance and support an extensive educational program.

Mr. HORTON. Thank you, Mr. Chairman.

Mr. DOWDY. All right; I think you can start with your statement now.

Mr. KAMENY. All right. Just before I start, I would like permission to place into the record a statement here from the Reverend Robert W. Wood of the First Congregational Church of Spring Valley, N.Y.

Mr. DOWDY. Is he one of your members?

Mr. KAMENY. No; he is not. The Reverend Wood is the author of a book entitled "Christ and the Homosexual," which demonstrates that homosexuality on the one hand and Christianity and Biblical precepts on the other, are not inconsistent with each other.

He knows of the organization and attests here to its value and to the work it is trying to do.

I will proceed from approximately the point where I left off yesterday.

I would like to apologize to the committee for my very rapid delivery yesterday, but I was instructed that time was short.

It is stated that our activities are revolting to normal society.

Mr. DOWDY. Where are you reading?

Mr. KAMENY. I am starting at the bottom of page 3. What is revolting is a matter of personal reaction. Certain foods are revolting to most people, but enjoyed by some. Those foods are freely available. Those who like them, partake; those who dislike them, do not. The parallel is plain.

None of the activities of this society, as an organization, are likely to be revolting to anyone. For individuals, we propose that in the area of private, consensual sexual conduct among adults, citizens be given their freedom of choice—certainly a fundamental American right. Those who find homosexuality revolting are free not to engage in it. But under our system, this does not require that all conform.

Mr. DOWDY. Do you understand the difference between amoral and immoral?

Mr. KAMENY. That is a subtle distinction, more so than the one between moral and immoral.

Mr. DOWDY. Immoral, of course, is somebody who knows what immoral is and isn't moral, and amoral is somebody who doesn't have any morals. How do you apply that to your particular organization? Is it an amoral organization?

Mr. KAMENY. The organization has not as yet taken a specific stand on the morality or immorality of homosexuality. I will state for myself that I feel that homosexuality whether by mere inclination or by overt act is not only not immoral but when homosexual acts when performed voluntarily by consenting adults, are moral in a positive and real sense and are good and are right and are desirable both for the individuals performing them and for the society around them.

Mr. HUDDLESTON. Does that apply also to acts between human beings and animals?

Mr. KAMENY. That is not homosexuality and does not come within our purview.

Mr. HUDDLESTON. I asked you a few minutes ago about your reaction to whether sex acts between human beings and animals shocked your sense of morals and you said it did not. Now I am asking you if what you have just said applies also the relationship between human beings and animals, whether it is a wholesome, healthful activity?

Mr. KAMENY. What I have said applies to homosexual relations and I stand specifically on that because that is the topic of discussion today.

Mr. HUDDLESTON. I am asking you to comment on this other, if you have a comment to make.

Mr. KAMENY. I have not given it sufficient thought to give a thoughtful comment.

Finally, Mr. Dowdy states that "the acts of (homosexuals) are banned by the laws of God, the laws of nature, and are in violation of the laws of man." There is much difference of opinion in regard to the laws of God. I need only refer to the recent report published by an English Quaker group, indicating that in their view homosexual practices are not in violation of the laws of God.

Mr. Dowdy. I would like to interrupt you right there. This Reverend Wood—you sent his letter up—he speaks something about well-adjusted homosexuals.

Mr. KAMENY. Yes.

Mr. Dowdy. I was wondering if there was such a thing. But your statement that there is a difference of opinion in regard to the laws of God, I have read the New Testament and the Old Testament both, and I can't see how there would be any doubt about what the Book says.

Mr. KAMENY. I am not a theologian. I recommend to you a discussion between you and the Reverend Wood.

Mr. Dowdy. I am talking about your statement now.

Mr. KAMENY. All right.

Mr. Dowdy. In which you said there might be a difference—you said, "There is much difference of opinion in regard to the laws of God."

The Book says that homosexual practices, and they are referred to in the Bible, homosexual practice is referred to in the Bible as an abomination. Now let's take first the New Testament. St. Paul when he was speaking of homosexual men and women said this:

"God gave them up in the lusts of their hearts to impurity, for even their women did change the natural use into that which is against nature; and the men likewise gave up natural relations with women and were consumed with passion for one another."

He said that was when God gave them up in the lusts of their hearts to impurity.

Then in the Old Testament in Leviticus, 18: 22, the Lord, speaking to Moses and warning his people to obey his ordinances, commanded them thusly:

"Thou shalt not lie with mankind as with womankind. It is an abomination."

And He continued:

"For whosoever shall commit any of these abominations even the souls that commit them shall be cut off from among their people."

The Lord was emphatic in regard to the sin of abomination. He excused neither the active nor the passive participant in the homosexual act in these words:

"If a man also lie with mankind as he lieth with a woman both of them have committed an abomination. They shall surely be put to death. Their blood shall be upon them."

I cannot see how you can interpret that as you have, or that there could even be a difference of opinion in regard to what that says.

MR. KAMENY. This is a matter of theology. I feel that a theological discussion on the part of a Member of Congress in his capacity is grossly improper under the first amendment to the Constitution.

MR. DOWDY. You brought the subject up. You said there could be a difference of opinion about the laws of God.

MR. KAMENY. I was responding to your original comment in the Congressional Record.

Canon D. A. Rhymes of the Church of England recently said: "Much of the prejudice against homosexuality is on the ground that it is unnatural—but unnatural for whom? Certainly not for the homosexual himself."

Let it not be forgotten that the homosexual was created and formed by God and nature.

In addition, I will point out, just in passing, that the eating of cooked food, the wearing of clothes, and the meeting of this committee this morning in a cooled room on a hot summer day can all be considered to be in violation of the laws of nature.

In regard to the laws of man, it should be noted that among major countries in the entire world, homosexual acts are illegal only in Russia, England, and the United States. In the United States, the State of Illinois has recently removed such acts from its list of criminal offenses.

MR. HUDDLESTON. Do you have the citation?

MR. KAMENY. I don't, but I can supply it if you wish.

MR. HUDDLESTON. Will you put that in the record at this point, the statute, the statute of Illinois that repeals any criminal—

MR. KAMENY. You don't find in any criminal code a statement of omissions. Illinois revised its entire criminal code effective January 1, 1962, and homosexual acts between consenting adults in private were omitted from the list of those actions or offenses.

MR. HUDDLESTON. You may not find it in the new code if what you say is so, but you certainly will find a statute that repeals the Illinois statute on homosexuality.

MR. KAMENY. Well, I am not an attorney. It is my impression that the entire Illinois criminal code was replaced by an entire new criminal code recommended by the American Law Institute. This did not apply just to homosexuality. It was a revision from A to Z of the entire criminal code of the State.

MR. HUDDLESTON. I would like to ask the staff to look into that and put whatever their findings are in the record at the time that Mr. Kameny puts this statute in the record.

(The material referred to appears in the appendix, p. 146.)

MR. KAMENY. A new manual of instructions for the police department of the State of Illinois was necessarily issued at about that

time, and that did state explicitly that these acts are no longer criminal acts, and instructed the police of this.

Mr. HUDDLESTON. Which acts are not any longer criminal acts, sexual acts?

Mr. KAMENY. I don't have the manual in front of me.

Mr. HUDDLESTON. Sexual acts done in private?

Mr. KAMENY. Done in private by adults. Adults are specifically defined by the code.

Mr. HUDDLESTON. Put that in the record, too, the instruction manual.

Mr. KAMENY. I will have to look up the reference. I don't have it with me. I can send it in to the committee.

Mr. HUDDLESTON. If you will provide that we will put that in the record.

Mr. KAMENY. I will provide it at the earliest possible date.

If it is objected that homosexual acts are against the laws of man in the District of Columbia, then we say that this committee makes the laws of man in the District of Columbia and the remedy for the situation lies with the committee. Change the law and make the acts legal. We take this opportunity formally to recommend to this committee that section 22-3502 of the District Code, insofar as it applies to the District of Columbia, be repealed.

Mr. HUDDLESTON. You are amending your statement at this point?

Mr. KAMENY. Yes; I am.

Mr. HUDDLESTON. You are not willing to carry the extra burden of the repeal of that statute insofar as that relates to sexual relations between human beings and animals?

Mr. KAMENY. This is not germane to the Mattachine Society of Washington and therefore I would not take a position on that as representative of that society.

Part III

We come, finally, to the bill H.R. 5990. The first portion of the bill amends the Charitable Solicitations Act by providing that it be affirmatively demonstrated that each organization licensed under the act contributes to the health, welfare, and the morals of the District of Columbia. The section is objectionable on three counts.

First, the language of this section of the bill is vague. Ideas, concepts, and definitions of the term "welfare" and, much more so, of the term "morals" vary considerably. Dissent in these matters, as in all others, is fit, proper, and desirable, so long as the dissent itself is expressed in a lawful manner. The holders of minority viewpoints on matters having to do with what some people may consider to be matters of morals—and what others may consider to be matters of personal freedom of civil liberty—have the right, in this country, to present their position without legal disability on account of controversy or unpopularity.

Second, this provision imposes an overwhelming administrative and financial burden upon both the government of the District of Columbia and the individual organizations to be licensed.

An entire apparatus for hearings, appeals, litigation in the courts, et cetera, for some 150 to 200 organizations will have to be set up. The organizations will have to prepare briefs and may well have to

retain legal counsel. The net effect will be a needless expenditure of the taxpayers' money, the diversion into acquisition and protection of the license to solicit of a possibly sizable portion of the solicited funds, and the diversion of a vast amount of time and effort better invested elsewhere.

Third, even were it possible satisfactorily to define its terminology, this section of the bill places extremely stringent requirements upon organizations registering under the Charitable Solicitations Act—requirements which we feel could be met by few organizations now licensed.

Mr. HORTON. You left out section 22-3501.

Mr. KAMENY. Yes. I amended that a few minutes ago when you passed the list of laws to me.

Mr. HORTON. You had it in this statement.

Mr. KAMENY. I originally had —

Mr. HORTON. This has to do with indecent acts of children. Are you reconsidering that?

Mr. KAMENY. This is why I dropped it.

Mr. HORTON. Pardon?

Mr. KAMENY. This is why I dropped it.

Mr. HORTON. I said was your society considering —

Mr. KAMENY. No. We were not. I had requested from someone over the phone, someone who had access to the criminal code—I did not easily—if they would please look up the provisions. They gave me two numbers. I did not check them further.

Mr. HORTON. Was that a lawyer that you talked with?

Mr. KAMENY. Someone with legal training but not a practicing lawyer.

Mr. HORTON. In other words, what you are saying is that this was a mistake?

Mr. KAMENY. This was an error; the inclusion of this was an error on my part, for which I apologize to the committee.

Mr. HORTON. You are not saying, though, that you had considered the repeal of 22-3501 and that you changed your mind here.

Mr. KAMENY. No; emphatically not, and let me make that explicitly clear.

Mr. HUDDLESTON. Apparently you had considered the repeal of the statute relating to sexual relations between human beings and animals and you changed your mind here?

Mr. KAMENY. We feel that that is simply outside our purview.

Mr. HUDDLESTON. You feel that way now but at the time you prepared this statement which I assume was approved by at least the members of your executive board, that you felt that the position of your organization ought to be the complete repeal of this section, including that part relating to sexual relations between human beings and animals?

Mr. KAMENY. No; it was not, because the executive board did not read this. This was an omission on our part.

Mr. HUDDLESTON. You are now appearing as the president of whatever this organization is. You are appearing as an individual and your statement does not have the approval of your organization?

Mr. KAMENY. My statement does have the approval of my organization.

Mr. HUDDLESTON. Your original statement had the approval of your organization?

Mr. KAMENY. To the extent that they were misinformed, as I was, of certain of the provisions of the statute.

Mr. HORTON. You mean you hadn't read this statute before you put it in here?

Mr. KAMENY. As I said, we asked an attorney who knows our position what the relevant statutes are.

Mr. HORTON. Did he read this over?

Mr. KAMENY. Apparently he did not.

Mr. HORTON. Let me ask you this: As the president of this society was this the first time you ever read section 22-3502 this morning?

Mr. KAMENY. No. I had read it about 3 or 4 years ago.

Mr. HORTON. Was this the first time you had read section 22-3501?

Mr. KAMENY. Three or four years ago but not recently.

Mr. HORTON. You read 3501?

Mr. KAMENY. At that time but I did not recall—

Mr. HORTON. So you did know when this statement was prepared that there was a section 22-3501 and that it had to do with indecent acts with children?

Mr. KAMENY. I did not realize that section 22-3501 was the one that had to do with indecent acts with regard to children or I would not have quoted it.

Mr. HORTON. But you certainly have read it and you did know that it had to do with indecent acts with children; right?

Mr. KAMENY. I did not know that 22-3501 did, or I would not have included it in this statement because we do not propose this.

Mr. HUDDLESTON. But you did know that 3502 related to acts between human beings and animals?

Mr. KAMENY. No; I did not.

Mr. HUDDLESTON. You didn't know that. Have you read that section?

Mr. KAMENY. I said 3 or 4 years ago. It was my recollection that the two sections referred to two different homosexual—not homosexual, but two different sexual acts and I did not realize that they were all under 3502 with other things.

It was a fault of my own memory for which I apologize to the committee.

Mr. HUDDLESTON. Do you feel you have given adequate time to the preparation of your statement? You let glaring and serious errors like that creep into it.

Mr. KAMENY. In view of the fact that the committee only informed us of the scheduling of these hearings on Monday, in fact we didn't receive the official letter until Tuesday for hearings on Thursday; I feel that my preparation was fully adequate.

Mr. HORTON. Which Thursday are you talking about?

Mr. KAMENY. Yesterday.

Mr. HORTON. You were in here yesterday with this statement.

Mr. KAMENY. I was informed by telephone conversation with the clerk of this committee on Monday and received a formal notice on Tuesday, 2 days before the hearings, that the hearings were to be held and at that time the statement was prepared.

Mr. HORTON. When was the first notice that you received of this hearing?

Mr. KAMENY. A letter came to me from one member of the District Committee over the weekend saying there would be hearings on the eighth. I received the letter in the mail late Sunday night.

Mr. HUDDLESTON. At that point I would like the record to show that this bill, H.R. 5990, was introduced by Congressman Dowdy on May the 1st, 1963.

Mr. KAMENY. We learned of the bill rather considerably later. We did not at that time have any idea that there would be hearings or that we would be allowed to testify. We proceeded to prepare a statement when we were informed that indeed there were hearings scheduled and that indeed we would be allowed to testify.

We saw no point in preparing a lengthy statement if there were to be no hearings or no testimony by us.

Mr. HORTON. Let's come back to the preparation of this material.

Mr. KAMENY. Yes.

Mr. HORTON. You received a letter late Sunday night. Did you sit down then and start composing this?

Mr. KAMENY. This was received late Sunday night. I started composing this statement in the course of the latter part on Monday.

Mr. HORTON. Is this all original material here or is this taken from some other statements that you made in the past?

Mr. KAMENY. Largely this is original, composed by me, with the assistance of members of my executive board, and has been gone over by the board, so that it represents the board's views.

Mr. HORTON. Did you have any material that you referred to that made this recommendation of the elimination of these two sections?

Mr. KAMENY. The recommendation was made in the spirit of preceding statements that the criminal code of the District of Columbia in regard to consenting homosexual acts between adults be permitted.

In view of the shortness of the time, I informally consulted someone who had access to the same volume probably that you have there, and asked this person what provisions—"Will you please give us the citations to include in this." I was given these two numbers and accepted them without question. I should have checked them.

Mr. HORTON. Did he read them to you over the telephone?

Mr. KAMENY. No; he did not.

Mr. HORTON. He just told you the two numbers?

Mr. KAMENY. That is right; and this was in error.

Mr. HORTON. And you took it from there?

Mr. KAMENY. I took it from there.

Mr. HORTON. Subsequent to the preparation of this material did you have a meeting with your executive group, as you call them?

Mr. KAMENY. We did.

Mr. HORTON. Did you go over this?

Mr. KAMENY. I went over this material word for word.

Mr. HORTON. Did you have a copy of the District Code at that time?

Mr. KAMENY. No, I did not; none of us are attorneys. We did not have the code with us to look at. We unfortunately relied upon other authority and we should not have done so.

Mr. HORTON. You are asking this committee, you are making a recommendation to this committee that these two sections be repealed

and now you have eliminated one; and now you have eliminated one of the aspects of 3502?

Mr. KAMENY. Yes; I am modifying my recommendation. The sum total of my recommendation is our recommendation that the statute dealing with sodomy on the part of consenting adults in private be repealed.

Mr. HUDDLESTON. How about the other phases of this section 3502 which provides for a greater penalty for homosexual acts with a person under 16?

Mr. KAMENY. We do not condone or avow or propose sexual acts, homosexual, heterosexual with children.

Mr. HORTON. Would the gentleman yield there? You just made a statement about wanting to have approved the consenting act, homosexual acts between individuals in private?

Mr. KAMENY. Yes.

Mr. HORTON. Weren't you in here yesterday morning when the representatives from the Corporation Counsel's office testified?

Mr. KAMENY. I was.

Mr. HORTON. Do you recall him reading some case and saying that this was not illegal at the present time?

Mr. KAMENY. Yes; that was the *Rittenauer* case.

Mr. HORTON. Then there isn't any need to change this act, is there?

Mr. KAMENY. I was both pleased and surprised to hear that view come from the Corporation Counsel's office.

Mr. HORTON. Do you mean to say that as president of this organization educating the public you never heard that until yesterday?

Mr. KAMENY. I knew very well of that decision. The *Rittenauer* decision, and I have checked on this with attorney after attorney after attorney and have gotten conflicting reports from them all, has left the present status of the statute on sodomy on acts committed in private between adults very unclear.

My feeling is in point of fact—again I speak not as a professional attorney, I defer again, I would be perfectly pleased to be contradicted by someone who is professionally competent to do so; as far as I can see, the matter will not be resolved given the present statutes and as they stand, until some poor unfortunate is forced to make a test case of it in the courts. The *Rittenauer* decision is not explicitly clear to the bodies of attorneys in general in this city.

Mr. HORTON. The legal advice that you as president of this society received conflicts with regard to this statement that the Corporation Counsel made?

Mr. KAMENY. It has been conflicting among themselves and much of it has not been taken as liberal an interpretation as the Corporation give it.

Mr. HORTON. In other words, you think he put a pretty liberal interpretation on this?

Mr. KAMENY. I was very pleased to see him do so.

Mr. HORTON. You feel this was a fairly liberal interpretation in this case?

Mr. KAMENY. Yes.

Mr. DOWDY. Following your statement, "Let it not be forgotten that the homosexual was created and formed by God," that seems to be a blasphemous statement. Your original statement was that you didn't

believe that homosexuals were born, that they were developed after they were born.

Mr. KAMENY. If you believe in an omnipotent God, presumably governs what goes on in the world including before, during, and after birth.

Mr. DOWDY. God made man a free moral agent.

Mr. KAMENY. Here we get into matters of particular theologies which I feel are not proper for discussion by Congressmen in the course of their office under the first amendment to the Constitution.

Mr. DOWDY. You think we should be as immoral as the homosexuals in this thing?

Mr. KAMENY. The homosexuals are not—

Mr. DOWDY. Or amoral; I will change it to amoral.

Mr. KAMENY. I just don't feel that morality is a proper subject for discussion by Congressmen as Congressmen.

Mr. DOWDY. I think this Nation became great because of the moral strength of the people. There was an editorial on the Mutual Network a few days ago, July 26, in which they were commenting about what has been going on in England. I would like to read it:

The current mess being aired in the London courtroom is more than just that. It is not just the development of a few immoral or amoral individuals.

And it goes ahead and speaks of the liberal attitude.

What is happening is the inevitable result of a liberal attitude toward social abnormalities. More than once in recent years this attitude has menaced the diplomatic and military security of Britain. The mess in London has significance for us here in the United States. Like Britain, we have been caught with a scandal or two. It is something the people of any nation can continue to tolerate only at their own peril. The lowering of moral standards will eventually rule out the conscious and systematic teaching of moral concepts to our children.

Mr. KAMENY. That is the opinion of the writer.

Mr. DOWDY. "Where is the future of nations without a moral concept?"

It seems to me you are here telling us that we, we as Members of Congress, should absolutely abolish all moral concepts from our minds in passing upon laws for this Nation and this district.

Mr. KAMENY. I feel the discussion, an explicit characterization of any particular course of conduct as moral or immoral as such is improper.

Mr. DOWDY. You are saying morality is none of the business of the Members of Congress?

Mr. KAMENY. Matters of morality and immorality are matters of personal opinion and individual religious belief and under the first amendment to the Constitution the Federal Government is prohibited from interceding in them as such.

Mr. HORTON. Is this your statement or is this a statement of the society?

Mr. KAMENY. This is my personal statement.

Mr. HORTON. Let me finish the question so you understand it.

Is this a statement that you are making as president of this organization? Are you making this statement as an individual?

Mr. KAMENY. I am making that statement as an individual.

Mr. HORTON. Excuse me, let me finish the question.

Mr. KAMENY. I am sorry.

Mr. HORTON. Or are you making a statement of what your society stands for?

Mr. KAMENY. That statement was made by me as an individual.

Mr. HORTON. Then do you disown that the society stands for this proposition that you just made?

Mr. KAMENY. The society has not taken any formal position on matters of morality.

Mr. HUDDLESTON. Would that apply—you apply it, of course, to this 3502. Does that apply to all criminal statutes that are based on traditional moral concepts such as statutes making it a criminal offense to commit rape, murder, arson, larceny, burglary, robbery?

Mr. KAMENY. I am not discussing what may be in the minds of the individual Congressmen when they make the statute. We were there discussing the individual provisions of the statute as such without regard to whether that deals with morality or immorality. Some of the acts which you have mentioned, rape, for example, certainly is not done with the consent of the participants, and I emphasize consent throughout. Almost all of the sexual acts or a good many of them which are objectionable will be found to be objectionable like rape not because they are sexual but because in that case it is an assault.

Mr. HUDDLESTON. As Mr. Freedman will tell you, there are two types of criminal offense; the *malum prohibitum* and *malum in se*; murder, rape, robbery are *malum in se*, whereas a driver without a driver's license and that sort of thing is *malum prohibitum*.

Crimes of *malum in se* are based on the moral concepts of the people; the customs and mores of the people. We had those as criminal offenses long before we passed the statutes and put them in the books. Those are criminal offenses under the old English common law before there was any criminal statutes.

Mr. KAMENY. I feel that dissent—and I speak for myself—I feel that dissents in matters of morals is a permissible as dissent elsewhere, and enforced conformity of view in moral matters is as odious as enforced conformity of view in any other matter.

Mr. HUDDLESTON. And that includes criminal statutes that are enacted by Congress or State legislatures that might be based on moral concepts.

Mr. KAMENY. Any citizen certainly has the right to say of a particular criminal law this is a bad law and I disagree with it. I am not saying he has the right to violate it. He has the right to disagree with it and to go about taking any lawful orderly action to change the law if he sees fit to do so. This is the right of all American citizens.

Mr. HUDDLESTON. I agree with that.

Mr. KAMENY. Fine. This is just exactly what we are trying to do.

Mr. HUDDLESTON. I was wondering whether your association took the position that 3502 and these other criminal statutes that were based on moral concepts ought to all be repealed because the Congress and the State legislatures under the first amendment had no authority to even consider the question of morals in the enactment of criminal statutes.

Mr. KAMENY. I feel this: The State in the narrow sense—please let me emphasize I do not have legal training, I am not a professional attorney—the State legislatures, I feel, certainly have the proper right in the narrower sense to make criminal what they wish to make

criminal as they choose. They do not have the right, however, and this is the point I am getting at, to say or to list these acts as immoral. They can say this act is criminal but they do not have the right under the first amendment to say this act is immoral. This is the difference.

Mr. HUDDLESTON. There is no criminal statute which says such act is immoral.

Mr. KAMENY. There are Government regulations that do.

Mr. HUDDLESTON. You are talking about acts of Congress or State legislatures that have passed. I don't believe there are any criminal statutes.

Mr. KAMENY. However, that is not relevant to these statutes here. We simply feel just as one does not go into the minds of Congressmen, men who passed 22-3520, similarly one does not at least in the narrow purpose of this discussion of the instant go into our minds in opposing it. You passed it. We say we propose that it be removed from the criminal code.

Mr. HORTON. Referring to this proposed statute, the elimination of this section 3502, would your organization support and do you support a proposition that these acts, these homosexual acts, be committed in privacy, but do you also support the proposition that they can be in private but with more than one person?

Mr. KAMENY. This is an interesting point. My organization has taken no particular stand on that.

Mr. HORTON. Do you as president feel that you would recommend to your organization that they approve this type of legislation if that were a case of enacting legislation? I mean, you are making a recommendation to a committee of Congress now for proposed legislation as I see it.

Mr. KAMENY. Yes.

Mr. HORTON. We are talking about an act that you have already indicated between adults and it would be in private and I think you have also excluded infants or persons under the age of—

Mr. KAMENY. Under the age of consent, yes.

Mr. HORTON. And it should be with the consent of that individual. Now, I am asking you whether you limit it to one person or two persons or whether you limit it to any number of people.

Mr. KAMENY. My feeling, subject to further thought, further discussion by others and therefore to modification, would be that as long as there is no public disorder involved, that there would be no objection to involving more than two people.

Mr. HORTON. All right.

Now, how many people do you believe could be involved?

Mr. KAMENY. I would find it quite impossible to draw a line there.

Mr. HORTON. Pardon?

Mr. KAMENY. I would find it quite impossible to draw any line there, in view of the fact that the very great overwhelming majority of sexual acts of any description involve two people, the question becomes almost academic.

Mr. HORTON. Not necessarily because you are talking about doing this act in the presence of other people. You have acted that—in other words you would support a proposition in which more than two people would be involved in a homosexual act, but now I am asking you with regard to the number of people that could be present during the con-

summation of this act. Do you have any limitation in that respect, so long as it is in a private place?

Mr. KAMENY. This will obviously lead to the question if I were to set a limitation—

Mr. HORTON. Just answer this question and wait for the next one.

Mr. KAMENY. All right. I find it impossible to set a specific limit.

Mr. HORTON. You wouldn't restrict it to two, though?

Mr. KAMENY. Not of necessity.

Mr. HORTON. Would you permit as many as 10?

Mr. KAMENY. This is what you are getting at. If I say 10, then you will say 11; if I say 11 you will say 12. It is impossible to draw a line.

Mr. HORTON. Would you permit 10?

Mr. KAMENY. If the proceedings were orderly and no public disturbance were caused.

Mr. HORTON. Would you permit more than 10?

Mr. KAMENY. This can go on indefinitely. My answer remains the same.

Mr. HORTON. You would permit 10?

Mr. KAMENY. With the stipulations as stated, yes.

Mr. HORTON. With the same stipulations would you permit 20?

Mr. KAMENY. My answer remains the same.

Mr. HORTON. Yes. In other words, with the same stipulations?

Mr. KAMENY. Yes.

Mr. HORTON. Just so we are clear.

I mean you would permit 20 with the same stipulation?

Mr. KAMENY. Certainly. You have a dinner party for 2 and you have a dinner party for 50 as long as it is carried out in an orderly fashion.

I fail to see the difference.

Mr. DOWDY. I saw a so-called newsletter put out by some bunch of perverts which mentioned the fact that somebody was gaining weight on a diet of semen. Is that the kind of dinner party you are talking about?

Mr. KAMENY. No, it is not. I was referring to an ordinary, conventional dinner party of the type that you or Mr. Horton might attend.

Mr. DOWDY. We don't go to the kind of parties you are talking about.

Mr. KAMENY. No; but if I were to ask Mr. Horton whether he objected, whether he felt that there was any objection to having three people to his home for dinner, he would say "no." If I said, "Well, what about four?" he would say, "Well, there is no objection as long as it is orderly and people don't cause a public disorder."

Mr. DOWDY. He is not talking about dinner parties. He is talking about homosexual orgies.

Mr. KAMENY. I see no reason—

Mr. HORTON. I didn't characterize it as an "orgy." I was asking you about how many people you would permit to be present either while one couple was performing or other couples were performing, and how many you would permit to be present either performing or being present during the performance of such acts and you went to 10 and you went to 20 and I assume—

Mr. KAMENY. I feel as long as the proceedings are orderly, as long as there is the consent of all involved, as long as the people involved are adults, this is a matter of freedom of choice of all involved.

Mr. HORTON. You brought the dinner up. I had nothing to do with it.

Mr. KAMENY. By analogy. I continue my remarks.

Mr. DOWDY. I think I have a few questions concerning that, and your statement you want homosexuality removed from the statutes, making it legal. Some other of your statements about having crowds, can we assume from your statement so far that you are in favor of marriage between homosexuals?

Mr. KAMENY. This depends upon your definition of "marriage." If you mean by this having two people enter into a lasting relationship, I see no reason why not. The Declaration of Independence grants us the pursuit of happiness and if two people can pursue their happiness together and they happen to be of the same sex by all means let them go ahead. It would be to the advantage of everyone concerned, including society.

Mr. DOWDY. Then what would be the purpose of the marriage that you speak of?

Mr. KAMENY. Now wait; let me ask what you mean now by the term "marriage." By "marriage" I mean simply a relationship entered into by two people and persisting for some length of time. If you mean formal marriage ceremonies or something like that, I personally, and I speak individually, see no particular point in it. If two people are happy at doing it, fine; let them go ahead. It doesn't do any harm to anybody.

Mr. DOWDY. Do you feel that the homosexual should be free to practice his homosexual act promiscuously? That is what I was leading to by asking about marriage.

Mr. KAMENY. Provided again that the acts in question are done in private and with the usual stipulations that I have made several times over, I think this again is a matter of his own personal choice.

You will find, I think, that the majority of homosexuals, like the majority of heterosexuals, are looking for a stable personal relationship, and are trying to find a partner with whom they can live for long periods of time, and I have known some who have lived together for many decades.

Mr. DOWDY. Then you think it is all right for them to be promiscuous?

Mr. KAMENY. Again it is a matter of individual personal freedom. You find many heterosexuals who are promiscuous, too.

Mr. DOWDY. Do you feel that a heterosexual should be free to engage in promiscuous sexual acts?

Mr. KAMENY. This is a matter of personal choice and personal preference.

Mr. DOWDY. No morality involved in it at all?

Mr. KAMENY. Provided in the heterosexual cases he is willing to take the responsibility for any children resulting I don't feel it is immoral.

Mr. HUDDLESTON. You would favor repeal of all statutes dealing with fornication and adultery?

Mr. KAMENY. They are more honored in the breach than the observance anyway, as I believe any realistic person is aware, yes.

Mr. HUDDLESTON. I just want a "yes" or "no" answer. You favor the repeal of those statutes, too?

Mr. KAMENY. To the extent that they deal with people who do not have any other formal commitment such as marriage, yes. If by "adultery" you mean sexual acts between who are married but not with their marital partners, that is another question.

Mr. HUDDLESTON. Don't you still feel that is a matter of personal question?

Mr. KAMENY. That is a breach of contract and you get into quite a different area, a breach of contract and a breach of faith and this is very different.

Mr. DOWDY. Do you have any breach of faith between your homosexual partners?

Mr. KAMENY. This depends entirely upon the arrangements they have made between them.

Mr. HORTON. Mr. Chairman, would you yield here?

Mr. DOWDY. Yes.

Mr. HORTON. Would your society recommend the formalization of these "marriages"?

Mr. KAMENY. You mean in terms of making them a legal ceremony?

Mr. HORTON. Yes.

Mr. KAMENY. We haven't discussed this formally. My feeling would be that we would not consider this as really important enough to take a position on. It is very much a matter of the individual—

Mr. HORTON. You would not recommend that the relationship be formalized by some ceremony or by some State law?

Mr. KAMENY. I personally would not, and emphasizing that at this point, I am answering a question without having discussed it with my board, I think the society would not take the position you indicate.

Mr. DOWDY. I take it, then, you are asking for special rights in the sex area for homosexuals?

Mr. KAMENY. Oh, no; not at all. We are asking that homosexuals have precisely the same, neither more nor less than the right that heterosexuals have.

Mr. DOWDY. Would you recommend that prostitution and other extramarital sexual relations be recognized as proper as you want homosexual relations recognized as proper?

Mr. KAMENY. As you well know, there have long been movements for the legalization of prostitution in many places. I feel fundamentally that an act of prostitution is a business arrangement between the prostitute and her client, and as long as it is a matter of a consenting sexual act, in private, this is all that is relevant.

Mr. DOWDY. Regardless of the use it is put to. Yesterday I asked you about your discharge on account of your claimed private relationships, and you said that you had been connected with the Defense Department.

What particular part of the Defense Department were you connected with?

Mr. KAMENY. I don't feel that that is relevant to H.R. 5990.

Mr. DOWDY. It was Army Map Service, was it not?

Mr. KAMENY. Yes, it was.

Mr. DOWDY. I wanted to know if you would tell me without me having to tell you.

Mr. KAMENY. All right. As you choose, parry and thrust.

Mr. DOWDY. I take it that you are opposed to the Federal personnel security program, at least insofar as it pertains to homosexuals?

Mr. KAMENY. We have made this abundantly clear to the entire Government, including the Members of Congress.

Mr. DOWDY. Now then, I think we can say it for a fact that under the current public attitude in general toward homosexuals and in the light of the pressures that can be brought to bear by powers which are adverse to our best national interests, do you believe that homosexuals should be given a security clearance?

Mr. KAMENY. Yes, I do.

Mr. DOWDY. Regardless of everything?

Mr. KAMENY. I do not feel that homosexuality is a properly relevant consideration in giving a security clearance. I will go further on that. I feel that each individual should be judged by himself. There are unquestionably homosexuals who would be poor risks on account of their homosexuality. I feel it is improper to rule out all homosexuals because of the few. We had as an example of the kind of thing I object to, there was the case which I am sure will be brought up here in a few moments, it was referred to yesterday, of Martin and Mitchell who defected—

Mr. DOWDY. Defected?

Mr. KAMENY. Defected, thank you, to Russia.

I might point out that there was no indication there that their homosexuality had anything to do with their defection but I point out further that these men were mathematicians, blonds, and westerners. We find no movements to remove mathematicians, blonds and westerners from the Government. I will point out further that every man who has defected to the best of my personal knowledge has been white. I see no move to restrict Government employment to Negroes.

Mr. DOWDY. They were homosexuals, were they?

Mr. KAMENY. This has been alleged. I don't think it has been proven. I see no relevancy of this to their defection. It has not been shown that there has been any connection. They were mathematicians. It has not been demonstrated that being a mathematician had any connection.

Mr. DOWDY. I believe we touched on this a little bit. What permission do you have to use the name Mattachine?

Mr. KAMENY. I know of no permission that is needed.

Mr. DOWDY. Do you receive any guidance from the Mattachine Society of California?

Mr. KAMENY. No, we do not.

Mr. DOWDY. Philadelphia?

Mr. KAMENY. There is not Mattachine Society in Philadelphia.

Mr. DOWDY. I thought you said somebody from up there came down to help you and your organization?

Mr. KAMENY. I said someone from New York came down.

Mr. DOWDY. You do have connection with the Mattachine Society in New York?

Mr. KAMENY. An informal connection. We are an independent group.

Mrs. DOWDY. Do you coordinate your activities with any of those groups?

Mr. KAMENY. We inform them of what we are doing. They inform us of what they are doing. We often mutually discuss what is going on, yes. But we act as a free agent as they act as a free agent, as free agents.

Mr. DOWDY. In connection with the group that calls themselves the Neighbors in Denver, do you have any connection with them?

Mr. KAMENY. To the best of my knowledge they are no longer extant.

Mr. DOWDY. Did you have a connection with them while they were?

Mr. KAMENY. No; we did not. I believe they became inactive before we became active.

Mr. DOWDY. Did they reorganize under some other name?

Mr. KAMENY. Not that I am aware of.

Mr. DOWDY. Do you have any connection with Demophiles, I guess it is, in Boston?

Mr. KAMENY. We have had communication with them.

Mr. DOWDY. Do you have any connection with this organization which calls itself "One," that puts out another one of these books?

Mr. KAMENY. We have had correspondence with them; yes.

Mr. DOWDY. Any other organizations you have had correspondence with?

Mr. KAMENY. Well, as I mentioned on, I think page 2 or 3 of my statement, there are some dozen or so homophile organizations in the country that we know of, and we are in correspondence with all of them, to a greater or lesser degree.

Mr. DOWDY. You used the word "homophile". Is that the same as homosexual?

Mr. KAMENY. It is essentially the same except that the denotation is the same, the connotation is slightly different. The emphasis is in the direction of the movement for improving the status and for gaining the rights of the homosexual and so we refer to organizations of this sort as homophile organizations and the movement as the homophile movement.

Mr. DOWDY. Let's see if I can understand the words you have used. You mean that you are using homophile because you think maybe you will get the public to accept it better than you can homosexual?

Mr. KAMENY. No; because the word has crept into the language and one uses the language that one comes in contact with.

Mr. DOWDY. I believe you were asked about whether you provide legal services of any kind to the homosexuals when they get in trouble either in a civil or criminal matter?

Mr. KAMENY. I don't think I was asked that. I volunteered some information along those lines. The organization itself does not provide legal services because we do not have attorneys, and we would not be competent to practice law without a license. We do or we can, as is necessary, refer people to competent attorneys.

Mr. DOWDY. Talking about domestic societies or groups or whatever you call them, have you got any contact with the international organizations that promote the cause of homosexuality?

Mr. KAMENY. No; we have not. It is not the cause of homosexuality. It is the cause of rights of the homosexuals. Our organization has had no such contact. There are such groups in England, I know, and I believe in Holland, possibly in Switzerland, and Germany; I

am not certain. I know of them personally. We have had no communication with them. The problem in many parts of Europe, of course, is not as acute as it is here because the criminal statutes don't exist.

Mr. DOWDY. You can go ahead with your statement.

Mr. KAMENY. We come finally to——

Mr. HUDDLESTON. Just a second. I would like to put one statement in the record right here. I would like for the record to show that Webster's dictionary doesn't carry the word "homophile."

Mr. KAMENY. I am quite sure there are many fairly new words that are not carried in the dictionary.

We come finally to the bill, H.R. 5990.

Mr. HORTON. Could I interrupt the witness at this point, Mr. Chairman, to ask him a couple of questions on this?

Mr. DOWDY. Yes.

Mr. HORTON. Did you consult with an attorney with regard to these three statements that are made here?

Mr. KAMENY. Which three statements?

Mr. HORTON. You said, "First, second, and third."

Mr. KAMENY. Oh, no; we did not.

Mr. HORTON. Did you discuss any phase of this part 3 of your statement with any representatives from the Corporation Counsel's Office before you testified here?

Mr. KAMENY. No. Well, before I testified; yes.

Mr. HORTON. With whom did you speak?

Mr. KAMENY. I had an informal conversation with Mr. Kneipp.

Mr. HORTON. That was the man who spoke here and testified yesterday?

Mr. KAMENY. Yes. However, his statement and our statements were prepared totally independently.

Mr. HORTON. Did you discuss with him the information that you have in here?

Mr. KAMENY. Yes. I did.

Mr. HORTON. Did you discuss with him the information you have in here prior to the time that it was put in written form or subsequent to the time it was put in written form?

Mr. KAMENY. Let me remember the chronology. I spoke to Mr. Kneipp on Wednesday afternoon.

Mr. HORTON. Was this by telephone?

Mr. KAMENY. By telephone. I wanted to find out what the District's position was going to be on this bill.

Mr. HORTON. Did he tell you?

Mr. KAMENY. No; he did not in any formal sense, because he indicated he was not permitted to do so until such time as the decision had been signed or the opinion had been signed, and it was still in process of preparation.

Mr. HORTON. I think you said a formal sense; but did he in an informal sense?

Mr. KAMENY. He indicated that we would not be unhappy with the District's view.

Mr. DOWDY. Did I get that? He indicated that you would not be unhappy with his opinion?

Mr. KAMENY. That our organization would not be unhappy with his opinion, which apparently had been arrived at by meeting of the Commissioners the preceding day. He did not tell me in any explicit fashion what that was.

Mr. HORTON. Did you at that time tell him the substance of what you have just read here from page 5 of your statement?

Mr. KAMENY. Much of the substance of what we have read here and explicitly the paragraph starting "First," had been included in a letter by us to the Commissioners of the District of Columbia.

Mr. HORTON. And this was prior, of course, to the—

Mr. KAMENY. This was sent out; I stand to be corrected on the date, it was probably something like the 27th of—

Mr. HORTON. I think you told me earlier in your testimony that you composed this letter starting after last Sunday, this statement.

Mr. KAMENY. I composed this.

Mr. HORTON. Excuse me; and that you did not refer to any other prepared material. Now, you want to change that testimony?

Mr. KAMENY. If by prepared material—I took your interpretation of prepared material to mean material not prepared by us.

Mr. HORTON. Oh, no.

Mr. KAMENY. I am sorry. The full chronology is the following:

We had a meeting of our executive board and we at that time decided to send a letter. First I phoned not Mr. Clarke, I phoned the House District Committee and I asked what the present status of this bill was. I was told no hearings were scheduled and that it had been sent to the District for a report and no report had as yet come back.

Thereupon our executive board composed a letter which was sent to all three Commissioners. There the matter rested, and any material in that letter to the extent that it is alluded to here appears in section 3 only of my statement.

Mr. HORTON. Now do we have a copy of that letter?

Mr. KAMENY. I can supply a copy. At the moment I have only my own.

Mr. HORTON. Mr. Chairman, I would like to ask that a copy of that letter be put in the files.

Mr. KAMENY. If you can make a copy.

Mr. HORTON. Did you refer to that letter when you talked to representatives of the Corporation Counsel's Office on Wednesday?

Mr. KAMENY. I indicated that we had sent it, and he indicated that he had not seen it.

Mr. HORTON. And that is the only reference you made to it?

Mr. KAMENY. Yes, except that—

Mr. HORTON. How long did this telephone conversation last?

Mr. KAMENY. I didn't time it, but I would say it was over 15 minutes.

Mr. HORTON. It was over 15 minutes?

Mr. KAMENY. Yes.

Mr. HORTON. Was it under an hour?

Mr. KAMENY. Yes.

Mr. HORTON. Was it over 15 and under a half hour?

Mr. KAMENY. Again, without having timed it, I would say it was in that interval.

Mr. HORTON. Somewhere between 15 and 30 minutes?

Mr. KAMENY. I would say so, yes.

Mr. HORTON. And during this time of course you talked about the position of your society at this hearing?

Mr. KAMENY. The position of our society with regard to this bill, that is right, and apparently their position in many respects was very similar to ours.

Mr. HORTON. All right; excuse me, have you ever talked with, what was his name, the representative from the Corporation Counsel's office, Mr. Kneipp? Have you ever talked to him about this matter before?

Mr. KAMENY. Prior to this; no. In fact, I did not even know his name.

Mr. HORTON. Wednesday was the first time?

Mr. KAMENY. Wednesday was the first time; yes.

Mr. HORTON. All right.

Mr. KAMENY. As I was saying—

Mr. DOWDY. This letter you wrote to the Commissioners on July 17, 1963, it looks like Mr. Kneipp adopted considerable from it in writing the Commissioners' opinion.

Mr. KAMENY. He told me that he had not seen the letter. Beyond that I refer you to Mr. Kneipp.

Mr. DOWDY. You mentioned the fact that you were advised that this committee was awaiting the Commissioners' report, and I might say that we never did get the Commissioners' report until after we sat this bill down for hearing, and I believe it came in the day before the hearing.

Mr. KAMENY. Yes; well—

Mr. DOWDY. They brought it up yesterday for the hearing.

Mr. KAMENY. Yes; apparently they prepared it. As I understand it there was a meeting of the appropriate District officials on Tuesday afternoon, and the report was prepared in the course of Wednesday, and was run off, and was brought to the hearing on Thursday. District officials can confirm or deny.

Mr. DOWDY. You say there was a meeting of the District officials on Tuesday. What District officials were they?

Mr. KAMENY. I have no idea. This is a matter for the District to tell you. I have simply been told there was a meeting. There was the statement in the newspapers that they took action on something else, so apparently there were other matters discussed.

The papers said there was an executive session of the appropriate District officials, I forget who they were, this was reported in the evening papers of Tuesday and the morning papers of Wednesday.

Mr. HORTON. One other question. I have got this letter of July 17 before me. Did you write that letter?

Mr. KAMENY. This was written by our executive board.

Mr. HORTON. The executive board did not sit down and write this letter. Who wrote this letter?

Mr. KAMENY. The letter was drafted by me and was run over word for word by the executive board.

Mr. HORTON. "The second section of the bill seems first in all likelihood to be a bill of attainder and therefore prohibited by section 9 of article I of the Constitution of the United States."

Did you write that?

Mr. KAMENY. I did.

Mr. HORTON. Where did you get that information?

Mr. KAMENY. By looking up article I, section 9 of the Constitution of the United States.

Mr. HORTON. Did you have any assistance with that statement?

Mr. KAMENY. No; the idea was my own and I suggested it to some attorneys including the head of the American Civil Liberties Union, and he tended to agree with me.

Mr. HORTON. But the draftsmanship of this letter is yours?

Mr. KAMENY. Yes; it is.

Mr. HORTON. All right.

Mr. KAMENY. I was saying that we feel a few organizations now licensed could meet the requirements of H.R. 5990.

As a few examples, the American Cancer Society, the Cerebral Palsy Institute, the Muscular Dystrophy Association of America, and the District of Columbia Tuberculosis Association contribute to both the health and the welfare, but not to the morals of the District of Columbia.

The American Society for International Law, the Bowers Family Association, the District of Columbia Department of Veterans of Foreign Wars, and Furs by Gartenhaus certainly do not contribute affirmatively to the health of the District of Columbia.

The American Foundation for Oversea Blind, Boys Town of Italy, Catholic Korean War Relief, Chinese Refugee Relief, Oxon Hill Volunteer Fire Department, all contribute nothing whatever to the District of Columbia.

All three lists just given could be expanded considerably merely by a reading of the list of 162 organizations currently licensed.

Mr. HORTON. What do you contribute to the District of Columbia; your organization?

Mr. KAMENY. We contribute to the welfare of the largest minority in the District of Columbia after the Negro minority.

Mr. DOWDY. You keep on referring to, comparing yourselves to the Negro minority. Are you trying to pull them down to your moral level or trying to elevate yourselves?

Mr. KAMENY. We do not consider our moral level to be a low one to which anyone could be pulled down.

Mr. DOWDY. Nobody can be pulled down that low?

Mr. KAMENY. We do not consider our moral level to be a low one. We consider it to be fully as high a one as anybody else's, including the members of this committee.

Mr. HORTON. I don't see the analogy between your group and the Negro group, except that you claim you are a minority.

Mr. KAMENY. Yes.

Mr. HORTON. This is the only analogy.

Mr. KAMENY. The analogy comes by what I feel is the best definition of a minority group.

Mr. HORTON. This could be an Italian or Italian group or Irish.

Mr. KAMENY. Fine, use the Negroes, the Jews, the Italians, any of our minority groups, a group of people who have one thing in common and one thing only, and are discriminated against irrationally by virtue of that one characteristic.

Mr. HORTON. How do you compare your organization with the American Cancer Society?

Mr. KAMENY. I don't. I merely said the American Cancer Society so far as we can see in the terms of House Resolution 5990—

Mr. HORTON. What is your point of including it in this letter?

Mr. KAMENY. To point out that if House Resolution 5990 is passed, the American Cancer Society would be deprived of its license.

Mr. HORTON. Are you trying to by inference indicate that your organization is in the same category as these organizations that you have listed here?

Mr. KAMENY. I certainly am, except in size. They are larger than we are.

Mr. HUDDLESTON. How about Furs by Gartenhaus?

Mr. KAMENY. I am not aware, again I stand to be corrected if I am in error, that Furs by Gartenhaus, who are one of the 162 organizations licensed, I don't know that they contribute to the health of the District of Columbia.

Mr. HUDDLESTON. You mean Furs by Gartenhaus is licensed?

Mr. KAMENY. Furs by Gartenhaus is on the list of 162 organizations. You may check the list as I have.

Mr. HUDDLESTON. Mr. Nottingham, can you explain that?

Mr. NOTTINGHAM. I might not have it exactly right, but this was the scheme of the Gartenhaus Fur Co. to raise a large sum of money specifically for families in the District.

They, I think, had 25 mink coats that anyone that contributed \$1,000 or \$100, whatever it was, they would give them one of these fur coats free.

Mr. HUDDLESTON. Was that in connection with something over at Adams-Morgan?

Mr. NOTTINGHAM. No, it was needy families I believe.

Mr. HUDDLESTON. Just a one-shot proposition?

Mr. NOTTINGHAM. A one-shot proposition of 25 coats. I think that was the number.

Mr. HORTON. Your organization doesn't have any aspects such as that, contribution toward the needy?

Mr. KAMENY. No, we have never claimed it.

Mr. HORTON. You are just for your membership, aren't you, the need of your membership? We went into that earlier.

Mr. KAMENY. And the need of other members of the homosexual community, which is a large one.

Mr. HORTON. I want to be clear on this. I think you told us earlier that the peg on which you claim or your organization claimed that you are qualified under this act is on the educational peg, isn't that correct?

Mr. KAMENY. I have never particularly emphasized that claim.

Mr. HORTON. Then let's emphasize it. Let me ask you now on which peg do you contend that your organization is qualified under this act.

Mr. KAMENY. We assist the members of the District's sizable homosexual community in trying to contribute to their welfare.

Mr. HORTON. This is only your membership?

Mr. KAMENY. Oh, certainly not.

Mr. HORTON. Oh, you do assist other homosexuals?

Mr. KAMENY. If someone comes to us. Just as an example, if someone should come to us and—

Mr. HORTON. Let's don't use any hypothetical examples. Let's use an example. Has any homosexual come to your group and asked for assistance?

Mr. KAMENY. Certainly.

Mr. HORTON. All right, in what area.

Mr. KAMENY. Legal assistance, for example.

Mr. HORTON. All right. Then what legal assistance have you furnished that individual?

Mr. KAMENY. We have referred that individual to competent counsel, where he did not know how to find it.

Mr. HORTON. Where what?

Mr. KAMENY. Where he did not know how to get competent counsel before.

Mr. HORTON. Does your organization have some contact with legal counsel in which your organization can get for needy people assistance by counsel without having to pay for this legal assistance?

Mr. KAMENY. I am not claiming that these people were necessarily needy.

Mr. HORTON. They said that they were in need.

Mr. KAMENY. They were in need of competent legal counsel. Needy does not necessarily mean in need of money. There are all kinds of other human needs.

Mr. HORTON. You mean these people have money?

Mr. KAMENY. Some do and some don't.

Mr. HORTON. I am talking about the people that do not have the money. We are talking about specific examples. You said there was a specific example.

Now somebody came to your organization and asked for help, and they were in need and needed legal counsel, and I assume when you say "need," that they didn't have the financial wherewithal to afford legal counsel.

Mr. KAMENY. That is not what I meant. That is what you are assuming.

Mr. HORTON. What do you mean?

Mr. KAMENY. I meant they needed competent legal counsel.

Mr. HORTON. Then why do they go to your organization?

Mr. KAMENY. Because it is unfortunately—for two reasons. First, a lot of people find it awkward and difficult to discuss matters involving homosexuality.

Mr. HORTON. Now you are talking about the homosexual, right? Do you have a list of attorneys that you refer those people to?

Mr. KAMENY. An informal list; yes, we do.

Mr. HORTON. Is that list available?

Mr. KAMENY. I don't have it here with me.

Mr. HORTON. Is it available to this committee?

Mr. KAMENY. I would have to check with my executive board.

Mr. HORTON. Mr. Chairman, I ask that that list of attorneys be made available to this committee.

Mr. Dowdy. Will you make the list of your attorneys available to this committee?

Mr. KAMENY. I will be glad to make it available, provided my executive board gives their assent.

Mr. Dowdy. Have you got any committee members here with you?

Mr. KAMENY. Just the one who stood up a few moments ago, and she alone would not be competent to pass on it for me or with me.

Mr. Dowdy. What is her—

Mr. HORTON. She is vice president.

Mr. DOWDY. Yes, she is vice president. What is her eligibility? What is her abnormality or perversion or whatever it is that makes her eligible for membership?

Mr. KAMENY. The members of our society are neither abnormal nor are they perverted.

Mr. HORTON. She is an innocent bystander, is that it?

Mr. KAMENY. The members of our society are not guilty, so therefore innocent—

Mr. HORTON. She is a bystander. She is one interested in the organization.

Mr. KAMENY. She is a civilized person who wants to see a discriminated-against group of people—she wants to see their status improved, in precisely the same sense that there are many, many, many whites who are active members of the NAACP, and in fact officers, and I am sure there are many Christians who are members of B'nai B'rith Antidefamation League. They are civilized people who don't like to see other people persecuted and discriminated against.

Continuing if I may, all 3 lists just given could be expanded considerably merely by a reading of the list of 162 organizations currently licensed.

We certainly do not advocate denying licenses to any of these organizations. H.R. 5990 would do so, however.

Mr. DOWDY. Which ones?

Mr. KAMENY. The ones that I have just named in the three preceding paragraphs.

Mr. DOWDY. Which ones?

Mr. KAMENY. There are a list of some 15 organizations there.

Mr. DOWDY. Which ones would the bill deny a license to?

Mr. KAMENY. All of them.

Mr. DOWDY. All of them?

Mr. KAMENY. Certainly. The American Foundation for Overseas Blind does not contribute to the health, welfare, or morals or anything else of the District of Columbia. The Oxon Hill Volunteer Firemen's Association contributes to people in Maryland.

Mr. DOWDY. That would be something for the decision of the Commissioner or the person who was issuing the license.

Mr. KAMENY. Under the wording of this bill as Mr. Kneipp brought out very well yesterday, the licensing authorities would have no alternative but to disqualify those groups.

Mr. DOWDY. I think Mr. Kneipp also said that he thought there would be no question about your—

Mr. HUDDLESTON. Of course, Mr. Kameny's criticism can be corrected by a very simple amendment.

Mr. DOWDY. Oh, yes, go ahead.

Mr. KAMENY. We feel that the Mattachine Society of Washington would certainly qualify under this section of the bill.

The second portion of the bill specifically revokes the license granted to the Mattachine Society of Washington. There is good reason to believe that this is a bill of attainder, and so is prohibited under article I, section 9, of the Constitution of the United States. In addition, we feel that passage of the bill would set a dangerous precedent for the disqualification of any organization to which some Congressman happened to take exception.

Mr. DOWDY. What is your definition of a bill of attainder?

Mr. KAMENY. Again subject to correction by far more competent legal authority than myself, I would say it is an item, and again I emphasize that I am not a professional attorney, it is an item of punitive or disabling legislation directed against the specific named party.

Mr. DOWDY. It takes away something that is yours that you have got a right to. This license to solicit charitable contributions is not a right but a privilege that is granted to you.

Mr. KAMENY. This question could be raised on that which a competent attorney would be far more able to discuss than I. The whole question of right and privilege in the Government is one which badly needs to be clarified.

Mr. HORTON. I am not sure I got the answer to the question earlier about the peg on which you hang your qualification under the Charitable Solicitation Act.

Mr. KAMENY. The existing act, or H.R. 5990?

Mr. HORTON. No; the existing act. That is on education, is it not?

Mr. KAMENY. We hang our qualification on the existing act by virtue of our having been told "If you want to raise money in the District, you have to register under the Charitable Solicitations Act," so we did so, that is all.

Mr. HORTON. You have to feel that you are qualified to be permitted to make these charitable solicitations, and you have to come under the provisions of the act. The act defines charitable, and sets forth certain things that are included in the definition of charitable. Which one of those definitions or which combination of those definitions do you claim your organization comes under?

Mr. KAMENY. Can you read them, please?

Mr. HORTON. Philanthropic, social service, patriotic, welfare, benevolent, or educational except religious education either actual or purported.

Mr. KAMENY. Social service, welfare, and educational.

Mr. HORTON. Social service and what?

Mr. KAMENY. And welfare and educational.

Mr. HORTON. What is the social service?

Mr. KAMENY. I have mentioned several times assisting individuals who in one way or another need assistance.

Mr. HORTON. This again is open to all homosexuals?

Mr. KAMENY. As far as that goes, this would be open to anybody. We would tend, we would hope that we would not be deluged with other people, but we certainly don't restrict it to the members of this society, surely not.

Mr. HORTON. All right.

Mr. KAMENY. In fact, emphatically not. At this point I would like permission from the committee to have the privilege of reading into the record an editorial which appeared in yesterday's Washington Post, before making my concluding remarks. This is entitled "Unpopular Causes":

A House District subcommittee is to hold a hearing this morning on an unfortunate bill introduced by Representative John Dowdy, of Texas. The bill would amend the District of Columbia Charitable Solicitation Act in two ways. First, it would forbid the issuance of a certificate of registration to any organization soliciting charitable contributions in the District unless the District Commissioners find that "the solicitation which would be authorized by such certificate will benefit or assist in promoting the health, welfare, and the morals of the

District of Columbia." The second amendment would revoke a certificate of registration already issued to the Mattachine Society of Washington.

To make the solicitation of funds for an organization concerned with ideas dependent upon official approval of the purpose for which the funds are to be used would be to put a very serious crimp in the right of expression and petition. There is little need for a constitutional guarantee of free speech for ideas which already enjoy majority acceptance. The first amendment was added to the Constitution to protect the advocacy of unpopular and unorthodox ideas. Mr. Dowdy's first section would violate the first amendment.

There is little doubt that the Mattachine Society espouses an unconventional cause. It is a social action group dedicated, according to its constitution, "to improving the status of the homosexual in our society, in the interest both of that minority group and of the Nation." It aims, in short, to protect the rights of homosexuals and to promote understanding of them. It does not function in any way, of course, to promote homosexual activity.

Mr. HORTON. Will you stop there a minute and let me ask you, you are reading this, this was in the paper yesterday?

Mr. KAMENY. Yes.

Mr. HORTON. And the statement you just read "it does not function in any way, of course, to promote homosexual activity," now you have testified to the contrary here today.

Mr. KAMENY. I don't think so.

Mr. HORTON. You don't? I don't want to go through all this again, but I think you ought to refute that statement because on page 2 we went through all that earlier, "we are also interested in altering the criminal law in regard to private consent homosexual acts by adults," and then we went through all this consenting action up to 10, 20.

Mr. KAMENY. There is a distinction between promoting and allowing.

Mr. HORTON. You were promoting.

Mr. KAMENY. No. We are advocating that these are permitted.

Mr. HORTON. Your organization as I understood it has the purpose of promoting these homosexual activities in the sense that you want to permit them to be possible without violating the criminal law; isn't that right?

Mr. KAMENY. I think a distinction—

Mr. HORTON. Do you deny that statement?

Mr. KAMENY. A distinction must be made between the word "promote" and "permit," and I will not compromise with that distinction.

Mr. HORTON. Then you tell me what you mean.

Mr. KAMENY. Just what I say, that an individual be permitted to engage in those sexual acts which he wishes to, provided they are engaged in in private on the part of consenting adults.

We are not going to go out and say we want to change the law, and having changed it urge people to commit acts. All we want to do is get them the permission to do so.

Mr. HORTON. If you change the law, don't you think that this will promote homosexual activity?

Mr. KAMENY. No, I don't.

Mr. HORTON. You don't?

Mr. KAMENY. Because the law is at present almost totally ineffective anyhow, just as the prohibition law was, just as the laws against fornication are. They are much honored in the breach as in the acceptance.

Mr. HORTON. You indicated earlier you would like to increase the number of your organization.

Mr. KAMENY. The number of members in our society, yes.

Mr. HORTON. And isn't this promoting homosexual activity?

Mr. KAMENY. No, certainly not.

Mr. HORTON. You shake hands at those meetings, don't you?

Mr. KAMENY. I am referring to homosexual activity. You purposely elicited a rather expanded and tortured definition. I am referring to homosexual activity in the terms, in the strictly legal sense under the District Code.

Mr. HORTON. All right.

Mr. Dowdy. And in stating in private, you abide by your statement that it is in private when 2 people put on an exhibition in the company of 20.

Mr. KAMENY. If the public is not invited, if the doors are shut, if it is in a private residence, et cetera, I am not going to go into particular details, certainly. A cocktail party is private too, if the public isn't invited.

Mr. Dowdy. We are not talking about cocktail parties. We are talking about unnatural sexual contacts.

Mr. KAMENY. There's nothing unnatural about homosexual acts.

Mr. Dowdy. In my interpretation of it.

Mr. KAMENY. In our interpretation it is different.

Mr. Dowdy. In the interpretation of the law in everybody's but yours, we will call it an unnatural sexual act, and when two people under your definition, they are doing it in private if they have an audience of 20—

Mr. KAMENY. As far as I know the law, and I stand to be corrected, the law in Washington does not define unnatural.

Mr. HORTON. Let me ask you this. Would you include in your definition of the normal act the insertion of the sexual organ of one person into the anus of another a natural act?

Mr. KAMENY. For those who voluntarily wish to do it, yes.

Mr. HORTON. This is natural?

Mr. KAMENY. Certainly.

Mr. HORTON. How do you feel about animals?

Mr. KAMENY. Again if the individual wishes to do it, if it is possible to be done, surely.

Mr. HORTON. Anything the individual wants to do then is natural.

Mr. KAMENY. In general, yes.

Mr. Dowdy. And you claim the Washington Post agrees with you about that.

Mr. KAMENY. I haven't spoken to the Washington Post. Let me point out—

Mr. HORTON. You are using this—

Mr. KAMENY. As I pointed out a few minutes ago, if you think about it, the eating of cooked food is profoundly an unnatural act. So is the wearing of clothing. And I quote again from Cannon D. A. Rhynes of the Church of England.

Mr. HORTON. You haven't finished the editorial.

Mr. KAMENY. Very well. I was answering his question.

We think that the organization has a clear right to make a plea for public support. The law under which it was licensed to do so is simply a law which recognizes that right. Mr. Dowdy's second section, revoking the license, looks to us very much like a bill of attainder—a legislative act inflicting punishment without judicial trial. The Constitution flatly forbids Congress to pass a bill of attainder.

In conclusion, Mr. Chairman, we feel that this is a sad bill which would impose a disability upon an organization which does not merit it, which would be harmful to the government and the people of the District of Columbia, and which is, in part, unconstitutional.

We respectfully request that the committee disapprove H.R. 5990.

Mr. HORTON. I just have one observation. I hope that the writer of this article, of this editorial in the Washington Post, is here to hear the testimony from the president of the organization this morning, because the president has indicated it is a secret organization, and that they are attempting to get through an educational process, get people to change laws that are for the protection of the public good.

Mr. KAMENY. This depends on the definition of public good. Citizens have the right to define this in their own terms and to act lawfully to change laws. This is a fundamental American right.

Mr. HUDDLESTON. Mr. Kameny, let me read one part of the editorial if I can find it, and I ask you a question about it.

Mr. DOWDY. Did the editorialist have a copy of your letter of July 17 to the District Commissioners in preparing his editorial? Did you send the editorialist a copy of your letter of July 17 to Mr. Tobriner?

Mr. KAMENY. No, I did not.

Mr. HORTON. Do you know who wrote the editorial?

Mr. KAMENY. That as far as I know the Washington Post keeps a deep dark secret.

Mr. HORTON. I said do you know.

Mr. KAMENY. No.

Mr. HORTON. Have you talked to the writer of the editorial?

Mr. KAMENY. No, I have not, not that I am aware of. I will put it that way.

Mr. HUDDLESTON. This editorial says "the first amendment was added to the Constitution to protect unpopular and unorthodox ideas."

Mr. KAMENY. Yes.

Mr. HUDDLESTON. The editorial goes on: "Mr. Dowdy's first section would violate the first amendment."

Do you have a feeling that anyone has attempted to prevent you from advocating an unpopular, unorthodox idea?

Mr. KAMENY. We feel that this bill which would prohibit us—the advocacy of ideas in any practical constructive sense more than sitting in a corner and whispering obviously involves money, money for printing, money for advertising, things of that sort. I need not list them.

To be prohibited from raising this money from those who might well be sympathetic to the ideas definitely puts a restriction upon one's ability to advocate these ideas publicly.

Mr. HUDDLESTON. I mean has anyone really endeavored to prevent you from advocating an unpopular and unorthodox idea?

Mr. KAMENY. In a positive sense?

Mr. HUDDLESTON. I mean has anyone taken any action to prevent you? In other words, do you feel that your rights under the first amendment have been violated?

Mr. KAMENY. I feel on the entire question of rights and civil rights, the next witness is far more competent than I to discuss it at length, and fully and professionally.

Mr. HUDDLESTON. Don't you feel that this committee has been quite generous in allowing you to expound on your ideas here before the committee yesterday and today?

Mr. KAMENY. I feel it is the right of any American citizen to do so.

Mr. HUDDLESTON. I mean don't you feel that the committee has given you ample time to advocate your ideas and your unorthodox unpopular ideas?

Mr. KAMENY. Yes.

Mr. HUDDLESTON. Do you have anything further that you want to present to the committee that would help you in further advocating your ideas?

Mr. KAMENY. I have made the statement approved by my society. I think our position is clear.

We are simply trying to achieve an improvement of the status of a minority, which is unfortunately the object of a tremendous amount of unwarranted discrimination by the public.

We are trying to eliminate his discrimination to the benefit of that minority, and because the improvement of the status of any large number of our citizens is to the benefit of society as a whole, to the benefit of our—

Mr. HUDDLESTON. Do you have anything further to say in advocacy of your ideas?

Mr. KAMENY. Of our ideas?

Mr. HUDDLESTON. Of your unpopular and unorthodox idea.

Mr. KAMENY. No. You sound as if you are getting at something.

Mr. HUDDLESTON. Well, I just want to get your assurance that this committee has given you full opportunity, ample opportunity to advocate your unorthodox and unpopular ideas, and I want your acceptance of the fact that the committee has given you that opportunity.

Mr. KAMENY. Subject to any afterthoughts that I may have, yes.

Mr. DOWDY. We have even tried to help you expound your unorthodox ideas, haven't we?

Mr. KAMENY. Well, you haven't led to a particularly coordinated exposition of them, and your efforts haven't necessarily led to a completely unslanted exposition of them. You have attempted to draw them out.

Mr. HUDDLESTON. The committee has not put any words in your mouth. You have been free to express your ideas in your own words and advocate these unpopular and unorthodox ideas in your own way.

Mr. KAMENY. To a considerable extent.

Mr. DOWDY. You have concealed all the information you wanted to?

Mr. KAMENY. That information which my society does not permit me to disclose because of our social attitudes and of Government policies, yes.

Mr. DOWDY. There is just one other—

Mr. KAMENY. And for protection of members. It is unfortunate they need to be protected.

Mr. HORTON. On this same subject, Mr. Chairman, would you yield just a moment?

Mr. DOWDY. Yes.

Mr. HORTON. Do I gather from what you are saying that there is some question in your mind as to the right that you have had to express yourself, because if you feel this way, I wish you would take whatever time you feel to explain your position.

Mr. KAMENY. No. My feeling is simply this: I did not come here today nor was I sent here today by my society to expound the society's ideas or its position in general. I was sent here to speak against H.R. 5990.

We welcome a reopening, and we have been striving to obtain a reopening by the Government of its entire, a reassessment of its entire question of homosexuality and its policies toward it, and we could then at that time present a coordinated, carefully presented exposition of our ideas.

You have led me to present in a piecemeal fashion a number of our ideas, often with emphasis supplied by you, and it is difficult to put things in proper perspective in answering questions.

Mr. HORTON. Do you have anything further to say to this committee in connection with any testimony you have given today or yesterday?

Mr. KAMENY. My entire testimony today was intended to be relevant and germane only to H.R. 5990, and in regard to that I have given everything I want to say.

Mr. HORTON. Do you have anything further to say on this subject?

Mr. KAMENY. On the entire subject of homosexuality and popular Government attitude toward it, I could easily enough talk for hours, which I don't think the committee would—

Mr. HORTON. We are talking about the relevancy of this act and what you testified to here today. Do you feel that you have had an ample opportunity to express yourself and your views?

Mr. KAMENY. As far as our views with regard to H.R. 5990 are concerned, yes.

Mr. DOWDY. There is just one other thing which I would say is unnatural sexual relation that we have overlooked asking you about. You may call it perfectly natural if you wish. That is incest. Are you in favor of the repeal of the laws against incest?

Mr. KAMENY. Probably not because there is evidence that this is biologically harmful and genetically harmful.

Mr. DOWDY. So you think that is the one law on the statutes relating to any sexual relationship that should not be repealed.

Mr. KAMENY. I am not going to go into this at length. Incest has nothing to do with homosexuality, and I am here as a representative of an organization dealing with homosexuality. Incest has nothing to do with H.R. 5990, and therefore has nothing to do with this hearing.

Mr. DOWDY. I guess that is all. Oh, yes, there is one other thing. Do you and your literature tell the people when you ask them for contributions that their contributions to you are tax deductible?

Mr. KAMENY. We tell them we are a nonprofit organization. We have not had any formal ruling from the Internal Revenue Service, so we don't say so.

Mr. DOWDY. Have you asked for it?

Mr. KAMENY. No, we have not.

Mr. DOWDY. Do you intend to ask for it?

Mr. KAMENY. We haven't considered it at present.

Mr. DOWDY. Now what is it you tell people?

Mr. KAMENY. We tell them that we are a nonprofit organization.

Mr. DOWDY. A nonprofit organization. You don't tell them you are a charitable organization.

Mr. KAMENY. No; because except by the somewhat odd definition of the Charitable Solicitations Act, of its use of that word, we don't feel we are a charitable group.

They told us we had to register under the act, and we said we weren't, and they said, "You have to register anyway." so we did. We made no attempt at misrepresentation.

Mr. HORTON. Mr. Chairman, could we ask if the witness include with his testimony for our files an example of the solicitation that they make of the public?

Mr. DOWDY. If you will furnish a sample of your solicitation——

Mr. KAMENY. I don't think there exists anything to furnish an example of. As I indicated, you will find a statement in our gazette. We have done that.

Mr. DOWDY. That is this?

Mr. KAMENY. Yes; I think there is a small statement in the back which I read earlier which simply said "contributions gratefully accepted." It is on the last page at the bottom. Other than that, it has been a matter of informal conversation with people we know anyway.

Oh, at the lecture which we sponsored in June at the introduction of this, I simply stated that, like many nonprofit organizations, we depend in large measure upon donations and contributions, and we would be glad to accept them.

We have done really no further soliciting. We have not done any door-to-door soliciting or anything of that sort.

Mr. DOWDY. You were going to—one member of the committee asked for a list of the lawyers whom you have some sort of a working agreement with, and you were going to check with these fictitious directors you have.

Mr. KAMENY. They are not fictitious. They are quite real.

Mr. DOWDY. Well, fictitious names.

Mr. KAMENY. It has never been granted that their names are fictitious.

Mr. DOWDY. I would like to know whether they are fictitious or not.

Mr. KAMENY. We went through that in considerable length.

Mr. DOWDY. I know we did, and you evaded an answer every time. Are they fictitious or not?

Mr. KAMENY. I am going to continue not to reply. As president of the society, I know the people under the names in which they are registered. I am informed that in the District any name adopted by an individual is a true name. Under that sense they are not fictitious, if they have been adopted. Therefore whether or not they are pseudonyms, they are true names.

Mr. DOWDY. Mr. Nottingham, can they register under assumed names?

Mr. NOTTINGHAM. I think under the filing I believe they have to be natural persons, and natural persons have to give their names.

Mr. DOWDY. If a person in the District of Columbia adopts an alias or an assumed name; if I wanted to do business under some other name I have to file——

Mr. NOTTINGHAM. We don't have a trade name law in the District. You can use any name in a business connection.

On the filing of charters and bylaws I think it is a little different. I certainly would look to see if those people are natural or not. It is something to——

Mr. Dowdy. You will then, Mr. Nottingham, check to see if these are real persons or fictitious names?

Mr. NOTTINGHAM. Yes, I will.

Mr. Dowdy. And look into the suspension of this license.

Mr. NOTTINGHAM. I certainly will look at it and apply those penalties that are available, yes.

Mr. HORTON. Mr. Chairman, on the subject I would like to suggest that the committee give consideration, and I had in mind during the course of this testimony here today, to introducing a bill that would amend the applicable provisions of this law to require that officers give their real names and also that they set forth their addresses.

Mr. Dowdy. Yes.

Mr. HUDDLESTON. Not this post office box business.

Mr. HORTON. This apparently is not included in the law now, but I certainly think it should be in the law.

Mr. NOTTINGHAM. I went to the Corporation Counsel with this particular application. I tried to get the list of membership. I tried to get the addresses of the individuals, and I was told that this is a disclosure type of law, and that I couldn't obtain it, and that I would have to release the license on the facts I had.

These are the legal advisers of the District, and that is what I was told. I think it would be a good thing to have authority to get names and addresses of memberships.

Mr. HORTON. I would also suggest in this amendment that it require that all who are registered now furnish this information. If they don't then this be made the subject of revocation of the license.

Mr. Dowdy. I think so. Now we would like to have as witnesses Bruce Schuyler, and who are these other people?

Mr. KAMENY. They are listed.

Mr. Dowdy. You know their names or have you forgotten what names you used for them?

Mr. KAMENY. No, sir.

Mr. Dowdy. What are their names?

Mr. KAMENY. Our vice president is Mrs. Ellen Keene.

Mr. Dowdy. She is here. Is that her true name?

Mr. KAMENY. My answer is as has been before.

Mr. Dowdy. In other words, that is a fictitious name she goes under in connection with—

Mr. KAMENY. For the umpteenth time, I have never admitted that any of these names are fictitious. Under District law any name adopted is a true name. That is our position.

Mr. Dowdy. Bruce Schuyler, can you produce him as a witness for us?

Mr. KAMENY. This would depend entirely upon Mr. Schuyler.

Mr. Dowdy. Now what are the others who are not here?

Mr. KAMENY. Earl Goldring.

Mr. Dowdy. Earl Goldring, can you produce him as a witness for us?

Mr. KAMENY. This depends entirely on Mr. Goldring.

Mr. Dowdy. Will you get in touch with him and Mr. Schuyler and tell them we would like to have them as witnesses?

Mr. KAMENY. I will pass your message on to them.

Mr. Dowdy. We will meet back at—is there any of them besides those two and Mrs. Keene?

Mr. KAMENY. Those are president, vice president, secretary, and treasurer. That is the usual complement of officers of any organization.

Mr. DOWDY. That is all besides Miss Keene?

Mr. KAMENY. Mrs. Keene.

Mr. DOWDY. Can you get in touch with them as soon as you are excused, and ask them if they will be here at 2:30 to testify on this matter?

Mr. KAMENY. I can attempt to. I cannot promise.

Mr. DOWDY. Try that and see.

Mr. KAMENY. I will attempt to.

Mr. DOWDY. And you will report back to us.

Mr. KAMENY. What do you want me to report back to you? Whether they are going to be here or not?

I will be glad to give you that information. I will give you the information in any case, but I cannot guarantee to the committee that I will be able to contact them.

Mr. HUDDLESTON. And obtain from them, if they decline to appear, obtain from them the reasons they decline to appear.

Mr. KAMENY. Assuming I can contact them at all.

Mr. DOWDY. Have you got some doubts about it?

Mr. KAMENY. Yes, as a matter of fact.

Mr. DOWDY. I thought you told us earlier that you had their addresses, but you weren't going to give them to us.

Mr. KAMENY. The society has home addresses. This is the middle of the business day, you know.

Mr. DOWDY. Could you give us the information tomorrow then, or the first of next week?

Mr. KAMENY. I could try to, assuming they are in town. Since I am dealing with other people whose lives are their own, I cannot, of course, make a formal commitment to the committee that I can supply the information, if I can't obtain it, so this would not be proper nor possible.

Mr. HORTON. You mean to say that as president of this organization you don't have any way to contact the officers of this organization?

Mr. KAMENY. Yes; I do.

Mr. HORTON. Can you contact them on short notice?

Mr. KAMENY. Usually, on reasonably short notice, but not on the matter of a couple of hours. I, for one, expect to be out of town over the weekend.

Mr. HORTON. Do they live in town?

Mr. KAMENY. They all live in the Greater Washington area.

Mr. HUDDLESTON. Mr. Chairman, I think Mr. Nottingham's question about this title 2, section 2104—it states:

“Each such application”—that is the application for the certification—“shall contain such information as the Commissioner shall by regulation require.”

What information do the Commissioners require in connection with names and addresses of officers of applicants?

Mr. NOTTINGHAM. We have an application that is prepared when properly filled out which will give us the information that we thought was necessary to comply with the provisions of the code.

Mr. HUDDLESTON. Does it provide for the name and address of officers?

Mr. NOTTINGHAM. Yes, it does. The first question is full name of applicant. In this case they put the Mattachine Society of Washington. If the applicant is not an individual, furnish the following information. They filled in President Franklin E. Kameny, Vice President Mrs. Ellen Keene, Secretary Bruce Schuyler, Treasurer Earl Goldring.

They gave as the address Post Office Box 1032, Washington, D.C.

Mr. HUDDLESTON. For each one of them?

Mr. NOTTINGHAM. For each one. I attempted on the original application to get information beyond that. The Corporation Counsel informed me that this was adequate.

Mr. HUDDLESTON. And so you did not make any request for additional information from the organization?

Mr. NOTTINGHAM. The original application happened more than a year ago. I do remember several conference and meetings with Mr. Kameny.

Mr. KAMENY. One meeting and several communications.

Mr. NOTTINGHAM. Yes; and each time I would ask for something else, and Mr. Kameny would give me the same answer you have heard here, that that is confidential information and can't release it.

I had also an unfavorable report on this application from the police department, and I tried to use information as the basis for not granting the registration, and was told that that was not part of this law, that this is disclosure legislation, and as long as they answered the questions on this form, that is the extent of my investigation.

Mr. HUDDLESTON. Do you feel that the questions on that form have been answered by the use of a post office box as an address?

Mr. NOTTINGHAM. Together with the address of Mr. Kameny at 5020 Cathedral Avenue NW.

Mr. HUDDLESTON. But I mean that place for the address, is that applicable to each individual named or do they want one address?

Mr. NOTTINGHAM. It is to the Mattachine Society.

Mr. HUDDLESTON. The address of the society, not the address of the signators.

Mr. NOTTINGHAM. That is right.

Mr. HUDDLESTON. Of the people whose names are listed.

Mr. NOTTINGHAM. We do ask for the address of the applicant, the representative of the organization, and Mr. Kameny signed the application and notarized it as president, and gave his address.

Mr. HUDDLESTON. The form does not require that each of these people whose names appear give their individual addresses.

Mr. NOTTINGHAM. It does not.

Mr. KAMENY. Mr. Chairman, would it be possible for Mr. Nottingham to tell us what the unfavorable information from the police department was?

Mr. NOTTINGHAM. I do not have it here.

Mr. HUDDLESTON. I don't think that we need to provide that.

Mr. Dowdy. I don't think so either. We will be back at 2:30. (Whereupon, at 1:30 p.m., the hearing was recessed, to reconvene at 2:30 p.m. of the same day.)

AFTERNOON SESSION

Mr. Dowdy. Mr. Kameny, will you come around, please. Were you able to contact either one of your—

STATEMENT OF FRANKLIN E. KAMENY, PRESIDENT, MATTACHINE
SOCIETY, WASHINGTON—Resumed

Mr. KAMENY. No, I was not; not on this short notice.

Mr. DOWDY. When you called one of them by telephone, you have the telephone numbers?

Mr. KAMENY. Yes; I do.

Mr. DOWDY. When you call one of them do you call for them by the name Schuyler or whatever the other man's name is?

Mr. KAMENY. I called for them by their first names. I rarely use last names.

Mr. DOWDY. By their first names. What first name do you use?

Mr. KAMENY. Bruce for Mr. Schuyler and Earl for Mr. Goldring.

Mr. DOWDY. Do you call them at their place of business?

Mr. KAMENY. No.

Mr. DOWDY. I don't know whether you have answered it or not. Is this Mattachine Society of Washington incorporated?

Mr. KAMENY. No; it is not.

Mr. DOWDY. It is not incorporated. Are you the same Franklin Edward Kameny who was involved in a lawsuit that was cited in Federal Reporter, second series, volume 282 at page 823, in which you were suing Wilbur M. Brucker, Secretary of the Army?

Mr. KAMENY. And the Civil Service Commissioners, yes; that went to the Supreme Court.

Mr. DOWDY. What were the charges brought against you which were involved in this lawsuit?

Mr. KAMENY. The charges were two: one was alleged, but unproven, falsification of form 57.

Mr. DOWDY. What was the false statement you made in form 57 as alleged?

Mr. KAMENY. I don't feel that this information is relevant to H.R. 5990.

Mr. DOWDY. We can get it of course.

Mr. KAMENY. Of course you can.

Mr. DOWDY. Would you rather tell us or just let us get it?

Mr. KAMENY. Insofar as it is on the record, you are welcome to get it.

Mr. DOWDY. Then you don't want to tell us what it is.

Mr. KAMENY. I feel that all of these matters are personal ones which are not relevant to H.R. 5990.

Mr. DOWDY. What is the other charge? You said there were two charges, one for falsification. What was the other charge?

Mr. KAMENY. I feel that that, too, is not relevant to H.R. 5990. I feel that none of my personal background is relevant to H.R. 5990.

Mr. DOWDY. You are representing an organization here which is closely connected with the fact that you are being permitted to solicit charitable contributions in the District. Mr. Huddleston, do you have any further questions of this witness?

Mr. HUDDLESTON. I am trying to find something here.

Mr. DOWDY. We will call Mrs. Keene next. I will be back in just a minute.

Mr. HUDDLESTON. Mr. Kameny, will you be available the rest of the afternoon?

Mr. KAMENY. Yes, I expect to be.

Mr. HUDDLESTON. I will ask you something later on rather than delay at this time.

Will Mrs. Keene please come around.

Mr. HORTON. What is your name?

STATEMENT OF ELLEN KEENE, VICE PRESIDENT, MATTACHINE SOCIETY, WASHINGTON

Mrs. KEENE. Ellen Keene.

Mr. HORTON. Are you married?

Mrs. KEENE. Yes.

Mr. HORTON. What is your husband's name?

Mrs. KEENE. I can't tell you. I do not wish to tell you.

Mr. HORTON. Pardon?

Mrs. KEENE. I do not wish to tell you my husband's name.

Mr. HORTON. Is your husband's name different than Keene, K-e-e-n-e?

Mrs. KEENE. I would not like to say that.

Mr. HORTON. Where do you live, Mrs. Keene?

Mrs. KEENE. I don't wish to tell you.

Mr. HORTON. Are you the vice president of the Mattachine Society of Washington?

Mrs. KEENE. Yes; I am.

Mr. HORTON. How long have you been vice president?

Mrs. KEENE. I believe it was February of this year. I am not sure whether it was January or February, but I believe it was February.

Mr. HORTON. Was there an election of officers at that time?

Mrs. KEENE. Yes.

Mr. HORTON. Were you present at the election of officers?

Mrs. KEENE. Yes.

Mr. HORTON. How many people were present?

Mrs. KEENE. I would guess 20, possibly fewer.

Mr. HORTON. Where was the meeting held?

Mrs. KEENE. In a private home.

Mr. HORTON. Were these men and women or was it mostly men?

Mrs. KEENE. There was at least one other woman there at the time.

Mr. HORTON. To the best of your recollection there were two women.

Mrs. KEENE. Yes. It is possible there was another one there because I don't remember that particular meeting.

Mr. HORTON. Were there any other persons that were nominated for the office of vice president?

Mrs. KEENE. Yes.

Mr. HORTON. Who was the other person who was nominated for vice president?

Mrs. KEENE. Believe it or not, I am not sure.

Mr. HORTON. Was it a man or woman?

Mrs. KEENE. Yes; it was a man.

Mr. HORTON. How do you get in contact with the Mattachine Society? Were you contacted or did you contact them?

Mrs. KEENE. Neither really.

Mr. HORTON. Pardon?

Mrs. KEENE. Neither really.

Mr. HORTON. How did you become—

Mrs. KEENE. It was just one of these things that you learn about over a period of time.

Mr. HORTON. How did you learn about it first?

Mrs. KEENE. Through people that I know.

Mr. HORTON. Were these people that belonged to the organization?

Mrs. KEENE. Some were and some were not.

Mr. HORTON. And what did they tell you about the organization when you first heard about it?

Mrs. KEENE. That it was in short an organization which was trying to eliminate some of the prejudice and discrimination against homosexuals.

Mr. HORTON. Had you been interested in this matter before?

Mrs. KEENE. Well, it depends on what you mean by interested. I have certainly been interested, yes—

Mr. HORTON. I am talking about the purposes of the organization, sticking strictly to that.

Mrs. KEENE. That is what I am trying to define. Not knowing there was such an organization, I, of course, was not interested in that, but I was certainly interested in the fact that I feel that homosexuals are unfairly discriminated against, and that there is an unfair prejudice against them.

Mr. HORTON. How long have you been of this opinion?

Mrs. KEENE. Ten years.

Mr. HORTON. And had you made any manifestation of this opinion to anyone or any groups?

Mrs. KEENE. Oh, I am sure in conversation with my friends I had on more than one occasion, but I never, never actively said somebody ought to do something about it.

Mr. HORTON. When you talk about your friends, would you tell me who you are talking about? Are you talking about the people who are members of this organization now?

Mrs. KEENE. Actually at that time I did not know any of the members of the organization.

Mr. HORTON. What was it that first brought this organization to your attention? You had to hear about it some place.

Mrs. KEENE. From friends whom I heard discussing it.

Mr. HORTON. How long ago was that?

Mrs. KEENE. At least as long as 18 months ago, I would say. It is hard for me to estimate.

Mr. HORTON. So to the best of your recollection about 18 months ago you first became aware—

Mrs. KEENE. Soon after it was organized.

Mr. HORTON (continuing). Of this society.

Mrs. KEENE. Soon after it was organized. I am not sure when that was.

Mr. HORTON. Had you attended any meetings before you were elected vice president?

Mrs. KEENE. Oh, yes.

Mr. HORTON. How many meetings had you attended?

Mrs. KEENE. Two or three I would not like to—

Mr. HORTON. How were these meetings conducted? Does the president preside?

Mrs. KEENE. Yes.

Mr. HORTON. And how long do the meetings usually last?

Mrs. KEENE. About 2 hours.

Mr. HORTON. Where are they usually held?

Mrs. KEENE. In a private home.

Mr. HORTON. In the District?

Mrs. KEENE. Yes.

Mr. HORTON. And is this private home the home of one of the members?

Mrs. KEENE. Yes.

Mr. HORTON. Do you always hold it in the same home?

Mrs. KEENE. We have held—usually, I think, our meetings have been held in the same place, but not always.

Mr. HORTON. At these meetings in addition to the business were there reports on the solicitations of funds?

Mrs. KEENE. You can't refer to solicitations for funds because it isn't that active. Our president or our treasurer always reported when we had received contributions in the mail, but I think, as Dr. Kameny told you, we have not really solicited funds in any active way other than the little notice in the—

Mr. HORTON. What have you all been doing all these months that you have been meeting? What is the nature of your business?

Mrs. KEENE. We discuss what problems there are to be faced with respect to—

Mr. HORTON. Let's talk about one of those problems. Give us specifically one of the problems.

Mrs. KEENE. The fact that a person who is a homosexual has a very hard time finding a job.

Mr. HORTON. Does this usually take some time for discussion on this?

Mrs. KEENE. Of course not just that general subject, but it may be a specific instance, factually what has taken place and what we can do about it. That is the most important thing.

Mr. HORTON. Are refreshments served at these meetings?

Mrs. KEENE. Usually at the end we have punch and cookies, 15 minutes or so.

Mr. HORTON. How long do the meetings usually last, a couple of hours did you say?

Mrs. KEENE. Yes. I have never known one to last more than two and a half hours. I can think of—

Mr. HORTON. Have you ever seen or participated in any homosexual acts either during the course of these meetings or subsequent thereto in the private homes?

Mrs. KEENE. No.

Mr. HORTON. Have you ever been present either during these meetings or following these meetings when this has been suggested or talked about?

Mrs. KEENE. Definitely not.

Mr. HORTON. Have you ever been in discussions in any of these meetings about the homosexual act?

Mrs. KEENE. No.

Mr. HORTON. This is never discussed?

Mrs. KEENE. No. I might say that my observation has been that any attempt to discuss it would be very much frowned on.

Mr. HORTON. Who asked you to be an officer of this organization?

Mrs. KEENE. I do not remember.

Mr. HORTON. Did you of your own volition attempt to be an officer?

Mrs. KEENE. No. Did I actively ask?

Mr. HORTON. Yes.

Mrs. KEENE. No.

Mr. HORTON. Did somebody ask you?

Mrs. KEENE. I was nominated as I recall at a meeting.

Mr. HORTON. Do you know the members of the organization?

Mrs. KEENE. Do I what?

Mr. HORTON. Do you know the members of the organization?

Mrs. KEENE. Well, yes.

Mr. HORTON. You are the secretary?

Mrs. KEENE. No, I am not. I am the vice president.

Mr. HORTON. I am sorry. Do you know the members?

Mrs. KEENE. Yes. Do you mean to recognize them by face?

Mr. HORTON. Yes.

Mrs. KEENE. Yes, some of them. Some of them I am not sure of.

Mr. HORTON. Do you know the secretary?

Mrs. KEENE. Yes.

Mr. HORTON. What is his name?

Mrs. KEENE. His name in the society is Bruce Schuyler. That is the name that I know him by.

Mr. HORTON. You mentioned his name in this society. Has he got another name?

Mrs. KEENE. I can't tell you.

Mr. HORTON. Do you know him by any other name?

Mrs. KEENE. I can't answer that.

Mr. HORTON. Have you been instructed by counsel as to how you should respond to questions here today?

Mrs. KEENE. No, I have not.

Mr. HORTON. Do you know Earl Goldring?

Mrs. KEENE. Yes.

Mr. HORTON. Is that an assumed name?

Mrs. KEENE. I cannot answer.

Mr. HORTON. That is the only name you know him by?

Mrs. KEENE. I can't answer that.

Mr. HORTON. Do you know him by another name?

Mrs. KEENE. I beg your pardon?

Mr. HORTON. Do you know him by another name?

Mrs. KEENE. I don't want to answer that. All that I know him as is Earl Goldring, and I know him through my position in the society, and in no other way.

Mr. HORTON. Have you ever presided at any of the meetings?

Mrs. KEENE. No.

Mr. HORTON. You were present, weren't you, this morning when Mr. Kameny was testifying?

Mrs. KEENE. Yes.

Mr. HORTON. Did you hear him testify about the purpose of the organization, to alter the criminal law in regard to private consenting homosexual acts by adults?

Mrs. KEENE. Yes.

Mr. HORTON. Do you subscribe to that purpose?

Mrs. KEENE. Yes, I do.

Mr. HORTON. Do you subscribe to the purposes as he enunciated them here this morning in his testimony?

Mrs. KEENE. Not perhaps in the words that he used.

Mr. HORTON. Do you think he was accurate in stating the position of the organization with respect to this?

Mrs. KEENE. Insofar as he stated that the purpose of the organization or that one, I might say, hope of the organization was that it would be no longer, that the criminal law would be changed so that it would no longer be a crime for one consenting adult to commit a homosexual act with another consenting adult in private. I think that that is a hope, an aim of the society.

Mr. HORTON. What is your definition of the homosexual?

Mrs. KEENE. Anyone who feels a sexual attraction toward a person of the same sex.

Mr. HORTON. Does this include the homosexual act?

Mrs. KEENE. Well, it includes, of course, a great many people who commit homosexual acts, but, of course, it also includes a great many people who never commit homosexual acts.

Mr. HORTON. Mr. Chairman, I had started the questioning of this witness, and I yield back to the chairman.

Mr. DOWDY. How did you define homosexual again?

Mrs. KEENE. As anyone who feels a sexual attraction toward another person of the same sex.

Mr. DOWDY. I thought you left out the sexual attraction the first time.

Mrs. KEENE. I hope I didn't. I didn't mean to. I think that is a very important part of it.

Mr. DOWDY. I do, too. It seemed Kameny this morning was wanting to leave that out.

Mrs. KEENE. Well, that was a slip of his tongue then, I think.

Mr. DOWDY. Do you distinguish between homosexual and lesbian?

Mrs. KEENE. Well, in common terminology a lesbian is a female homosexual.

Mr. DOWDY. There is an organization of lesbians called the Daughters of Bilitis, I believe?

Mrs. KEENE. Yes.

Mr. DOWDY. Are you a member of that organization?

Mrs. KEENE. No.

Mr. DOWDY. Are you a member of any of these international organizations of homosexuals?

Mrs. KEENE. No.

Mr. DOWDY. I had to go to the telephone, but I understand you have declined to answer the question whether you are testifying under your true name.

Mr. HORTON. May I—

Mrs. KEENE. Did you actually ask me that?

Mr. HORTON. I did ask her, Mr. Chairman, about her name, and she said it was Ellen Keene. Then I asked if she was married, and she said "Yes," and she refused to give me the name of her husband.

Mr. DOWDY. Is Ellen Keene your name or is it an alias?

Mrs. KEENE. That is a question I do not want to answer.

Mr. DOWDY. You know, of course, that we must assume that you are testifying under a false name, or else you wouldn't mind answering.

Mrs. KEENE. Not in the light of the explanations that Mr. Karmeny has given you, no.

Mr. DOWDY. The same thing applied to him. He said he used his right name.

Mrs. KEENE. But he was talking about other officers of the society.

Mr. DOWDY. You are talking about only yourself now.

Mrs. KEENE. I am talking about myself as one of those other officers of the society to whom he was referring.

Mr. DOWDY. I don't remember whether he testified that Ellen Keene was your right name or not.

Mrs. KEENE. I don't imagine in the light of his other testimony that he did. As a matter of fact, I am sure he did not.

Mr. HORTON. Mr. Chairman, may I suggest that this witness be sworn and be asked these questions?

Mrs. KEENE. I don't think you can do that.

Mr. DOWDY. Did you give us your address?

Mrs. KEENE. No.

Mr. DOWDY. What is your address?

Mrs. KEENE. I do not wish to give you that.

Mr. DOWDY. Are you employed?

Mrs. KEENE. Yes.

Mr. DOWDY. Who do you work for?

Mrs. KEENE. I do not wish to tell you.

Mr. DOWDY. Even if we pressed the question you would still refuse to answer?

Mrs. KEENE. Under the circumstances, yes, I believe so. Of course, this is something that I had not anticipated being asked, as I told you earlier. I did not expect to testify, and I have not had a chance to think about it, but I believe that this would—

Mr. DOWDY. You testified about these homosexual acts in private circumstances. Do you go along with Karmeny's testimony that it is in private if you have an audience—if your audience, regardless of how large, is not making too much noise?

Mrs. KEENE. I think that is a question of one's own interpretation, and whether one approves of it or not is again a matter of personal preference.

To my mind I would have to say "No," I don't think it is private, but on the other hand I would have to say that someone else could interpret it as being different.

Mr. DOWDY. If he was testifying the beliefs of the society, you would concede that his definition—

Mrs. KEENE. That he was testifying what?

Mr. DOWDY. He was testifying as president of the society, so you would concede to his definition of what privacy is?

Mrs. KEENE. No, because I don't think he was expressing an opinion of the society. He was expressing a personal opinion. The society has never even discussed that aspect of it.

Mr. DOWDY. Do you have any questions, Mr. Huddleston. Mr. Sisk? That is all. Thank you.

Mr. HORTON. Could I ask the witness a question please?

Mrs. KEENE. Yes.

Mr. HORTON. Are you employed?

Mrs. KEENE. Yes.

Mr. HORTON. Where are you employed?

Mrs. KEENE. I do not wish to tell you.

Mr. HORTON. Are you employed by the Federal Government?

Mrs. KEENE. No, I am not.

Mr. HORTON. Are you employed here in the District of Columbia?

Mrs. KEENE. Further than that I will not answer.

Mr. HORTON. I say, are you employed in the District of Columbia?

Mrs. KEENE. I will not answer where I am employed.

Mr. HORTON. That is all.

Mr. DOWDY. Where does your husband work?

Mrs. KEENE. I don't wish to answer that.

Mr. DOWDY. Is he a member of the society?

Mrs. KEENE. No.

Mr. DOWDY. Does he know you are a member of the society?

Mrs. KEENE. Yes.

Mr. DOWDY. He approves of it?

Mrs. KEENE. I assume so, yes.

Mr. DOWDY. Thank you.

Now Prof. Monroe H. Freedman.

Where are you employed, or are you taking the fifth on us, too?

**STATEMENT OF MONROE H. FREEDMAN, NATIONAL CAPITAL AREA
CIVIL LIBERTIES UNION**

Mr. FREEDMAN. I did not understand that other witnesses were, sir.

Mr. DOWDY. That is what it amounted to.

Mr. FREEDMAN. I am a member of the bar, and I am a professor of law at George Washington University Law School. I am here in my capacity as chairman of the Freedom of Communications Committee of the National Capital Area Civil Liberties Union.

Mr. DOWDY. I believe this morning you declined to answer whether you were a member of this Mattachine Society.

Mr. FREEDMAN. Yes, sir.

Mr. DOWDY. Are you a member or do you decline to say?

Mr. FREEDMAN. I decline to say, sir.

Mr. DOWDY. Are you testifying under your true name?

Mr. FREEDMAN. Yes, I am, sir.

Mr. DOWDY. Do you know any reason why these other people wouldn't.

Mr. FREEDMAN. It is their understanding apparently, and it seems to me there is reason to believe it, that they could be subjected to persecution because of homosexuality or because someone might rightly or wrongly believe that they are homosexuals.

Mr. DOWDY. Is that the reason you refuse to answer the question?

Mr. FREEDMAN. Which question are you referring to, sir?

Mr. DOWDY. Whether you are a member of the society.

Mr. FREEDMAN. No. I am a rather conservative person and old-fashioned about my private life, and except, insofar as it is relevant to these proceedings, I would prefer to keep my private life and my private associations private.

Mr. DOWDY. You know when you answer questions about a thing, it is well to know your connection with it, so you know whether there is bias or prejudice in the remarks you make. Are you testifying as a lawyer for this organization?

Mr. FREEDMAN. I am testifying in my capacity as chairman of the Freedom of Communications Committee of the National Capital Area Civil Liberties Union.

Mr. DOWDY. You heard the statements of the president of this organization. Do you agree with the purposes of the organization as expressed by him?

Mr. FREEDMAN. To the best of my knowledge, sir, the National Capital Area Civil Liberties Union has taken no position on that whatsoever. I came here in the hopes of being able to testify about H.R. 5990.

Mr. DOWDY. What organization did you say you are testifying for?

Mr. FREEDMAN. The National Capital Area Civil Liberties Union.

Mr. DOWDY. What is the purpose of that organization?

Mr. FREEDMAN. One of the purposes of the organization is to protect the Constitution of the United States, and specifically the Bill of Rights from the kind of encouragement that is constituted by H.R. 5990.

I might say, sir, that the bill is rather remarkable in the amount of unconstitutionality that it has been managed to pack into two short paragraphs.

Mr. DOWDY. Have you ever appeared before Congress in support of the constitutionality of any bill that is trying to look after the welfare of the people of the country?

Mr. FREEDMAN. I appeared before Congress as aid to Senator McClellan on one occasion. That was the only time that I have ever appeared before a committee of Congress.

Mr. DOWDY. Were you supporting some bill, then, that was trying to protect the people against—

Mr. FREEDMAN. In my judgment it was, sir.

Mr. DOWDY (continuing). Against depredation from any kind of illegal activities?

Mr. FREEDMAN. I am not sure he could be phrased exactly that way. What we were concerned with was the so-called labor-management reform bill of 1959, which is now known as the Landrum-Griffin Act, but I would not mind, sir, chatting with you about this, except that I promised my daughter that I would drive her to a summer camp today, and I am late now, and she is rather anxious.

If I could talk about the bill I would be grateful.

Mr. DOWDY. All right, you can start out.

Mr. HORTON. Could we ask the witness to give us a little bit more about who he is. You have indicated you are a professor of law.

Mr. FREEDMAN. Yes, sir.

Mr. HORTON. Where did you get your schooling?

Mr. FREEDMAN. Harvard University.

Mr. HORTON. When did you finish?

Mr. FREEDMAN. I got my A.B. in 1951, my LL. B. in 1954, and my master of laws in 1956.

Mr. HORTON. Where did you go from there?

Mr. FREEDMAN. I practiced law in Philadelphia with a medium-large office for 2 years.

Mr. HORTON. And then what did you do?

Mr. FREEDMAN. I came to George Washington University and started as an assistant professor of law. Three years later I was granted tenure. I am now an associate professor of law.

Mr. HORTON. Have you been employed on the Hill?

Mr. FREEDMAN. Yes. In 1959 I was a legislative consultant to Senator McClellan.

Mr. HORTON. Have you had any other employment in the District or in the Metropolitan District area?

Mr. FREEDMAN. I have practiced law in the District of Columbia.

Mr. HORTON. Are you practicing law now?

Mr. FREEDMAN. The practice I am doing can only be laughingly called practice, because it is remunerative.

I have at the present time approximately five cases on court appointment by appointment either of the U.S. Court of Appeals for the District of Columbia Circuit, or the U.S. District Court for the District of Columbia.

Mr. HORTON. Do you have a law office?

Mr. FREEDMAN. No; I do not, sir. Well, in a sense, yes; I have an office in my home, in that I correspond as an attorney from my home particularly with criminal defendants whom I am appointed to defend by the courts in the District.

Mr. HORTON. Have you ever represented the Mattachine Society?

Mr. FREEDMAN. No, sir.

Mr. HORTON. Have you ever advised them or consulted with them on any legal matters either formally or informally?

Mr. FREEDMAN. Informally I have, sir.

Mr. HORTON. And how long have you done this, over what period of time?

Mr. FREEDMAN. It has been less than a week. I don't remember the first day I received a telephone call from Mr. Kameny, but I am sure it must have been this week. I did not know until Friday evening when Mr. Carliner called me and asked me to testify, that I would be here.

Mr. HORTON. This is the first time you ever heard of the Mattachine Society?

Mr. FREEDMAN. No. I heard of them—I really think, sir, that we are getting into questions that are relevant only to my personal associations, and not to the merits of the bill I think the committee is attempting—

Mr. HORTON. You just indicated, sir, that you have done some legal work for this organization, and I would like to know when you first heard about it. You indicated there earlier that you were representing some organization, and now you indicate that you have done some legal work for this group.

Mr. FREEDMAN. I said that informally I have spoken of legal matters with members of this group.

Mr. HORTON. Have you advised this group on legal matters? You have advised its president, haven't you?

Mr. FREEDMAN. To a very limited extent I have given him informal legal advice, yes.

Mr. HORTON. Over what period of time has this legal advice—

Mr. FREEDMAN. Less than a week, as I answered previously.

Mr. HORTON. When did you first hear of the Mattachine Society?

Mr. FREEDMAN. I am not sure why that is relevant to what we are talking about.

Mr. HORTON. I am trying to find out, and I don't know that it is necessary for you to know what I am asking for, but the purpose, I am trying to find out, the purpose I am asking these questions is to ascertain whether or not you are one of the lawyers that is on the group of lawyers that they apparently are referring some of their homosexuals in need to.

Have you ever had any cases referred to you by them?

Mr. FREEDMAN. Before I answer that question, I would have to know in what way it is relevant to these proceedings.

Mr. HORTON. I don't know that it is necessary for me to answer that question.

I want to find out from you, and if you want to answer it all right. If you don't want to answer it, I would like to find out if you don't want to answer it.

Mr. FREEDMAN. I am appearing here as chairman of the Freedom of Communications Committee of the National Capital Area Civil Liberties Union.

Mr. HORTON. You said that before.

Mr. FREEDMAN. Apparently it is not understood, sir.

Mr. HORTON. I am trying to find out from you whether you have ever had referred to you as an attorney any homosexual in need by this society, prior to the time that you had taken the witness stand here.

Mr. FREEDMAN. In a proper proceeding that had anything to do with the practice of law in the District of Columbia, I would be happy to answer that question. I do not—

Mr. HORTON. You refuse to answer it?

Mr. FREEDMAN. Yes, I do.

Mr. HORTON. All right.

Mr. HUDDLESTON. What is this National Capital Civil Liberties Union? Is that an affiliate of the American Civil Liberties Union?

Mr. FREEDMAN. Yes, sir.

Mr. HUDDLESTON. A local branch?

Mr. FREEDMAN. Yes, sir.

Mr. DOWDY. Have you got one of these permits to solicit charitable contributions here in the District of Columbia?

Mr. FREEDMAN. I don't have any idea, sir. This is not one of the areas in which I am active in the organization.

Mr. DOWDY. So you are not sure whether you have any interest in this bill or not.

Mr. FREEDMAN. I beg your pardon?

Mr. DOWDY. Then you are not sure whether you have any interest in this bill at all.

Mr. FREEDMAN. We have an interest in this bill insofar as we have an interest in civil liberties, and this bill would constitute, if enacted, a gross violation of civil liberties, sir.

Mr. DOWDY. Then if you have ever been to law school you know that your connection with the Mattachine Society would be relevant here, in establishing bias or prejudice on your part. Don't they still teach that in law school?

Mr. FREEDMAN. The relevance of the question in my judgment has to be balanced against my own feeling, my own sense of conscience about sanctity of private organization, private association.

In my judgment that outweighs any concern that I have with whatever inferences the committee might choose to draw as to my bias or prejudice.

Mr. HUDDLESTON. Mr. Freedman, you have spoken rather freely and bluntly about other aspects of your background, where you went to school, the fact that you were over at the Senate on some bill that they had over there.

Then all of a sudden you expressed extreme reluctance to tell us any more about your private background, on the ground that you say these other matters, the rest of this private business is privileged.

Why did you happen to draw the line right at that point as to what you would tell us and what you wouldn't tell us?

Mr. FREEDMAN. I was attempting to draw the line, sir, between my professional competence to appear before this committee and testify with regard to the constitutionality of H.R. 5990, about which I might say I haven't had a chance to say a word, and my private life, which I think has no bearing on the merits of that question.

Mr. HUDDLESTON. We are trying to draw a line between your professional competence and your bias.

Mr. FREEDMAN. If the committee chooses to infer that I am biased on an inference that—

Mr. HUDDLESTON. The committee doesn't have enough information to infer anything. That is what we are trying to get.

Mr. HORTON. I will ask you the question, Are you biased?

Mr. FREEDMAN. No, sir; I am not in any way biased in favor or against the organization in question.

Mr. HORTON. How long have you been a member of this organization—

Mr. FREEDMAN. The American Civil Liberties Union?

Mr. HORTON. Yes.

Mr. FREEDMAN. Probably for—my gosh, since about 1948 or before.

Mr. HORTON. Now you mentioned the larger group. You are something like a subcommittee.

Mr. FREEDMAN. The National Capital Area Civil Liberties Union is a relatively new subsidiary of the American Civil Liberties Union.

Mr. HORTON. What is the other group that you mentioned, like some subcommittee? Will you say your little speech over again and let me get the first part.

Mr. FREEDMAN. I am appearing here, attempting to appear here as chairman of the freedom of communications committee.

Mr. HORTON. The freedom of communications committee, let's stop there a minute. How long has that committee been in existence?

Mr. FREEDMAN. Probably as long as the NCACLU has been in existence, and that is probably 2 or 3 years I believe.

Mr. HORTON. How long have you been chairman of that subcommittee or of that committee?

Mr. FREEDMAN. I was formally made chairman at a meeting last week. I could give you the exact date.

Mr. HORTON. Was that prior to the notice of this meeting or after?

Mr. FREEDMAN. That was prior to the time that I knew that I was going to be appearing here.

Mr. HORTON. What does the freedom of communications committee do? What is its function?

Mr. FREEDMAN. The freedom of communications committee is concerned with any issue relating to freedom of speech, freedom of association, and related rights under the Bill of Rights to the Constitution.

Mr. HORTON. Who suggested that you appear here today?

Mr. FREEDMAN. I was asked by the chairman of NCACLU, Mr. David Carliner, Sunday evening, if I would be willing to appear yesterday, and I was here yesterday morning promptly at 10 to appear.

Mr. HORTON. Did you have any request from the president of the Mattachine Society?

Mr. FREEDMAN. No. I had a call from him after I found that I was going to testify, but I had no request from him.

Mr. HORTON. And you did talk to him before he came here?

Mr. FREEDMAN. Yes.

Mr. HORTON. Did you attempt to advise him?

Mr. FREEDMAN. Informally and to a very limited extent I would; yes.

I hesitate to give a more definite answer than that, because I was not retained and I did not give him formal professional advice, and I would not want—

Mr. HORTON. I don't want to be confused now. You state you are here as chairman of this committee. Then earlier I asked you some questions about legal advice to this group, and you indicated about a week ago you were asked to give some legal advice, and you had been at least giving some legal advice over a period of about a week.

Mr. FREEDMAN. I have given a very limited amount of informal legal advice.

Mr. HORTON. Regardless of the amount.

Mr. FREEDMAN. Over a period of less than a week. The legal advice—let me clarify this. This is the reason for my hesitancy.

The legal advice has been such as state fully and frankly and honestly everything that you think is relevant to the hearing before the committee. This is the nature of the legal advice, in general. I was not asked nor—

Mr. HORTON. I am not asking you to go into what the nature of the legal advice is. I am just asking whether or not you gave any legal advice, and your answer apparently is "Yes."

Mr. FREEDMAN. Yes.

Mr. HORTON. For a week you had been giving legal advice. Now much legal advice, the extent or the nature of it doesn't make any difference, but you had been advising this organization as a lawyer.

Now I am asking you who called you to retain you, if you had been retained.

If you are not retained, who called you to ask you to at least give this informal legal advice?

Mr. FREEDMAN. Mr. Kameny.

Mr. HORTON. Was that prior to the time you were assigned to come here to testify as the Chairman of the Federal Communications Committee, or was this afterward?

Mr. FREEDMAN. I have not yet been given such exalted Federal position, sir, as Chairman of the Federal—

Mr. HORTON. I am sorry, freedom of communications committee.

Mr. FREEDMAN. That was afterward that Mr. Kameny first called me.

Mr. HORTON. Subsequent to that time then, you got a call and then subsequent to that time you had been advising you as a lawyer, and they you have also been acting as chairman of this committee.

Mr. FREEDMAN. Yes; but I take a certain amount of pride in my professional advice, and I would distinguish a formal legal opinion from a curbstone or offhand telephone suggestion or piece of advice, and for that reason I would prefer to qualify it. Again I have now been here 20 minutes or so, and I haven't yet had a chance to talk about the bill.

Mr. DOWDY. If you would answer the questions that were asked, instead of evading them, we would have been through with this a long time.

Mr. FREEDMAN. Perhaps if the committee heard what I have to say, you would find that I was not biased.

Mr. DOWDY. In addition to the advice you have given to this society before, you have acted at least in some capacity to advise the president of this society while he was on the stand?

Mr. FREEDMAN. Yes, sir.

Mr. DOWDY. Today.

Mr. FREEDMAN. Yes, sir; I did. I passed him a piece of paper that stated in the District of Columbia it is not a violation of the law to use a pseudonym, and that no formal legal act is necessary in order to do that. I felt at the time that the witness was being badgered, and that it was only fair to him that he know this piece of law.

Mr. DOWDY. Are you familiar with the case in which I asked Kameny, which was in the Federal report? Are you familiar with that case in which he was suing the Civil Service—

Mr. FREEDMAN. No, sir. The first I heard about it was when you referred to it today.

Mr. DOWDY. You don't know what the charges were against him?

Mr. FREEDMAN. I don't know the first thing about that case, except what I could infer from your statement of it today.

Mr. DOWDY. I want it understood you indicated that we were asking you about your private life. We haven't touched on your private life as with these other people. We were asking you only about your employment as a lawyer.

Mr. FREEDMAN. Yes, sir. I consider any question about any association that I have apart from membership in the National Capital Area Civil Liberties Union as a part of my private life, and not relevant to these proceedings.

Mr. DOWDY. Your employment as an attorney.

Mr. FREEDMAN. I beg your pardon?

Mr. DOWDY. Your employment as an attorney you consider—

Mr. FREEDMAN. That is relevant to my professional capacity to testify on the constitutionality of this proposal.

Mr. DOWDY. Go ahead.

Mr. FREEDMAN. Thank you, sir.

The first objection that we would make to this bill is that it imposes an unconstitutionally vague qualification on freedom of speech. The bill comes at a particularly unfortunate time—

Mr. DOWDY. What kind of expression are you talking about?

Are you talking about sexual expression or some other kind?

Mr. FREEDMAN. I am speaking of freedom of communication.

Mr. DOWDY. This bill doesn't say anything about communication.

Mr. FREEDMAN. This bill would interfere with the financing of an organization, which financing would be designed to aid in the communication of ideas.

For example, if there were a society that were formed to get stricter enforcement of laws against homosexuality, or to broaden the laws against homosexuality, presumably that group, if a nonprofit organization, could qualify, collect money, and communicate to the public, and well it should be permitted to do so.

On the other hand, Mr. Kameny's group, which wants to take the other point of view, would be precluded from having this advantage. This is an interference with their freedom of speech, freedom of association.

The vagueness in the bill comes at a particularly unfortunate time. There has just been an article in the journal of the Bar Association of the District of Columbia. This is the August 1963 issue. There was a paper presented as part of a program of the administrative law section of the Bar Association of the District of Columbia, and one of the observations that was made, and this is with regard to licenses for vendors, it is at page 399 of that article, is that one of the standards for which a vendor can be denied a license is that he lacks good moral character. And the author of this article refers to this as "a singularly amorphous concept."

This bill is all the more offensive because it imposes a similar qualification not on the privilege of vending or selling, but on the right of speech.

To point up the vagueness of this bill, what, for example, if a nonprofit organization wanted to qualify to collect money in order to dispense information regarding birth control?

Now, as everyone knows, in the State of Connecticut, at least, birth control is a violation of God's law as well as man's. Would that organization be able to qualify under H.R. 5990? How would an administrator make that decision? And once he had made it, on what standard could a court review that decision?

Mr. DOWDY. Do you mean to say in the State of Connecticut where it is against the law to disseminate such information as that, it is possible to collect charitable funds for a society to violate their law?

Mr. FREEDMAN. It would be unconstitutional if a law were passed interfering with a society that wanted to communicate with the public and encourage the public by lawful means to change the law.

Now I think it is important to distinguish the merits of what the Mattachine Society stands for from its right to speak, and this is the difficulty that it seems to me the committee has been laboring under throughout these hearings.

The issue is not whether we agree or disagree with Mr. Kameny or the Mattachine Society, but whether we are going to interfere with their expressions to the public.

To give you an idea of the kind of thing that even someone with as strong feelings as you apparently have against homosexuality might well be sympathetic with, if two people commit fornication, this is only a misdemeanor in the District of Columbia. It is punished by 6 months as the maximum.

If two people commit adultery in the District of Columbia, which has the added moral onus of interfering—

Mr. DOWDY. Kameny says we shouldn't consider morals.

Mr. FREEMAN. I would rather state my position than Kameny's.

Mr. DOWDY. OK.

Mr. FREEMAN (continuing). Which has the additional moral onus of interfering with healthy family life, that is the commission of adultery, the maximum penalty in the District of Columbia is 1 year.

However, if two people commit sodomy, the maximum penalty is 10 years.

It is our opinion that for the Mattachine Society or anyone else to try to convince the public that this is unfair is perfectly within their rights under the first amendment. Take a society that might want to qualify to raise money for the mothers of illegitimate children. Is this a moral thing to do?

Mr. DOWDY. That is a charitable purpose.

Mr. FREEDMAN. I see. But is it moral? It is a vague standard.

Mr. DOWDY. The production of illegitimate children is immoral.

Mr. FREEDMAN. The position has been taken by Members of Congress that it is immoral to help the mothers after the children get here, because it encourages them to have more. The question again is not the merits of that position but the right of the person to express it.

On the other hand, it might be argued that this bill is not at all vague. It is quite clear what it is designed to do. It is designed to stop the Mattachine Society from propagating its unpopular ideas, and in this regard the bill is particularly offensive.

Mr. Justice Jackson, writing for the Supreme Court of the United States—and he was one of our greatest and most conservative Justices, he had been as you probably know Solicitor General and Attorney General of the United States before he was on the bench—he says:

Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

The National Capital Area Civil Liberties Union is not concerned with the success or failure of the Mattachine Society in its propagation of ideas. We are not concerned—

Mr. DOWDY. I cannot follow your reasoning that this bill has anything to do with keeping these people from expressing their ideas to anybody who wants to listen to them. What this bill directs itself to is the fact that they are out soliciting contributions under the farce that it is a charitable contribution.

Mr. FREEDMAN. Mr. Chairman, if I understand it correctly, it is a matter of statute that it is a charitable contribution if the organization is nonprofit, and as long as they honestly represent to members of the public that no one is taking profits out of the contributions and that the contributions will be used for the dissemination of certain ideas, I do not see that this committee should have any concern with that practice.

Mr. DOWDY. What has that got to do with freedom of speech? That is what I want to know. Yes, go ahead.

Mr. HORTON. With reference to that last statement, you are in here as chairman of this freedom of communications committee, and you made a statement with regard to this type of organization. Have you investigated this organization to find out whether or not this money is being used for charitable purposes?

Mr. FREEDMAN. No, sir.

Mr. HORTON. Do you mean to say you are in here testifying on this at the instigation of this society without finding out whether or not it is using this money for charitable purposes?

Mr. FREEDMAN. At the risk of being reprimanded for repeating myself again, I am not testifying at the instigation of the society. I am here because Mr. David Carliner asked me to in my capacity as chairman of the Freedom of Communications Committee of the National Capital Area Civil Liberties Union.

Mr. HORTON. The second section of this bill:

Notwithstanding the District of Columbia Charitable Solicitation Act or any other provision of law, the certificate of registration heretofore issued to the Mattachine Society of Washington under such act is revoked.

What position do you take on that?

Mr. FREEDMAN. That, sir, is as clear a case of a bill of attainder and denial of equal protection of the laws and denial of due process of law as one could conceive of.

Mr. HORTON. Did you in connection with that study to arrive at that opinion, did you determine whether or not this organization does solicit charitable contributions, and then did you ascertain whether or not it uses these funds for charitable purposes?

Mr. FREEDMAN. No, sir. That is irrelevant to that decision. If Congress should choose to pass a law that says that any organization that purports to be a charitable organization and is not, in fact, and takes anything of value from the public by that misrepresentation shall be punished by fine or imprisonment, that would be perfectly proper.

What makes this bill of attainder is that this is a legislative determination, in effect, that a crime or wrong has been committed, and a punishment imposed therefor.

Mr. HORTON. Would you recommend that this committee adopt legislation which would require charitable organizations to account?

Mr. FREEDMAN. The NCACLU has taken no position on that. I feel very strongly on it, and I would appreciate the chance to express myself.

Mr. HORTON. You have it.

Mr. FREEDMAN. Thank you.

I get regular solicitations from a group that is called Save the Children Federation, and I understand from their literature that my contributions go to help needy children in various parts of the United States.

Until I got involved in these proceedings and found out that apparently it does not mean that, I had assumed that the stamp of their literature that they were certified by the District of Columbia as a charitable organization, I had assumed that that meant that virtually all of the money that I contributed would go to children. I now find that, for all I can tell from the fact of certification, 90 percent of what I contribute to that group might go to overhead and to salaries of officers, and that the District of Columbia makes no effort to find

out whether that is the case or if they do, to prosecute it if that is the case.

Mr. HORTON. Do you think that it is a charitable purpose to solicit funds for the purpose of altering the criminal law in regard to private, consenting homosexual acts by adults?

Mr. FREEDMAN. Within the definition of the ordinance, that is a charitable or an educational purpose.

Mr. HORTON. Do you think the ordinance ought to be changed?

Mr. FREEDMAN. I would very much like to see an ordinance enacted that would call for accounting of charitable organizations.

Mr. HORTON. Now you are talking about accounting of money?

Mr. FREEDMAN. Yes, yes.

Mr. HORTON. I am talking a little bit more about the purposes of the organization.

Mr. FREEDMAN. Well, so far as the purpose of the organization is the use of funds for the dissemination of ideas, this is an educational, if you will, a charitable purpose, regardless of whether you or I might agree or disagree with the idea.

Mr. HORTON. Do you feel there should be some limitation on these purposes of charitable organizations? Do you have a recommendation in that respect?

Mr. FREEDMAN. No, sir; I do not.

Mr. HORTON. As chairman of this freedom of communications committee, have you studied that problem?

Mr. FREEDMAN. I have not considered that, sir; no.

Mr. HORTON. In other words, you have no recommendation in this respect?

Mr. FREEDMAN. No, sir; I do not.

Mr. HORTON. Does any recommendation occur to you in this respect?

Mr. FREEDMAN. Yes; I would think that the only important thing with regard to charitable solicitation is full disclosure.

Mr. HORTON. Of what, funds?

Mr. FREEDMAN. Of funds and how they are going to be spent. Now, for example, with the Save the Children Federation—

Mr. HORTON. Excuse me. Shouldn't there be some definition of "charitable"?

Mr. FREEDMAN. I would prefer "charitable" simply to mean non-profit in the sense that the organization is acting as a conduit for funds to go to the purpose that the organization and those who might contribute to it deem to be worthy.

Mr. HORTON. Now, prior to your attendance here and in preparation of your material, did you do any investigation at all of the organization in question?

Mr. FREEDMAN. No, sir.

Mr. HORTON. Have you ascertained anything at all about its purposes?

Mr. FREEDMAN. I am sorry, I read the excerpts from the constitution and/or the bylaws which appeared in the Congressional Record, and I received some literature, some of which I read and some of which I did not read, from Mr. Kameny.

Mr. HORTON. As a lawyer, excuse me, first I will preface it by this—you were here this morning and heard the president of the organization testify?

Mr. FREEDMAN. Yes, sir.

Mr. HORTON. As a lawyer, would you subscribe to or would you feel that this committee should permit a revision of the statutes of the District in accordance with his recommendations, namely, to eliminate section 21—I think 532?

Mr. FREEDMAN. The NCACLU has taken no position on that, to my knowledge.

Mr. HORTON. And you are not prepared to testify on it?

Mr. FREEDMAN. No, sir; I am not.

Mr. HORTON. Did you read his statement before coming here?

Mr. FREEDMAN. No, sir; I did not.

Mr. HORTON. Did you talk with him about it?

Mr. FREEDMAN. There was reference to it in the telephone conversations that I had with him.

Mr. HORTON. Do you mean to tell me as a lawyer for this group you had not read his statement?

Mr. FREEDMAN. I have never meant to tell you that I am lawyer for this group.

Mr. HORTON. You did, you told me you have been representing them for about a week on an informal basis. You testified here that this morning you advised him.

Mr. FREEDMAN. Mr. Horton, I will let the record speak for itself on what I said.

Mr. HORTON. Well now, then, you say you have not advised him?

Mr. FREEDMAN. I am saying exactly what I said before. I have never been retained by the group, that I gave him some small amount of informal legal advice.

Mr. HORTON. Well, didn't that small informal legal advice consist of talking with him about the statement that he was to make here?

Mr. FREEDMAN. To a very limited extent.

Mr. HORTON. How much time did you spend in talking with him?

Mr. FREEDMAN. I would think that on the outside I have had a maximum of 10 minutes of conversation with Mr. Kameny. That is a very generous guess.

Mr. HORTON. All right.

Mr. DOWDY. I am curious about your statement that this bill would be a bill of attainder. How do you define a bill of attainder?

Mr. FREEDMAN. A bill of attainder I would define as the Supreme Court has, as a legislative determination of wrongful conduct and punishment therefor.

Mr. DOWDY. How is that contained in this bill? This bill involves a matter that Congress granted a privilege or under a bill that Congress passed, a privilege was granted to this outfit for a limited time. Now, if Congress can grant it, Congress can take it away.

Mr. FREEDMAN. Mr. Chairman, let me put it this way.

Mr. DOWDY. There is no crime involved in that.

Mr. FREEDMAN. Well, let us suppose that somebody took up—that Mr. A or let us say Mr. Garland took up arms against the United States of America, and that subsequent to that or at least he was accused of having done so, subsequent to that a legislative body said that henceforth Mr. Garland, who formerly has exercised the privilege of being a lawyer or of being a clergyman, shall not be permitted to do so because he took up arms against the United States of America.

Now, in your judgment, sir, would that be a bill of attainder?

Mr. Dowdy. That would.

Mr. FREEDMAN. I do not see the difference between that case and this. It is not a right to be a lawyer or a clergyman, it is a privilege. It involves a license, and the case I suggested is one that involves a revocation of a license.

Mr. Dowdy. But in that particular case there is a provision made for one to go to court and litigate his rights.

Mr. FREEDMAN. No, excuse me, sir. As I stated it, there was no provision for litigating this in court. The bill said that Mr. Garland or anybody like Mr. Garland—

Mr. Dowdy. But there is a provision in the case that you relate, there is a provision that to forfeit a man's license to practice his profession is determined in court. Here there is no comparison between this privilege or permit that is granted to solicit charitable contributions in the District of Columbia and with removing a man's license to practice his profession, no comparison at all.

Mr. FREEDMAN. Which is more serious, which is more serious?

Mr. Dowdy. The right to practice a profession, which is a permanent right.

Mr. FREEDMAN. Well, my understanding is that is a privilege. Does it really matter whether you call it a right or a privilege? The fact is that these people are denied equal protection under the laws. They are denied the privilege that someone else is granted, and the reason they are denied it is either because of their ideas or because Congress has determined, without a judicial trial, that they have committed acts that are unlawful.

Mr. Dowdy. It is not that at all. They are not charged with committing any crime at all. It is just removing a permit, not a license, a permit that they have to—

Mr. FREEDMAN. But what is the justification for doing this?

Mr. Dowdy. Because they are not getting or not collecting funds for a charitable purpose. They are collecting funds for the promotion of an illegal enterprise. The permit or license should not have been issued in the first place.

Mr. FREEDMAN. The only reason they have to register under this act is on the assumption that they are collecting funds for a charitable purpose. If they are not, they can collect funds without getting a certificate. I would be willing to so advise them.

Mr. Dowdy. Well, you are their lawyer, are you not?

Mr. FREEDMAN. I have never claimed to be their lawyer, sir. This game of putting words in my mouth, if you enjoy it, I will go on with it. But I would like to get my little girl up to camp, if there is nothing more relevant.

Mr. Dowdy. Have you finished your statement?

Mr. FREEDMAN. Yes, sir; I have.

Mr. Dowdy. Do you have any questions?

Mr. HUDDLESTON. Mr. Freedman, would your attitude be the same if this were an organization that had as its avowed purpose the encouragement of the consumption of narcotics in the population?

Mr. FREEDMAN. Well, there is a difference, sir, between encouraging the consumption of narcotics—

Mr. HUDDLESTON. I mean educate the people about the value of narcotics, put it that way.

Mr. FREEDMAN. If I can make it a little fairer, if this were an organization that were devoted to educating the public to the idea that narcotics addiction is an illness and that it should not be punished as a crime, I would think that the parallel was clear, yes.

Mr. HUDDLESTON. Well, as I understand this organization, they are to attempt to obtain, educate the public to the point where they could obtain equal rights with heterosexual people.

Mr. FREEDMAN. Yes, sir.

Mr. HUDDLESTON. They would endeavor to obtain public acceptance—

Mr. FREEDMAN. Yes.

Mr. HUDDLESTON (continuing). Of the homosexual, not any education of the public about the tragedy of the homosexual condition, but to try to obtain public acceptance of the fact that homosexuals are to be treated just like anybody else?

Mr. FREEDMAN. Yes, sir; and if you believe—

Mr. HUDDLESTON. Suppose we carried that over into the question of narcotics. Suppose an organization was for the avowed purpose of attempting to obtain public acceptance of the consumption of narcotics, and the sale and disposition of narcotics. What would be your attitude about granting them a license to raise charitable contributions?

Mr. FREEDMAN. My attitude would be if such an organization disclosed fully, if it was a nonprofit organization, and if it thought for a minute that it could raise funds for that purpose, and if its purpose were advocacy not of criminal acts but of a change of public attitude, that this is one of the fundamental ideas of our form of government, that truth will out.

We do not have to be afraid of ideas that are different from ours. Just because we disagree with an idea doesn't mean that we have to step on it to get rid of it. We can answer it.

Mr. HUDDLESTON. That all sounds very good. I have heard it many times from the members of the American Civil Liberties Union, I mean every bill that comes up here, they come up and make a statement.

But the thing that concerns me is that when I was in law school, and that was a long, long time ago, we had certain types of contracts, for instance, that were prohibited, that were unenforceable, because they were against public policy.

Now it seems to me that in this case that we have got before us, we have got a matter of public policy involved, whether this right ought to be restricted with regard to this group because of the activities of the group, or the activities which they propose to perform, are contrary to public policy, and as I conceive Congressman Dowdy's amendment, the amendment to the District of Columbia Charitable Solicitations Act, he attempts to place some guidelines as to public policy; that these licenses will be granted if the purposes for which the funds are to be raised are in accordance with promoting the health, welfare, safety, and morals. It is purely a matter of public policy, and if you pursue the line of argument that you have presented against this bill, its ultimate conclusion would be that you would prohibit any legislative action to limit the freedom of an individual or a group of individuals purely on a matter of public policy.

Mr. FREEDMAN. Sir, one could not avoid the first amendment by saying that it is contrary to public policy for people to say things that

we disapprove of and, therefore, it is not an infringement on the first amendment.

If we are concerned with acts, if you are concerned with homosexual acts, that is one thing; but if you are concerned with the espousal of ideas relating to homosexuality, that gets into the forbidden area of the first amendment.

Mr. HUDDLESTON. There is nothing in this bill that would prevent the Mattachine Society from advocating its unorthodox and unpopular ideas.

Mr. FREEDMAN. But you would prevent them from raising money to do so.

Mr. HUDDLESTON. We would just prevent them from obtaining a public and governmental recognition and acceptance by licensing them to raise funds to propagandize in behalf of those ideas and activities which are contrary to public policy.

Mr. FREEDMAN. That is exactly the point, to propagandize those ideas. That is what you want to interfere with. You want to interfere with their propagandizing those ideas, and that is the right of every American citizen, to propagandize any crazy idea he has.

Mr. HUDDLESTON. He has that right, and I would defend it to the death, the right of the Mattachine Society to try to convince everybody there was not anything perverted about their activities. But to say that the Government has an obligation to these people to give them the stamp of approval by granting them a license to raise funds as a charitable organization is beyond me.

Mr. FREEDMAN. To say that the Government—

Mr. HORTON. Let me ask you a question in this same area.

Mr. FREEDMAN. Yes, sir.

Mr. HORTON. Do you draw a line with regard to an organization which is a Communist organization, which attempts to overthrow the Government?

Mr. FREEDMAN. Without taking a position on any legislation relating to the Communist Party, which I am not here to discuss today, it seems to me that there is a clear distinction between the Communist Party which is dedicated to working outside of the American system and this organization which, if Mr. Kameny is to be believed, and there is no reason, no testimony, to the contrary, is dedicated to working inside the American system, they are not advocating the forceful overthrow of the Government.

Mr. HORTON. Are there any boundaries which you would draw around any type of organization doing this type of solicitation?

Mr. FREEDMAN. Yes.

Mr. HORTON. What are the boundaries then that you would draw a line around?

Mr. FREEDMAN. Yes; complete truthfulness in their solicitation material, and complete disclosure that would demonstrate to the satisfaction of a responsible public citizenry that the money is being used—

Mr. HORTON. We went through that. I am talking about the same line Congressman Huddleston was talking about. He was talking about being against public policy. Are there any areas in which public policy would be thwarted, and you would be in favor of drawing such a line around the organization?

Mr. FREEDMAN. Mr. Horton, your question is particularly interesting to me because I am teaching a seminar now, and one of the major issues in which is, does the phrase "public policy" mean anything or is it a mask for reason or lack of reason?

Mr. HORTON. I do not want the course; all I want you to give me here now is, are there any areas which you think are against public policy to permit an organization to solicit for charitable purposes?

Mr. FREEDMAN. In my estimation, the phrase "public policy" unidentified and not in context has no meaning.

Mr. HUDDLESTON. You know it has been defined many times.

Mr. FREEDMAN. Public policy has been defined to mean that it is wrong to restrain trade; public policy has been defined to mean any number of things.

Mr. HUDDLESTON. But I mean there are definitions of it.

Mr. HORTON. Are there any moral lines?

Mr. FREEDMAN. Mr. Horton, there are so many things that are immoral that we should not draw legislative lines around; the most deadly of the sins that we know, hatred, lust, greed, covetousness, we do not have legislation against these things. I think that morality has

Mr. HORTON. We are talking about soliciting funds from the public,

Mr. HORTON. We are talking about soliciting funds from the public, though, for the purpose of this organization.

Mr. FREEDMAN. And the purposes of this organization, if I understand it correctly, and there has been no judicial determination to the contrary, are to propagandize an unpopular idea.

Mr. HORTON. Well, it also, according to the President this morning, is to change the criminal law in regard to private, consenting homosexual acts by adults.

Mr. FREEDMAN. But they are not going to do this by force and violence, but by persuasion, the American way, persuasion, communication.

Mr. HORTON. As I understood his testimony, what they were attempting to do was to get the law changed and to eliminate all these laws.

Mr. FREEDMAN. Well, there are a lot of people running around the Hill today who would be violating the law if it is a violation of the law to try to get laws changed. This is the American system. What else is lobbying? What else is any other kind of propagandizing that relates to legislation if it is not trying to get laws changed?

Mr. HORTON. You think we ought not to look into the purposes for which these organizations are formed?

Mr. FREEDMAN. I would not go that far.

Mr. HORTON. How far would you go? Should the Congress look into the purposes for which an organization is formed?

Mr. FREEDMAN. I think that is for Congress to decide. I am not in a position—

Mr. HORTON. You are here recommending to us on certain legislation.

Mr. FREEDMAN. Yes, I am recommending to you that this—

Mr. HORTON. You are speaking as an expert, apparently, and I would just like to have your expert advice in this regard.

Mr. FREEDMAN. Well, Mr. Horton, I have no expert advice for you as to what Congress should investigate as far as purposes of organization are concerned.

Mr. HORTON. I am not asking for investigation. I am talking about this legislation here, H.R. 5990, which is what you wanted to talk about.

Mr. FREEDMAN. This legislation—

Mr. HORTON. Is there anything we should put in here?

Mr. FREEDMAN. Yes.

Mr. HORTON. This legislation states—

shall have affirmatively found and publicly declared that the solicitation which would be authorized by such certificate will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia.

Mr. FREEDMAN. Yes. As I have suggested, either that is too vague a standard to have any significance of constitutional validity; that is, how can an administrator know or after he decides, how can a judge know whether the certificate has been properly withheld? If the certificate is requested by a birth control organization or by an organization ranging—

Mr. HORTON. I am asking you to give recommendations. You are in here to testify.

Mr. FREEDMAN. My recommendation to you, sir, is to tear up this bill and forget about it.

Mr. HORTON. And leave it like it is, no?

Mr. FREEDMAN. No. I was very careful to say, although the NCACLU has not taken a position, I feel very strongly as a citizen of the District of Columbia that we should have a sensible, workable, meaningful, charitable solicitations act.

Mr. HORTON. It is pretty vague now, is it not?

Mr. FREEDMAN. Not only is it vague—

Mr. HORTON. Have you studied it?

Mr. FREEDMAN. I have not studied it; I have read it. Not only is it pretty vague, but I have heard the Corporation Counsel's Office say yesterday that it has no teeth, and that the Corporation Counsel's Office is dissatisfied with it.

Mr. DOWDY. You also heard him say he did not want to change anything about it until we asked him.

Mr. FREEDMAN. I may have misunderstood him. I thought he was willing to accept your recommendation that they scrap the whole thing and come up with a proposal starting with the beginning.

Mr. HORTON. It is so vague now that any organization can come in now and qualify as a charitable organization and hold itself out to the public as a charitable organization in the solicitation of funds; isn't that true?

Mr. FREEDMAN. Apparently it has been so construed.

Mr. HORTON. Are you here to recommend that there be changes made in the present law?

Mr. FREEDMAN. The sole purpose for which I was asked by NCACLU to come here today was to recommend that H.R. 5990 not be recommended out and not be passed.

Mr. HORTON. You are protecting some rights here as you talk here?

Mr. FREEDMAN. Well, I realize I am not being very effective; but that was my purpose in coming.

Mr. HORTON. I say, this is your purpose, to protect some rights?

Mr. FREEDMAN. Yes, sir.

Mr. HORTON. Which rights are you trying to protect?

Mr. FREEDMAN. I am most concerned with the right of freedom of communication and freedom of association. Now I am also incidentally concerned, since there would be no point in sending two members of the group of the NCACLU here, with part 2, which is a bill of attainder, a denial of equal protection of laws and the denial of due process. I cannot imagine a lawyer giving any other opinion on that provision. I say that to you in complete sincerity. I would not hesitate to say if I thought it was the case, this is a close question but my group is against it. Gentlemen, this is not even a close question.

Mr. HORTON. You have examined the purposes of this organization. Do you think it has an educational purpose?

Mr. FREEDMAN. Clearly, clearly.

Mr. HORTON. Yes?

Mr. FREEDMAN. They want to educate the public so that the laws will be changed. This is the highest function of communication in a democratic society, not just to talk for the sake of talking but to induce changes in legislation through our elected representatives.

Mr. DOWDY. You heard me read from some of their material this morning as far as their educational activity, which was to instruct these perverts to be very careful in their solicitations.

Mr. FREEDMAN. Mr. Chairman, I understood Mr. Kameny to say that was not his publication and that he had not affiliated with the group that put that out.

Mr. DOWDY. It was a Mattachine Society publication.

Mr. FREEDMAN. Well, there may be someplace a group called the something-else Civil Liberties Union. That is not the one I am affiliated with. I do not see why you are trying to—

Mr. DOWDY. Another educational purpose of it, it says, "If a blackmailer comes to you and wants you to pay him some money, don't pay him; kill him."

That is part of the education?

Mr. FREEDMAN. Not to my understanding or knowledge. Now, if anybody is urging or is conspiring to violate the laws of the United States, such as the laws against homicide, by all means, if you think that the laws are inadequate to cover it, enact appropriate legislation. But don't interfere with these people's attempts to raise money so they can communicate with the public just because you do not like their ideas.

Mr. DOWDY. You say they are making complete disclosures?

Mr. FREEDMAN. I do not know whether they are making complete disclosures or not.

Mr. HUDDLESTON. You heard the testimony here. You would not say they made a complete disclosure to this committee?

Mr. FREEDMAN. I have not come here to pass judgment on their testimony. I have come here to represent the NCACLU.

Mr. DOWDY. But you said they should be required to make complete disclosures if they are going to solicit charitable contributions.

Mr. FREEDMAN. Complete disclosures of financing and where the money goes, and to those from whom they solicit what the money is going to be used for. If they say, for example, "We are raising money for needy children," which is one charitable purpose, and they use it to encourage laws, a change in the legislation regarding homosexu-

ality which, if nothing is, is an educational or propagandizing purpose, they should be prosecuted for that.

Mr. HUDDLESTON. Excuse me, you used that in the alternative. You think the educational purpose is the same as a propaganda purpose? You used it in the alternative.

Mr. FREEDMAN. If I understand literally defined propaganda means education. It has come to have an unfortunate connotation, particularly since the Second World War. But the Catholic Church, for example, has always referred to its propaganda activities, with no intention of connoting anything undesirable about it. Propaganda has achieved a connotation that is derogatory; but, strictly speaking, it does not have that. What is derogatory about it is that usually it is the advancement of an idea that one disagrees with.

Mr. DOWDY. You say you teach law at Georgetown University?

Mr. FREEDMAN. George Washington University.

Mr. DOWDY. Are they aware of your activities in behalf of this Mat-tachine Society?

Mr. FREEDMAN. Not to my knowledge; I am sure they will be shortly.

Mr. DOWDY. Mr. Sisk, do you have any questions? Any further questions?

While he is looking for what he wants, I would like to ask Mr. Kameny a question. He is still here.

Is there anything in your mind that would prevent you from giving us a list of the persons who have contributed money under your solicitations here in the District of Columbia?

Mr. KAMENY. Yes, two things; first, we do not keep such a list; secondly, in any case, we could not give the names for much the same reasons that we cannot give you the names of members. Names given to you today will mean loss of jobs tomorrow. We cannot be responsible for that.

Mr. DOWDY. Then you do not agree with the witness' testimony here that there should be a disclosure of that information?

Mr. FREEDMAN. Excuse me, sir, I think you are putting words in my mouth.

Mr. DOWDY. I thought that was part of the disclosure that you wanted made.

Mr. FREEDMAN. No, sir. I said there should be a disclosure of the names of people who handle money and how that money is used.

Mr. DOWDY. Now, do you think a fictitious name will be sufficient to disclose the name of the people who handle the money?

Mr. FREEDMAN. As far as I am concerned, as long as those people can be identified by those names and can be found by those names, there is nothing improper about it.

Mr. DOWDY. But if they cannot be identified and cannot be found?

Mr. FREEDMAN. Then there is clearly a problem and there might even be a problem under the statute as it is drafted now.

Mr. DOWDY. I think so, too.

Mr. FREEDMAN. But my understanding is that these people are not concerned with receiving communication or being found by the District of Columbia with respect to the purposes of this statute. But they are concerned about the kind of harassment that many of them apparently have already suffered and which, I think, was implicit in

your own question to me, Does my university know that I am testifying here on behalf of the Mattachine Society? Why would you ask such a question?

Mr. DOWDY. I wanted to know.

Mr. FREEDMAN. If it were not implicit in the question that this might do me some professional harm?

Mr. DOWDY. I just wanted to know if they knew or approved of it.

Mr. FREEDMAN. I think the record will be quite clear.

Mr. HORTON. I think you are sensitive to the question.

Mr. FREEDMAN. I am sensitive on the issue; yes. I certainly am, because I do not think that one should suffer, nor do I expect to, frankly, in his job, because of his ideas that have nothing to do with his performance of his job.

Mr. DOWDY. I believe that is all.

Mr. FREEDMAN. Thank you.

Mr. DOWDY. I believe we have completed our list of witnesses. Thank you for your patience.

Mr. Kameny, you are going to let us know after you have contacted your two officers?

Mr. KAMENY. As to whether they will appear, you mean?

Mr. DOWDY. That is right.

Mr. KAMENY. Yes.

Mr. DOWDY. At this point, we will include in the record a letter to the chairman from the Family and Child Services.

(The letter referred to follows:)

FAMILY AND CHILD SERVICES OF WASHINGTON, D.C.,
Washington, D.C., August 8, 1963.

HON. JOHN McMILLAN,
Chairman, District of Columbia Committee,
House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: It is my understanding that Subcommittee No. 4 of your committee has before it for consideration H.R. 5990 which would impose new rules for solicitation of funds by charitable organizations. Specifically, it is my understanding that the District Commissioners would be required to determine in each case, before allowing solicitation of funds, that the activities of the organizations promote the health, welfare, and morals of the District of Columbia.

On behalf of this agency, I wish to object to the requirement that the Commissioners make any determination of this nature. I believe that the authority already granted by sections 2-2101 through 2-2114 of chapter 21 of title 2 of the District of Columbia Code, as amended, is adequate for the protection of residents of the District of Columbia. In the absence of a clear demonstration of abuses which may arise by reason of any defects in existing law, I respectfully urge your committee not to make the problems of charitable solicitation more burdensome to the government of the District of Columbia and its charitable organizations, alike.

I request that this letter be made a part of the record in connection with consideration of H.R. 5990.

Very truly yours,

S. J. LANAHAN.

(Whereupon, at 4:20 p.m., the hearing was recessed, to reconvene subject to the call of the Chair.)