

the words of this year's winner of the Woodrow Wilson Prize, Lewis Thomas '33, Chancellor of the Memorial Sloan-Kettering Cancer Center in New York. Dr. Thomas observed:

"... As long as we are bewildered by the mystery of ourselves, and confused by the strangeness of our uncomfortable connection to all the rest of life, and dumb-founded by the inscrutability of our own minds, we cannot be said to be healthy animals in today's world.

"We need to know more... not for [the sake of] technology, not for leisure, not even for health or longevity, but for the hope of wisdom which our kind of culture must acquire for its survival."

It is this conception of the role of learning that speaks to many of us at deeper levels. For me, at least, it is compelling. ●

#### GROWING MUNICIPAL LIABILITIES AND SECTION 1983

● Mr. HATCH. Mr. President, our cities and local governments, already trying to bread water in an ocean of financial obstacles, were recently dealt new blows by the Supreme Court. In its decisions in *Thiboutot* and *Owen*, the Court greatly expanded municipal liability under section 1983 of the Civil Rights Act.

The National Institute of Municipal Law Enforcement Officers is in the process of conducting a survey of member governments to determine the amount of claims pending against them under section 1983. To date, their survey reveals claims against small municipalities in excess of \$3 billion, with nearly two-thirds of the survey uncompleted. While recognizing that the survey only represents potential liabilities, the figures are still impressive. The city of Sparks, Nev., for example, a community of 32,000 individuals and a budget of \$11 million, has pending section 1983 claims of \$15 million. Even a small number of adverse judgments could imperil municipal solvency in this kind of circumstance.

Mr. President, I ask that the institute's survey be printed in the Record. I believe that it argues very strongly in behalf of my recently introduced bills, S. 584 and S. 585.

The survey follows:

*Partial results of NIMLO survey on current impact of section 1983 claims (March 1, 1981)*

(Addendum to supplement to remarks of Aaron A. Wilson)

City and dollar amount of section 1983 claims now pending:

Jackson, Miss.	\$600,000
Buckhannon, W. Va.	250,000
Hutchinson, Kans.	1,450,000
Brookfield, Wis.	180,000
Beatrice, Nebr.	20,000
Peoria, Ill.	8,000
Geary, Okla.	115,000
Springfield, Mo.	2,501,000
Algona, Iowa	2,000,000
Ames, Iowa	1,550,000
Wilson, N.C.	7,560,323
Amarillo, Tex.	10,100,002
Loudoun County, Va.	20,000
Franklin, Tenn.	475,000
Waverly, Tenn.	200,000
Methuen, Mass.	2,000,000
Hurst, Tex.	225,000
Fairborn, Ohio	100,000
Newport, R.I.	5,000,000
Arlington County, Va.	5,000,000
Aurora, Ill.	150,000

City	Amount	City	Amount
Clearwater, Fla.	\$5,150,000	Burbank, Calif.	\$954,492
Rostraver Township, Pa.	10,000	Solon, Ohio	22,000,000
Central City, Nebr.	1,500,000	Dallas, Tex.	59,000,000
Duarter, Calif.	1,200,000	Venice, Fla.	5,000
Enid, Okla.	201,500	Canton, Ohio	13,125,000
Smyrna, Del.	500,000	Cedar Rapids, Iowa	1,697,251
Logan, W. Va.	600,000	Portland, Ore.	81,505,000
Berea, Ky.	141,000	Waterloo, Iowa	200,000
Kalamazoo, Mich.	1,500,000	St. Charles, Ill.	555,000
Carroll County, Va.	200,000	Roseville, Calif.	4,250,000
Hazelwood, Mo.	300,000	Newark, N.J.	14,050,000
Berkeley, Mo.	7,040,000	Powell, Wyo.	500,000
Albany, Ga.	5,000,000	Green Bay, Wis.	715,000
DeQueen, Ark.	500,000	Grover City, Calif.	20,282
Casper, Wyo.	3,800,150	Miami Beach, Fla.	2,500,000
Las Vegas, Nev.	1,250,000	Grants, N. Mex.	2,000,000
Jackson, Tenn.	5,000,000	Spartanburg, S.C.	100,000
Grand Prairie, Tex.	5,880,000	Wisconsin Dells, Wis.	20,000
Muskegon County, Mich.	250,000	Colorado Springs, Colo.	10,000,000
Merriam, Kan.	600,000	Marin County, Calif.	5,000,000
Fayetteville, N. C.	300,000	Flint, Mich.	15,000,000
Golden, Colo.	110,000	Omaha, Neb.	507,500
Grants Pass, Ore.	1,218,919	Edmond, Okla.	2,179,520
El Paso, Tex.	5,767,000	Denver, Colo.	18,440,000
Goldsboro, N. C.	1,800,000	Gastonia, N.C.	155,000
Opa-Locka, Fla.	300,000	Roanoke, Va.	9,981,750
Middletown, Ohio	25,000	Emporia, Kans.	580,000
Sonora, Calif.	50,000	Tacoma, Wash.	45,000
Sparks, Nev.	15,000,000	Stockton, Calif.	485,000
Plano, Tex.	6,500,000	Orange Cove, Calif.	500,000
Nashville & Davidson County, Tenn.	250,000	San Antonio, Tex.	7,000,000
Cuyahoga Falls, Ohio	50,000	Pittsburgh, Pa.	180,000
Anne Arundel County, Md.	116,000,000	Los Angeles, Calif.	200,000,000
Northglenn, Colo.	450,000	Dallas, Tex.	58,000,000
Farmington, N. Mex.	1,000,000	Willowbrook, Ill.	290,000
Prince George's County, Md.	100,000,000	Philadelphia, Pa.	100,000,000
Bernardsville, N.J.	133,000	Baltimore, Md.	70,000,000
Scarsdale, N.Y.	1,780,000	Washington, D.C.	45,000,000
Minnetonka, Minn.	1,351,000	Kansas City, Mo.	12,500,000
Brown County, Wis.	35,530,000	Los Angeles, Calif.	200,000,000
Gresham, Ore.	224,636	San Diego, Calif.	1,600,000
Sunnyvale, Calif.	750	Los Angeles County, Calif.	59,228,000
Douglasville, Ga.	900,000	Houston, Tex.	50,000,000
Waukegan, Ill.	105,000	Lincoln City, Nebr.	600,000
Vallejo, Calif.	3,242,600	Waco, Tex.	1,625,000
Vista, Calif.	150,000	Waterville, Me.	10,000
Lake Oswego, Ore.	750,160	Pembroke, N.C.	1,580,000
Arlington, Tex.	455,000	Chicago, Ill.	775,093,000
Vancouver, Wash.	100,000	Salt Lake City, Utah	8,960,398
Wilmington, Del.	500,000	Tucson, Ariz.	1,885,000
Annapolis, Md.	10,000	New York, N.Y.	251,259,465
St. Louis, Mo.	40,000,000	San Bernardino, Calif.	2,280,000
South Portland, Maine	140,000	Saginaw, Mich.	1,500,000
Pasadena, Tex.	6,650,000	Plantation, Fla.	100,000
Greensboro, N.C.	32,000,000	Phoenix, Ariz.	160,000,000
Kettering, Ohio	350,000	Portsmouth, Va.	1,310,000
Volusia, Fla.	3,865,000	Logan, Utah	451,000
Humboldt County, Nev.	145,000	Independence, Mo.	40,000,000
Del City, Okla.	1,907,889	Oceanside, Calif.	630,000
Council Bluffs, Iowa	1,764,610	Columbia, Mo.	201,000,000
Hoffman Estates, Ill.	50,000	Colonie, N.Y.	87,536,269
Oak Park, Ill.	40,000		
Hallandale, Fla.	2,100,000	Total	3,702,212,074
Tempe, Ariz.	2,550,000	City, State, and punitive damages:	
Dayton, Ohio	29,890,070	Plano, Tex.	1,000,000
Reidsville, N.C.	1,100,000	Brookfield, Wis.	150,000
Hagerstown, Md.	3,472,000	Franklin, Tenn.	5,285,000
Jennings, Mo.	480,000	Hutchinson, Kan.	1,450,000
Wichita, Kan.	9,939,000	Cuyahoga Falls, Ohio	420,000
Owensboro, Ky.	80,000	Waverly, Tenn.	80,000
San Leandro, Calif.	1,002,732	North Aurora, Ill.	100,000
Whitefish Bay, Wis.	25,000	Smyrna, Del.	250,000
Carbondale, Ill.	60,000	Logan, W. Va.	300,000
Rochester, Minn.	178,000	Goldsboro, N.C.	1,000,000
Sioux City, Iowa	270,070	Vallejo, Calif.	1,000,000
Jacksonville, Fla.	2,816,950	Lake Oswego, Ore.	1,600,000
Duluth, Minn.	1,800,000	Tempe, Ariz.	1,400,000
Augusta, Ga.	155,000	Hagerstown, Md.	770,000
Norfolk, Va.	1,440,055	Jennings, Mo.	320,000
Deland, Fla.	10,000	Carbondale, Ill.	55,000
El Segundo, Calif.	7,110,000	El Segundo, Calif.	1,100,000
El Monte, Calif.	1,600,000	Waterloo, Iowa	100,000
Aurora, Calif.	25,302,000	Edmond, Okla.	1,125,700
Knoxville, Tenn.	360,000	Emporia, Kans.	1,000,000
Warrensville Heights, Ohio	600,800,000	Stockton, Calif.	600,000
New Bern, N.C.	2,270,251	Orange Cove, Calif.	150,000
Montpelier, Vt.	140,000	Houston, Tex.	200,000
		Warrensville Heights, Ohio	100,000,000

Partial results of NIMLO survey on current impact of section 1983 claims (March 1, 1981)—Continued

City	Amount
Baginaw, Mich.....	\$500,000
Portsmouth, Va.....	525,000
New York, N.Y.....	348,000,000
Logan, Utah.....	150,000
Columbia, Mo.....	100,500,000
<b>Total</b> .....	<b>587,110,700</b>

**INTELLIGENCE ACTIVITIES**

● Mr. BIDEN, Mr. President, in the first few months after a new administration has taken office, it is often difficult to tell the ripples from the waves as the new President and his advisers review old policies and initiate new ones. The result is that the Congress, the press and the public may either overreact or underreact to what the new administration is doing or proposing to do.

It appears that we have been undergoing just such a process over the past 2 weeks regarding the Reagan administration's view of the Executive order governing the activities, especially the domestic activities, of the intelligence community.

It began with reports that representatives of the intelligence community had prepared proposals for revising the Executive order to "unleash" the intelligence community from provisions that now restrain spying on American citizens in the United States.

Specifically, so the reports went, the revised Executive order would drop the rule now requiring investigations of citizens to employ the least intrusive methods possible, eliminate the requirement that there be some indication that an American to be investigated is engaged in illegal activities, reduce the authority of the Attorney General to appraise intelligence activities and supervise the implementation of the Executive order, and relieve the intelligence community of its obligation to report to the Attorney General any illegal acts involving intelligence considerations for his determination as to criminal prosecution.

In short, Mr. President, these revisions, if adopted, would largely overturn the recommendations of the post-Watergate Rockefeller Commission appointed by President Ford to eliminate abuses of the rights of Americans at the hands of the intelligence community, as well as attempts such as occurred under the Nixon administration to use the intelligence community for partisan political purposes.

Predictably, there was a prompt and overwhelmingly negative reaction to these reported proposals on the part of Members of Congress, citizens, and organizations concerned with civil liberties. And there were some murmurs from within the Reagan administration that such a response amounted to an overreaction.

It now appears, however, Mr. President, that the negative reaction to those proposals is shared by key officers at the highest levels within the Reagan administration, including the President himself. If such is the case, it is very good news, indeed.

If there was one danger the learned

and thoughtful men who devised our Constitution were determined above all else to avoid in the new Nation they were creating, it was the danger of a lawless government. Their profound appreciation of history and their own bitter experience had taught them that a government unchecked by firm and carefully calculated restraints would become—indeed, they believed inevitably would become—the worst oppressor of its own people.

Out of that determination, Mr. President, grew not only the Bill of Rights specifying the immunities of Americans from the actions of their Government, but also the system of checks and balances that lies at the very heart of our Government itself.

As an editorial in the March 12 New York Times reminded us, the Constitution today is not merely a quaint 18th-century document reflecting the archaic anxieties of our forefathers. If we remain faithful to it, it remains an extraordinarily contemporary impediment to the excesses of government.

In evaluating the proposals surfacing from within the Reagan administration, the Times recalled the commitments of both President Ford and President Carter "to maintain effective intelligence without sacrificing American freedoms" and pointed out that under the Nixon administration both the excesses of "Operation Chaos" and the illegalities of the Huston plan were justified—as their anonymous authors justify these more recent proposals—as a response to terrorism.

But, as the Wilmington News-Journal in my home State of Delaware said in a lead editorial last weekend, "the subversion of (the Nixon) era was not of the Nation's internal security but of the CIA itself," and the News-Journal also reminded us that the 1947 National Security Act which established the Central Intelligence Agency says the CIA "shall have no police, subpoena, law enforcement powers, or internal security functions."

Mr. President, if we are to counter the threats of our adversaries and survive as a free nation, we must have effective and reliable intelligence, and much of what our intelligence agencies do must be done secretly. Little as Americans have traditionally liked secrecy in their Government, few Americans today would quarrel with that need, as they would not dispute the need at times for intelligence-gathering and counterintelligence activities within the United States itself. But there is no need to violate the law and the liberties guaranteed Americans to accomplish those necessary ends.

Two Presidents and a Presidential commission have agreed that no such license need be given to maintain good foreign and domestic intelligence. The commission headed by Vice President Rockefeller, in fact, concluded unanimously that "Presidents should refrain from directing the CIA to perform what are essentially internal security tasks. The CIA should resist any efforts, whatever their origin, to involve it again in such improper activities."

One of the signatories to that unani-

mous recommendation was Ronald Reagan, and it is gratifying to read in a March 18 New York Times front page story that, according to Presidential Counselor Edwin Meese 3d, the Reagan White House "is absolutely opposed to the CIA getting into domestic spying." An Associated Press dispatch the same day quoted Attorney General William French Smith as saying that "There is no question the Attorney General is going to play an important role." Even earlier, Deputy CIA Director Bobby Ray Inman, perhaps the most widely trusted man in the whole intelligence community today, had indicated that the proposed revisions would themselves undergo heavy revision before attaining any "official" status within the Reagan administration.

Mr. President, the Wilmington News-Journal concluded its comments by saying, "The lesson of the 1970's must not be forgotten . . . Any effort by citizens and legislators to prevent its recurrence is neither needlessly alarmist nor premature." The recent direction taken in the controversy over these proposals seems to confirm that view.

But, as the New York Times argued, the very consideration of such proposals, at any level within the Reagan administration, demonstrates the need now, more than ever, for Congress to remain alert until the issue has been finally resolved. Despite the assurances now emanating from the Reagan administration, significant ambiguities remain to be clarified in whatever document is finally made officially public.

This controversy, Mr. President, points up once again the defect in leaving the rulemaking for intelligence activities solely in the hands of any President, whose best intentions may be heavily influenced by executive responsibilities for the direct management of the intelligence community. The two Intelligence Committees of the Congress have proved, even by the admission of the present Director of Central Intelligence, that they can exercise legislative oversight of intelligence activities without compromising them. Congress has successfully met that responsibility, but another remains before us.

The wisdom of the Founding Fathers, the recent all-too-well-documented abuses of the intelligence process, and the proven competence of the Intelligence Committees all argue forcefully that the time has come for Congress to meet its responsibility for determining legislatively how domestic intelligence and counterintelligence activities are to be conducted effectively without putting hard-won American liberties at risk.

Mr. President, I ask that the New York Times editorial, "Son of Operation Chaos," and the Wilmington News Journal editorial, "CIA Must Adhere to Writ," be printed in the RECORD.

The articles follow:

**CIA MUST ADHERE TO WRIT**

The Central Intelligence Agency, according to the 1947 National Security Act, "shall have no police, subpoena, law enforcement powers, or internal security functions." The CIA's record in the 1970s included calculated White House-inspired violations of that charter.

CIA operatives broke into the office of Daniel Ellsberg's psychiatrist during the Pentagon Papers controversy. A CIA team