S. 2290 Bill file

Miners work hard to supply our Nation with the coal which is used to generate power. Theirs is a dangerous profession, and many of those fortunate enough to survive die slowly of pneumoconiosis—the occupational disease that slowly incapacitates and finally kills. The proposal I introduce today is intended to insure that these men receive the disability payments they deserve.

By Mr. HUMPHREY:

S. 2290. A bill to establish a Joint Committee on National Security. Referred to the Committee on Armed Services.

JOINT COMMITTEE ON NATIONAL SECURITY

Mr. HUMPHREY. Mr. President, I am introducing a bill today which would establish a permanent Joint Congressional Committee on National Security.

I believe this committee will enable Congress to address itself in a more comprehensive way than ever before to a thorough and ongoing analysis and evaluation of our national security policies and goals.

I propose that the committee have these main functions:

First, to study and make recommendations on all issues concerning national security. This would include review of the President's report on the state of the world, the defense budget and foreign assistance programs as they relate to national security goals, and U.S. disarmament policies as a part of our defense considerations.

Second, to review, study and evaluate the "Vietnam Papers," and other documents, whether published heretofore or not, covering U.S. involvement in Vietnam.

Third, to study and make recommendations on Government practices of classification and declassification of documents.

Fourth, to conduct a continuing review of the operations of the Central Intelligence Agency, the Departments of Defense and State, and other agencies intimately involved with our foreign policy.

For too many years, the Congress has had inadequate information on matters concerning national security. We in the Congress have had to accept partial information, often in limited context, and as a result have been unable to weigh the total picture.

It is often difficult for Congress to obtain adequate disclosure of Government documents. On several important occasions heads of the Defense and State Departments and members of the National Security Council have claimed executive privilege and have refused to answer congressional inquiries on matters concerning our national security.

While the President and key Government officials meet occasionally with the leaders of the Senate and the House of Representatives on an informal basis, there is no forum for a regular and frank exchange between the Congress and the executive branches on the vital issues affecting our national security. I am particularly sensitive to this missing link, having had the special experience of serving as a U.S. Senator for 16 years and as Vice President for 4 years.

The Joint Committee on National Security would provide that link.

It would function in the national security field in a manner comparable to the Joint Economic Committee, which conducts a systematic review and analysis of the President's Annual Economic Report.

Its unique feature would be the composition of its membership. It would have representation from those individual and committee jurisdictions that have primary responsibility in military, foreign relations and congressional leadership.

It would include the President pro tempore of the Senate; the Speaker of the House; the majority and minority leaders of both Houses, and the chairmen and ranking minority members of the Committees on Appropriations, Foreign Relations, and Armed Services, and the Joint Committee on Atomic Energy.

It would not usurp the legislative or investigative functions of any present committees, but supplement and coordinate their efforts in a more comprehensive framework.

Nor is it designed to usurp the President's historic role as Commander in Chief, or to put the Congress in an adversary relationship with the executive branch.

It is, rather, a new body, to be composed of members of both parties and both Houses of Congress, that will make possible closer consultation and cooperation between the President and the Congress.

In recent years, we have seen a gradual isolation and insulation of power within the executive branch. The Constitution, I suggest, intended something quite different when it called for a separation of powers.

I believe the divisiveness and the search for scapegoats generated by publication of the "Vietnam papers," is at least in part a result of this isolation.

We have not had the mechanism in our national security apparatus for adequate consultation between the two branches in the formulation of national security policy.

This point is illustrated very convincingly in Mr. Stephen Rosenfeld's article which appeared July 9 in the Washington Post.

Mr. President, I would like to quote from that article as it relates to the point I have been discussing and ask unanimous consent that the entire article be printed in the RECORD.

In discussing our Vietnam experience, Mr. Rosenfeld suggests that "national security is too important to be left to the national security apparatus."

The remedy he offers is in line with my own thinking. We must have an amount of institutional change "by public demand and if necessary by legislation, the executive branch must be required to share some part of the special information and to surrender some part of the initiative which it now commands in the conduct of foreign affairs."

There are reasons for the concentration of power which has developed within the executive branch which are quite understandable considering our experience in World War II and afterward. But times change, and so must our institutions and responses.

In an article in Foreign Affairs, July 1959, I expressed my concern over this development. I noted that the Congress "with its power of the purse, and through the right to investigate, to criticize, and to advocate—does exert a significant influence on the quality and direction of U.S. foreign policy."

I found that the Congress must have its own vehicle for educating itself and expressing ideas on this question and the more general issue of national security.

Such independent expertise is absolutely necessary if the House and Senate are to fulfill their Constitutional responsibility of surveillance and initiative. Without competent independent sources of fact and wisdom they cannot make discriminating judgments between alternative programs and proposals.

I, therefore, suggested that "the Congress prompt the executive to put its house in order by itself creating a Joint Committee on National Strategy, to include the chairmen and ranking minority members of the major committees of the House and the Senate."

Such a committee's purpose would be to look at our total national strategy—military, political, economic and ideological. This committee would not usurp the functions of any of the present committees, but supplement them by endowing their work with a larger frame of reference.

The Chairmen of the Committees represented would come away from the meeting of the new Joint Committee with a greater appreciation, for instance, of the relationship between fiscal policy and national productivity and how both factors relate to our defense posture and our negotiating position. Responsible statesmanship consists precisely in the capacity to see complex relationships in a perspective as broad as the national purpose itself.

Mr. President, I made that proposal in 1959. Had it been adopted, perhaps the history of the past 12 years might have been different. I cannot help but believe that if we had shared more fully in momentous decisions, like those in Vietnam, we would be less divided as a nation by the bitterness and hatreds that confront us today.

But I submit, Mr. President, that now is not the time for regrets. It is a time for careful and responsible decision; it it a time to adapt our institutions to change; above all, it is a time to act.

It is not enough for the Congress to insist upon its prerogatives if it is not prepared to cope with its responsibilities.

The executive branch, recognizing the deep interrelationships between issues of foreign affairs, military policy, and some crucial domestic issues prepared itself to fulfill its responsibilities to the Constitution by forming a National Security Council.

It is fitting, therefore, that the Congress adopt a similar, parallel and counterpart mechanism: a Joint Congressional Committee on National Security, which could draw on the experience and expertise of legislative leaders in various national security areas.

Our existing congressional committees lack coordination. The joint committee

with the present state of our economy, I think the measure that he has introduced today should receive the most serious consideration, particularly in the light of statistics which I have reviewed recently, which indicate that on the West Coast of the United States as much as 20 percent of the automobile market is presently being taken up by imports from Japan.

I think for too long, in the United States, we have failed to see the necessity, insofar as our position in international trade is concerned, of integrating our approach toward revenue measures and the overall plan for our economy. There can be no question but that in Japan, and indeed with our other major industrial competitors, the governments do, in setting their tax policies and their overall economic policies, take into account the position of the nation with regard to international trade. As I say, this has definitely happened in Japan. There is a correlation between the tariff laws, the tax laws, and the overall financing of guarantees and encouraging subsidies by the Federal Government with respect to the overall situation of Japan in international trade.

I recently put into the RECORD a statement made by a distinguished representative of our State Department, in which he reported a study of the comparative position of Japan in this regard, and showed how there had been an intentional and very effective upgrading of Japanese industry in areas involving great skill such as auto production. I think that we, in our tax policies at this point, should take note of this. I have long advocated and continue to advocate that we take another look at restoring the tax credit, or putting back into our revenue system some recognition of the necessity of getting America's plant up to date. We permit the writeoff of new equipment at a rate far slower than that of any of our industrial competitors. We are far less forward looking in our thinking on revenue matters than in our overall thinking on international trade. I think we had better wake up before it is too late. This proposal is a step in that direction, and I think it is timely.

Mr. GRIFFIN. I thank the Senator.

By Mr. HARTKE (for himself, Mr. THURMOND, and Mr. CRANSTON):

S. 2288. A bill to amend section 5055 of title 38, United States Code, in order to extend the authority of the Administrator of Veterans' Affairs to establish and carry out a program of exchange of medical information. Referred to the Committee on Veterans' Affairs.

Mr. HARTKE. Mr. President, today I introduce legislation to extend the authority of the Administrator of the Veterans' Administration to establish and carry out a program of exchange of medical information. I am pleased to be joined in this bipartisan effort by the distinguished Senator from South Carolina (Mr. THURMOND), and by the distinguished chairman of the Subcommittee of Health and Hospitals of the Veterans' Affairs Committee, the Senator from California (Mr. CRANSTON). This program, which was put into effect in 1966, provides a valuable educational tool both to the medical community at large and to the personnel of the Veterans Administration. Under this bill, the Administrator may enter into agreements with medical schools, hospitals, medical centers and individual members of the medical profession for the free exchange of medical information and techniques. Utilizing closed circuit television and other advanced methods of teaching instruction this program has resulted in increased medical knowledge throughout the United States. Although its cost is small, something under $2 million a year, the information that we gain from this program helps the Veterans Administration supply the finest medical care to our deserving veterans. Since authority for this bill expired the beginning of this fiscal year, I hope that we can have prompt action in the next week so that this program may be continued.

By Mr. HARTKE:

S. 2289. A bill to amend certain provisions of title IV of the Federal Coal Mine Health and Safety Act of 1969 relating to the total disability of certain miners suffering from pneumoconiosis. Referred to the Committee on Labor and Public Welfare.

BLACK LUNG DISABILITY BENEFITS

Mr. HARTKE. Mr. President, almost 2 years ago Congress passed the Federal Coal Mine Health and Safety Act, thereby establishing disability compensation for our Nation's miners suffering from pneumoconiosis, a crippling respiratory ailment commonly known as black lung disease. That law authorizes the Secretary of Health, Education, and Welfare to prescribe standards for determining total disability. While those standards may not be more restrictive than those under the general disability program of the Social Security Act, Congress assumed that the standards would be devised so that they would relate to the dilemma of disabled miners.

Unfortunately, the brief history of this worthy program has proved otherwise. For many of the applicants for disability compensation under the Federal Coal Mine Health and Safety Act, the application process has been fraught with frustration and disappointment. One of the causes of this frustration is the definition which is used to determine total disability. Under the present interpretation, no compensation will be granted if—theoretically—the miner is able to hold some job, some place.

The records of the Social Security Administration show that 32.2 percent of the 286,100 claims for black lung benefits which were filed through April 30, 1971, were denied because pneumoconiosis was not disabling. All too many of these miners find that the denial of their claim amounts to a sentence of poverty. Unable to get black lung benefits, they return to the mines only to discover that their nondisabling disease disqualifies them from further work. These are men who have worked 20, 30, and even 40 years in underground mines. They know no other skills. They are unable to qualify for any other employment.

Obviously, there is injustice in the present definition of total disability under title 4 of the Federal Coal Mine Health and Safety Act. It is too strict, and it is subverting the intent of Congress. Men who have worked in the mines for decades and have contracted pneumoconiosis are not receiving the compensation we intended them to have.

The legislation I am offering today would require the Department of Health, Education, and Welfare to adopt more realistic criteria for determining the eligibility of a miner for black lung disability benefits. Specifically, my proposal defines "total disability" to mean inability by reason of pneumoconiosis to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the miner has previously engaged with some regularity and over a substantial period of time.

The clear intent of this legislation is to treat as totally disabled any miner who, by virtue of pneumoconiosis, is medically unfit to return to the mines for work. At the present time, miners who are experiencing the early stages of pneumoconiosis are literally forced to work in the mines until their health has completely deteriorated. Others whose disease cannot be termed "complicated" pneumoconiosis find that their former employers consider their disease to be more disabling than the Department of Health, Education, and Welfare. Because they know no other skills, or because no other work is available to them, they must remain unemployed and in poverty.

Mr. President, not many weeks ago, more than a dozen underground coal miners paid a visit to my office. The sight of these men—all of whom had worked for at least 25 years in the mines—made a highly vivid impression. These men asked only simple justice. Their concern was not only for themselves, but for their wives and children. While their complaints were many and varied, all of them indicated a total lack of trust in those who administer the black lung disability benefit program. We owe it to these men, and to the thousands of miners they represent, to assure that they receive the benefits Congress intended.

The 120,000 claims that have been approved since enactment of the 1969 law represent only about one-half of the total number of claims which have been filed. In my own State of Indiana, of the 5,317 claims filed as of May 7, 1971; 3,979 have been processed. Of those processed, only 1,368 have been allowed. On a national basis, only 39 percent of the claims actually have been paid to date. While it is true that over 200,000 disabled miners, widows and dependents are now receiving monthly black lung benefits, I believe that this number should be increased significantly.

There is much that we do not yet know about the experience under title 4 of the Federal Coal Mine Health and Safety Act, and I am pleased to learn that the General Accounting Office is conducting an investigation which may shed light on this program. For the moment, however, it is clear that we can take action to assure that the purpose of Congress in establishing title 4 will not be subverted.

would not, under my proposal, usurp any of the functions of these committees of the two Houses, but would address itself to the broad-gaged issues that overlap their jurisdictions and thereby assist the congressional and executive decisionmaking process.

Issues of defense, arms control, foreign development and security assistance, national priorities, foreign policies, the development of a global concept for our national interests, and a simultaneous evaluation of our security interests, classification and declassification procedures—all these and many more issues require coordination and a broad focus.

The joint committee I am proposing would concentrate on these and other topics. Let me summarize why I believe such a committee is desirable:

First, it would provide for a total analysis and evaluation of national security jointly by both Houses of Congress.

Second, it would permit closer consultation and cooperation in national security planning with the executive branch than is now possible. This, I believe, would help restore the intended balance of power between the two branches and strengthen the decisionmaking process.

Third, it would permit a comprehensive review and analysis of our Vietnam involvement and help heal the divisiveness in our country that has resulted from secrecy and fragmented decisionmaking.

Fourth, the committee will have the power to review and simplify classification procedures and to declassify documents whose contents should not be withheld from the public. Thus, we can achieve greater understanding, support, and public participation in the establishment of our objectives and policies.

The composition of the joint committee can be summarized as the following:

The Joint Committee—

First. There will be 25 members with fully bipartisan representation. The majority party will have three members more than the minority party.

Second. The experienced authority of the Congress would be fully represented on the joint committee.

Third. Each House also would have the opportunity to be represented by outstanding members who are not chairmen or elected leaders through the provision for membership of two majority and one minority Member from each House.

For a more complete description of the functions and composition of this committee, I ask, Mr. President, unanimous consent that the bill to establish a Joint Committee on National Security be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2290

A bill to establish a Joint Committee on National Security

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that—

(1) it has been vested with responsibility under the Constitution to assist in the formulation of the foreign, domestic, and military policies of the United States;

(2) such policies are directly related to the security of the United States;

(3) the integration of such policies promotes our national security; and

(4) the National Security Council was established by the National Security Act of 1947 as a means of integrating such policies and furthering the national security.

SEC. 2. (a) In order to enable the Congress to more effectively carry out its constitutional responsibility in the formulation of foreign, domestic, and military policies of the United States and in order to provide the Congress with an improved means for formulating legislation and providing for the integration of such policies which will further promote the security of the United States, there is established a joint committee of the Congress which shall be known as the Joint Committee on National Security (hereafter referred to as the "joint committee"). The joint committee shall be composed of 25 Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the majority and minority leaders of the Senate and the House of Representatives;

(3) the chairmen and ranking minority members of the Senate Committee on Appropriations, the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, and the Joint Committee on Atomic Energy;

(4) the chairmen and ranking minority members of the House Appropriations Committee, the House Armed Services Committee, and the House Foreign Affairs Committee;

(5) three Members of the Senate appointed by the President of the Senate, two of whom shall be members of the majority party and one of whom shall be a member of the minority party;

(6) three Members of the House of Representatives appointed by the Speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 3. (a) The joint committee shall have the following functions:

(1) to make a continuing study of the foreign, domestic, and military policies of the United States with a view to determining whether and the extent to which such policies are being appropriately integrated in furtherance of the national security; and

(2) to make a continuing study of the recommendations and activities of the National Security Council relating to such policies, with particular emphasis upon reviewing the goals, strategies, and alternatives of such foreign policy considered by the Council; and

(3) to make a continuing study of government practices and recommendations with respect to the classification and declassification of documents, and to recommend certain procedures to be implemented for the classification and declassification of such material.

(b) The joint committee shall make reports from time to time (but not less than once each year) to the Senate and the House of Representatives with respect to its studies. The reports shall contain such findings, statements, and recommendations as the joint committee considers appropriate.

SEC. 4. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (8) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

Mr. HUMPHREY. With the establishment of the committee, Mr. President, we will be bringing this Republic closer to Mr. Lincoln's ideal of government "of the people, by the people, (and) for the people."

We will be establishing a framework for the formulation of national security policy that can bring us closer to the ideal we all share for lasting peace.

Mr. President, I would like to bring to the attention of my colleagues two excellent articles which appeared in the New York Times and the Washington Post. I ask unanimous consent that they be printed in the RECORD. These articles underline the need to have the kind of institutional reform I am proposing today.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 13, 1971]

FREE PRESS, FREE PEOPLE

(By OGDEN R. REID)

Our democracy does not work well in secret. The Pentagon Papers illuminate the arrogance of those in high places and the serious erosion, if not breakdown, of our constitutional system of checks and balances.

At least two Administrations, if not three, believed that they were not accountable to the Congress and the American people for watershed decisions taken about Indochina.

The present Administration has gone even further and launched the most serious attack on the press in our history: subpoenaing reporters' notes, threatening reprisals against television and radio stations under the power to license, and, for the first time nationally, invoking prior restraint against the right to publish.

This precensorship was claimed to be justified because of an "immediate grave threat to national security." Critical national security touching our very survival is not in fact at issue here—nor is cryptographic intelligence.

While the Kennedy and particularly the Johnson Administrations' failure to inform Congress is a shocking example of unilateral executive decision-making, the attempted effort by the Nixon Administration to prevent what is essentially past history reaching Congress or being published is hardly more reassuring.

After six days of hearings before the Government Information Subcommittee of the House of Representatives, certain remedies are clearly called for if the Congress is to reassert its constitutional role.

First, the Congress must enact a new statute governing classified documents. This law must sharply limit that which should be labeled secret and it must provide for automatic declassification and Congressional oversight. If a matter should remain secret after a stated period, there should be an affirmative, positive finding as to why continued secrecy is necessary.

The Congress should explicitly reserve the right to make public material improperly classified by the executive contrary to statute when its classification is not a matter of national security and is simply a device to avoid governmental embarrassment. Equally, no Executive order on classification should be issued that subverts the intent of the Congress. Above all, there must be a vast reduction in the corps of 8,000 Defense Department officers who now have authority to originate top secret and secret designations.

Second, the Freedom of Information Act should be tightened in two respects. The types of information now permitted to be withheld must be sharply limited, and time permitted for Government response to a court suit must be reduced from the present 60 days.

Third, the Congress must come to grips with executive privilege. Here we are dealing with a collision between the executive and the Congress that has been going on since George Washington assumed office. It should be subject to accommodation, but that will never happen if the Congress does not assert the powers and responsibilities given to it by the Constitution.

Fourth, legislation may well be required to protect the Fourth Estate. The press often serves as a coordinate branch of our democracy, especially when a breakdown occurs between the other three. Specifically, we need a national Newsmen's Privilege Act—now law in six states—protecting the confidentiality of sources, absent a threat to human life, espionage, or foreign aggression. Legislation should be enacted to prohibit the issuance by the courts of injunctions against publication, thereby removing prior restraint from the reach of the executive.

Congressional legislation and assertion of appropriate initiatives can help redress the current situation. If need be, the power of the purse can be more resolutely used vis-a-vis an unresponsive executive. But more fundamentally, what we need is government with faith in the American people and in their right to participate in the great decisions. If we do not see this now, after the Bay of Pigs, the Dominican Republic intervention and the whole tragic history of Indochina, then as a nation we do not really understand democracy.

A DEADLINE FOR DECLASSIFICATION?

(By Henry Owen)

The current furor over secret Vietnam documents fits into a familiar pattern. The public's view of the origins of each major conflict (save Hitler's war) in the last century has been marked by three successive phases: Phase I, when the wartime official view was readily accepted; Phase II, when a spate of memoirs and other secret documents persuaded people that it was largely the fault of their own wartime leaders; and Phase III, in which professional historians showed the truth to be a lot more complicated than any of these "devil" theories would suggest. We are now in Phase II on Vietnam; the need for moving as soon as possible to Phase III can be better understood if we look to past experience.

CASE ONE: In 1914–18, the view that the Kaiser had single handedly brought on the war was universal outside Germany. Then came postwar memoirs and the publication of Austrian, German and Russian secret documents; this led such revisionists as the late Harry Elmer Barnes to suggest that the war was largely the fault of Poincare and the Russian military. Finally, serious historians got to work. While they differed among themselves in distributing the blame, a succession of professional studies—culminating in Albertini's definitive three-volume history published in the 1940s—suggested that both the wartime and revisionist theories were at fault. None of the statesmen involved had wanted a general war; there were divided counsels in each government; and there was a large amount of miscalculation and at least as much incompetence as criminal intent all around.

CASE TWO: On December 8, 1941, most Americans were fairly clear that Hirohito had attacked a peaceful America out of the blue. After the war smoldering hostility toward President Roosevelt exploded in a burst of revisionist commentary, which suggested that he had tempted and provoked Japan into firing the first shot. The U.S. Government, in a burst of candor, gave two eminent scholars—William Langer and Everett Gleason—the run of its archives and invited them to form and write their own view. Phase III, which began with their two-volume work in the early 1950s, has been reflected in a succession of scholarly studies ever since. These studies have reached varying conclusions, but no one who reads all of them is likely to return to the simplistic theories of the 1940s: The failures of last-minute U.S. and Japanese efforts to avert war are, as John Toland points out in his recent work, too tragic and complicated a business to be explained by seeking out heroes and villains.

On Vietnam, we are now in Phase II. Secret documents have been revealed; wartime leaders are being discredited. But the revealed documents are inevitably a partial record: They do not include White House files; and they do not indicate either the context in which, or the tactical purposes for which, the memoranda they cite were written. They cannot fully reflect the doubts and torments of officials reaching for decision—which are, by the very nature of the government's operations, rarely committed to paper. The authors who analyzed these papers were not able to conduct interviews with the participants; as indicated in these volumes' preface, they sometimes lacked the research experience required to assess evidence which was necessarily, as a Washington Post editorial has pointed out, neither complete nor balanced. These are some of the reasons why such men as George Ball and Averell Harriman have warned against trying to draw sweeping conclusions from these documents.

One remedy was suggested by three noted historians before the current storm broke. In 1969 Professor Ernest May of Harvard proposed that all classified government records, except for those few whose disclosures would directly, surely, and powerfully prejudice national security, be opened after a fixed period to qualified professional historians. Professor James McGregor Burns of Williams followed with a similar, if more general, proposal and suggested that the waiting period be fixed at eight years. In light of recent events, this period might well be shortened. The proposal was promptly endorsed by Professor Langer, who pointed out that "systematic declassification is patently impossible: the records are so voluminous that it would take large teams of highly qualified personnel years to complete the assignment."

Professor May had in mind that a group of these historians, based in universities, would then launch a major effort to produce scholarly histories of U.S. postwar foreign policy—perhaps under a foundation grant, which might be managed by an appropriate professional association or by a group of these associations. Outlining the advantages of such a historical program in persuasive terms, Professor May concluded: "Policy-makers and their staffs would possess more reliable knowledge about events which they use as trend gauges and action indicators . . . Legislators, journalists, and others commenting on current actions would have less excuse for basing comparisons on legend rather than reality . . . and students would leave the classroom with somewhat more awareness than now seems common that the world is a complicated place and that the color of truth is often gray."

At the time these professors' proposals were made, they attracted scant atention. In light of current events, they warrant serious exploration. The President might appoint a mixed commission of eminent American historians and government officials to study the matter and report back to him with specific recommendations. This would be a different operation from the inter-agency study on declassification which is already underway in the U.S. Government.

In the meantime, private studies can make a modest contribution in pointing the way. Leslie Gelb, who coordinated the compilation of Pentagon documents, is embarked on a three-year analytical history for the Brookings Institution of how five successive U.S. administrations perceived and acted on U.S. interests in Indochina from 1940 to 1965. His object is not to figure out who struck whom and why, but to show the inter-relation between official decisions and the international and domestic environment in which they were taken. His research is based on public sources: the first published results, published recently in Foreign Policy and the "Outlook" section of The Washington Post, suggest that his conclusions will be both more balanced and perceptive than those now being widely drawn from the Pentagon documents often by people who haven't even read them, but have heard of them at second or third hand.

Whatever may be the verdict of history in Vietnam, one thing is sure: It will differ from many of the verdicts now being pronounced with such speed and enthusiasm on the basis of scattered and incomplete returns.

By Mr. McCLELLAN:

S. 2291. A bill to facilitate representation of persons having claims against the United States by legal counsel of their own choosing. Referred to the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill to facilitate representation of persons having claims against the United States by legal counsel of their own choosing.

In both the 89th and 90th Congresses the Senate unanimously passed bills—S. 1522 of the 89th Congress and S. 1073 of the 90th Congress—introduced by me for the removal of arbitrary limitations upon attorneys' fees for services rendered in proceedings before administrative agencies of the United States. No final action on either of these bills was taken by the House of Representatives. The bill which I am introducing today is substantially the measure reported by the House Judiciary Committee in the 90th Congress and identical to S. 2387 of the 91st Congress.

Section 1 of the bill provides for the repeal of section 2678 of title 28 of the United States Code, which is the section of the Code which presently limits attorneys' fees in Federal tort claims cases. This section would remove the fixed limits now in the law so that the attorneys' fees will be fixed in the same manner as it is in tort litigation between private parties.

Section 2 of the bill provides a standard procedure for supervising and approving attorneys' fees for services rendered in connection with claims before specified agencies and departments of the Federal Government. These new procedures for determining attorneys' fees would apply to: first, the Secretary of Health, Education, and Welfare under title II or title XVIII of the Social Security Act; second, the Administrator of Veterans' Affairs under title 38 of the United States Code; third, the Foreign Claims Settlement Commission under any provision of law administered by that Commission; fourth, the Secretary of Labor with respect to the Federal employees compensation provisions of title 5 of the United States Code; fifth, the Railroad Retirement Board under the Railroad Unemployment Insurance Act; and sixth, the President or his delegate under the Trading With the Enemy Act.

The procedures in this bill for agency review of reported fees provides that a fee may be questioned if an agency "finds cause to inquire as to whether a fee is excessive" or improperly reported. After the attorney has had an opportunity to supply additional data and confer with agency representatives, the agency may determine a "maximum" fee.

Section 3 of the bill contains provisions relating to the review and enforcement of limitations on attorney's fees. These include provisions concerning jurisdiction in the Federal district courts, venue, actions for determination of reasonable attorneys' fees, the form of evidence to be considered by the court, and judgment by the court in such actions.

Sections 4 through 11 of the bill amend existing law so as to incorporate the new procedures specified in this legislation.

Section 6 preserves the existing $10 limitation on "original claims" for Veterans' Administration benefits. Attorneys could be retained at fees subject to Veterans' Administration review, as provided in Section 2 of the bill, only after a claim had been disallowed by that agency. In normal circumstances, there is no necessity for an attorney at the first stage of a claim for Veterans' Administration benefits. However, once a claim has been disallowed an attorney may be desired by the claimant in appealing the denial of a claim for benefits. It should be stressed that this bill does not seek to affect in any way the present system of representation of veterans by the various veterans organizations. The legislation would merely make it possible to obtain counsel in those cases where it appears to the claimant that legal counsel would be helpful or desirable.

When I originally introduced legislation on this subject in the 89th Congress I stated that I did so "to correct what I consider to be inequities in the allowance of attorneys' fees in proceedings before certain administrative agencies. Many of the existing limitations are a direct outgrowth of the depression years. The maximum amount now allowable reflects the general attitude of that time." I have worked closely with the American Bar Association in the preparation of the successive versions of this legislation. I believe that the bill effects a proper balance of the interests of all parties concerned, namely, the individual claimant under a Federal statute, his private lawyer, and the Government. I hope that final action on this legislation can be taken during this Congress.

By Mr. BURDICK (for himself and Mr. COOK):

S. 2292. A bill relating to minimum and maximum limits of age within which original appointments may be made to positions as correctional officers in the Bureau of Prisons, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing for myself and Mr. COOK today, the Correctional Officer Act of 1971.

As my colleagues are undoubtedly aware, one of the improvements in our efforts to bring about the rehabilitation of public offenders is the utilization of correctional officers in a paraprofessional role as agents of changing the behavior of those in custody. The U.S. Bureau of Prisons is today providing leadership for the Nation in this field through the unique training program which it has established for new correctional officer employees. The first of what I hope will be a series of staff training centers is located at El Reno, Okla. Although it was only formally dedicated on March 25 of this year, the concepts involved in this staff training program are already being adopted by State and local jurisdictions in the preparation of their correctional employees.

The legislation which I introduce today is intended to be a further step in enhancing the professional role of Federal correctional officers, so that they will continue to represent the high standards necessary to fulfill their role as agents of change.

In the day-in, day-out operation of a correctional institution, it is the line correctional officers who have continual contact with the offenders. Because of this, these correctional officers stand in a unique place from which they can influence the future behavior of those in custody.

First, the legislation which I introduce recognizes the declining average age of the offenders in the population of the Federal institutions, which has gone from approximately 30 years to approximately 28 years of age.

The ability to set maximum age limits for recruitments would insure that the Bureau of Prisons is able to maintain a young and vital complement of correctional officers who can understand offenders and who can work with them.

Second, this legislation further recognizes the professional nature of this work by eliminating the requirement that a correctional officer who has reached age 50 and has completed 20 years of service must be declared to be "no longer capable of carrying on efficiently" in his job in order to gain the annuity benefits which Congress has already provided in recognition of the dangerous nature of the work. I believe that making these annuity benefits available upon application will be a significant factor in improving the morale of the correctional officers who man the institutions of the Bureau of Prisons, and will make these jobs more attractive to those individuals who are best able to perform this role as an agent of change.

I ask unanimous consent that the bill and analysis be printed in full at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2292

A bill relating to minimum and maximum limits of age within which original appointments may be made to positions as correctional officers in the Bureau of Prisons, 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 3307 of title 5, United States Code, is amended by designating the existing text of such section as subsection (a), and by adding at the end thereof the following new subsection:

"(b) Notwithstanding the provisions of subsection (a) of this section, the Attorney General, with the concurrence of such agent as the President may designate, is authorized to determine and fix the minimum and maximum limits of age within which original appointments may be made to positions as correctional officers in the Bureau of Prisons, Department of Justice."

SEC. 2. Subsection (c) of section 8336 of title 5, United States Code, is amended by inserting immediately before the period at the end of the first sentence thereof a comma and the following: "except that in the case of an employee the duties of whose position are primarily the detention of such individuals and who is so separated from the service, such employee shall be entitled to an annuity without such recommendation and approval".

MAJOR PROVISIONS OF THE CORRECTIONAL OFFICER ACT OF 1971

SEC. 1. Provides authority for the setting of maximum and minimum ages for recruitment of correctional officers to be employed by the Bureau of Prisons.

SEC. 2. Eliminates the necessity provided in statute and regulation that the Director of the Bureau of Prisons and the Civil Service Commission be required to make a determination of fact that an individual seeking retirement at age 50 with 20 years of hazardous duty is no longer capable of carrying on efficiently as a correctional officer.

By Mr. BURDICK (for himself, Mr. COOK, and Mr. BAYH):

S. 2293. A bill to amend title 18, United States Code, relating to assaults on United States probation officers. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing for myself, Mr. COOK and Mr. BAYH today, legislation that would extend to U.S. probation officers the provisions of the criminal code which make assault or murder of all other categories of Federal law enforcement officers a Federal crime.

Section 1114 of title 18, United States Code, now provides that whoever kills any of certain designated officers or employees of the United States while engaged in, or on account of, the performance of official duties shall be punished as provided in section 1111 and section 1112 of the code relating to murder and manslaughter. A related provision, section 111 of title 18, United States Code, applies sanctions to anyone who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 while engaged in, or on account of, the performance of official duties. The legislation that is being introduced today would extend these provisions to all probation officers of the United States.

In performing their primary duties of supervising Federal offenders placed on probation or on parole from penal institutions, or preparing presentencing investigation reports for the courts, U.S. probation officers are subject to personal hazards above those faced by ordinary government officers. By the nature of their work, they continually risk the danger of assault, which could result in injury or death at the hands of the parolees, probationers, and persons from whom they seek information.

Congress has in previous years provided such protection to agents of such agencies as the Federal Bureau of Investigation, Bureau of Narcotics and Dangerous Drugs, Customs, Immigration, Bureau of Prisons, and others involved in field activities on various public lands.

I believe that such legislation extending these two sections of this statute to cover U.S. probation officers would be an appropriate recognition of the dangerous nature of their work. Enactment of similar legislation has been recommended by the Committee on Probation of the Judicial Conference.

I ask unanimous consent that the bill be printed in full at this point in the RECORD.

S. 2293

A bill to amend title 18, United States Code, relating to assaults on United States probation officers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1114 of title 18, United States Code, is amended by inserting immediately after the words "judge of the United States," the words "any United States probation officer."

By Mr. EASTLAND (for himself and Mr. HRUSKA):

S. 2294. A bill to amend the Subversive Activities Control Act of 1950, as amended. Referred to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, on behalf of the Senator from Nebraska (Mr. HRUSKA) and myself, I send to the desk for appropriate reference a bill to amend the Subversive Activities Control Act of 1950, and ask that it may be appropriately referred.

This is a bill which was transmitted to the two Houses of the Congress, in draft form by the Attorney General of the United States. The purpose of the bill is to facilitate the performance by the Subversive Activities Control Board of new responsibilities which it must deal with under the President's amendment of Executive Order 10450, on July 7 of this year.

As I am sure Senators know, the amended Executive order will permit the Board to deal with and make appropriate determinations with regard to violent, action-oriented organizations, whether or not such organizations are Communists in nature.

In performing these new functions, the Board will need to exercise, in proper case the power of subpena, and to hold hearings and to take testimony and keep a stenographic record of its proceedings. These functions are now authorized by statute with respect to the responsibilities imposed upon the Board by the Subversive Activities Control Act; and the bill I have just sent forward will provide authority for the exercise of these necessary functions in connection with the Board's new responsibilities.

The bill will also provide for changing the name of the Board to the "Federal Internal Security Board". I feel this is a desirable step, for the fact is the Board has never been greatly concerned with controls, but rather with the quasi judicial adjudication of questions with respect to the nature of subversive organizations.

Mr. President, I ask that the text of the letter transmitting this bill to the Vice President, as the presiding officer of the Senate, may be printed in the RECORD at this point as a part of my remarks, together with the full text of the bill.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., July 7, 1971.

THE VICE PRESIDENT,
United States Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is attached for your consideration and appropriate reference a draft bill to amend the Subversive Activities Control Act of 1950, as amended.

In order to update the list of organizations which have been designated by the Attorney General, the President in accordance with his constitutional and statutory powers, has amended Sections 8 and 12 of Executive Order 10450, to permit the Attorney General to petition the Subversive Activities Control Board to conduct appropriate hearings to determine *inter alia* whether an organization is one which seeks to overthrow the Government of the United States or any state or sub-division thereof by unlawful means or unlawfully advocates the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any state. This would permit the Board to make an appropriate determination with respect to violent-action oriented organizations.

The proposed legislation would amend Section 12 of the Subversive Activities Control Act of 1950, by renaming the Subversive Activities Control Board the Federal Internal Security Board. In addition the draft bill provides that subsections (c) and (d) (1), (2) and (3) of Section 13 and Section 14, of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted pursuant to Section 12 of Executive Order 10450, as amended.

Misbehavior in the Board's presence is a punishable offense under Section 13(d)(3). Section 13(c) provides the Board with the power of subpoena. Section 13(d)(1) assures certain respondent rights by requiring public hearings, an accurate stenographic record, the right to counsel, and the right to cross examination. In addition to these "due process" features, Section 14 specifically provides that an aggrieved party shall have the right to petition the United States Court of Appeals for the District of Columbia to have the Board's findings set aside. The findings of the Board must be supported by the preponderance of the evidence.

The enactment of this legislation will also provide a sounder basis for updating the Attorney General's list of organizations designated pursuant to Executive Order 10450. The last consolidated list of such organizations was issued on November 1, 1955 and many of the organizations listed thereon are currently defunct.

The early enactment of this legislation is recommended as a necessary complement to the recently issued amendment to Executive Order 10450 mentioned above, since the Executive Order cannot confer subpoena or contempt powers on the Board.

The Office of Management and Budget has advised that enactment of this legislation is consistent with the objectives of this Administration.

Sincerely,

JOHN W. MITCHELL,
Attorney General.

S. 2294

A bill to amend the Subversive Activities Control Act of 1950, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 3(11) of the Subversive Activities Control Act of 1950 is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board."

(b) Section 12(a) of the Subversive Activities Control Act is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board."

(c) The caption to Section 12 of the Subversive Activities Control Act of 1950 is amended to read "Federal Internal Security Board."

SEC. 2. The provisions of subsections (c)