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legislators on the Commission, questioned James M. Stetler, a vice president of the American Express Company, and Kenneth Larken, a senior vice president of the Bank of America.

ACCOMPANIED BY SUBPOENA

Mr. Stetler told the Commission which is operating under a Congressional mandate to look into actual or potential invasions of individual privacy, that American Express does require the Internal Revenue Service and other governmental agencies to produce a subpoena before agreeing to turn over a consumer's records.

The American Express official said requests from private lawyers also had to be accompanied by a subpoena, including those "involved in matrimonial problems."

"Have there been occasions when the Internal Revenue Service has gotten information from American Express without the company informing the account?" asked Mr. Koch.

The question was fielded by Gary Beller, an assistant general counsel for the company who accompanied Mr. Stetler.

"We don't have the practice of notifying the account," he told the Manhattan Democrat, and added "I guess the company has taken the position if notification is required, either the court would notify (the individual)," or the "regulations" would require the I.R.S. itself to provide notification.

"As an attorney you know that's not so," Mr. Koch rejoined.

"No, but there have been a number of cases where people have been informed, even though it's not required," Mr. Beller said.

He also said that American Express had "no fiduciary responsibility" to notify its clients when a subpoena was out. Mr. Koch suggested customers would not have time to move to quash a subpoena if they were not warned of its existence.

Mr. Beller also told the hearing which was held at 26 Federal Plaza, that he as "an attorney could see us getting involved in a lot of motions to quash" if American Express followed the same policy as the Bank of America.

As explained to the commission by Kenneth Larken and Susan Hedemann, an associate general counsel, the Bank of America policy is to regularly notify both by telephone and in writing, a customer whose records are being sought by the I.R.S. or law enforcement agencies.

Miss Hedemann told the * * * that two California court cases, one of them decided last December, made it mandatory for the bank and other financial institutions to notify customers if their records had been subpoenaed in civil cases.

REASON FOR DIFFERENCE

State law aside, one major reason for the difference in policy between the two credit card companies may lie in the fact the Bank of America is a bank, whereas American Express is not.

The common law has long put the burden of confidentiality on bank records, but is not so clearly defined in the case of nonbank financial institutions such as American Express.

David F. Linowes, chairman of the Commission, said there had been thus far "no demonstration" of widespread abuses of confidential information in the credit card industry.

Other witnesses who testified yesterday included Dee W. Hock Jr., president of National BankAmericard Inc.; John Reynolds, president of the Interbank Card Association; and Jeremiah S. Gutman, an attorney for the American Civil Liberties Union.

Mr. Linowes said, however, that there was the "potential" for such abuse, and added that in his view "a lot of power was concentrated in very few hands."

The hearing is scheduled to resume today at 10 a.m.

[From the Washington Post, Feb. 13, 1976]

BELL SYSTEM, ARCO GAVE CREDIT DATA

(By Nancy L. Ross)

NEW YORK, February 12.—Telephone and gasoline credit card records are being turned over to the FBI without a court order or the customer's knowledge, a government investigation of privacy invasions was told today. It also learned of a credit bureau that sold information on its subjects back to them on the pretext of protecting them against unlimited access to their files.

On the second day of testimony before the Privacy Protection Study Commission, William Caming, an attorney for American Telephone & Telegraph Co., said the Bell System has tightened its dissemination of credit data in the past two years and no longer discloses unsubpoenaed records—except in certain cases.

Under questioning by a commission member, Rep. Edward I. Koch (D-N.Y.), Caming said that a personal request from the FBI director, his assistant or a congressional committee conducting a formal investigation was sufficient for AT&T to produce records of long-distance calls, and in some cases the names of both parties involved in a collect call. This information also would be produced in cases of national security, Caming said.

Koch demanded to know why AT&T did not require everyone—including the FBI director—to obtain a court order and let a judge decide whether to give out data without telling the card-holder. Caming replied it might not be in society's best interest to do so because it might hinder law enforcement. He spoke of a delicate balance between "considerations for customers and considerations in crime," and said it was up to Congress—not AT&T—to decide to which side the scales should tip. Caming compared the magnitude of deciding on the toll-call information to deciding on wiretapping.

In virtually no situation is an FBI request revealed to the card-holder. Theoretically the company will tell the customer after 90 days, unless the FBI or other official investigator objects, but only if the customer asks who has been seeking information about him. In past practice, the customer almost never found out.

Koch won a promise from Caming to inform anyone who suspects that his past telephone records might have been requested by the government. The company also promised to furnish such information in the future, subject to the 90-day rule. Interested parties need only inquire at their local telephone business office. Caming said later he expected an "avalanche" of inquiries.

Atlantic Richfield Co.'s retail credit manager, Rudolph J. Megaro, declined to give an assurance that his firm would comply with such requests, although he agreed "philosophically" that ARCO customers should have the right to know who is looking into their charge records.

Megaro told the commission ARCO had received 550 requests in 1975 from federal, state and local law enforcement agencies to provide information on customer's accounts. While about 500 of these dealt with stolen or lost credit cards, others concerned mail fraud or civil or criminal cases, he said.

Some of ARCO's requests were from the Internal Revenue Service, the FBI, the Federal Energy Administration and various courts.

Megaro said that ARCO did not supply information on its customers' accounts to other credit card companies or credit reporting bureaus. With a little prodding from Koch, Megaro admitted he felt "queasy" about supplying information to the FBI and the IRS

especially without telling the customer. He said industry would be more comfortable with "guidelines," but opposed applying privacy regulations now in effect for the federal government to private industry, mainly because of the cost.

Support for extending the privacy rules beyond government came from Rep. Bella S. Abzug (D-N.Y.), who chaired the congressional subcommittee that oversees the privacy act. Abzug told how a credit bureau in Nashua, N.H., tried to "ransom" credit files by selling them back to the subjects.

The bureau told the subjects it had copies of personal financial information for sale for \$7.50, she said. The letter continued, "We have decided to give you a chance to obtain sole possession of your complete file before it becomes part of a large computerized data bank, which may allow unlimited access by thousands of people."

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 3

At the request of Mr. KENNEDY, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 3, a bill to create a national system of health security.

S. 2402

At the request of Mr. FONG, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2402, a bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income.

S. 2960

At the request of Mr. HUMPHREY, the Senator from Idaho (Mr. CHURCH) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 2960, a bill to provide for quarterly adjustments in the support price for milk, and for other purposes.

S. 3004

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 3004, a bill to establish a National Commission on Food Costs and Pricing to appraise the food marketing industry.

S. RES. 319

At the request of Mr. CURTIS, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of Senate Resolution 319, relating to the occupation of certain Baltic Nations by the Soviet Union.

SENATE RESOLUTION 400—SUBMISSION OF A RESOLUTION TO ESTABLISH A STANDING COMMITTEE OF THE SENATE ON INTELLIGENCE ACTIVITIES

(Referred to the Committee on Government Operations.)

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. RIBICOFF, for himself, Mr. CHURCH, Mr. PERCY, Mr. BAKER, Mr. BROCK, Mr. CHILES, Mr. GLENN, Mr. JAVITS, Mr. MONDALE, Mr. NUNN, Mr. ROTH, Mr. SCHWEIKER, Mr. WEICKER, Mr. MORGAN, and Mr. HUD-

DLESTON) submitted the following resolution:

S. RES. 400

Resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Resolved, That it is the purpose of this resolution to establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs. In carrying out this purpose, the Committee on Intelligence Activities shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

Sec. 2. Rule XXIV of the Standing Rules of the Senate is amended by adding at the end thereof a new paragraph as follows:

"3. (a) Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.

"(b) No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

"(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities who are members of the majority party of the Senate shall select a chairman, and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate."

Sec. 3. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"(A) The Central Intelligence Agency and the Director of Central Intelligence.

"(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

"(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or

reorganization relates to a function or activity involving intelligence activities.

"(D) Authorizations for appropriations for the following:

"(i) The Central Intelligence Agency.

"(ii) The Defense Intelligence Agency.

"(iii) The National Security Agency.

"(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

"(v) The intelligence activities of the Department of State.

"(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

"(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi)."

(b) Paragraph 3 of rule XXV of the Standing Rules of the Senate is amended by inserting:

"Intelligence Activities..... 11" immediately below

"District of Columbia..... 7".

(c) (1) Subparagraph (d) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(2) Subparagraph (i) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(3) Subparagraph (j)(1) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item (A).

(4) Subparagraph (l) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

Sec. 4. (a) The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the Committee on Intelligence Activities to require the immediate attention of the Senate or such other committee or committees. In making such reports, the committee shall proceed in a manner consistent with paragraph 7(c)(2) to protect national security.

(b) The Committee on Intelligence Activities of the Senate shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such report shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. Such report shall be unclassified and shall be made available to the public by the Committee on Intelligence Activities. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

Sec. 5. (a) No person may be employed as

a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling more than six years.

(b) No employee of such committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

Sec. 6. The Committee on Intelligence Activities of the Senate shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

Sec. 7. (a) The Committee on Intelligence Activities of the Senate may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote.

(b) (1) In any case in which the Committee on Intelligence Activities of the Senate votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) The Committee on Intelligence Activities may disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President pursuant to paragraph (2), unless, prior to the expiration of such three days, three or more members of such committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

(4) In any case in which the Committee

on Intelligence Activities votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information shall not be publicly disclosed unless three or more members of such committee file, within three days after the vote of such committee disapproving the public disclosure of such information, a request in writing with the chairman of such committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized as provided in paragraph (5) or (6).

(5) Whenever three or more members of the Committee on Intelligence Activities file a request with the chairman of such committee pursuant to paragraph (3) or (4), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration.

(6) One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of the information in question, in which case the committee shall publicly disclose such information.

(B) disapprove the public disclosure of the information in question, in which case the committee shall not publicly disclose such information, or

(C) refer the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate, the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph.

(c) (1) No classified information in the possession of the Committee on Intelligence Activities relating to the lawful intelligence activities of any department or agency of the United States which the committee or the Senate, pursuant to subsections (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The Committee on Intelligence Activities, or any member of such committee, may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the Committee on Intelligence Activities, or any member of such committee, makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee, which, receives any information under this subsection, shall make the information available to any other person, except that a Senator may make such information available either in a closed session of the Senate, or to another Member

of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee shall promptly inform the Committee on Intelligence Activities.

(d) The Select Committee on Standards and Conduct may investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). At the request of five of the members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct shall investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment, in the case of an officer or employee.

Sec. 8. The Committee on Intelligence Activities of the Senate is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

Sec. 9. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by S. Res. 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the Committee on Intelligence Activities.

Sec. 10. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or witness in its employ, whenever requested by the Committee on Intelligence Activities of the Senate with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the Committee on Intelligence Activities of the Senate any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

Sec. 11. It shall not be in order in the Senate to consider any bill or resolution, or amendment thereto, or conference report thereon, which appropriates funds for any fiscal year beginning after September 30, 1976, to, or for the use of, any department or agency of the United States to carry out

any of the following activities, unless such funds have been previously authorized by law to carry out such activity for such fiscal year—

(1) The activities of the Central Intelligence Agency.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

Sec. 12. (a) The Committee on Intelligence Activities shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness on planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(7) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(8) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The Committee on Intelligence Activities of the Senate shall report the results of the study provided for under subsection (a) to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

Sec. 13. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country; and which relates to the defense, foreign policy, national security, or related

policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 14. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

Mr. BAKER. Mr. President, I am gratified by the opportunity to cosponsor the Senate resolution submitted today to establish a Standing Committee on Intelligence Activities, and I commend the several members of the Government Operations Committee and the Select Committee on Intelligence Activities which have participated in this endeavor.

As may be recalled, I declined to cosponsor S. 2893, the Intelligence Oversight Act introduced by my distinguished colleague from Idaho (Mr. CHURCH) and other members of the select committee, because I strongly objected to two provisions of that bill. Specifically, I opposed the provisions requiring prior notice of covert or clandestine operations as a condition precedent to executive action, and allowing declassification of executive documentation over the objection of the President by a majority vote of an individual Senate committee. Consequently, I am pleased that the Government Operations Committee deleted the prior notice requirement in this resolution, while retaining the stricture that the new oversight committee be "fully and currently informed." In my opinion, the former requirement was fraught with practical and constitutional difficulty, and prevented my cosponsorship of the so-called Church committee bill, notwithstanding my active support for congressional oversight legislation and my participation in the drafting of that bill.

I remain concerned about the provisions for disclosure of classified information over the objection of the President as are contained in section 7 of this resolution which I am today cosponsoring. As I indicated in my testimony be-

fore the Government Operations Committee, and in subsequent communication with Senator PERCY, I believe that such disclosure over Presidential objection should occur only by a majority vote of the full Senate, at the very least, and preferably by concurrent resolution of the two Houses of Congress. After all, it is the aggregation of the House of Representatives and the Senate that constitute the coordinate branch of Government; and I believe that it would be constitutionally more appropriate for the full Congress to overrule a determination of confidentiality by the President.

To the extent that this resolution provides for disclosure by the proposed new committee, unless three Members thereof object in writing, or disclosure by the committee upon referral by the Senate, I am in disagreement; and I wish to apprise my colleagues that, should these provisions reach the floor of the Senate unaltered, I will attempt to amend the resolution to prohibit disclosure of confidential information over Presidential objection unless such disclosure is authorized by concurrent resolution of the House and Senate.

Other than this remaining objection, I think that this resolution is an appropriate and timely vehicle for enhancing and elaborating congressional oversight of the U.S. intelligence effort. Such proposals have been before the Congress for over 20 years, and I congratulate the Government Operations Committee for its thoughtful and intensive hearings and for its wisdom in reporting this resolution to the Senate. I look forward to further consideration of this proposal and to the views and alternative proposals of my colleagues.

Mr. President, I ask unanimous consent that a letter from me to the distinguished ranking member of the Government Operations Committee (Mr. PERCY) in response to his request for my specific views of S. 2893 be printed in the RECORD.

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

FEBRUARY 17, 1976.

HON. CHARLES H. PERCY,
Committee on Government Operations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I am pleased to further elaborate my views of intelligence oversight legislation currently before the Government Operations Committee and, specifically, of S. 2893, the bill introduced by Senator Church and seven other members of the Senate Select Committee on Intelligence Activities.

As I indicated both during the deliberations of the Select Committee and on the floor of the Senate, I consider two provisions of S. 2893 to be highly undesirable. To be precise, I respectfully recommend to the Government Operations Committee that Section 10 be deleted in its entirety and that Subsections (c) and (d) be stricken from Section 13.

With respect to Section 10, and as I have stated previously, I do not believe that information transmitted from the Executive Branch to the Congress should be disclosed publicly, over the objection of the President, other than by a majority vote of the full Senate, rather than by a determination by a committee upon referral as is provided in Section

10. Rather than the adoption of Section 10, I strongly suggest that Rule XXXVI of the Standing Rules of the Senate be amended so as to clarify that disclosure of classified documentation shall not occur over the objection of the President without leave of the full Senate, as expressed by an affirmative vote of the Senate on the issue of disclosure.

I would strike Subsections (c) and (d) of Section 13 because those provisions are fraught with constitutional and practical difficulty. Notwithstanding my support for effective and vigorous Congressional oversight of the intelligence community, and notwithstanding my belief that the conduct of intelligence activities must become a cooperative undertaking between the coordinate Branches of Government, I find that the provision of prior notice to Congress of clandestine operations, as a condition precedent to such undertakings, is incompatible with the President's constitutional powers to conduct foreign policy and to act as Commander in Chief. This sense of incompatibility becomes especially poignant when required prior notice is coupled with the threat of disclosure, thereby constituting an effective veto power.

As I have often stated, the requirement, provided in Section 13(a), that the oversight committee be "fully and currently informed" enjoys the benefit of over 20 years of precedent dating from the passage of the Atomic Energy Act. This requirement has afforded the Joint Committee on Atomic Energy timely and informed notice of sensitive operations and will provide the new oversight committee with a sufficient mandate to require information of the Executive Branch.

I also am disturbed, albeit less strenuously, by the provision in Section 5 of S. 2893 stating that the current jurisdiction of other Senate committees shall not be repealed or diminished by the provisions of that bill. In my opinion, a new oversight committee can be effective only if it is a single-purpose, primary oversight committee which is solely charged with the important business of intelligence oversight. Furthermore, I sympathize with the complaints of the intelligence community that the Central Intelligence Agency currently is required to brief six Congressional subcommittees on intelligence matters; and I think that the retention of dual or concurrent jurisdictions between the existing committees and the new committee will create an unwieldy and unworkable situation.

While I understand that the Government Operations Committee is required to submit a report on S. 2893 not later than March 1 of this year, I also commend to the Committee during its mark-up sessions the approach adopted in S. 317, the Joint Committee on Intelligence Oversight Act introduced by Senator Lowell Weicker and myself. That legislation, as does S. 2893, provides that the new committee should possess exclusive funding authorization jurisdiction and makes clear that the new committee's authorization and oversight jurisdiction encompasses the national security activities of the Federal Bureau of Investigation, authorities which I consider to be integral elements of coordinated, effective oversight.

Additionally, in defining those "intelligence activities" which are subject to the jurisdiction of the new oversight committee, I suggest that your committee take cognizance of ad hoc intelligence operations, such as the infamous Plumbers Group, so as to make clear that the new committee is to receive full and current information of all intelligence activities, whether or not such activities are conducted by those departments and agencies which fall within the committee's primary jurisdiction.

Finally, while I am disturbed greatly by the recent unauthorized disclosures of intelligence information, and while I fully support strengthening the sanctions against such

disclosure by Members of Congress and their staffs, I wish to respectfully submit that the establishment of an effective Congressional oversight capability, and the strengthening of prohibitions against "leaks" are not mutually exclusive. I think it unfortunate that the impetus for effective Congressional oversight of the intelligence community has been somewhat diminished by the irresponsible conduct of a few, and I believe that the recent and contemptible experience of Congress in maintaining the confidentiality of information will be at least partially remedied by the establishment of a formal and responsible committee arrangement for intelligence oversight.

Thank you again for requesting and considering my views.

Yours very truly,

HOWARD H. BAKER, JR.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a resolution (S. Res. 400) submitted earlier be referred to the Committee on Rules and Administration which would, in accordance with the prior unanimous-consent agreement, be under obligation to be reported to the Senate no later than March 20, 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert E. Lee, of Colorado to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1975, vice Lyle S. Garlock.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, March 8, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF CONTINUED HEARINGS IN PREPARATION FOR THE FIRST CONCURRENT RESOLUTION

Mr. MUSKIE. Mr. President, the Senate Budget Committee continues public hearings on the first concurrent resolution on the budget for fiscal 1977 on March 2, 4, 5, and March 9, 10, 11.

These hearings will provide valuable information to the Budget Committee for making decisions on the first concurrent resolution on the budget, which must be reported by the committee to the Senate by April 15. This first concurrent resolution on the budget will set targets for total budget outlays and total new budget authority as well as targets for spending in each major functional category of the budget. The first resolution will also specify targets for revenues for the coming fiscal year as well as the surplus or deficit in the budget which is appropriate in light of economic conditions and all other relevant factors.

On Tuesday, March 2, the topic will be "Retirement Programs and the 1977 Budget." The witnesses will be Commissioner of the Social Security Administration James B. Cardwell; Prof. William Hsiao, an actuary, formerly with HEW; Dr. Robert Ball of the Institute of Medicine and former Commissioner of the Social Security Administration; and Dr. Otto Eckstein, president of Data Resources, Inc.

On Thursday, March 4, the topic will be "monetary policy" and Chairman of the Federal Reserve Board Arthur Burns will testify.

"Foreign Policy and the Budget" is the topic of the hearing on Friday, March 5. Under Secretary of State for Political Affairs Joseph J. Sisco will testify.

On Tuesday, March 9, the topic will be "The Defense Budget." Secretary of Defense Donald H. Rumsfeld will testify at 10 a.m. At 2 p.m., Mr. Paul C. Warnke, former Assistant Secretary of Defense, will testify before the committee.

"Economic Forecast—Projections for Fiscal Year 1977" is the topic for our hearing on Wednesday, March 10. The witnesses will be Senator Hubert H. Humphrey, chairman of the Joint Economic Committee; Dr. Walter W. Heller, former Chairman of the Council of Economic Advisers; and Dr. Paul McCracken, former Chairman of the Council of Economic Advisers.

On Thursday, March 11, the topic will be "Labor and Management View the Budget."

All hearings will begin at 10 a.m. unless otherwise noted in room 357 of the Russell Senate Office Building.

ANNOUNCEMENT OF HEARINGS

Mr. SPARKMAN. Mr. President, I wish to announce that the committee on Foreign Relations plans to hold the first of several hearings on the Treaty of Friendship and Cooperation with Spain (Ex. E, 94-2) on Wednesday, March 3, 1976, at 10:00 a.m., room 4221, Dirksen Building, to hear Ambassador Robert McCloskey and other members of the U.S. negotiating team.

ADDITIONAL STATEMENTS

DR. HERBERT A. STAHL

Mr. HRUSKA. Mr. President, historians no doubt will look back upon this, the 20th century, with mixed feelings. On one hand, the past 75 years have witnessed the greatest technological and scientific advances since the first stirrings of recorded civilization. These great accomplishments should have heralded the dawn of the golden age of mankind. Unfortunately, this has not been the case for, in fact, the 20th century has contained some of history's most brutal examples of man's inhumanity to his fellow man.

The details of this century's first 75 years have been well documented. They have included war, genocide, massacres, the mass displacement and movement of countless millions of refugees. I would like to take the opportunity to record one

small footnote to this history by relating the case of Dr. Herbert A. Stahl.

Dr. Stahl was born in 1907 in Pressburg—now called Bratislava—of what was then part of the Austrian-Hungary Empire. Bratislava is situated on the left bank of the river Danube, just 1 hour's drive from Vienna. Across the river, readily seen from the Castle of Bratislava, are a few tiny Austrian villages where most of Herbert Stahl's ancestors came from. On the western horizon, the bluish silhouette of the famed Vienna Woods are clearly discernible. He was a citizen of that empire until 1918 when in the wake of World War I the Hapsburgs were deposed and the modern Czechoslovakian state created.

After the establishment of the new state, Dr. Stahl became a Czechoslovakian citizen. During the census of 1928, however, the citizens of Czechoslovakia were required to register according to their mother language. For Dr. Stahl this meant that he had to register using the language also spoken in Vienna, that is, the Germanic language. This was to have grave consequences in future years.

As the new state prospered and advanced, so did the fortunes of Dr. Stahl who in 1932 had graduated from the University of Prague and was now a scientist and a writer. A 1-year's sojourn in Berlin familiarized him with the model German research institutions, particularly as basic and applied research into physics are concerned. During the early 1930's Dr. Stahl busted himself as a free lance writer of articles some of which opposed dictatorship and advocated the concept of a United States of Europe. Later, he was to be a prolific writer publishing, among others, 16 professional essays, in Czech or Slovak language, centering upon the flagrant absence of applied and industrial research in Czechoslovakia. These were well received and recognition of his work resulted in an invitation to be listed in a Czechoslovak Interservice World Engineering Whos Who, published in Prague. In 1937, he coauthored a Jewish cultural encyclopedia entitled "Jews in German Cultural Sphere."

During all these years, Dr. Stahl proceeded in his favorite field of tube electronics centering on the production of neon light devices. In 1933, he became the licensee for a Jewish-owned company founded in Prague by a refugee friend from Berlin, and continued later in the neon department of a huge shoe concern in Alin, Moravia, soon to be dismantled by the owners in a wise foreboding of the rapidly approaching apocalypse.

During this same prewar period Dr. Stahl was by his own initiative instrumental in advancing the concept of a central Czechoslovak Institute for Industrial Research. This productive activity, however, came to a halt as a result of a serious traffic accident in 1938, and the concurrent pre-Munich confusion in Czechoslovakia. As Dr. Stahl laid confined to a hospital bed, the German Army under the pretext of protecting the German minority, marched into the Sudetenland. The rest is well known, within a short time Czechoslovakia was under total German domination, and the world once again was at war.