

**AVAILABILITY OF INFORMATION FROM  
FEDERAL DEPARTMENTS AND AGENCIES**

PART 6—Department of Commerce

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**HEARINGS  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON  
GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES  
EIGHTY-FOURTH CONGRESS  
SECOND SESSION**

JANUARY 13, APRIL 18, 19, 23, 24, 27, 30, JUNE 8 AND 11, 1956

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AVAILABILITY OF INFORMATION FROM  
FEDERAL DEPARTMENTS AND AGENCIES  
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# CONTENTS

Statement of—	Page
Astin, Dr. A. V., Director, National Bureau of Standards, Department of Commerce-----	1521
Estabrook, Watts T.; accompanied by James T. Stone, Estabrook & Estabrook, patent attorneys-----	1570
Honaman, R. Karl, former official of the Department of Defense and of the Department of Commerce-----	1123, 1153
Honeywell, Charles F., Administrator, Business and Defense Services Administration, Department of Commerce; accompanied by Burt Roper, counsel-----	1410
Hughes, Dr. Donald J., chairman, Federation of American Scientists and senior physicist, Brookhaven National Laboratory-----	1447
Leman, Albert N., Director of Information, Department of Commerce-----	1286
Leman, Albert N., assistant to the Secretary of Commerce and the Director of Public Information, Department of Commerce; accompanied by Allen Overton, Jr., special assistant to the General Counsel (in capacity as counsel for the Department), Department of Commerce-----	1309
McClellan, Hon. Harold C., Assistant Secretary for International Affairs; accompanied by John C. Borton, Director of Office of Export Supply, Bureau of Foreign Commerce; Newton Foster, Director, Finished Products Division, Bureau of Foreign Commerce; and Nathan Ostroff, Assistant General Counsel, Department of Commerce-----	1484
Morison, H. Graham, attorney at law, Washington, D. C., former Assistant Attorney General of the United States-----	1379
Murphy, Dr. Walter J., editorial director, Applied Journals of the American Chemical Society-----	1464
Ray, Philip A., General Counsel, Department of Commerce; accompanied by Allen Overton, Jr., special assistant to the General Counsel, Department of Commerce-----	1190
Seago, Erwin, Director, Office of Strategic Information; accompanied by Allen Overton, Jr., special assistant to the General Counsel, Department of Commerce-----	1233, 1268
Watson, Robert C., Commissioner, United States Patent Office; accompanied by C. W. Moore, Solicitor; P. J. Federico, Examiner in Chief; James L. Brewrink, primary patent officer; and Allen Overton, Jr., special assistant to the General Counsel (appearing as counsel for the Department), Department of Commerce-----	1350
<b>Letters, statements, etc., submitted for the record by—</b>	
Astin, Dr. A. V., Director, National Bureau of Standards, Department of Commerce:	
Memorandum re adequate translating services for foreign technical material-----	1558
Memorandum re affixing general license to technical data-----	1536
Memorandum re classified material-----	1552
Memorandum re request for a publication delay-----	1545
Memorandum re unclassified foreign publications-----	1538
Memorandum re whether other agencies of the Federal Government are developing standards of physical measurement-----	1542
National Bureau of Standards, Technical Advisory Committees-----	1559
Number of copies printed of Projects and Publications of the National Applied Mathematics Laboratories and Semiannual Progress Reports of the Office of Basic Instrumentation-----	1549
Publications policy for the National Bureau of Standards-----	1522
Report on publication entitled, "Care and Repair of the House"-----	1563, 1567

Letters, statements, etc., submitted for the record by—Continued	Page
Fascell, Hon. Dante B., a Representative in Congress from the State of Florida:	
Excerpt from Executive Order No. 10501.....	1176
Excerpt from Statement of Erwin Seago.....	1250
Foster, Newton, Director, Finished Products Division, Bureau of Foreign Commerce, Department of Commerce: Excerpt from Department of Commerce regulations.....	1502, 1512
Hoffman, Hon. Clare E., a Representative in Congress from the State of Michigan: Excerpt from Department of Commerce Order No. 157.....	1158, 1159
Honaman, R. Karl, former official of the Department of Defense and of the Department of Commerce:	
Department Order No. 157, regulation on the Office of Strategic Information, printed in the Federal Register, September 28, 1955.....	1154, 1184
Excerpt from Armed Forces industrial security regulations, Department of Defense.....	1184
Excerpt from Department of Defense Directive No. 5230.9.....	1167
Excerpt from talk with the Newspaper Editors Association.....	1167
Language re the Office of Strategic Information.....	1171
Memorandum signed by Hon. George C. Marshall, Secretary of State, October 11, 1950.....	1151
Hughes, Dr. Donald J., chairman, Federation of American Scientists, and senior physicist, Brookhaven National Laboratory:	
Excerpt of letter from Ralph Brown, Yale law faculty member, to FAS Washington Office, April 6, 1956.....	1453
Letter from Donald J. Hughes, chairman, Federation of American Scientists, to Hon. Sinclair Weeks, October 31, 1955.....	1457
Letter from D. J. Hughes, to H. C. McClellan, March 7, 1956.....	1458
Letter from H. C. McClellan, Assistant Secretary of Commerce for International Affairs, to Donald J. Hughes:	
November 8, 1955.....	1458
March 22, 1956.....	1459
Policy established by the Export Control Act of 1949.....	1447
Proposed amendment to the Export Control Act of 1949.....	1449
Leman, Albert N., assistant to the Secretary of Commerce, and the Director of Public Information, Department of Commerce: Excerpt from committee print.....	1346
McClellan, Hon. Harold C., Assistant Secretary for International Affairs, Department of Commerce:	
Definition of technical data.....	1494
Excerpt from the Export Control Act of 1949.....	1482, 1493, 1505
Meader, Hon. George, a Representative in Congress from the State of Michigan:	
Excerpt from exhibit XVII.....	1274, 1282
Excerpt from statement of Philip A. Ray.....	1205
Excerpt from subcommittee questionnaire.....	1599
Excerpt from the Export Control Act of 1949.....	1492
Excerpt of the amendment to Department of Commerce Order No. 157.....	1255
Memorandum re committee, attached to paper in the possession of the Air Force.....	1209
Mitchell, John J., chief counsel, Special Subcommittee on Government Information:	
Department of Commerce public announcement released November 5, 1954.....	1515
Excerpt from article in Aviation Week, January 30, 1956.....	1285, 1624
Excerpt from Department of Commerce Operating Instruction No. 7.....	1413, 1423

CONTENTS

Letters, statements, etc., submitted for the record by—Continued  
 Mitchell, John J., chief counsel—Continued

	Page
Excerpt from Department of Commerce Operating Instruction No. 8.....	1419
Excerpt from first O. S. I. progress report, February 18, 1955.....	1617
Excerpt from House Judiciary Committee hearings.....	1417
Excerpt from letter by Albert Leman refusing to give list of Commerce Department employees, March 9, 1956.....	1339
Excerpt from letter by Carl P. Garver to Albert Leman, requesting list of Commerce Department employees, March 6, 1956.....	1339
Excerpt from Operating Instruction No. 8, exhibit III.....	1419, 1436
Excerpt from statement of Albert N. Leman.....	1292, 1318
Excerpt from statement of Dr. Donald J. Hughes.....	1450, 1451, 1460, 1464
Excerpt from statement of Dr. A. V. Astin.....	1539, 1542, 1552
Excerpt from statement of Erwin Seago.....	1244, 1609, 1625
Excerpt from statement of Harry E. Resseguie, November 10, 1955.....	1396
Excerpt from statement of H. Graham Morison.....	1383
Excerpt from subcommittee questionnaire.....	1316, 1597
Excerpt of letter from Hon. Daniel J. Flood, to Hon. John Foster Dulles, April 12, 1955.....	1461
Letter from Albert N. Leman, Director of Public Information, Department of Commerce, addressed to "Editor, Berlin Reporter, Berlin, N. H.," October 4, 1955.....	1293
Letter from Hon. George Mahon, to Hon. John E. Moss, April 24, 1956.....	1610
Letter from Hon. John E. Moss, to Hon. George H. Mahon: April 23, 1956.....	1610
April 27, 1956.....	1611
May 9, 1956.....	1611
Letter from Hon. John E. Moss, to Hon. Sinclair Weeks: April 10, 1956.....	1190
April 13, 1956.....	1191
Letter from Hon. John E. Moss, to James S. Lay, Jr.: May 11, 1956.....	1612
May 18, 1956.....	1614
Letter from Hon. Sinclair Weeks, Secretary of Commerce, to Hon. John E. Moss, April 12, 1956.....	1191
Letter from Hon. Sinclair Weeks, Secretary of Commerce, to Walter White, August 4, 1955.....	1198
Letter from Hon. William L. Dawson, to the Secretary of Commerce, November 21, 1955.....	1431
Letter from James P. Hinchey, editor, Berlin Reporter, Berlin, N. H., to Albert M. Leman: October 13, 1955.....	1293
January 27, 1956.....	1296
Letter from James S. Lay, Jr., Executive Secretary, National Security Council, to Hon. John E. Moss: May 15, 1956.....	1613
Excerpt from National Security Council document.....	1613
May 22, 1956.....	1614
Letter from Robert C. Hill, Assistant Secretary (for the Secretary of State), to Hon. Daniel J. Flood, April 19, 1955.....	1462
Letter from Senator Alexander Wiley, to Hon. John E. Moss, June 7, 1956.....	1585
Letter from Senator Alexander Wiley to Commissioner Robert C. Watson, July 7, 1956.....	1585
Letter from Senator Joseph C. O'Mahoney, to Hon. John E. Moss, June 8, 1956.....	1586
Letter from Walter A. Shead, to James P. Hinchey, January 15, 1956.....	1294
Letters received by the House Government Information Subcommittee concerning public stenographers' space in the Department of Commerce.....	1570
Notice printed on the front of all forms or reports used by the Bureau of Standards.....	1545

Letters, statements, etc., submitted for the record by—Continued		Page
Mitchell, John J., chief counsel—Continued		
"Scanning the News," editorial from National Weekly News- paper Service—September 5, 1955		1297
Statement published by the National Weekly Newspaper Service, September 5, 1955		1292
Morison, H. Graham, attorney at law, Washington, D. C., former Assistant Attorney General of the United States:		
Letter sent to governmental departments and agencies by the Department of Justice, October 19, 1950		1381
Sample letter from general counsels of corporations		1394
Moss, Hon. John E., a Representative in Congress from the State of California, and chairman, Special Subcommittee on Government Information:		
Excerpt from Armed Forces industrial security regulations, Department of Defense	1152,	1184
Excerpt from Department of Commerce Order No. 157	1159,	1271
Excerpt from Department of Commerce regulations		1152
Excerpt from Export Control Act of 1949		1505
Excerpt from exhibit I, tab 5, detailed answers to "Aviation Week" article, January 30, 1956		1259
Excerpt from memorandum of Donald Dawson		1390
Excerpt from opinion of the Attorney General re requirement of the executive branch of the Government to produce papers		1212
Excerpt from rules and regulations in title 32, National Defense, published in the Federal Register, September 15, 1955		1161
Excerpt from statement of Albert N. Leman		1312
Excerpt from statement of former President Theodore Roosevelt		1389
Excerpt from statement of Joseph Alsop, Jr.		1303
Excerpt from subcommittee questionnaire		1347
Excerpt of letter by Albert Leman, March 9, 1956	1300,	1342
Excerpt of the amendment to Department of Commerce Order No. 157		1254
Interdepartmental Advisory Committee on International Ex- changes		1239
Interdepartmental Advisory Committee on Publication		1239
Letter from George T. Moore, Assistant Secretary of Commerce, to Hon. John E. Moss, May 23, 1956		1573
Letter from Hon. John E. Moss, to Hon. Sinclair Weeks, May 11, 1956		1572
Statement re exportation of technical data		1455
Ray, Philip A., general counsel, Department of Commerce: Excerpt from opinion of Attorney General Jackson		1212
Roper, Burt, counsel, Department of Commerce: Excerpt of letter from Deputy Attorney General Peyton Ford, October 19, 1950		1419
Murphy, Dr. Walter J., editorial director, Applied Journals of the American Chemical Society: Question re scientist from India		1468
Scher, Jacob, special counsel, Special Subcommittee on Government Information:		
Excerpt from rules and regulations, in title 32, National Defense, published in the Federal Register, September 15, 1955		1140
Letter and balance sheet for strategic information sent out by Brig. Gen. T. S. Riggs, Acting Chief of Information and Edu- cation, Department of Defense, June 2, 1955	1145,	1146
Seago, Erwin, Director, Office of Strategic Information:		
Article from Aviation Week, January 30, 1956		1253
Excerpt from Defense appropriation bill for 1956		1234
Excerpts from morning statement		1268
Watson, Robert C., Commissioner, United States Patent Office:		
Excerpt from oath taken by Patent Office employees		1351
Rule 14 (37 CFR 1.14)		1351
Section 122 of title 35, Patents		1351
Sections 151 (c) and 151 (d) of the Atomic Energy Act of 1954		1352

CONTENTS

VII

APPENDIX

LIST OF EXHIBITS

	Page
Exhibit I. Information submitted by Office of Strategic Information at request of subcommittee:	
Tab 1. Background leading to establishment of OSI	1639
Tab 2. Budget details and staff personnel history	1640
Tab 3. Information of intelligence value impracticable to classify	1640
Tab 4. Aerial photography	1641
Tab 5. Detailed answers to Aviation Week article	1641
Tab 6. Open-skies exhibit	1642
Tab 7. List of titles and items wanted and requested from the Soviet bloc ("Want List")	1642
Tab 8. Statement re titles and items received under the exchange program	1645
Tab 9. Summary comment on exchange program	1645
Tab 10. Summary comment on publication program	1647
Tab 11. Summary comment on business science and industry relationships	1648
Tab 12. Relationship of OSI to BFC	1649
Tab 13. Exchange of medical films	1650
Tab 14. OSI relationship with GPO	1650
Exhibit II. Operating Instruction No. 7 of Business and Defense Services Administration Manual of Administrative and Operating Instructions, part II	1651
Exhibit III. Operating Instruction No. 8 of Business and Defense Services Administration Manual of Administrative and Operating Instructions, part II	1653
Exhibit IV. Report by Business and Defense Services Administration that 150 million tons of steel capacity will be needed by 1960	1662
Exhibit V. Executive Order 9568 providing for the release of scientific information	1662
Exhibit VI. Memorandum to the Reviewer from the editors of: Analytical Chemistry, Industrial and Engineering Chemistry, Journal of Agricultural and Food Chemistry	1663
Exhibit VII. Letter from Walter J. Murphy, editorial director of ACS Applied Publications, regarding stamps used to identify scientific publications mailed overseas	1664
Exhibit VIII. Miscellaneous amendments to export regulations of the Bureau of Foreign Commerce, Department of Commerce, covering the export of technical and scientific data	1665
Exhibit IX. Letter from Philip A. Ray, General Counsel of the Department of Commerce re constitutionality of Export Control Act restrictions on technical data	1666
Exhibit X. Office of Strategic Information Progress Report, November 1, 1954, to February 18, 1955	1668
Exhibit XI. Office of Strategic Information Progress Report, February 19, 1955, to June 30, 1955	1671
Exhibit XII. Office of Strategic Information Progress Report, June 30, 1955, to February 29, 1956	1675
Exhibit XIII. Letter from Erwin Seago, Director of the Office of Strategic Information, re liaison activities between OSI and the Armed Services Technical Information Agency and between OSI and the Office of Technical Services, Department of Commerce	1683
Exhibit XIV. Statement of John C. Green, Director of the Office of Technical Services, prepared for submission to the Government Information Subcommittee	1683
Exhibit XV. Correspondence between the Government Information Subcommittee and officials of the Departments of Commerce, State, and Defense re publication of Office of Strategic Information progress reports	1684
Exhibit XVI. Interdepartmental Committee on International Exchanges Document 4.3, revision 3, re policy for handling requests from Soviet bloc countries for published information	1691

	Page
Exhibit XVII. Interdepartmental Committee on International Exchanges Document 6.2, revision 3, and transmittal memorandum of May 9, 1956, re guide to implement policy for handling requests from Soviet bloc countries for United States Government nonclassified published information-----	1692
Exhibit XVIII. Interdepartmental Committee on International Exchanges Document 4.4, revision 4, re policy for United States executive agencies for handling requests from Soviet bloc countries for unpublished nonclassified United States Government information-----	1698
Exhibit XIX. Interdepartmental Committee on Publications Document 10.2 re status of aerial photography policy-----	1699
Exhibit XX. Department of Defense Industrial Security Letter 54-6 re action to be taken on requests from representatives of Soviet bloc countries for unclassified information-----	1700
Exhibit XXI. Balance sheet for strategic information-----	1701
Exhibit XXII. Excerpts from reports on 1955-56 and 1956-57 Defense Department appropriation, regarding restrictions on information, and related correspondence-----	1702
Exhibit XXIII. Department of Commerce Order No. 157, November 19, 1954 Subject: Office of Strategic Information Organization and Functions-----	1704
Exhibit XXIV. Department of Commerce Order No. 157 (amended), August 23, 1955 Subject: Office of Strategic Information-----	1706
Exhibit XXV. Declassified section of the National Security Council directive ordering the establishment of the Office of Strategic Information---	1708
Exhibit XXVI. Correspondence with Patent Office Commissioner Robert C. Watson regarding mechanization of patent searches-----	1708
Exhibit XXVII. Correspondence regarding number of appearances of Secretary of Commerce Sinclair Weeks before congressional committees---	1710
Exhibit XXVIII. Correspondence with Albert Leman, Commerce Department Director of Public Information, regarding number of employees doing public relations work in the Department-----	1710



# AVAILABILITY OF INFORMATION FROM FEDERAL DEPARTMENTS AND AGENCIES

## Part 6—Department of Commerce

FRIDAY, JANUARY 13, 1956

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT INFORMATION  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D. C.*

The subcommittee met at 10 a. m., in room 1501, House Office Building, Hon. J. E. Moss, Jr. (chairman of the subcommittee) presiding. Present: Representatives Moss, Fascell, and Hoffman.

Also present: Samuel Archibald, staff director; J. Lacey Reynolds, senior consultant; Wallace Parks, chief counsel; Jacob Scher, special counsel.

Mr. Moss. The subcommittee will come to order.

The first witness this morning will be Mr. R. Karl Honaman, formerly an official of the Department of Defense and of the Department of Commerce.

The committee has invited Mr. Honaman here for the purpose of giving us the benefit of his views and his experience in the two departments of Government. We feel that he can contribute materially to the study undertaken by this committee having had experience in two of the major departments of Government, and certainly from the informational aspects, two of the more controversial departments of Government.

He has also had extensive experience in the informational field in private industry.

Mr. Honaman, do you have a statement you would like to read as we start the hearing?

### STATEMENT OF R. KARL HONAMAN, FORMER OFFICIAL OF THE DEPARTMENT OF DEFENSE AND OF THE DEPARTMENT OF COMMERCE

Mr. HONAMAN. Yes; I have, Mr. Chairman.

Mr. Moss. Would you proceed, Mr. Honaman.

Mr. HONAMAN. Mr. Chairman and gentlemen, having left Government service, I am appearing before the subcommittee at the invitation of the chairman, to make available what views and thoughts I may have regarding the problems involved in the flow of information from the Government departments. I am very glad to be of service to the subcommittee and hope that, to some extent at least, my views will be helpful in your study.

I will try to give you as briefly as I can my views as a citizen, as well as one who has been associated with the day-to-day solution of information problems in the Government.

My thinking, as to the Government aspect, has naturally been primarily drawn from the experiences which I have had in the Department of Defense.

The problems faced by Defense Department information people are complicated problems, and I should say at the outset they do not, as I have observed them lend themselves readily to easy solutions. The basic problem is that of balancing the need to give the public the maximum information possible with the parallel need to retain or limit access to information where required in the national interest. Probably the outstanding fact that has impressed itself upon me, is the fact that people handling these information problems need constantly to use judgment of a high order. I will try to elaborate upon this point as we go along.

First, I believe the public, in a democracy like ours, has a need and a right to a continuous flow of accurate information on the actions taken by their Government. The people themselves must be the judges of the appropriateness and effectiveness of the programs established and administered by their public officials. Without availability of adequate information, obviously they cannot exercise their judgment.

Our country, to preserve its traditional freedoms, and for the maintenance of its military defense position and for the growth of its economy, needs free interchange of ideas. In America, the sharing of know-how by our engineers, scientists, and businessmen, which plays so vital a part in building our strength, is basic to our industrial leadership.

For these reasons, I believe that the agencies of the Government should continue to exert every effort to make available as much information about their activities as they can and should affirmatively promote a policy of cooperation with the information media of the country—press, magazines, radio, photograph, and TV agencies.

In the practical carrying out of such a policy in a prolonged cold war, Government people come face to face with the fact that information, in addition to enlightening the American public, may become and has become, intelligence to potential enemies. I believe the people of this country, who are called upon to fight its battles and the mothers and fathers of our soldiers, sailors, airmen and marines, quite properly expect them to exercise caution to avoid, as far as possible, making it easy for a potential enemy to learn about our plans and our weapons.

You might say that, complementary to the right of the public to be informed, is the equally important right of the public to assurance that its Government officials are discharging their responsibilities, in the handling of intelligence information, with a maximum regard for the safety and security of our citizens. Those who have taken an oath to perform their official duties have an obligation and a responsibility in this matter which they cannot shirk. I am sure we all agree it is important to recognize that an alert and persistent potential aggressor finds information about our defenses of tremendous advantage to him.

In the report of the Appropriations Committee of the House of Representatives, dated May 5, 1955, for example, we find the statement,

"too much information has been released which is of no benefit to the American people, but which is of tremendous value to our opponents."

It is in the practical handling of this problem that we need to exercise intelligent and informed judgment. The problem does not lend itself to simple rules of easy application. Sometimes it is clear that fragments of information will add little of benefit to the American people, though much to the advantage of our opponents.

On the other hand, the importance of certain information to the American people may be such that it should be disseminated, even though it may unquestionably be of intelligence value to a potential enemy. Many of the problems faced lie somewhere between these extremes. Intelligent, conscientious, and informed judgment on the part of responsible people who handle information is needed to achieve the proper balance.

The amount and quality of information that can be made available to the information media of the country is determined to some extent by the policies set by the Congress as to the size of the organization available to work at this function. In the case of the Defense Department, there is a fixed limit to the amount of money that may be spent in public information activities.

In my opinion, wise and economical use of these funds is made. It goes without saying that the people who work in the Government information field are not perfect, and I am sure they will sometimes make mistakes, but, I believe, they are doing their conscientious best, and overall that an above-average job is being done.

I believe the information media serving the American people are well supplied with information about the defense of our country. For example, in the Department of Defense periodic reports of the Director of the Office of Public Information indicate that approximately 1,000 to 1,200 inquiries from the press and other media are received and answered each week.

It is rather amazing to observe the volume of these inquiries which are expeditiously and accurately answered when one stops to consider the amount of work involved in gathering and verifying the necessary information.

Especially is this true in the case of the Department of Defense with its tremendous size and diverse operations, where even the average inquiry must, of necessity, to some extent have the attention of operational or policy personnel, in particular subject areas. After all, it must not be forgotten that the information personnel cannot be expected to be repositories of any but a small fraction of the substantive information needed to answer most inquiries. They are, in essence, the communication and liaison channel between the media and the people having the information.

Incidentally, in this connection, in my opinion, with respect to contentions which have sometimes been made that Government departments fail to issue enough information, I believe that this is often due to the understandable fact that many operational people are often too preoccupied with their operational duties to pass this information to the information personnel for dissemination. As a result, I believe that in some instances, the Government fails to gain the benefit, public-relations wise, of many good things it does.

I have not experienced any instance in which information was requested and not supplied, except where such information in the opinion of responsible persons was considered of a nature which would jeopardize the security of our country or would violate statutes or directives of higher authority.

In addition to the responses to inquiries, much additional information flows from the Defense Department through news conferences, press releases, speeches, and pictures.

But another practical dilemma faced by Government information people is that while in certain quarters they are belabored for withholding information—in other quarters, including sometimes the information media, they are often actually belabored with the accusation that they are papering the walls with too much, or useless, information.

Also, and I say this with all respect, I believe your committee is well aware that many Members of the Congress feel that considerable of the information activity by a Government agency is, in reality, the generation of mere self-serving propaganda, which in many cases discloses security information.

In conclusion, I would like to thank the committee for this opportunity to present my views. If I am able to contribute, even a little bit, to a better understanding on the part of all parties concerned with this important, yet complex problem—the public, the information media, the Congress, and the Government agencies—it will be a source of great personal satisfaction.

Keeping the public adequately informed is a matter of tremendous importance and making sure that it is properly done requires constant study.

Thank you.

Mr. Moss. Thank you.

Mr. Fascell, do you have any questions?

Mr. FASCELL. No questions.

Mr. Moss. Mr. Hoffman?

Mr. HOFFMAN. No.

Mr. Moss. Mr. Honaman, the basic directive from the Department of Defense, the one under which you operated during your service with the Department, was the Wilson directive of March 29, 1955; Department of Defense Directive No. 5230.9, is that correct?

Mr. HONAMAN. That is right. That was one of the directives under which I operated.

Mr. Moss. That is the basic policy of the Department of Defense?

Mr. HONAMAN. Well, there are others, of course. This is one dealing with information. Other directives also deal with information.

Mr. Moss. Mr. Scher, have we a list of all of the other directives of the Department of Defense?

Mr. SCHER. We have those directives which are pertinent to our study, Mr. Chairman.

Mr. Moss. The thing I am trying to establish is, is this the basic policy of the Department in the field of information?

Mr. HONAMAN. This is a basic policy of the Department of Defense.

Mr. Moss. I believe at the time of the release of this policy it evoked some measure of criticism in the press and from other public sources because it states that "such review and clearance shall be related not only to a determination of whether release of the material would

involve any technical or substantive violation of security, but also to a determination of whether release or publication of the material would constitute a constructive contribution to the primary mission of the Department of Defense."

I wonder if you would at this time give us your interpretation of that section of the directive.

Mr. HONAMAN. I think that is substantially correct, and it did evoke considerable comment, Mr. Chairman. And I have made a few notes here about it that I would like to refer to.

The first part of the comment indicated that I was probably the author of the words in that directive, and I would like to point out for your record that that is inaccurate. The directive was issued before I joined the Department of Defense, though I did operate under it and am quite familiar with it, and do not mean to imply by that that there was anything that we couldn't operate under.

The second thing I would like to point out is that that directive was not intended to apply, nor was it ever applied, to my knowledge, to material gathered in response to requests from any information media, but rather it was intended to guide people who are generating information to be issued from the Department.

Now, as I have operated under it, I have become acquainted with the reasons that I think led to the use of the word "constructive." And some of these go back quite a while. There have been occasions when information that was prepared within the departments, because of the rivalry and the competition between various branches of the service there is sometimes reflected discredit upon a sister service, perhaps not intending to discredit it, but in the zeal for promoting their own service. And such statements, I think, could mislead and possibly alarm the public if they accepted the discrediting of one of the services.

And that was one of the reasons why it was felt that people should be guided to think constructively about the things they put out. And I think that that has been a good reason.

Actually the prime reason for this phrase "constructive contribution," as I understand it, was to meet that kind of situation and to avoid that kind of result.

I think it is unfortunate that the term has been misinterpreted. And I may say that in my experience I haven't found that term has been used by people generating information as a basis for doing anything which the criticism indicated might happen; namely, that they would use it to cover up the things that otherwise might be proper subjects for disseminated information.

Mr. MOSS. Mr. FASCELL?

Mr. FASCELL. Mr. Honaman, doesn't the language, however, in that paragraph lead to the very logical inference that anything which does not constitute a constructive contribution should not be disseminated?

Mr. HONAMAN. Yes; I think it probably leads to that.

Mr. FASCELL. Wouldn't the language further have a tendency to lead you to draw a logical conclusion that constructive information, as differentiated from destructive, if it were let's say useless, but it was just information, should not be generated just for the sake of generating information?

Mr. HONAMAN. As I understand your question, it is that this might suggest to people that they should not generate information just for the sake of generating it?

Mr. FASCELL. Right.

Mr. HONAMAN. I think that is probably correct.

Mr. FASCELL. If that is true, wouldn't it be better perhaps if this particular basic policy were amended so that it stopped at the provision which said that material should not be released which involved a technical or substantive violation of security, period?

Mr. HONAMAN. Well, there are other kinds of things that are not constructive. For example, in one case a distinguished editor in this country complained in a letter to the Secretary that he was receiving released information which was so useless to him that he wished the Defense Department would stop cluttering his files.

So it isn't only security. There are occasions when—and this runs to the situations where you might have discredit reflected upon a sister service where it might not be a violation of security, but it still would not really be often of interest to an editor, and in other cases not really help the public to understand what we are doing. I think this was probably what the Appropriations Committee meant when they spoke about information of no benefit to the public.

Mr. MOSS. Mr. Honaman, who should determine whether or not information is of benefit to the public?

Mr. HONAMAN. Well, the public ought to have everything that can be of benefit to them. And I suppose, Mr. Chairman, that everybody who handles information has the responsibility, whether it be a Government official or a representative of the information media, I think there is a responsibility that all responsible people have.

Mr. MOSS. But as we approach the problem, if the criteria is whether or not a public benefit exists because of the information, whether there is a collateral public benefit and that information must be made available, isn't there a question of what should or should not be made available, if the other approach, that of protecting the security of the United States when we deal with the information of the Department of Defense—if it cannot be demonstrated that the security is impaired, then should there be other criteria applied?

Mr. HONAMAN. Well, there are certain kinds of information, Mr. Chairman, which do not involve the security but which cannot be made public. I have made a few notes about some of those.

Mr. MOSS. Could you give us some examples?

Mr. HONAMAN. There is a case, for example, a situation where it is planned to construct a military base. The information about that is generally not released in advance of the time that the land, where the base is to be located, is secured. It certainly would not be in the interest of the taxpayer to announce where the Government is going to build a large base before they were able to buy the land. That is one example.

I made a few notes of those cases here.

Mr. MOSS. Are you referring to bases constructed domestically, or overseas?

Mr. HONAMAN. These may largely be domestic bases, but I think it might apply either way.

Records and information which pertain to individuals, such as personnel records, medical records, investigative reports, are generally not made available—I see you have that list.

Mr. Moss. Let's take this matter of personal records. To what extent is personnel information withheld? If I wanted to find out, as a private citizen, how many employees there were in the Department of Defense, and, say, what the average salaries were in a given establishment of the Department of Defense, would that be withheld from me?

Mr. HONAMAN. No. But the individual personnel record of a person, his individual record, is what is referred to here.

Mr. Moss. What rule is applied—is there a fixed rule in the Department of Defense as to exactly the type of information regarding personnel which can be made available and the type which is withheld as a matter of policy?

Mr. HONAMAN. I don't recall any situation in my experience in which any information about size of personnel, numbers of people, except in the deployment of units for security reasons, was not made available. I only know of cases where individual personnel, personnel records about individual people, have not been made available.

Mr. Moss. Mr. Hoffman?

Mr. HOFFMAN. Now, referring to the second page of 5230.9, that part where it says, "but also to a determination of whether release or publication of the material would constitute a constructive contribution to the primary mission of the Department of Defense," what is the primary mission of the Department of Defense as used there? What does it mean?

Mr. HONAMAN. I think it means, Congressman Hoffman, to assure the adequate defense of our country, to promoting the adequate defense of our country.

Mr. HOFFMAN. That is the primary mission and objective?

Mr. HONAMAN. That is the primary mission on the part of the Department of Defense.

Mr. HOFFMAN. Well, assume that a congressional committee inquired as to a particular gun and the cost of it and as to the elements that went into the cost, would a release of that information in your opinion be a constructive contribution to the primary mission?

Mr. HONAMAN. May I say first that my own experience has not brought me into contact with problems regarding requests for information from the Congress. But I think in the case you cited there would be no question that information would be readily provided, and just offhand, I think it would be constructive to do so.

Mr. HOFFMAN. Assuming that the cost of the gun was grossly excessive, disclosing that information wouldn't help the defense of the country, would it? It would make the taxpayers mad and resentful, might it not? Do you see what I mean? If the information would disclose a waste of the taxpayers' money, it wouldn't be constructive toward the primary mission of the Department of Defense, because right away the Congress would be cutting off funds; wouldn't they?

Mr. HONAMAN. I would certainly not agree that that term "constructive" applied there from the departmental viewpoint would rule out giving the information, in my opinion.

Mr. HOFFMAN. If you leave that word in there it might give a reason for the department, a logical reason for the department, not to tell us whether there was any waste.

That is all I was thinking of on that.

Mr. HONAMAN. I think I recall a comment by the Secretary to the effect that if we had allowed a situation to develop it might be entirely constructive to have it made known, because it would keep us on our toes. In other words, it is not really intended, gentlemen, I am sure, as I have observed it, it is not intended to be a means of preventing anybody from knowing mistakes, if mistakes have been made. I have found no reason to believe that that interpretation was considered in any way as a basis for this statement.

Mr. Moss. There are just a few more points I would like to touch on in connection with the effect of that phrase "constitute a constructive contribution."

What effect do you feel that might have internally upon people in the lower echelons in the Department of Defense in the actual generating of information? As an information officer, or a man with the primary responsibility for information in the Department of Defense, your organization had to rely upon people in lower echelons frequently for the passing on of information. If there is a directive from the department which tends to repress them in the releasing of information or the passing on of information, doesn't it finally cut off information which might be not only constructive, but, whether or not we apply that rule, might be of interest to a great many people?

Mr. HONAMAN. I have not found, Mr. Chairman, any evidence that that is being done.

Mr. Moss. Wouldn't it be difficult to determine that, though?

Mr. HONAMAN. I don't think so.

Mr. Moss. I think we are interested here in the attitude of people within the Government, too.

Mr. HONAMAN. I have found that our attitude can be expressed, I think, this way: That within the limits of the people that we have to work with in this field, we ought to get out all the information we can, unless it violates these directives of higher authority or the security of the country.

That, I think, is a simple statement of the attitude, as I have observed it.

Mr. Moss. How far down the line can we go, though, or how far down the line do we go in policy determinations on a particular item of information as to whether or not it is of the type which should be made available or should be kept within the Department? Is there a clear delineation of the authority within the Department?

Mr. HONAMAN. I wonder whether your question recognizes the fact that the operation of things like this is supervised by people who guide and instruct. And I think that the guidance by the people not only in the Defense Department but in the services reflects the same attitude that I just expressed.

Now, I am not sure that that answers your question. Maybe I haven't quite understood it. You were talking about people far down the line. They are going to conduct themselves as their supervision guides and directs them, of course, as in any large organization.

Mr. Moss. Are there standards applied within the Department on information at the lower levels?



Mr. HONAMAN. You say, are there standards?

Mr. MOSS. Yes.

Mr. HONAMAN. Well, I am trying to think of any examples. I think the standards that are applied are based upon the attitude I have just expressed, that we ought to make information available as far as we can.

Each of the services has its own instructions, has its own information people, and they, in turn, meet with their people down the line and instruct them. And I think this attitude goes through the organization.

Mr. MOSS. How uniform are those policies between the various branches of the services?

Mr. HONAMAN. They are fairly uniform, but they are not completely uniform, as you might expect. And one of the problems that we deal with constantly is to bring together the people in the services in order to help develop uniform policies.

Mr. MOSS. That is at the top?

Mr. HONAMAN. That is at the top, the top in the service, the service groups and the Office of the Secretary of Defense. And there are cooperative relationships that go across the board at lower levels, too, of course.

Mr. MOSS. I want to come back to this, but I think before I do, Mr. Scher, you should pursue your line of inquiry.

Mr. MOSS. Mr. Hoffman.

Mr. HOFFMAN. Mr. Chairman, it seems that the language in the second paragraph to which reference has been made, is susceptible of two opposite and perfectly logical conclusions. The views of the Secretary, as reflected by the witness in the example cited, assuming that the cost of a particular gun was grossly excessive, a disclosure of that information, as you suggested, might spur the Department on to better efforts. I concede that that might be possible.

On the other hand, Mr. Chairman, if there was too much of that, it would, as I have suggested before, have its effect on the Appropriations Committee and on Congress in general, when it came to appropriate money, and might result in the denial of a needed appropriation.

Couldn't the language be possibly written so as to avoid that double interpretation?

That is all I have. I thank you.

Mr. MOSS. Would you care to comment on that question of Mr. Hoffman, Mr. Honaman?

Mr. HOFFMAN. Is there any other language you can use other than this limitation that it must constitute a constructive contribution to the primary mission? I assume that is the best you had at the time, or you wouldn't have put it in there.

Mr. HONAMAN. That was, as I understand. I made the point earlier that I didn't participate in preparing it.

Mr. HOFFMAN. If you had thought of something better, you would have suggested it, wouldn't you?

Mr. HONAMAN. I would; yes.

Mr. HOFFMAN. Do you have any idea at the moment as to how it could be made better?

Mr. HONAMAN. Not at the moment.

I have observed the operation of this, however, and it seems to be operating satisfactorily. I am sure that the people in the Department of Defense are constantly alert, and if there are reasons developed which would indicate that that language should be changed, I am sure they would be alert to do it.

Mr. MOSS. Mr. FASCELL.

Mr. FASCELL. Mr. Honaman, isn't the basic problem in interpreting the clause, particularly the word "constructive," that it is subject to various interpretations, depending on who does the interpreting?

Mr. HONAMAN. Isn't that true, Mr. Congressman, of any language you can write?

Mr. FASCELL. I thoroughly agree with you. Therefore, doesn't it become a variable and very unreliable standard to accomplish what you hope to accomplish?

Mr. HONAMAN. Not in my opinion. I think experience has shown that it has been operated with sound judgment and that it is not unreliable in practice.

Mr. FASCELL. Then what you are saying is, in fact, that it depends upon good administrative supervision to make it work?

Mr. HONAMAN. Thank you, sir. That is a very helpful addition. It certainly does. And that is true of any directive. When you come to write specific words covering a wide variety of situations, there are no words that are completely descriptive of every possible situation that can arise.

I think your point is awfully well made, it is as good as the soundness of the administration that carries it out.

Mr. MOSS. Then, at that point, isn't it advisable some times to have some protection, either by directive or law, which doesn't rely entirely upon administration, in the event that you should have improper administration?

Should we be entirely in the field of administrative discretion in the matter of information, or should we have some clearly drawn guidance which tends to continue a free flow of information, even under improper administration?

Mr. HONAMAN. Sir, I guess this is partly a legal question; isn't it? I am not an attorney.

Mr. MOSS. It would be a matter also, I think, of opinion, Mr. Honaman.

Mr. HONAMAN. However, I would make this observation—this is as a layman and not as a lawyer, because I am not an attorney—it seems to me that there is no way to write a law or a rule that doesn't require and depend upon good judgment, and, as Congressman FASCELL has said, good administration.

Now, if you interpret that to mean that if you get bad administration you can't operate properly, I am afraid I will have to leave that to the legal people, because I think it is a legal question.

Mr. MOSS. Don't you think it is true that a good law, improperly administered, can be a bad law, but it might not necessarily be as bad as no standard at all? And a bad law properly administered can be, for all practical purposes, only a fairly decent law?

Mr. HONAMAN. All I can say to that is, I do believe that you cannot substitute anything for good judgment and good administration.

Mr. Moss. And you can't legislate good judgment or good administration?

Mr. HONAMAN. You probably can't legislate good judgment or good administration.

Mr. FASCELL. Mr. Chairman, that brings us to a point that has been disturbing me, particularly in this field, and that is the question of atmosphere under which thousands of employees, who are responsible for and who might generate information or who have it available, would work. I look at Directive 5230.9, and it sets out a specific criteria in the paragraph we have been talking about.

And then, you pointed out that there is no regulation as set forth in Directive 5200.6, so-called nonsecurity information, which is also limited for information use and in which you would have to exercise good judgment, and which is specifically limited in section 3, paragraph (a), subsections 3 (a) through (g). And I imagine there are some more, I haven't reviewed all of the directives on this question.

But it finally gets to the point that if I am one of these employees down the line somewhere, in order to be absolutely safe I am not going to generate anything.

Mr. HONAMAN. Yes, Congressman, that has been a comment. I haven't found that to be true, I haven't found it to operate that way. I think I can only tell you what my experience has been.

Mr. FASCELL. Does anything in your experience indicate what could be done to clear that type of atmosphere, if it should exist? You say it doesn't exist.

Mr. HONAMAN. I haven't found in my experience that it does exist.

Mr. FASCELL. But assuming for the moment that it did, that this was an enveloping cloud that surrounds all employees, and in order to be satisfactory, particularly when it deals with national security, they would rather say nothing; what would be your opinion or recommendation to remove that feeling or atmosphere surrounding the employees?

Mr. HONAMAN. I think that the atmosphere must be found in better administration, if that happens.

Here is a point I think would help. The same confusion we are discussing here now did develop, of course, around this directive when it was first issued. And it was discussed at Mr. Wilson's news conferences. He pointed out some of the same things we have been discussing here.

And it is my belief now that the news men who work and stay in the Pentagon, representing the media, are satisfied that this interpretation is not an impediment to their getting information which they otherwise would get.

I think that is significant.

Mr. Moss. I would like to state at this point that we are not today studying the Department of Defense, as such; we will at a future date study the Department of Defense, and at that time we will have under study instances where the contrary would appear to be the case. There have been expressions of dissatisfaction by the press. And it is going to take more staff work before we are prepared to go into the Defense Department, as such.

So that point will be pursued further at that time.

Mr. FASCELL. Mr. Chairman, I have one further thought on this, pursuing this line of reasoning.

In your experience, when you operated under these directives, Mr. Honaman, did you find that the man in the lower echelon who was generating information which might be available, instead of releasing it himself, or making the decision himself, would pass it on up channels so that it eventually wound up in one spot, the Director of the Office of Public Information, and that he would have to make the decision?

Mr. HONAMAN. No.

Of course, all of the information that is released by the Department of Defense is released through the Office of the Secretary of Defense. That is a part of our activity which has been a practice for a long time. So that part of the answer to your question is, yes, the information does come up to a central point. But that doesn't mean that the decision as to whether it should be prepared in the information form has had to wait until it got up there.

Is that a good answer?

Mr. FASCELL. That is part of the answer. But if this administration channel works that way, it means that an individual on the lower echelon generating information may make the decision that this is information which should be released but, in effect, if I understand your statement correctly, though he is actually recommending that it be released, he doesn't have the authority to go ahead and release it without further review?

Mr. HONAMAN. That is right.

Mr. MOSS. Mr. Scher, you may pursue your questioning.

Mr. SCHER. I have a fundamental confusion, Mr. Honaman. You started out by saying the phrase "constructive contribution to the primary mission of the Department of Defense" applied primarily to personnel in the Department of Defense, and this was an attempt to get a more reasonable practice on their part and prevent interservice conflicts. Is that right?

Mr. HONAMAN. To prevent the release of information by one service that may reflect discredit upon another; that is right.

Mr. SCHER. And since then, you went on to talk about other matters, such as personnel data, and you included that under your definition of a constructive contribution?

Mr. HONAMAN. No, I think not. I think that was in answer to a question of what other kind of things might not be issued. I was not intending to include under the constructive these things which are specifically included in the directive that you are speaking of.

Mr. SCHER. So you are referring primarily to service personnel, and their activity, as a constructive contribution?

Mr. HONAMAN. That is right.

This directive was directed, you see, to the services, the three services, and the Office of the Secretary of Defense.

Mr. FASCELL. Which one are you referring to now?

Mr. HONAMAN. I am referring to—I assume Mr. Scher is, too—to 5230.9, which contains the word "constructive."

Mr. SCHER. Yes. As concerns members of the armed services, do you consider it a constructive contribution to the primary mission of the armed services to withhold the transcript of the Billy Mitchell court-martial some 30 years ago?

Mr. HONAMAN. That I don't know. That is a problem I haven't considered. Is it a fact that the transcript was withheld?

Mr. SCHER. That is our information. I believe it is a well-known fact, Mr. Honaman. But I can't ask you about things you don't know.

Mr. HONAMAN. It has not come to my attention.

Mr. SCHER. In your opinion, sir, as a citizen and an expert in this field, do you consider that there is any destructive contribution to the mission of the Department of Defense to release the material in the court-martial some 30 years ago of Gen. Billy Mitchell?

Mr. HONAMAN. If I were asked that question as a specific problem that needed to be dealt with, I would investigate the situation and look at all the facts. To answer it hypothetically, I will have to say again I don't know.

Mr. SCHER. Are you familiar with the withholding of the letter of General Ridgway on the development of Ground and Air Forces?

Mr. HONAMAN. Yes, I am familiar with it, I have known about it.

Mr. SCHER. Do you recall that that information was withheld?

Mr. HONAMAN. Are you speaking about the letter that General Ridgway wrote to the Secretary of Defense at the time of his retirement?

Mr. SCHER. Yes, sir.

Mr. HONAMAN. I am familiar with the fact that that letter was classified. Frankly, it was declassified because it was published.

Mr. SCHER. Now, what was there that was not constructive about that letter?

Mr. HONAMAN. Well, I didn't say that that letter was probably withheld on the basis of being constructive or otherwise, I said it was properly classified by the Secretary in his judgment. And in my opinion I think he had the right to classify it if in his judgment it should be.

Mr. SCHER. Was it classified under the Presidential Executive Order 10501?

Mr. HONAMAN. So I understand.

Mr. SCHER. Do you recall what category was stamped on it?

Mr. HONAMAN. Not having seen it, I must speak from what I learned about it. I believe it was stamped "Confidential." I think so.

Mr. SCHER. And it is your opinion that was a proper use of a confidential stamp?

Mr. HONAMAN. I would not question the judgment of the Secretary in making that classification.

Mr. SCHER. Are you familiar with the problem of Gen. Douglas MacArthur's position on the question of the Russians entering the war against Japan?

Mr. HONAMAN. Yes—excuse me, sir, I would like to be sure I am answering that question. Will you recite the question, again, please?

Mr. SCHER. Are you familiar with the letters of General MacArthur dealing with the entrance of Russia into the Second World War against Japan?

Mr. HONAMAN. I should like to answer that at somewhat greater length, if I may. What I am familiar with is the study of the records relating to correspondence between General MacArthur and other military leaders over a considerable period of time during World War II, which record was analyzed and released and made available to the public.

Is that the answer to your question?

Mr. SCHER. Yes. Was that freely released?

Mr. HONAMAN. Yes, indeed.

Mr. SCHER. How soon after the correspondence took place was this material released?

Mr. HONAMAN. It was released as soon as the study could be completed after inquiry had been made for the record.

Mr. SCHER. Didn't this controversy develop at the time of the release of the Yalta Papers?

Mr. HONAMAN. I am not in a position to say "Yes" or "No" to that.

Mr. SCHER. Is it your opinion, sir, that it was a constructive contribution to the mission of the Defense Department to withhold that information for any period of time?

Mr. HONAMAN. Well, I would not agree that it was withheld for any period of time.

Mr. SCHER. What is your explanation, then, for the time lag that took place between the time of the request and the time of the issuing of this information?

Mr. HONAMAN. The entire time interval was devoted to analyzing the material to get—to make available the material that bore on this question, to make the necessary checks with other governments that were involved in this correspondence, and with other departments of our own Government. And that work was carried on, as I observed it, rather diligently.

Mr. SCHER. If I were a newspaper reporter and were not quite sure as to whether or not all the documents concerning General MacArthur's position had been released, how could I be assured that that was so? Would I have to go on your word or the word of someone in the Defense Department?

Mr. HONAMAN. Well, if you had some specific thing that you thought should be there and it wasn't, and you made inquiry about it, I am sure you would get a proper answer as to whether it exists or does not exist. But if you just felt that somehow maybe there ought to be more, I don't quite know how you can solve that problem.

Mr. SCHER. Is the burden on the reporter to always come up with a specific request, or may he ask a general question and depend upon the Department to fulfill it with thoroughness and dispatch?

Mr. HONAMAN. Well, I believe the Department of Defense will fulfill any request that comes from a reporter.

Mr. SCHER. Well, they have requested the court-martial transcript of Gen. Billy Mitchell, and that has not been released.

Mr. HONAMAN. I will have to say, sir, that I am not familiar with that situation, and I don't know the answer to it. It is not anything that has arisen in my experience, nor has it arisen during my time of service.

Mr. SCHER. Were you in the Defense Department on November 30, 1955?

Mr. HONAMAN. Yes; I was.

Mr. SCHER. You started April 29, 1955?

Mr. HONAMAN. That is right.

Mr. SCHER. A request was made about that time of the Defense Department by a certain newspaper, and the request was denied.

Mr. HONAMAN. I am simply not familiar with it.

Mr. SCHER. It did not come to your attention?

Mr. HONAMAN. It did not come to my attention.

Mr. MOSS. Mr. Honaman, on this general question, you said that the constructive directive was primarily aimed at the intraservice requirement within the Department of Defense, that that was one of the problems the Department was dealing within in the issuance of this directive.

Mr. HONAMAN. Yes.

Mr. MOSS. How far can we go, or how far should we go, in concealing from the public or from the Congress the fact that there do exist serious differences of opinion, or that there might exist serious differences of opinion, between the top commands of various branches of the military service, and what constructive purpose is served greater than the advantage to the American people in the release of the information itself, concerning the general knowledge as to the types of controversy existing, the differing opinions existing in the Department?

Mr. HONAMAN. Well, may I say that in speeches and in press releases the separate interests of the military departments are rather completely brought out, and there is a lot of healthy rivalry which to my knowledge is not withheld or suppressed. Now, if you have anything more specific in mind than that, I will try to answer it.

Mr. MOSS. Will you go back to one item which has been mentioned? I think another which we are all generally familiar with, the appearance of General Vandenberg before the Armed Service Committee of the Senate in sharp disagreement with Department of Defense policy, and the letter of General Ridgway, which indicated some degree of differing opinion, at least.

Now, those two—in one the General took it upon himself to place his views upon the record, in the case of General Vandenberg, and in the other because General Ridgway by letter tried to inform or did inform the Secretary of Defense. At the moment those are the only two I can recall.

Certainly if there is that area of disagreement there must be other instances, and keeping them within the Department and away from the public, does that serve a greater purpose, a more constructive purpose, than perhaps informing the Congress and the people of these differing opinions?

Mr. HONAMAN. Well, I think, Mr. Chairman, the main thing that needs to be done with differing opinions is to, shall we say, give them all the free play they can have in the discussions in the Department in developing policies—I mean, policies are beaten out of a lot of different points of view. And I think that after they have been beaten out and become the policy, there can be very little purpose served in airing those things to the public.

Now, you mentioned the Congress. I am not discussing this question, because Congress, of course, to my knowledge, gets very complete pictures of the various points of view.

Mr. MOSS. As a matter of fact, while we are on that point, do committees of Congress get that benefit in the more sensitive fields? They get the benefit of the differing views to a degree only, because the representatives of the Department of Defense who appear and testify as a rule are testifying on policies determined upon by the Department of Defense and may not necessarily reflect their own views on

them, and if they hide these differences which have developed, isn't there a denial of information to the American people and to the general body of the Congress of what we in Congress call the minority view? We have differences in committees, and we file a report which reflects the majority rule, and that becomes the policy of the committee. But we also respect the view of the minority, and it is spread fully on the record.

Mr. HOFFMAN. May I interrupt you there?

Mr. MOSS. Mr. Hoffman.

Mr. HOFFMAN. I think the chairman and my associates here are thoroughly familiar with the fact that when an administration bill comes up, regardless of which party is in power, about the only witnesses we hear are those that are sent up by the Department to substantiate the claims, show the advisability of passing the bill.

Do you recall any instances when anyone with opposite views came up from the Department on any bill?

Mr. MOSS. None other than the instance I recall when General Vandenberg testified in the Senate hearings.

Mr. HOFFMAN. But ordinarily in our own House experience all we get is the Department views. I mean, we have a procession of witnesses in support of the administration bill.

Mr. MOSS. I think that is quite correct. And I am just wondering how far we can go in the direction of completely concealing these different views in a Department as they relate to policy which is extremely important to the American people without denying frequently some of the information which not only the Congress but the people themselves should have in arriving at an informed opinion as to which policy might be the better.

Mr. HOFFMAN. As to whether, before we report out a bill, there are views, reasonable views, held by other members of the Department, and whether there is a reluctance—let's put it that way—to testify that may in some way be overcome so that they will be free to come up and tell us, so that they may do so without feeling that they are deprived, say, of the opportunity for promotion. That is what is worrying me.

Mr. HONAMAN. May I say again, Mr. Chairman, that the matter of information to Congress has never been a part of my responsibilities, you see, and I should not attempt to express more than a personal opinion. My opinion has been that very complete information has been given to the Congress about our military problems. Now, I could be wrong on that.

Mr. MOSS. Of course, I think of equal importance is that there be as much information as possible of these disagreements to the American people. They have the responsibility of selecting the Congress, which only functions as their representatives. After all, in our Republic they are finally the governors of the Nation, and how much of that important information, where there is not just the normal day-to-day disagreement but where there is substantial disagreement on basic and vital policy—how far can we go in suppressing the fact that there is disagreement? Wouldn't it be more constructive to air the disagreements? I know that there must be disagreement, because it has been placed on the record by two generals, General Ridgway and General Vandenberg, in the thinking of how far we can go in placing primary reliance on certain new types of weapons, how much we should depart



from traditional weapons in a period, say, of transition. Wouldn't the public be better informed and better able to evaluate the soundness of policy if they had the benefit of some of the disagreement as well as the policies that have finally been set forth by the Department of Defense?

Mr. HONAMAN. I think I should answer that by saying that I would not in my opinion believe that different points of view should be withheld from the public, but I would think that you will make more progress if they are first thrashed out and freely discussed in the councils, so that the best policy could be developed out of these different points of view.

Now, the American people should not be deprived of the knowledge that these policies have been thrashed out from different points of view.

Mr. Moss. Well, in the directive here, applying the word "constructive" as relating to the internal operations of the department, doesn't it imply that to be "constructive" it must more or less—but certainly on the side of more—be in agreement with the policies arrived at by the department itself?

Mr. HONAMAN. I have not seen any evidence that the use of the word "constructive contribution to the mission of the Defense Department" has operated to prevent any military men making a speech, for example, expressing his views of the military situation, or, as I said earlier, any other evidence that that has been used to suppress information which, except for that, would be made available.

Mr. Moss. What standard would you apply? Or do you feel it is possible to apply a standard?

Mr. HONAMAN. Standard of what?

Mr. Moss. Of determining whether the speech of an officer, say, in the Navy, which might be somewhat critical of Air Force policy merely reflects some internal controversy or whether it is a basic disagreement with a policy which might be of constructive benefit to the American people to know about.

Mr. HONAMAN. It seems to me you have cited the standard, sir, right now, that if it is not—if it does not reflect discredit upon a sister service, then I would not, generally speaking, think that it would lack constructiveness. Does that answer your question?

Mr. Moss. Supposing it were not flattering to a fellow officer, a fellow official, because of disagreement on policy? I am thinking now of an instance cited by Mr. Hoffman in the last hearings—I believe I state this correctly—where he had occasion to request a file which was highly classified from the Department of Defense, and after much difficulty he was given the file, and upon review it reflected merely an exchange of correspondence between two high-ranking officers who were in disagreement on a basic policy.

Mr. HONAMAN. I don't know about that situation. And, Mr. Chairman, aren't we getting into some of the things that neither I am prepared for, and perhaps you, that ought to come up for discussion when you get into a study of the Defense Department?

Mr. Moss. Let's get to the last paragraph of the directive, 5230.9, "All personnel shall assume personal responsibility for the speeches, articles and information releases being consistent with the national security"—I don't think anyone will dispute that—"and the policies and objectives of the Department of Defense."

Wouldn't that tend to restrain a discussion of disagreement?

Mr. HONAMAN. I don't think so, sir. It hasn't.

I might cite a situation that came to my attention recently. I understand that General Ridgway has written a series of articles which are about to be published, or perhaps they are just now being published, and there is criticism, I believe, of the Commander in Chief, as well as the Defense Department people. I saw nowhere in the Defense Department any effort being made to either change the words in these articles or to suggest to General Ridgway that he should not publish them.

Mr. MOSS. It has not acted as a restraining influence on the airing of different views?

Mr. HONAMAN. In my experience, I feel exactly that, and that is what I am trying to say, I have observed it has not done the things which some people thought that it might possibly do.

Mr. SCHER. Mr. Honaman, the rules and regulations in title 32, National Defense, published in the Federal Register starting on page 6775, on September 15, 1955, involving industrial defense and security regulations section 72.1-111, "Release of economic and technical information," provides that representatives of the military departments shall provide advice and guidance on the subject of certain unclassified technical information to various industrial organizations—private industry.

Section (a) says:

Management of facilities should be encouraged by the representatives of the cognizant military department to exercise considerable caution prior to any release of unclassified economic or technical information in press releases, advertisements, notices to stockholder, annual or quarterly reports, brochures, et cetera, and reports in response to questionnaires from unknown or questionable sources. They should be advised that indiscriminate release could make easier the job of the saboteur by pointing out potential targets. Furthermore, this material when assembled, collated and completed, could also contribute materially to an accurate appraisal of the strategic intentions of the United States.

Did you have any part in the drawing of those rules and regulations, Mr. Honaman?

Mr. HONAMAN. No, Sir.

Mr. SCHER. Did you operate under those rules and regulations?

Mr. HONAMAN. Yes.

Mr. SCHER. Incidentally, before we proceed, what was your official title in the Defense Department?

Mr. HONAMAN. Deputy Assistant Secretary.

Mr. SCHER. And what were your specific duties?

Mr. HONAMAN. To advise and assist the Assistant Secretary for Legislative and Public Affairs, in the public affairs area.

Mr. SCHER. And what was the term of your tenure?

Mr. HONAMAN. April—I am not sure whether it was April 28 or 30.

Mr. SCHER. April 29?

Mr. HONAMAN. April 29 or 30.

Mr. SCHER. 1955?

Mr. HONAMAN. 1955, to December 31, 1955.

Mr. SCHER. These regulations were promulgated on September 15, 1955?

Mr. HONAMAN. That is not right.

Mr. SCHER. They were published in the Federal Register at that time?

Mr. HONAMAN. That is correct.

Mr. SCHER. And you say you had no part in the formulation of these particular rules and regulations?

Mr. HONAMAN. That is right. I made a few notes about them and if you have some questions I should be glad to try to respond.

Mr. SCHER. Yes, sir. What is your understanding of the particular provision which I read?

Mr. HONAMAN. May I refer to my notes?

Mr. MOSS. Certainly.

Mr. HONAMAN. Knowing that this was of interest, I made some notes.

In the first place, publication in the Federal Register in September 1955 was the publication of a directive that had been promulgated in January of 1955 and while the publication in the press advised the public that this was a new device for withholding more types of information, it is unfortunate that (at least I did not see any), that no information was given to the public simultaneously to the effect that the directive really was of older standing than that.

Mr. SCHER. Permit me to interrupt for just a second, sir.

Would you explain why there was no publication in the Federal Register from January to September of 1955 of these rules and regulations of the Defense Department?

Mr. HONAMAN. I inquired about that, Mr. Scher, and discovered that was the time it took to get the mechanical operation of printing and releasing in the Federal Register accomplished.

Mr. SCHER. And is there not a statutory provision that all departments and agencies must publish in the Federal Register their rules and regulations within a reasonable time?

Mr. HONAMAN. I have not investigated that question.

Mr. SCHER. All right. I am sorry to have interrupted.

Mr. HONAMAN. This directive has been in force since January of this year.

In fact, what was issued in January is practically the same, in form and substance, as one that was promulgated early in 1953.

There is much information that may be of intelligence value to a potential enemy and where security control over access to that, if it were in the complete physical control of the Government, would be needed.

But here, the lack of such security control requires its safeguarding by the voluntary cooperation of our citizens.

Actually, industry must have free use of this information and in many cases, of course, the information is generated by industry itself.

It has been a long-established practice of the Government to encourage voluntary, and I emphasize "voluntary," care in handling by industry of information of intelligence value and, at the same time, to make the Government's experience in identifying matters as of substantial intelligence import available to industry, where it is desired to have assistance.

Now, in addition to having worked in the Defense Department during the time this was in force, of course, I had a considerable amount of experience with the operation of this plan in industry, and I believe that a large section—I cannot speak for entire industry, no one can, but a large section of American industry finds this a helpful

arrangement, whereby they can exercise what they recognize as a responsibility in the intelligence field, and get the help of the Government in doing so.

I have found that there is no—I have not observed any new aspect of this that has arisen during the time I worked in the Defense Department.

Mr. MOSS. Mr. Honaman, a question just as to the mechanics: Do the various industries submit to the Department of Defense material which is proposed to be included in advertisements or brochures or stockholders reports?

Mr. HONAMAN. Some do. It is a voluntary thing.

Mr. MOSS. Do you have any idea of how much additional cost that might impose upon the Department of Defense?

Mr. HONAMAN. Oh, I am afraid I would have no specific idea about that.

Mr. MOSS. I wonder, Mr. Reynolds, if you might get that information so we will have it available at the time we hear the Department of Defense.

Mr. REYNOLDS. Yes.

Mr. MOSS. You feel that there has been damage done to the United States because of fragmentary disclosures of information through advertisements and other advices of private concerns?

Mr. HONAMAN. In this, Mr. Chairman, of course, I must rely upon people whose expert duty it is to deal with intelligence matters, and I have the definite impression that there have been considerable amounts of information made available to our potential enemies, giving them tremendous advantage.

Mr. MOSS. Do you have any instance in mind at the moment?

Mr. HONAMAN. I have cast about in my mind, and I haven't any that I could discuss without getting into classified information. I hope that the committee will take a look at that question as a separate one. I think you will find much information, but that it is mostly necessarily classified.

Mr. FASCELL. Pardon me. I am confused, Mr. Chairman, at this point. I thought that we were talking about fragmentary unclassified information which might be collated by a potential enemy.

Mr. HONAMAN. But what the enemy has done with it—

Mr. FASCELL. Is classified?

Mr. HONAMAN. Is classified.

Mr. FASCELL. Well, the enemy knows about it, so how can it be classified?

Mr. HONAMAN. It can be classified, sir, because very often the origin of information itself in this country is necessarily classified, otherwise the information source would be cut off.

Mr. FASCELL. You are citing to me a case where information is unclassified in the United States but Intelligence has determined that it has been picked up by the enemy and used by them to their advantage and when that happens, that particular information immediately became classified. Do I assume that the logic—

Mr. HONAMAN. Well, not necessarily, Congressman Fасcell, but in many case the source of the information that our people have is itself classified.

Mr. FASCELL. You mean the source in the foreign country by which we determine that the enemy has got the information?

Mr. HONAMAN. That is right.

Mr. FASCELL. In other words, the logic is that if we then make that fact known here, that is, that the enemy has the information, we are endangering the source by which we got the information that the enemy got from us?

Mr. HONAMAN. That is right. It is a little roundabout, but I think this all supports the chairman's statement that it would be better to do—to look at this thing much more fully than we can right here.

Mr. FASCELL. Well, I am a layman, and I am right back in that old cloud we were talking about a moment ago. I am a good American, so I want to do the right thing, so I don't tell anybody anything—what is the logical extension of this whole theory, Mr. Honaman?

Mr. HONAMAN. I don't know that I understand your question, sir.

Mr. FASCELL. What is the logical extension of Directive 52309 or Directive 52006 or Executive Order 10501 or the rules and regulations in the Federal Register of September 15, 1955? If we extended it one more step, what would we do in the best interest of the national security of the United States?

Mr. HONAMAN. I am afraid I don't understand your question, Congressman.

Mr. FASCELL. Well, would you agree with me that next the thing to do is make sure that no potential enemy got any information which might be of any possible value to them?

Mr. HONAMAN. Oh, no, sir; no, sir. I mentioned in my statement—

Mr. HOFFMAN. What was the answer?

Mr. MOSS. No, sir.

Mr. HONAMAN (continuing). That there are many cases—I can cite one, if you want to give me the opportunity.

Mr. FASCELL. All right.

Mr. HONAMAN. Many cases where information is of so much value to our own people that even though it may be of great importance to an enemy, we should still release it to the public freely.

I think one of the best examples of that is to be found in a newly invented device called the transistor—and I see you all know about it. We had them before I came into Government service and I am quite familiar with it, because the transistor was invented in the laboratories.

Mr. SCHER. That is the Bell Telephone Laboratory, sir?

Mr. HONAMAN. That is right. Here was a new component for electronics and one of the first things that was done was to make known what the laboratory knew to the military people.

Then there were discussions about what effect this would have upon the intelligence of a potential enemy. It is quite clear it has a very profound effect, it would give him some advantage; but also there were discussions about the great importance of getting a number of engineers and scientists working on this device in this country, and the conclusion was that there should be a wide and free publication. That was done with full recognition of the fact that in this publication there was being provided to a potential enemy some very important information of intelligence value.

Mr. FASCELL. In other words, we gave the world the transistor, but we gambled on the fact that we could make better use of it?

Mr. HONAMAN. That is right. Now, that is, I think, quite an important thing because of the great breadth of the field that may be covered by that kind of a component device.

Mr. FASCELL. But, then, somebody must have determined that some potential enemy at that time did not already have the transistor?

Mr. HONAMAN. I would like to leave the answer to that question until we get into the discussion of the classification matters.

Mr. MOSS. Well, was it your assumption there was greater benefit to the American people by the full disclosure of the transistor than there might be benefit to an enemy in having the same information?

Mr. HONAMAN. That is right. On balance, the need was greater in our country, and that was the conclusion reached out of the discussions by many people, including military and industrial people.

Mr. HOFFMAN. And that gives me an opportunity to ask, did we give some money around about that time to them to help develop it?

Mr. MOSS. If he knows—

Mr. HOFFMAN. If anyone knows, I mean.

Mr. MOSS. Certainly.

Mr. FASCELL. I don't know, but he may know.

Mr. HONAMAN. Gave the Russians some money?

Mr. HOFFMAN. These "potential enemies" at that time, making a contribution to them, to assist them in developing it?

Mr. HONAMAN. I don't know the answer to that, sir. The years are 1949—1948 and 1949, I hope we were not providing any funds to any potential enemy.

Mr. HOFFMAN. What particular "potential enemy" was it feared or known might develop it?

Mr. HONAMAN. Well, of course, the Communists, as far as I can tell, are the only potential enemies that this country is facing.

Mr. HOFFMAN. Then, I suppose, sir, the record will show we were making appropriations at the time, at the same time, by loans or gifts—

Mr. HONAMAN. I don't know the answer—

Mr. HOFFMAN. I would not recall offhand, but I assume that we were not.

Mr. FASCELL. Mr. Honaman, in this example that you have just cited about the release of the transistor, obviously there must have been taken into consideration the civilian application of the item?

Mr. HONAMAN. As well as the military.

Mr. FASCELL. And so since that time it has gone into substantial civilian use?

Mr. HONAMAN. Yes; and progress is being made in substantial military use as well.

Mr. SCHER. Mr. Honaman, you, I am given to understand, were responsible for the drawing up of the so-called balance sheet for strategic information; is that correct?

Mr. HONAMAN. No; that is not correct, sir.

Mr. SCHER. Did you play any part in preparing the balance sheet?

Mr. HONAMAN. Well, to simplify it, I have knowledge of it, but I have no part.

Mr. SCHER. Did you use it?

Mr. HONAMAN. No; I did not use it.

Mr. SCHER. Did anybody use it?

Mr. HONAMAN. Yes; I understand so.

Mr. SCHER. Did it have any relevance to your performance of your duties?

Mr. HONAMAN. No, sir.

Mr. SCHER. With the Defense Department?

Mr. HONAMAN. No; none whatever.

Mr. SCHER. Why not?

Mr. HONAMAN. Well, I think perhaps I had better tell the story about that balance sheet, which has not been told, to my knowledge.

One of the assistant directors of the office I had in the Commerce Department, the Office of Strategic Information, was experimenting with the idea that it may possibly be a help to people to set down in parallel columns the pros and cons of decision when making a judgment, and he experimented with the idea of doing this with some of the factors that go into a judgment as to whether information may be, on balance, more valuable to us than to a potential enemy—as an example, the transistor case.

During a meeting of editorial people he mentioned his experiments and his idea. One of the members of the staff of the Army who was present said, "Well, we would like to experiment with that also," and Mr. Swain provided them with some copies in order to permit them to experiment with it, which I could see no harm in, and I would not criticize him for doing it; but it never was more than an experiment with an idea.

Mr. SCHER. I have before me a copy of that balance sheet for strategic information. I understand that it was sent out by T. S. Riggs, brigadier general, Acting Chief of Information and Education, Department of Defense, with an accompanying letter on June 2, 1955. That was during the period of your tenure in the Defense Department; is that correct? (See exhibit XXI.)

Mr. HONAMAN. That is right.

Mr. SCHER. The letter read:

In furtherance of its program, the Office has prepared a check sheet, balance sheet for strategic information, for use in determining whether the release of a particular item of information will help or harm the interests of the United States. A pad of these forms is forwarded herewith—as an enclosure.

This is from the letter by General Riggs.

It is considered that this check sheet provides useful guidance with respect to the considerations which should be weighed in determining whether to release a given item of information.

So it was used, wasn't it?

Mr. HONAMAN. Well, I understand it was intended to be used but frankly I have not heard what results were obtained with it.

When you say, "Used"—it was experimented with. I would like to be sure that distinction is made.

There was never any instruction given to people to use this in any special form, to my knowledge.

Mr. Moss. Is it being used now, to your knowledge?

Mr. HONAMAN. I don't know, sir, and I would—I would just presume that if it is, I would have heard more about it. I doubt whether it is.

Mr. SCHER. Mr. Honaman, there is nothing in this letter which says that it is for experimental use.

Mr. HONAMAN. Well, certainly, the one letter that I saw, although this was after I had left the office where Mr. Swain was working on this thing, the one letter I saw specifically pointed out that this was an experimental thing, and these forms were provided so that they could experiment with them.

Now, I have not heard of anything further.

Mr. SCHER. Well, Mr. Honaman, let us do a little experimenting now with that.

First of all, we have an item here, reading:

Net effect on military power (consider how information will help United States military power and that of hostile nations. Strike balance).

And there are five columns. One reads, "Helpful to United States," and under that it has other items, "Much" and "Little." and another column headed, "Harmful to the United States," underneath which is, "Little" and "Much."

First of all, who made the decision on the release of the transistor to the public?

Mr. HONAMAN. Oh, that was made by military and industrial people in cooperation.

Mr. SCHER. Well, how would you answer the first question, "Net effect on military power," how the transistor would help the United States military power or that of hostile nations—would it be helpful to the United States, much or little?

Mr. HONAMAN. I would say about that particular specific thing—that is a thing that I would suppose anybody could use. As a hypothetical thing, we need facts to deal with any problem, first—

Mr. SCHER. Well, we are not asking you to state that for any future fact, just your opinion as to whether the transistor is helpful or harmful to the United States as far as military power is concerned.

HONAMAN. The transistor?

Mr. SCHER. Yes.

Mr. HONAMAN. Well, I think it would be helpful to the United States.

Mr. SCHER. Much or little?

Mr. HONAMAN. Probably much.

Mr. SCHER. The next question is:

Net effect on industrial power (consider effect on ability of the United States and of hostile nations to build stronger economic foundation for military power).

Would it be harmful to the United States or helpful to the United States?

Mr. HONAMAN. Would you read that again, please?

Mr. SCHER (reading):

Net effect on industrial power (consider effect on ability of the United States and of hostile nations to build stronger economic foundation for military power.)

Helpful to the United States?

Mr. HONAMAN. Helpful to the United States economic foundations?

Mr. SCHER. Yes, sir.

Mr. HONAMAN. I would say yes.

Mr. SCHER. All right. Harmful to the United States?



Mr. HONAMAN. Helping to build the United States economic power would be harmful to the United States?

Mr. SCHER. No, the release of this would be harmful to the United States and be helpful to a hostile nation in developing its economic power and therefore its military power?

Mr. HONAMAN. That would be harmful. May I see a copy of that? It is not a thing I have any personal familiarity with.

No, I don't think so. I wouldn't, Mr. Scher, be prepared to make judgments offhand.

Mr. SCHER. Yes.

Mr. HONAMAN. On questions like this.

Mr. SCHER. Mr. Honaman, how could anyone else make these judgments, then?

Mr. HONAMAN. Well—

Mr. SCHER. How could anyone in the Government, how could anyone in the Department of Commerce or the Defense Department, since you cannot make such a determination, you with your knowledge and your years of experience—you being an expert and having worked so many years at the Bell Laboratories, how could anyone make the determination if you could not?

Mr. HONAMAN. I am differentiating between offhand judgments and judgments that would be arrived at with sufficient time to get the necessary background information.

Mr. HOFFMAN. Would counsel yield?

Mr. SCHER. Yes.

Mr. HOFFMAN. The answer to the question would depend entirely, would it not, with the individual's own ability—

Mr. Moss. Right.

Mr. HOFFMAN. That is, if he thought that he was a smart guy and knew all, he would answer right offhand—some folks can answer anything. Isn't that the obvious answer?

Mr. SCHER. Yes. You are making my point, Mr. Hoffman.

Mr. HOFFMAN. What is that?

Mr. SCHER. I say, you are making the point.

Mr. HOFFMAN. Well, sure.

Mr. SCHER. But this was promulgated as a way of testing whether material was of strategic value.

Mr. HONAMAN. Well, it is a trial balloon. It depends in each case.

Mr. HOFFMAN. And the answer depends on how smart the individual thought he was.

Mr. HONAMAN. It is a trial balloon.

Mr. Moss. Well, Mr. Honaman, I would like—

Mr. HONAMAN. After working in the information field, Mr. Chairman, I feel very humble.

Mr. Moss. I would like to read the statement you made relative to the regulations published in the Federal Register, 72:1-111. You emphasized, I believe twice in your statement, "Voluntary" compliance.

For practical purposes, how voluntary is the compliance of a contractor having, say, a major contract with the Department of Defense, when he submits an advertisement or other material to them for clearance and they indicate that they would not want it published and he might sincerely disagree and not at all feel that the Department was correct in asking him to withhold the information—is that really vol-

untary or isn't there a considerable measure of pressure that can be applied by the Department to make it in fact an enforced censorship?

Mr. HONAMAN. No. I think it is really quite voluntary.

Mr. MOSS. There would be no prejudice attached to the firm for its refusal to comply with the request of the Department?

Mr. HONAMAN. I have found no evidence whatever of that, and that is the point, of course, we raised before, there is none.

Mr. MOSS. It is quite possible there could be, though; is it not?

Mr. HONAMAN. Well, theoretically, I suppose it would be quite possible.

Mr. MOSS. Do you feel that it works to restrain persons from exercising independent judgment when they know that they have a substantial volume of their total production of business committed by contract to the Department of Defense?

Mr. HONAMAN. Do I feel it restrains them?

Mr. MOSS. From exercising their independent judgment, overriding the view of the Department.

Mr. HONAMAN. No, I don't think so. The fact of the matter, sir, is that in most of the cases that have come to my attention, the contractors are just as concerned about the security aspect of this information as are the Defense Department people.

Mr. MOSS. I quite agree with you, Mr. Honaman, that they are just as concerned; but there might be an honest difference of opinion with officials of the Department.

Mr. HONAMAN. We do have discussions of such matters and very often questions arise which are large enough so that we say, regardless of the intelligence value, "We think you are right, entirely correct, in going ahead with it"—that would conform with their judgment—

Mr. MOSS. Well, that is when you say, "We think you are entirely right." But suppose the tables were turned and they said, "Regardless, we think you are entirely wrong and we are going ahead with it."

Mr. HONAMAN. I do not know of a case where we did not sit down and consider pros and cons and come up with an answer both sides would agree to.

Mr. MOSS. But to what extent do you feel the attempt to control this information actually restrains the firm from exercising fully its independent judgment when it feels in good faith that you are wrong, or the Department is wrong?

Mr. HONAMAN. I don't know of any.

Mr. MOSS. But, you say, in all cases you have been able to work it out?

Mr. HONAMAN. All that I have known about, we worked out.

Mr. MOSS. But don't you feel that they may think, perhaps, their concern over their standing as contractors might be something of an indirect pressure, making them agree with your decision?

Mr. HONAMAN. Well, that is a difficult thing to answer. That more or less assumes that I could get inside the mind of another person.

Mr. MOSS. Well, let us take it on a personal basis. You, I believe, are returning to Bell Laboratories?

Mr. HONAMAN. Yes, sir.

Mr. MOSS. Will you have the charge of public relations with Bell Laboratories?

Mr. HONAMAN. Yes, sir.

Mr. Moss. And information. Well, supposing that, again you had something that in your opinion was as valuable to the American economy as the transistor and you were going to release some information on it.

Now, if you went to the Department of Defense and they said, "No, in our judgment you should not release it," but you were firmly convinced that the advantages from release far outweighed any disadvantage and if after careful consultation and exhaustive discussions their position was unchanged and yours was unchanged, would you then publish the information or would you yield to the Department?

Mr. HONAMAN. This is asking a hypothetical question about a—

Mr. Moss. I recognize those are always difficult to answer.

Mr. HONAMAN. About a type of situation that I don't really expect to arise.

I don't believe I could give a hypothetical answer to that because there would be so many other aspects of it that would come in, Congressman, before an answer would be arrived at—but I would say this, that I am sure that we would not arrive at our final decision because we were concerned as to whether our standing as a contractor would be prejudiced.

Mr. Moss. Well, Bell Laboratories is a very large organization. There might be some small contractors who feel more or less that the defense contract at the moment constituted life or death to their business. Do you think that they would be inclined to exercise independent judgment if they were sincerely convinced of the rightness of their position; or do you think that the inclination, because of this directive, would be to yield to the position of the Department of Defense.

Mr. HONAMAN. Well, I can only say I have no experience that indicates that that is so.

Mr. Moss. You don't think it is possible.

Mr. HONAMAN. I don't expect it. As I said before, if it were really debated and honestly argued out to bring all aspects of this problem together, I don't think it is likely to happen, and I can only appeal to the experience I have had in the department.

Mr. Moss. This does constitute censorship of information of a non-security type?

Mr. HONAMAN. I think at this point I ought to say a word about this intelligence information, that is, nonsecurity, as you are using the phrase now.

We have three classifications of information known as confidential, secret, and top secret, which people ordinarily speak of loosely as "security information."

But in addition, there is information which is of a nature which would bring it within one of those classifications but which because of certain practical considerations, make it impossible to put the stamp, one of those stamps, on the information.

Now, let me illustrate by saying that when a new weapon has been developed and it has been put into the hands of using troops and men must maintain it and operate it, it is necessary to have detailed information about the components and the characteristics and the

performance data of that weapon in a large number of instruction books that must be available to people literally in their hip pockets, not a safe, and the method provided for the handling of confidential, secret, and top secret information, if they were followed in the case of this information that is reasonably widely distributed, would completely frustrate its use, you could not put it to use, and yet the information is still of a nature which, as far as the substance is concerned, would justify giving it a stamp in 1 of these 3 classes.

Now, another kind of thing which I am sure you people heard about was the preparation of a list of American Army and Air Force bases throughout the world, with the specific locations of each of those bases.

This is a kind of a document that is of real intelligence value, but that was prepared in order that the people administering the travel operations of the Army and the Air Force could make out travel orders and handle travel vouchers where they need to know exact distances between locations.

Well, now, you cannot clear all the people, the clerks working on a foreign base, and you cannot operate on the basis that that information would bear one of these stamps; but the fact that it cannot be stamped does not change its essential character as information that would be of intelligence value to the enemy.

So, there is information which you cannot, without destroying or frustrating its use, you cannot put one of those stamps on it and it still has intelligence value.

Will that help clear it?

Mr. MOSS. Well, I think there we are dealing with the handling of classified material.

Mr. HONAMAN. That is right.

Mr. MOSS. Government material; while, on the other hand, here we are discussing an entirely new approach.

As I recall, there was considerable controversy raised back in 1951 when, I believe, President Truman said that the press gives away 95 percent of the United States secrets, in other words, the publication of fragmentary information of the type we are trying to deal with in this directive; but is it possible to dry up that type of information without also having an adverse impact upon our own economy? If we limit the free exchange of fragmentary information, aren't we going to put brakes on American industrial development?

How far can we go before we actually do ourselves considerable harm by slowing down exchange of ideas and information?

Mr. HONAMAN. That is a point, sir, at which the judgment must be made case by case. I don't believe you can answer that question, again, as a categorical question, but answer it case by case.

Mr. MOSS. Isn't there the danger in tampering with it in this manner that we tend to restrain excessively?

Mr. HONAMAN. Not in my opinion, sir.

Mr. MOSS. You think we can maintain a fine balance? Do you not think it is something like trying to manage currency so as to prevent inflation and isn't that very difficult to do? Isn't that about the same thing here?

Mr. HONAMAN. Well, I cannot speak with any authority upon currency management, but I believe we are doing a pretty good job in this field and I believe that we can continue to.

There has been a great deal of expression of opinion by others than Government people, expressing concern over this situation.

Some editors have been rather frank in their recognition of the fact we published a good deal that helps the enemy.

Mr. FASCELL. Well, Mr. Honaman, I am interested in your opinion as a businessman.

From what I heard you testify in the last 10 or 15 minutes it would seem to me that the Defense Department is by necessity in every business in the United States because the determination would have to be made by somebody in the Defense Department Intelligence as to whether or not whatever any business was doing might be of some potential use to the enemy.

Mr. HONAMAN. No, sir, Congressman Fascell. This—and I guess I overlooked a point there—this directive that we have been talking about provides for aid to companies that ask for it and advice when asked for—they are responsible, and only a small fraction of the information that is published by companies comes, under defense contract, comes to the Defense Department for examination. A good deal of it, I believe, is probably discussed with the local representative of the defense organization, the resident officer of liaison in the industry itself—

Mr. FASCELL. Well, it makes no difference whether it is on a local level or in Washington. The point is that decision is being made by somebody in the Defense Department.

Mr. HONAMAN. In a very small part of the total. I think the industry people make most of these decisions themselves.

Mr. MOSS. Do you ever request an industry, as the result of the publication of some information or some advertisement, to submit in the future to a review by the Defense Department?

Mr. HONAMAN. I have no knowledge of that. I don't think we ever did.

I have no knowledge of a case where we ever did, while I was in the Defense Department.

Mr. MOSS. Have there ever been, to your knowledge, any criticisms directed to a business because of the type of advertisement it might publish or material it might have released?

Mr. HONAMAN. No. There has been concern expressed in some cases. I don't have anything specifically to mention that comes to my mind at the moment.

Mr. SCHER. Well, there must have been concern, Mr. Honaman, or else this would not have been written into the regulation. Isn't that correct?

Mr. HONAMAN. Into the regulation—

Mr. SCHER. The September 15, 1955, regulation we are talking about.

Mr. HONAMAN. Well, there was concern, of course, Mr. Scher. Actually, this problem of concern over the kind of information which can be of value to the enemy goes back quite a long time. I probably have not gone all the way back, but I thought you might be interested to know that beginning at least as early as October 11, 1950—I have a copy of a memorandum signed by the then Secretary Marshall:

The fundamental principle involved is voluntary control by the possessor of unclassified technical information. Censorship is neither implied nor intended.

When fully implemented the program will help the holder of such information to make a more informed decision as to whether its free circulation would benefit the United States more than it would a potential enemy. This program has my unqualified approval and support.

So, you see, this thing has been a problem for quite a long time; and later on, as we handled it and dealt with it, I think we have made progress in getting this balance of judgment, Mr. Chairman, that we talked about just a moment ago.

Mr. Moss. Well, I am interested here in the language of the regulation itself. It says:

This section furnishes information which will enable the representatives of the military departments to provide advice and guidance on the subject to management when requested by them or when circumstances make it desirable.

What might be the conditions of that last qualification?

Mr. FASCELL. That just makes it a two-way street.

Mr. Moss. "When circumstances make it desirable"—what circumstances?

Mr. HONAMAN. Would you read that again, please, sir?

Mr. Moss. It is the end of the first paragraph, section 72.1-111, page 6775 of the Federal Register, September 15, 1955.

Mr. HONAMAN. And would you refer to the paragraph in the directive?

Mr. Moss. 72.1-111.

Mr. HONAMAN. Well, I am trying to think of something that would be an example of that, sir.

Mr. FASCELL. I would like to give my interpretation of it while you are thinking about it.

Mr. HONAMAN. I would be interested in hearing it.

Mr. FASCELL. It just means that when somebody in the Defense Department decides a particular piece of information ought to be withheld, that it can be.

Mr. HONAMAN. Can be called to their attention?

Mr. FASCELL. That is right, and then they sit down and hold a conference to decide whether it really should be withheld.

Mr. HONAMAN. I was thinking of a case that would be even more pronounced than that.

There are some areas, for example in the area involving atomic energy, that require certain restrictions on the handling of information by law.

Presumably if a situation like that arose it would be quite necessary for the Department to call attention of the manufacturers to the fact of certain statutes. I think that would probably be an example.

Mr. FASCELL. Mr. Honaman, you do not need this regulation if you have a statute.

Mr. HONAMAN. No.

Mr. FASCELL. And you do not have to be polite about calling it to their attention, either.

Mr. Moss. Perhaps it would be well if we recessed now until 2 o'clock and return at that time, and we will have some further questions on this directive at that time.

(Whereupon, at 12:15 p. m., the subcommittee recessed, to resume at 2 p. m., the same day.)

AFTERNOON SESSION

Mr. Moss. The subcommittee will resume.

And, for the purpose of keeping the record clear, Mr. Scher has some material he would like to place in the record, and I believe some questions he would like to ask.

Mr. SCHER. First of all, Mr. Chairman, I think we ought to get a little biographical material from Mr. Honaman just so the record shows who he is.

Will you just tell us briefly about yourself, your education, your work in industry, and when the positions you held in Government, and what your present status is?

**FURTHER STATEMENT OF R. KARL HONAMAN, FORMER OFFICIAL OF THE DEPARTMENT OF DEFENSE AND OF THE DEPARTMENT OF COMMERCE**

Mr. HONAMAN. Well, I am 60 years old. I was born in Lancaster, Pa. I went to college in Lancaster, at Franklin and Marshall College, receiving a bachelor's degree in 1916, and a master's degree in 1917.

I worked briefly during the years of World War I as a laboratory assistant—that wasn't the title, but it is descriptive—in some of the work of the National Advisory Committee for Aeronautics that was being done to develop the Liberty engine for World War I.

I went to the Bell System in 1919, first in the American Telephone & Telegraph Co. And when the research and development work of the Bell System, which was at that time a part of the American Telephone & Telegraph Co., was transferred to Bell Telephone Laboratories in 1934, I went to work there.

I had been doing engineering development work during those years, and then, in 1942, very early in 1942, just after the beginning of World War II, when the armed services were concerned about the training of civilian and military personnel in some of the new technological arts that had been coming along, notably radar and allied technology, my company, Bell Telephone Laboratories, was asked to set up a training operation to train the people who, in turn, would go out in the field and establish the military schools for training in these areas.

I was made director of that school at a time when there was no school, I actually organized the school from its inception, recruited the faculty and recruited people to write all the textbooks—there were no textbooks—and set up the facilities. And we trained 4,000 officers and men in radar, fire control, and allied areas.

This lasted until 1945, at which time I became assistant director of publication for Bell Laboratories, and a year later was made director of publication, and still am.

My Government service was begun in October 1954, when Secretary Weeks asked that I be made available for a few months to assist in setting up a program which he had been asked to undertake, that was the study program that became OSI. And instead of going back to my job at the end of a few months, I was asked to come to the Defense Department, and have been in that until the end of December 1955.

I think you have my title in the Defense Department.

Mr. SCHER. Would you give us that again, please?

Mr. HONAMAN. That was Deputy Assistant Secretary (Public Affairs).

Mr. SCHER. Now, as to your work as director of publication for the Bell Laboratories, did that include the problem of protecting your firm from any possible leaks of patent information and other such trade secrets involved in your firm's activities?

Mr. HONAMAN. Well, let me answer that this way: That in its publications our company, like other companies, has a policy of publishing the information on new developments just as promptly as we can after the proper, necessary patent coverage has been obtained. To that extent, we do pay attention to the question of how our patent position is taken care of. But beyond that, we publish very promptly, and we publish, incidentally, in the name of the man who has done the work; our research scientists publish their own results.

Mr. SCHER. You, therefore, had particular experience in certain fields which caused the Secretary of Commerce to have you come to Washington and help him set up some aspects of an information program; is that correct?

Mr. HONAMAN. I think that is a fair assumption, though I didn't ask Mr. Weeks what induced him to ask for me.

Mr. SCHER. When you came to Washington, to what duties were you assigned in the Department of Commerce?

Mr. HONAMAN. I think the best way for me to answer that question is to refer you to the announcement that was made, and I can read from that. You have that, undoubtedly. This is an announcement of the Office of Strategic Information:

The purpose of this order is to establish and define the organization functions of the Office of Strategic Information. This order is issued pursuant to a directive of the National Security Council which provides that the Department of Commerce shall be responsible for the implementation of certain policy determinations governing unclassified scientific, technical, industrial, and nonstatistical information.

Mr. SCHER. That, for reference purposes, was contained in the Federal Register of September 28, 1955, and is the Commerce Department regulation on the Office of Strategic Information, its organizations and functions; is that correct?

Mr. HONAMAN. Department Order No. 157.

May I read the next paragraph?

Mr. SCHER. Yes.

Mr. HONAMAN (reading):

The authority vested in the Secretary of Commerce by the National Security Council with respect to the matter described in section 3 is hereby redelegated to the Director of the Office of Strategic Information.

So that was the job I was asked to do.

May I point out in that connection, that this did not include what I think of as operations in information in the Department of Commerce, in Commerce's normal operation; this was a separate study.

Mr. SCHER. And it was to include the area of strategic information?

Mr. HONAMAN. That is right.

Mr. SCHER. Would you define the difference between "strategic" and "security" information?

Mr. HONAMAN. Well, I think, generally, as I have understood the term as it has been used—and everybody doesn't use it—but as I have



understood that term, it means information which is of intelligence value to the enemies of our country.

Mr. SCHER. And under section 3 of Order No. 157, it is a program designed to coordinate the release of unclassified, scientific, technical, industrial, and economic information, the indiscriminate distribution of which may be inimical to the defense interests of the United States. Is that what we mean by strategic information?

Mr. HONAMAN. Well, that was the particular assignment of this Office, and that is what the term "strategic information" in the name of that office means.

Mr. SCHER. Well, would you explain the difference between "strategic information," distinguished from "security information." How is it different?

Mr. HONAMAN. Well, generically it doesn't differ. The difference between "strategic information" and what some people define as "security information" is merely the one I amplified this morning when I said that there is a provision for putting information—stamping information "Confidential," "Secret," or "Top Secret."

Mr. SCHER. That would be security?

Mr. HONAMAN. And that is used by a good many people as security information, although the term "security information," in my opinion, is too broad to limit it to that particular group of things.

Now there is other information which, in its substantive value—and I am just going over ground that we went over this morning—would be eligible to be stamped with one of those stamps, because it has intelligence value to enemies. But because the use of the stamp and the handling of it by the prescribed methods would destroy its usefulness, it does not lie within those three areas, but is still of intelligence value.

Mr. SCHER. Doesn't Executive Order 10501 specifically state what is security information and give the right to use the stamp?

Mr. HONAMAN. As I understand it, Order 10501 provides for these three categories of information, and provides for stamping them and provides detailed instruction as to how to handle information that is so stamped.

It does not, to my knowledge, deal with questions of whether other information that may be of intelligence value should be handled—it didn't give any interpretation of it.

I think that is right.

Mr. SCHER. Mr. Honaman, doesn't Executive Order 10501 set up mandates for declassification of information, and wasn't one of its primary purposes that of undoing some of the harm thought to have been done by the Truman Order of 1951? Wasn't one of the purposes of the Eisenhower Order of 1953 to set up areas of specific declassification; 28 agencies were taken specifically out of the area of security classification, some 17 or 18 others were given only limited rights to classify, and the order itself has many details as to procedures for declassification? Wasn't the attempt there made by Mr. Eisenhower to limit the areas of security classification to some reasonable and workable ground?

Mr. HONAMAN. Well, not being a part of any of the Government organization when that was issued, all I can say is what I have heard. But I understand that there was question as to whether information

that should not be put in any security classification at all was not sometimes improperly placed in a restricted classification. And I understand, again, that one of the reasons for issuing a new order was to eliminate the possibility of doing that.

Mr. SCHER. So they were trying to set up a rule of reason as to what really is security, and to prevent over-classification of material?

Mr. HONAMAN. That may possibly have been one of the objectives.

Mr. SCHER. Under point 1 of section 3, Order No. 157 calls for the establishment of an advisory committee. Did you establish any advisory committee or committees, in line with this order on strategic information?

Mr. HONAMAN. Yes; we did.

Mr. SCHER. And what were their functions? What did they do?

Mr. HONAMAN. Their functions were to consider the kinds of information which originated within the departments, of the members of that committee, and to consider whether, because of the intelligence value, that information should have special consideration.

Mr. SCHER. Did you, under section 2, provide a central clearinghouse to which business and industry may look for guidance?

Mr. HONAMAN. I did not, but that was because the problem was just in a state of active consideration when I left that office. But I believe that some progress has been made on that. That, perhaps, you can get more light on.

Mr. SCHER. Could this program have operated without the central clearinghouse, because it was a voluntary program for submission by these people involved having scientific, technical, or industrial information? How could it operate without a central clearinghouse?

Mr. HONAMAN. Well, it had been operating by having people who wished voluntarily to secure advice, coming to various places in the Federal Government.

Mr. MOSS. Mr. Scher, I think it might be well at this point to go a little further into this matter of clarifying these directives or orders that we have been discussing this morning. You are talking about Department Order 157 now, of the Department of Commerce?

Mr. SCHER. That is right.

Mr. MOSS. The other directive under discussion immediately prior to lunch was—

Mr. SCHER. Those were the Department of Defense directives, Mr. Chairman, which I would like to defer just a moment until we get these in order, and what they stand for. I will introduce them point by point. I think—and Mr. Honaman might agree—that his experience in Commerce directly relates to his experience in Defense.

Mr. MOSS. Just so we finally have it very clear in the record as to exactly the directive we are discussing. I think it is important, because they are rather confusing.

Mr. SCHER. Yes, sir.

Now, section 4, under "Organization and Functions," order 157 discusses the responsibility for formulating policies and providing advice and guidance to public agencies, industry, and business, and other private groups who are concerned with producing and distributing information described under section 3, and that was unclassified scientific, technical, industrial, and economic information.

Were these concerned only with defense contractors?

Mr. HONAMAN. No, not necessarily.

Mr. SCHER. Anybody who might have any unclassified information that in any way might give some aid or comfort to the enemy?

Mr. HONAMAN. That was the intent of the directive that called the office into being, as I understand it.

Mr. SCHER. Did it include editors and publishers?

Mr. HONAMAN. If they would be included as part of the business community that handles information of this kind.

Mr. SCHER. Television, magazines, movies, the mass media?

Mr. HONAMAN. I would think so.

Mr. SCHER. Now, under this order on strategic information, you have a very wide scope of applicability; is that correct, Mr. Honaman? It includes not only defense contractors but the mass media, without any contractual relationship with the Government in any way? In short, this office was set up in the Commerce Department to control any information which, by any stretch of the imagination, might present material which would be of aid or comfort to the enemy, possible enemy?

Mr. HONAMAN. No, sir.

Mr. SCHER. Then what is the limitation?

Mr. HONAMAN. The word "control" was the limitation. That is your word, sir.

This office was set up to provide on a voluntary basis for assistance to people who could use it, in accepting whatever responsibility they had for information that would be harmful to this country.

Mr. SCHER. What was the reaction of editors to this order 157?

Mr. HONAMAN. Well, there was a range of reactions. Some editors were critical of it. Others editors thought it raised some questions that were worthy of consideration.

Mr. SCHER. Was there any—

Mr. HONAMAN. Let me say that I am speaking as much about the idea as about—you have asked your question as to the reaction of editors to the order—I was expressing what my impression is of their reaction to the idea.

Mr. SCHER. Was there any criticism of this order to the effect that it was a form of censorship?

Mr. HONAMAN. I have read such; yes.

Mr. SCHER. Do you think it is a form of censorship?

Mr. HONAMAN. I do not.

Mr. SCHER. Is it voluntary censorship?

Mr. HONAMAN. The words "voluntary censorship" to me have no meaning, because censorship, as I understand the term, implies pressure or instructions or orders external to a person to do certain things. A voluntary thing can hardly be censorship in that sense. So I would question the use of the term "voluntary censorship."

Mr. Moss. Mr. Honaman, didn't we operate throughout the period of World War II under a program of voluntary censorship?

Mr. HONAMAN. That is right.

Mr. Moss. But is was censorship?

Mr. HONAMAN. There you had a different kind of a thing, because it was voluntary in the sense that, having understood what was needed in wartime, people applied it to themselves.

Mr. Moss. Isn't this a form of censorship at the source? You deal here not only with the information which the industries might them-

selves have, and where you would like to advise them as to whether or not it would be wise to give out information on a product or an idea.

Mr. HONAMAN. Or where they would like to be advised.

Mr. MOSS. Or where they would like to be advised. But you also under the order envisioned a control over certain types of governmental information, which in itself was not classified, because if it were classified material the President's Order 10501 would apply, would it not?

Mr. HONAMAN. If it was in the classifications of confidential, secret, or top secret, that is right.

Mr. MOSS. But there is information of a type not classified but still of value to the enemy?

Mr. HONAMAN. Not in those classifications but still of value to the enemy.

Mr. MOSS. Then, in controlling the release of that information, what standards were applied?

Mr. HONAMAN. That, sir, comes right back to the question we discussed this morning, and which I discussed in my opening statement, that the application of intelligent judgment is needed to consider what benefits might accrue to an enemy and what benefits might accrue to our country by its being put out.

Mr. MOSS. Aren't we in this spot, that the person whom you discuss the matter with is equally as well informed as the Government, perhaps more so; if the information relates to some basic development, he is fully acquainted with, the fact that it might be of value to the enemy, and understands the Government's attempt to restrain such information because it is in the national interest for it not to be made public.

But in the case of Government-held information, if it has been determined by the Office of Strategic Information that despite the fact that that information has not been classified it still should not be released, then it is not released?

Mr. HONAMAN. May I say first that the information was not contemplated to be released by the Office of Strategic Information. It was set up to provide an awareness on the part of the other people who themselves would be releasing agencies. This was not an operating agency to handle information, but rather an agency to develop the awareness on the part of the people who themselves would be handling it. So it is not a releasing agency.

Mr. MOSS. Then, does it advise other agencies of the Government as to the policies they should follow in the release of nonclassified information?

Mr. HONAMAN. That was the intent, sir.

Mr. SCHER. Mr. Chairman, there is a provision which says that this agency will serve all the other departments and agencies of the executive branch.

Mr. HOFFMAN. Mr. Chairman, if counsel will permit, it also says over here under section 3, subsection 1:

\*\*\* to establish an advisory committee composed of appropriate agencies for the purpose of furnishing guidance to and establishing policy for the executive agencies,

and so on.

And then, over on subsection 02 of section 4—and I ask the witness—isn't this a limitation on the authority—it says:

\* \* \* providing advice and guidance to public agencies, industry, business, and other private groups.

Then these groups who are concerned with producing and distributing information described in section 3 are included.

Mr. SCHER. Mr. Hoffman, may I add this? Down further in that column, which I believe is .5, you will find a statement that they will act to —

Mr. HOFFMAN. Formulate policies.

Mr. SCHER. Formulate for all agencies and departments in the executive branch of the Government.

Mr. HOFFMAN. And it says:

\* \* \* provide advice and guidance to departments and agencies of the executive branch.

Mr. SCHER. That is right.

Mr. HOFFMAN. The one I was inquiring about is whether that statement above,

who are concerned with producing and distributing information, as defined in section 3 or referred to in section 3, didn't in a way limit the scope of the activities.

Mr. HONAMAN. It does, sir. I think your point is well made. It was not intended that this agency would pass on specific things, but would develop the philosophy and the awareness of this problem that could be used by people who themselves were going to handle information. And that, I believe, was the intent of the President and the Security Council in asking the Secretary of Commerce to do this.

Mr. HOFFMAN. Well, is this true—and counsel raised this point a moment ago, he asked about—how did you put it; voluntary censorship?

Mr. SCHER. Yes.

Mr. HOFFMAN. Or something of that kind.

And as I read this, the thought occurs to me that perhaps all it was was a suggestion as to how those who were willing, might provide censorship over information which it had been suggested to them might be of value to our enemies.

Mr. HONAMAN. I think that is quite right. I think that is a clear statement of it.

Mr. HOFFMAN. That is all. I was trying to understand the thing.

Mr. MOSS. I think that that might be true were it not for the language in subsection 1 of section 3:

establish an advisory committee composed of appropriate agencies for the purpose of furnishing guidance to and establishing policy for executive agencies for the publication of unclassified scientific,

and so forth on

information originating in departments and agencies of the executive branch.

Now, then, taking that together with what is under section 4, subsection .05:

The Office of Strategic Information shall formulate policies and provide advice and guidance to departments and agencies of the executive branch of the Federal Government.

Now, in the field of privately held information, perhaps it is purely advisory, but doesn't it go beyond the purely advisory function in relation to governmental agencies, reading those sections together?

Mr. HOFFMAN. You mean, wasn't it a hint?

Mr. MOSS. Almost a directive: "shall formulate policies."

Mr. HOFFMAN. Yes.

All it needed to make it airtight, "which shall be followed," they might have said.

Mr. MOSS. That is right.

Mr. HONAMAN. You see, the purpose of the committee was to get a group of people who had responsibility in their own departments to interchange ideas and become aware of this problem, but not to tell them case by case what they should do. And that is the way the office, I believe, is operated. It certainly did while I was there.

And I believe that that was the intent of the assignment when it was given to the Secretary of Commerce.

Mr. MOSS. What duplication is there under Department Order 157, of the Department of Commerce, and the regulations of the Department of Defense which were discussed this morning, where you provide a voluntary program of guidance to the defense contractor?

Mr. SCHER. You are referring, Mr. Chairman, to the September 15, 1955, directive?

Mr. MOSS. Yes.

Mr. HONAMAN. September 15? I don't think there is any duplication. The Department of Defense has had a member of this committee, and he has participated in the discussions that have taken place in the development of these ideas. But once again, the Office of Strategic Information had no responsibility or authority to tell Defense what to do. Defense has its own problems and its own set of directives in operating.

Mr. MOSS. How would you interpret subsection 5:

"The Office of Strategic Information shall formulate policies"—and then it goes on to give the additional duty—"to provide advice and guidance to departments \* \* \*?"

Mr. HONAMAN. That is right.

Mr. MOSS. Doesn't it have a directive there to formulate policies for departments?

Mr. HONAMAN. Yes. And still, the policies would be carried out, their implementation would take place in the Department. And, of course, the Defense directive is a directive to implement the policies in the Defense Department.

Mr. MOSS. Now, if I were a defense contractor preparing some advertising to dramatize something I was working on for the Government and I wanted to be reasonably certain that I didn't incur the displeasure of the Department of Defense or of the Government, and I submitted copy to the Department of Defense, should I also submit it to the Office of Strategic Information?

Mr. HONAMAN. No, unless you cared to; if you wished to.

Mr. MOSS. Supposing I cleared with the Office of Strategic Information, shall I then submit to the Department of Defense?

Mr. HONAMAN. Only if you cared to.

Mr. Moss. Even though the language on page 6775 of the Federal Register of September 15, under 72.1-111, paragraph D, says that—

Management should be advised that under no circumstances will it release to unauthorized persons classified information furnished to or developed by the facilities.

Mr. HONAMAN. This is not confidential, top secret and secret at this point, is it?

Mr. Moss. And you are taking D as applying only to that which is classified in accordance with Executive Order 10501?

Mr. HONAMAN. That is my understanding of that. That is where it says in no case shall it be released. That, of course, is provided by statute.

Mr. Moss. Well, now, where the information has been developed by the facility, by the manufacturer, how is that classified?

Mr. HONAMAN. That is a problem that is solved by the developer, by the manufacturer, or by the person who developed the information. It is his responsibility to determine whether it should be put in confidential, secret, or top secret classifications.

It is also his responsibility to determine whether, even though it is that kind of information, it would be too difficult to operate under the regulations for those three classes, and he might not put a stamp on it but still handle it as strategic. That is not under the control, you see, of the Government department.

Mr. FASCELL. Excuse me, Mr. Chairman, may I interrupt here?

Mr. Moss. Yes.

Mr. FASCELL. All of this you are just relating now is an action that would be taken by a manufacturer, regardless of the fact that he has a contract with the Government or not?

Mr. HONAMAN. No. This directive that the chairman is now reading from, I believe, is limited to Defense contractors.

Mr. FASCELL. Only in cases where there is an actual contract for the item that is developed?

Mr. HONAMAN. And in connection with Defense; this would not be a contract with the Commerce Department or Justice Department, this is a Defense contract. You see, he is over now on a Defense directive.

Mr. FASCELL. Now, this Defense directive that we are talking about appears in the Federal Register on September 15; was that promulgated as a result of a policy laid down by the Office of Strategic Information originally?

Mr. HONAMAN. No, sir. That was originally issued in early 1953 before the Office of Strategic Information was born, considerably before.

Mr. FASCELL. Let me see. These Department of Defense regulations that appear in the Federal Register, as I understood, originally were promulgated in January 1955, and now you tell me they were issued in 1953.

Mr. HONAMAN. Did I not make that clear this morning, that the one that was promulgated in 1955 was a minor revision of the one that was issued in 1953?

Mr. FASCELL. I didn't understand that until now.

Mr. HONAMAN. I am sorry, sir; that ought to be clarified.

Mr. FASCELL. There were 1953 regulations of the Department of Defense dealing with the subject matter that is set forth in the regulations that were finally set out in the Federal Register of September 1955?

Mr. HONAMAN. That is correct, sir.

Mr. FASCELL. But those were never published until 1955, September 1955?

Mr. HONAMAN. I am hesitating, because I don't remember seeing a copy of it. It must have been published in the Register when it was first issued in 1953. I can't answer that exactly, because I wasn't around, but I would assume that it would have been.

Mr. FASCELL. I mean, there is no reason to hold these regulations as classified material; is there?

Mr. HONAMAN. None whatever.

Mr. FASCELL. And if they were promulgated in January 1955, and not printed up until September, there would be no reason from a classification standpoint to hold them up?

Mr. HONAMAN. No, sir. My understanding of the difference in time there, Congressman, is the difference and only the difference in time that was necessary to get the thing printed and into the Register, the mechanics of doing it. Now, that is the understanding I have.

Mr. SCHER. Might I interrupt there?

I don't doubt your statement, but at the very end of the Register, they always give the date when the material was filed with the Register for publication, and the date is given, "Filed September 14, 1955, at 8:57 a. m." That is the day before it appeared in the Register. I can't quite see how it could have been filed the day before it appeared and have been held up in the Government Printing Office from January.

Mr. HONAMAN. I can answer that only by saying this: That copies of the directive were distributed to manufacturers, and I think I am right when I say that copies of that directive had been available to the press, for example, in our Pentagon press room early in 1955, at the time the thing was issued. It was not filed—and I don't recognize what that 1 day prior to the publication date really means; but it was not issued at that time, it was available to people very generally and had been widely distributed early in 1955.

Mr. Moss. Mr. Reynolds and Mr. Scher, will you make certain that this material is properly checked, so that when we do have the Department of Defense before us we will have all the facts before us?

Mr. SCHER. Yes, sir.

Mr. HONAMAN. The people who would have been actively associated with the dissemination of this directive earlier in 1955, of course, are not here, and I was not personally actively associated with it. I am reporting to you what I understood was the case when I inquired about it. I guess that is the best I can do.

Mr. SCHER. But you must be familiar with the rule under chapter 5 of the United States Code, section 1102, which says that all rules and regulations of the departments and agencies must be promulgated in the Federal Register. I think it is section B which has specific reference to the Federal Register.

Mr. HONAMAN. Does it say how fast the Register must print it?

Mr. SCHER. I assume it doesn't contemplate a lag from January to



September in so important a directive which concerns so large a segment of American industry.

Mr. HONAMAN. I wouldn't know about that, sir.

Mr. FASCELL. May I inquire, Mr. Chairman?

Mr. MOSS. Yes.

Mr. FASCELL. Mr. Honaman, do I understand correctly now that the theory of voluntary nonuse of strategic information existed in the Department of Defense prior to the time that the theory was set up in the Department of Commerce?

Mr. HONAMAN. Yes, sir.

Mr. FASCELL. And that regulations were promulgated and in use in 1953?

Mr. HONAMAN. That is correct.

Mr. FASCELL. And that when you set up the OSI you didn't set up anything new?

Mr. HONAMAN. Not in respect to defense contractors.

Mr. FASCELL. But it was something new with respect to nondefense matters?

Mr. HONAMAN. That is true; yes.

Let me elaborate on that, if I may, Congressman. There had been (before the Office of Strategic Information) a considerable flow of inquiry to various Government departments from manufacturers about information that they had and which they themselves were concerned with. So that it was not new in the sense that the problem was newly created then, but it was recognized—

Mr. FASCELL. The problem was there, but the method of handling it was not?

Mr. HONAMAN. That is correct, sir; some new method of handling it.

This isn't too difficult, to understand, it seems to me, because many contractors (many manufacturers; I will put it that way) have been for quite awhile aware of the fact that they had information which could be useful to someone whose intentions were inimical to our country.

And just as you Members of Congress, when you are preparing a bill, look to experts for advice, these people often were not sufficiently acquainted with the technical facts to make judgments, and they had been coming to various places in Government. And it was a recognition of that that led to the suggestion that there ought to be one place that people would be advised to come rather than to have these inquiries come, as I happen to have been told, some to the FBI, some to the Intelligence Agency, some to the State Department, some to the Commerce Department, and so on.

And it seemed to those who thought this was a proper procedure, that it would be wise, and probably in the interest of economic handling, to bring these things together.

Mr. FASCELL. Let's take a hypothetical case. Say we have a manufacturer who doesn't have a contract with the Government to produce a particular item but is concerned about whether or not it might have some military application for an enemy, and he is also interested in making some money out of it, if he can put it into military use.

So he comes to the Government, and they say, "We don't want to buy it, but it can be used by the enemy, so don't do anything about it."

Mr. HONAMAN. He wouldn't get that answer, sir. He would get the answer that, "Here are the reasons why this could be of interest to an enemy."

Mr. FASCELL. "So we suggest that you don't publish any information on it."?

Mr. HONAMAN. No, sir, not even that. "We suggest that here we are giving you this information, the decision is yours. This is a matter in which you, as a citizen, can exercise your responsibility as you consider it." And that is what we have meant by "voluntary" here. It really means that, as far as I have had any part in it.

Mr. MOSS. You mean that there is never advice given as to whether publication of information regarding the development or the item should be withheld?

Mr. HONAMAN. I am talking now about the Office of Strategic Information while I was there, which is all I can personally talk about.

We did no more in any case than provide the kind of information that would be useful in guiding the thinking of anyone who is going to make a judgment on that. And I think that is the answer to your question.

Mr. MOSS. And are those the standards developed by the Office of Strategic Information for other governmental departments? Were any standards published in connection with the Office of Strategic Information for the guidance of other departments?

Mr. HONAMAN. Not to my knowledge. The guidance didn't take place through published standards. The guidance took place, or does take place, through the interchange of ideas in this committee, which ideas can be implemented as the department which is ultimately responsible intends to use them.

The Office of Strategic Information has never told any department that "This is what you should do," but, "Here are the elements of this problem which you ought to think about."

Mr. MOSS. Have they ever told a department what they shouldn't do?

Mr. HONAMAN. Not to my knowledge.

Mr. MOSS. How do they communicate? You have an Office of Strategic Information, a director. What is the personnel of the Office of Strategic Information?

Mr. HONAMAN. There are just 3 or 4 people in it.

Mr. MOSS. And these 3 or 4 people sit down and discuss it?

Mr. HONAMAN. They meet periodically with this Committee.

Mr. MOSS. How do they disseminate the substance of their discussion to the many agencies of the Federal Government which might originate some information of strategic importance?

Mr. HONAMAN. Each agency has a representative on the committee.

Mr. MOSS. On the Advisory Committee?

Mr. HONAMAN. On the Interdepartmental Advisory Committee. And through the deliberations of that Committee, he takes to his agency whatever guidance value comes out of that.

Mr. MOSS. Are there any representatives on the Advisory Committee from other than governmental agencies?

Mr. HONAMAN. No, sir.

You see, if you read item 1 under .01, "Establish an Advisory Committee composed of appropriate agencies for the purpose of furnishing

guidance to executive agencies on the publication of unclassified," and so forth—these are agencies of the Government.

Mr. MOSS. Now, that still takes me back over here in section 4 to—

Mr. HONAMAN. Just a second. Maybe I am speaking about item 3 here—no, item 1 is the one we are talking about; that is right.

It is a committee of agencies of the Government, appointed by the head of each agency in each case.

Mr. MOSS. Yes, for the purposes of furnishing guidance to and establishing policy.

But under .05, section 4, it goes on to say there that the Office of Strategic Information shall formulate the policies. That is the Office of Strategic Information, that isn't the Advisory Committee. It says the Office of Strategic Information shall formulate policies.

How does it communicate those policies to the agencies? The Advisory Committee advises the Office of Strategic Information.

Mr. HONAMAN. Well, I can tell you what I construed that to mean, and the way I think it has been done, that is that that function has been carried out through the Committee, which is mentioned in item 1.

Mr. MOSS. The committee advises the Office of Strategic Information, which adopts the policies and then informs the advisory committee, and the advisory committee then informs the agencies.

Mr. HONAMAN. That is correct.

Mr. MOSS. At no time is this policy reduced to writing, so that it is available—

Mr. HONAMAN. Except insofar as there are records of the discussion of the members of the committee in their meetings.

Mr. MOSS. But after they have arrived at a policy determination, is there any information given out on what the policies are to be, or is it an entirely closed field, a field more or less of shadow where you cannot pin down a decision?

Mr. HONAMAN. No; I think that the crucial point is that the responsibility for decision is not in this office or in this committee but in the executive department, there has been no elimination of that, and this provides information which can be used in making executive decisions in this department.

Mr. MOSS. Then .05 would not apply, because it says the office shall formulate policies.

Mr. HONAMAN. It doesn't say how it shall do it.

Mr. MOSS. No; it doesn't say how it shall do it.

Mr. HONAMAN. And it has done it through the medium of the committee.

Mr. MOSS. Then rather than formulate policies it has formulated recommendations and left it entirely to the agencies as to whether or not those recommendations shall become policy?

Mr. HONAMAN. I believe that is a correct statement. I think that is correct.

Mr. MOSS. Now, how far are we going in the use of the Office of Strategic Information and the voluntary review of censorship, whatever we call it, program of the Department of Defense, in creating a field of classification outside of the Executive Order 10501? We could go quite a distance there, concerning information which is suppressed or withheld but not classified?

Mr. HONAMAN. Of course, sir, the question of whether information has a harmful effect on this country if it is widely disseminated is not a question of the stamp on the piece of paper, it is a question of fact. And the kind of thing I discussed this morning where information is of a nature that it should go in one of the three (confidential, secret, or top secret) classes, but because of the practical handling problem its purposes and usefulness would be destroyed or frustrated if it were put within those restrictions, you still have with you—and as I say, if you remove a stamp from a piece of paper that operation does not determine whether it is harmful to our country, that is a fact which is quite independent of the stampings on the piece of paper.

Mr. Moss. I think we would concede that very readily. However, in the classified material under Executive Order 10501 you have an orderly review procedure, if the order is followed. I think it requires an annual review of the classification. In this field, in this area of sort of a superclassification, or an undefined classification, what procedure of review is provided?

Mr. HONAMAN. Now, this is pretty much an operational question, so I will have to come to my own experience in operations. As an administrative function, the review of material for removal from any of the three classifications provided in 10501, or the removal of material from any other classification, is a continuous process, not necessarily a periodic one. We look at this continuously—I say “we,” I mean those in the Defense Department; it was “we” when I was there—are continually struggling with this problem, and I think keeping alert to it.

So that this review is a problem again of sound administration and the exercise of good judgment. We come back to that, sir, always.

Mr. Moss. I grant that it is a matter of sound administration. And yet the President saw fit to require an annual review. And I think it was testified by other agencies in the first series of hearings that they were not reviewing certain types of classification. And the fact that it is required by the Executive order itself, I think would indicate that there was a fear that some of this would not be reviewed. If we are going to go into another field of classification, as is envisioned here, even though it should be voluntary, shouldn't there also be some review procedure, as a matter of policy?

Mr. HONAMAN. Well, I think any information which needs special attention ought to be reviewed continuously. Otherwise, you could hardly conform to what I believe is a fundamental approach, that all information should be available unless it has some harmful aspects. And that implies to me that you constantly review the question of special consideration. I would agree to that.

Mr. Moss. That doesn't go into this field of voluntarily submitting to censorship—and I recognize that you don't agree with the word “censorship” in this instance—as is being done here in both of these orders. Can it be left entirely to advisory committees and to decisions on the part of representatives of executive agencies of Government, or should it require some representative of the public or the press to sit in if we are going to have this type of control over information which might be of the utmost importance, not only to our security but perhaps to our industrial development?

Mr. HONAMAN. I think, sir, that the problem is a cooperative one. I was trying to find here the talks that I made some time ago with reference to that. I think this was a talk to the newspaper editors association.

I started with the assumption, sir, that anyone who handles information and, I assume, has the interests of his country at heart, would want to do whatever is right in meeting this problem:

Those who generate information and those who disseminate it are both concerned. We need the cooperation and help of the press. At the moment you may not know all the answers as to how to tackle it, I am confident that if you weigh the facts and consider them carefully, you can contribute to the solution of this problem.

I think that that would be an answer to your question, sir. I think that it is a cooperative job. I am sure from my experience that nobody knows all the answers to this problem. To try to meet these problems is an experience which gives you pause because of its scope. And I think that only when you can get the cooperation of a variety of people who are concerned and who have the interest and safety of our country at heart can you get the best answer.

Was that an answer to your question?

Mr. Moss. I think partly. Perhaps this might add something. Don't you think it becomes, from the Government's standpoint, a matter of emphasis on attitude? If the attitude is one of having to justify, first, the release of information, that it becomes more restrictive than if the attitude is that you must justify the withholding of information?

Mr. HONAMAN. I think the answer to that is "yes." And my philosophy is that information should be released unless it is clearly likely to jeopardize our national interest or national security, not the other way around.

Mr. Moss. Then the general standard which the Government might well adopt would be that all information is free unless there is an affirmative finding that it would be not in the best interests of the Government to release it?

Mr. HONAMAN. I think that is correct; yes, sir.

Mr. Moss. We have found repeatedly in the first hearings a tendency to go just the other way, to sit on the information unless the finding were made that it should be released.

Mr. HONAMAN. Well, sir, I think that in one of these directives we have talked about this morning (5230.9, I think) this was the thought that was behind this sentence:

The Department of Defense has an obligation to inform the public within the limitations of security and policy with respect to the Department's activities, and to provide the public with accurate factual and other proper information regarding the Army, Navy, Air Force, and Marine Corps.

And I think there are two things here that are significant—and we should not overlook the second one—first that we have an obligation to disseminate, unless there is a reason, a clear reason, and it is clear to properly qualify people; and the second thing is that it should be accurate.

Mr. Moss. However, I find here in this directive the same defect which was apparent in the orders of the Civil Service Commission. There the policy statement on information was an excellent one,

However, in the personnel manual there was a direct charge to the employees that they should not disclose any fact about their activities unless specifically authorized to do so.

Now, here in the last paragraph of the same directive which you have just quoted from, "All personnel shall assume personal responsibility for their speeches, articles, and information releases"—and if I were an employee of the Defense Department I would also feel that was true about any information—"being consistent with the national security and the policies and objectives of the Department of Defense." They have to find first that it is consistent with all security requirements. If there is an element of doubt you don't release it. I think the emphasis in the other direction might tend to give a freer flow of information. And if the person responsible is as diligent as he should be, it wouldn't go any further in the field of endangering the security of the Nation. I think it might free up just a little more the flow of information.

Would you agree with that statement?

Mr. HONAMAN. Well, I can only say that in my experience I haven't found any situation which seemed to me to point to the fact that we could have done better from that point of view if we had had different language.

Mr. MOSS. I recall our first discussion, Mr. Honaman. I think I indicated we were very much interested in attitudes and in views and the effects that some of the language might have upon people who work for Government. I think we have to recognize that sometimes committees of Congress have done things which have made employees of the Government feel perhaps that the less they say about their work the safer they are, the more secure they are personally. And language of this type, doesn't it go along the same line, "Be absolutely certain that you can justify the release consistent with the national security, or say nothing."

It is the emphasis here. And I think it is a reversal of the emphasis which, if this committee is able to accomplish it, might prove to be a useful contribution to the field of information.

Mr. HONAMAN. I think that is an interesting comment. I still feel that we have the problem that any words you write cannot possibly deal with every conceivable and foreseeable specific situation, and that whatever words we write, the job will be as well done as the integrity, intelligence, and judgment of the people who are going to administer it. So we still come back to good administration and good judgment.

Mr. MOSS. I certainly agree that we come back to that as a problem which challenges the imagination of every member of this committee in trying to arrive at a solution. Nevertheless, the matter of emphasis in the writing of these directives—in this instance the Department of Defense, in the first hearings the Civil Service Commission—could contribute to a freezing up of information, to a freer attitude, less tension, perhaps, on the part of employee who handles information.

Mr. HONAMAN. I am sure that anything that can or will be done in that connection would be quite consistent with what I believe is the objective of the Defense Department, from the Secretary on down.

Mr. SCHER. Pursuing that thought just a little bit further, Mr. Honaman, after you come to the Defense Department, when you were asked about the phrase in the directive of the Defense Department's

5230.9 on a constructive contribution to the primary mission of the Department of Defense, did you explain that in the following words, "There are many cases where demands for information which takes up the time of people with busy schedules do not truly meet the requirements of being useful or valuable nor yet very interesting to the public"?

Mr. HONAMAN. That is correct.

Mr. SCHER. Will you explain what is valuable or interesting to the public, and what is not?

Mr. HONAMAN. I think we ought, in order to get that into perspective, have in mind that this was an answer to a letter which was written to me in which, as I recall—

Mr. SCHER. Was that letter from an editor?

Mr. HONAMAN. That is correct, from Mr. Wiggins, I think—in which it was indicated that the use of the word "constructive" in this directive—and I am drawing upon my memory now—was self-serving on the part of the Secretary. Since I don't have the letter I can't quote it. I would like to have it understood I am drawing on my memory here.

Mr. SCHER. I can provide you with a copy, sir.

Mr. HONAMAN. And I had become sufficiently familiar with the attitude as I saw it to feel quite sure that that was not a warranted statement. We were, of course, dealing solely with the directive. And the directive in turn was dealing solely with the information generated within the Department of Defense. And it seemed to me that it would be helpful to point out that as I understood it then, what was meant by this word "constructive," as our people—as I explained this morning—bring up for release information items that what was meant was that these items should be of use and of value to the public.

Mr. SCHER. Who is to determine what is of use and value to the public?

Mr. HONAMAN. Anyone who handles information and is interested, Mr. Scher, in the protection of our country.

Mr. SCHER. Are you familiar with the history of the first amendment, sir, of the United States Constitution?

Mr. HONAMAN. I am not a lawyer, Mr. Scher, but I think as a layman I know about it.

Mr. SCHER. Is there not a whole history back of that in our colonial period and the British experience, which sets the whole tone of our free press. It is not true that no government can ever tell the people what is valuable or interesting; that the editors have an absolute right to report what is valuable and interesting and that the people have a right to know what is valuable and interesting, and the government has no right to tell them what is valuable and interesting?

You used the terms "valuable" and "interesting."

Mr. HONAMAN. "Valuable" and "useful."

Mr. SCHER. And "interesting."

Mr. HONAMAN. And sometimes not very interesting.

Mr. SCHER. Not very interesting to the public?

Mr. HONAMAN. Actually, we are not justified in incurring the criticism of editors, as has happened, for sending them trivia.

Mr. SCHER. Are they not the judge of that, Mr. Honaman?

Mr. HONAMAN. I don't think we would be justified in spending the taxpayers' money in providing releases which the editor himself complains about as being inconsequential.

Mr. SCHER. But were you not defining the words "constructive news"?

Mr. HONAMAN. No; I was defining things that were generated in the Defense Department to be disseminated as information.

Mr. SCHER. And so you were to judge whether it was "useful" or "valuable"?

Mr. HONAMAN. No, no.

Mr. SCHER. Who was to judge?

Mr. HONAMAN. Well, there would be—

Mr. SCHER. The Secretary of Defense?

Mr. HONAMAN. I might have a comment on it; I might have a part in it.

Mr. SCHER. Well, now, how can we under our American democracy have Government officials judge what is valuable or interesting or worthwhile for the American people to know?

Mr. HONAMAN. Let me ask you if Government officials who have a sworn responsibility, do not do their conscientious best to judge what is in the interest of the safety of this country, who will; what is going to happen to it?

Mr. SCHER. Mr. Honaman, may I ask you another question in reply?

How long have we had the security problem with us? How long have we had crises in America? That has been for quite a while, has it not?

Mr. HONAMAN. We had a security problem for quite a while.

Mr. SCHER. We will continue to have one for quite a while, from all indications.

Mr. HONAMAN. Yes.

Mr. SCHER. As a matter of fact, we live in Government by crisis, do we not?

Mr. HONAMAN. Well, I would not want to say yes or no to that unless you defined it. I don't know about that.

Mr. SCHER. Every year there is an international crisis, is there not? Under those circumstances, the things that are valuable and interesting and to be released will depend upon the nature of the crisis, will they not? Is that our criteria for strategic information, for constructive news?

Mr. HONAMAN. It would depend upon the nature of the crisis. I don't think I understand just what is involved in that.

Mr. SCHER. Well, it is because of the cold war, is it not, that we have this problem of strategic information?

Mr. HONAMAN. Partly because of that and partly because of the fact that Government has gotten large and ramified and people are properly, I think, concerned about the amount of effort and money that is put into this program and I think as the Congress informed us in the report of the Appropriations Committee, people who are in responsible positions ought to do their best to see that they don't waste the taxpayers' money.

Mr. SCHER. Has Congress enacted any statute giving the Department of Commerce the right to set up the Office of Strategic Information? Is there any statutory provision for such withholding of information?



Mr. HONAMAN. Well, this is getting into legal questions. I think the Office—you are talking now about the Office?

Mr. SCHER. Yes.

Mr. HONAMAN. Of Strategic Information? The Office of Strategic Information was set up as this release that we talked about states—in pursuance to a directive of the National Security Council on the advice of the President.

Mr. SCHER. Then it is under the Presidential cloak, the aegis of confidentiality that this was set up?

Mr. HONAMAN. In my operations in the Government, sir, I have been advised that the things that I have been asked to do were proper and legal. And not being an attorney I haven't specifically examined the question such as you are stating which sounds to me like a legal technicality. I am not competent to answer a legal question.

Mr. SCHER. Yes, sir.

Mr. HONAMAN. But I have been advised that the things that I was asked to do have had competent, proper authority to ask me to do them.

Mr. SCHER. Were you informed by the American Society of Newspaper Editors that they were very willing to decide what was useful, valuable, and interesting to the American public but they didn't want any Government official or agency to tell it or the public what was valuable or interesting?

Mr. HONAMAN. I have no recollection. Are you referring to something that you can state?

Mr. SCHER. I thought that was part of the communication between you and the editor you mentioned?

Mr. HONAMAN. I don't recall that as being part of the correspondence. I won't say "Yes" or "No" to that.

Mr. SCHER. Let's just get back to this for 1 second. How can you define "useful," "valuable," and "interesting information"?

Mr. HONAMAN. "Useful" is a very good word. I try to spend my time doing useful things—try to spend my time doing valuable things. And I think most people who are properly informed would be able to make intelligent judgment about a question like that.

Mr. Moss. At that point, though, Mr. Honaman, in the field of information, information which might be useful or valuable to a citizen in one occupation might be completely uninteresting to a person in another line of activity?

Mr. HONAMAN. Yes, sir; that is correct.

Mr. Moss. When we try to impose standards—if such standards were imposed—are we not by the very standards limiting the news so that large groups of people, or even small groups of people might be denied information which to them would be extremely interesting?

Mr. HONAMAN. Well, this is certainly one of the problems that must be dealt with in trying to find the practical course for this program.

But if people in Government, sir, do not make an effort, a conscientious effort to protect information which would be inimical to our interest, what would the alternative be?

Should you just forget about this problem and say, "We will publish everything to the world," and let everything drift, do nothing about it?

Mr. Moss. I do not think anyone at any time has challenged the propriety of action aimed at protecting the security of the United States, the withholding of information which clearly endangers the security of the United States.

I think you have indicated in some of your statements or your speeches that this isn't an area that is clearly black or white. It is one of gray.

Mr. HONAMAN. It would be really a fine thing if it could be simply divided into blacks and whites. We would all have an easier time; wouldn't we?

Mr. Moss. There would be no problem.

Mr. HONAMAN. The problem would be easy.

Mr. Moss. We are in an area where everyone would be in complete agreement. But if we are going to impose standards, the type of information which can be made available to the American people, in a field as broad as that of the strategic information, which could be almost anything, at certain times it might be that a weather report would have tremendous strategic value to a potential enemy, particularly if it happened to give detailed weather information at a time when they would be planning a surprise attack against the United States or some possession of the United States.

It could be some news item in the very broad field of electronics. It could be any number of things that would have strategic information and perhaps in our diligence to watch this field we overlook some development which upon application proves of tremendous value about which much information is available.

But in arriving at standards or attempting to control by a voluntary agreement and leaving entirely within the hands of Government the determination of what constitutes valuable information, is it not a fact that we are going in deeper and deeper into some field of shadow classification?

The President by Executive Order 10501 tried to clarify a previous Executive order issued by President Truman and it was the announced intention of the President that we narrow these fields of classification in an effort to free more information, but if in addition to these classifications we are going into this whole field of voluntary censorship, has the final result been a freeing of information or merely a shifting of methods of classifying, to a less clearly defined area?

Mr. HONAMAN. Well, of course, the President also was concerned about information which didn't fall in those three classes, indicated by the direction to study this problem in the Commerce Department.

Mr. Moss. Do you think we could define more clearly the area of strategic information?

Mr. HONAMAN. I think it should be defined just as clearly as it can be, sir. You mean more clearly than it is here?

Mr. Moss. Yes; would there be less restriction by a clearer definition of "strategic material," less restriction on information than will gradually build up under a system of voluntary censorship?

I still feel that in submitting to the Department of Defense a manufacture has a pressure on him; if he holds a defense contract, there is the inclination to accept the decision of the Department of Defense, even though it might be one with which he disagrees.

We spend what?—\$36 billion a year—I think we have authorized that much—we have spent more than that actually, which is about

8 or 10 percent of the output of our American industry—touching upon almost every type of industrial activity.

So that the power, the pressure which the Department of Defense could apply in this field is really tremendous.

Do you ever have any fear that we might so restrict the strategic information that it would actually hamper American industrial development and growth?

Mr. HONAMAN. Well, this is quite hypothetical, sir. You say, might we. Of course, anything can happen. I haven't found that the practices up to now do so, and I am convinced that if they are administered well, they should not.

Mr. Moss. Do you think we should watch them very carefully to insure that they not develop in that direction?

Mr. HONAMAN. Oh, I think this—may I refer back to the last few words in my statement this morning? "Keeping the public adequately informed is a matter of tremendous importance and making sure that it is properly done requires constant study."

I think it should be constantly examined by anyone who has any responsibility.

Mr. Moss. Would you say that that responsibility is not only in the executive department but in the Congress and on the part of the public as well?

Mr. HONAMAN. The public as well, yes, sir; Congress and the public and the executive department, people who have accepted the responsibility for it.

Mr. SCHER. Mr. Chairman, I would like to refer now to the third of these three orders that we have been discussing: The first was the order of the Department of Commerce. That was Order No. 157 of September 28, 1955; the second we discussed was the order of the Department of Defense, of March 29, 1955, No. 5230.9; and the third was the order of September 15, 1955, on the industrial defense regulations.

Turning to that third one now, Mr. Honaman, are there any sanctions that could be imposed by the Defense Department against a person with a defense contract who does not submit to the so-called voluntary review or censorship, or is this entirely voluntarily with the contractor?

Mr. HONAMAN. This is entirely voluntary with the contractor.

Mr. SCHER. Well now, that contractor must get clearance, must he not; he and his employees must get clearances, if they have a defense contract.

Mr. HONAMAN. If they are working on matters that are properly placed in "confidential," "secret," or "top secret" classifications.

Mr. SCHER. What if he makes an error of judgment and releases material which in your opinion should not have been released, do he or his employees get clearance, when there is a review, say, of their clearances or when there is a new contract up? Does he get a new contract?

Mr. HONAMAN. With respect to this, there would be no effect upon his ability or inability to get new contracts. This would have no bearing on that question, as I have experienced it.

Mr. SCHER. Do I understand you to say that if a person releases strategic information, when he is reviewed for a new contract, there would be no applicability as to whether or not he had released that

information, as to the question of whether he receives another contract in the security review?

Mr. HONAMAN. This is my understanding. You must understand that the implementation of this directive takes place through the military service people who handled military contracts. Naturally, my information would be gained from what I learn from them.

And it is my understanding, and I again will appeal to my own experience, I don't know of any case where either a contractor has—I don't know of any case where a contractor has claimed to have lost a contract because of such a question arising.

Mr. SCHER. How would he know? Is he told when he does not get clearance the reason for not getting the clearance? When was he ever told that he didn't get clearance for such and such a reason? When was the reason ever specified to a man who is not cleared for a defense contract, or his employees in the defense shop?

Mr. HONAMAN. I don't know the answer to that. Can you help me on that? How is that implemented through the service?

The clearance system, of course, is not a problem that my office in Defense had any responsibility for, and the contracting system also, as I said a moment ago, is handled by the service people, who let contracts, and I would have to rely entirely on the information I get from them, except insofar as the committee may want to go into this when you come to operations, and I am only wondering if this isn't getting deeper into operating problems.

Mr. MOSS. I think that we can cover it clearly in a later hearing.

Mr. SCHER. I want to set the stage for it, anyway. Just one more question.

A college professor who is known Communist or Communist sympathizer, would not be cleared to do work for the Department of Defense or experimental work for the AEC, or anything like that; would he?

Mr. HONAMAN. I would think not.

Mr. SCHER. What if that college professor were to reveal some of the findings which were confidential, strategic information, under this regulation of September 15, 1955, revealed some of these findings unwittingly and it turned out to be the kind of strategic information that you thought was of some value to the potential enemy, would he get some more work on that? Would he again be hired to do another project?

Mr. HONAMAN. You are talking about a college that has a research program?

Mr. SCHER. That is right, a research grant in a strategic area.

Mr. HONAMAN. And information you said a moment ago that is "confidential"?

Mr. SCHER. Because it is strategic, not because it is security but because it is strategic.

Mr. HONAMAN. "Confidential" means to me that it is "confidential" as defined in 10501. That is what you mean?

Mr. SCHER. I mean by "confidential" anything involved in your concept of both strategic and security, 10501 plus the Office of Strategic Information in the Commerce Department plus the order in the Defense Department—all of that is confidential according to your definition.

Mr. HONAMAN. No; I must object to that because those are your words and not mine. I have not used the term "confidential" except to define an area that is specified.

Mr. SCHER. In 10501?

Mr. HONAMAN. Named as having specific significance and there is spelled out.

Mr. SCHER. And you are perfectly correct, sir.

That is the only place it should occur in Government, is that right, because that is the Executive order?

Mr. HONAMAN. The only place it does.

Mr. SCHER. All right. Let us change our terminology then, and say, anything that is restricted in any way, under any of these orders. Let us say that he divulges information that falls in the category of strategic information as it is defined by the Commerce Department order and the Defense Department order, strategic information, but not security information, will he get another research contract or grant? Will he be cleared?

Mr. HONAMAN. If he were a known Communist?

Mr. SCHER. No, no. I have forgotten all about being connected with communism.

Mr. HONAMAN. That is something else then.

Mr. SCHER. If he were a clearly non-Communist, loyal scientist who inadvertently divulged this information, would he not be right back in the position as though he were a Communist, and would not be cleared for further research work?

Mr. HONAMAN. I don't think—

Mr. SCHER. He would get clearance despite the fact that he divulged strategic information?

Mr. HONAMAN. That would be my opinion but again, if you can go to the contracting people and ask this question in terms that represent specific examples, I think you will get a more informed answer. I believe that is correct.

Mr. Kennedy reminds me—this will be of interest. This is a matter that is handled in the Department of Defense by the Office of Industrial Security and not by the Office of Information.

Mr. SCHER. There is no liaison?

Mr. HONAMAN. We consult from time to time but the responsibility, the responsibility in the operating area is in the Secretary's office in industrial security and in the various branches of the military service.

Mr. FASCELL. That brings up an operational question I have been waiting to ask for some time. During the time that you were in this position, and the question came up, not on defense matters, but on strategic information with respect to a manufacturer, and a decision was made that the particular piece of information would be withheld, the decision having been made by the manufacturer without any suggestion or intimidation or otherwise, but he arrives at it independently, let us say for the purpose of this hypothetical question; then he changes his mind, and he goes ahead and releases the information anyway and it comes to the knowledge of your office where it properly should come, do you or did you maintain files which indicated in any way that the position of that manufacturer had been changed and that the information had been released when it originally had been determined that it would not be released?

Mr. HONAMAN. No.

Mr. FASCELL. There is no followup on it?

Mr. HONAMAN. Yes; there is no followup. A thing that my office might do would be to call the attention of the service to the fact that this situation had developed. The service already being aware of it, may or may not do anything about it, but we may not even do that.

Again, you see, these things have a wide range of impact and importance.

Mr. FASCELL. Depending on the nature of the information?

Mr. HONAMAN. Depending on the nature of the information, yes.

Mr. FASCELL. Well, now, we get back to 10501 for a moment and reading the definition of "confidential"—

the use of the classification "confidential" shall be authorized by appropriate authority only for defense information or material, the unauthorized disclosure of which could be prejudicial to the defense interests of the Nation.

We have a clear concept there of what we mean by "confidential."

Under the directive which established the Office of Strategic Information, the directive went beyond this and set up a classification for "strategic information" which as you say is voluntarily administered. I want to get to the operation of how that is done.

I am a manufacturer in Podunk and I have got something that I think will sell, but I am concerned about what possible value it might have to a potential enemy. So I come to the Office of Strategic Information and I say, "O. K., this is what I have got. Now, what can I do with it?"

Do we have a conference in your office at that time or do I sit in on the conference? What happens?

Mr. HONAMAN. By "my office" you mean the Office of Strategic Information?

Mr. FASCELL. That is right.

Mr. HONAMAN. Several things may happen. The man's inquiry may come in in a letter, in which case that office would gather together all of the pertinent information they could get from any departments that may have information relating to it.

Mr. FASCELL. As to the possible value of the particular information to a potential enemy?

Mr. HONAMAN. That is correct, sir.

Mr. FASCELL. All right.

Mr. HONAMAN. And make this available to that inquirer as information upon which he can act as—

Mr. FASCELL. One way or another as he see fit; you would give him the facts upon which to base his judgment.

Mr. HONAMAN. That is correct, sir.

Mr. FASCELL. I understood you earlier today to testify that a particular bit of information in this country might be of potential value to an enemy, that it was not information which should be released, because then that fact would be of value to the enemy, because they would know that we knew it.

Mr. HONAMAN. Oh, I think—will you phrase that question again because I think we are getting into another area now.

Mr. FASCELL. No, we are talking about strategic information in a hypothetical case where I might make an inquiry to the Office of

Strategic Information about publishing information on a new product that I have devised.

Mr. HONAMAN. And this may be information which substantively might fall into 1 of the 3 classifications?

Mr. FASCELL. No; this information is of strategic value as may be determined by the OSI, based on facts they have gathered up from a whole bunch of agencies in the Government.

Mr. HONAMAN. And it is the kind of information which if it were not for the necessity of disseminating it widely could substantively go into one of these classifications?

Mr. FASCELL. No; has got nothing to do with classifications under the Presidential directive at all. It has to do with the directive of the OSI in the definition of what is "strategic information."

Mr. HONAMAN. But if it was a component for a guided missile, sir, for example, then except for the need for practically disseminating it, it presumably should be in 1 of those 3 classifications but you cannot put it there.

Mr. FASCELL. Let us eliminate that type of a product from our discussion for the purpose of determining the operational procedure, because we are already at the point, if I understand the operations of your office, where an inquiry comes into the OSI, and it gathers up the facts from other agencies as to the particular item being of any use to a potential enemy.

Then you said that that information is made available to the manufacturer so that he can determine in his own mind whether or not it should be released. And the question I am asking you is the fact that you release the information that can be of potential use, is not that a violation of your own order?

Mr. HONAMAN. The fact that the manufacturer released it—

Mr. FASCELL. The fact that you release it to the manufacturer.

Mr. HONAMAN. Oh, no, no, not necessarily.

Mr. FASCELL. How in the world does he determine that the information he has got should be withheld?

Mr. HONAMAN. Would you reduce your question to some—

Mr. FASCELL. Specific item?

Mr. HONAMAN (continuing). Some kind of an example.

Mr. FASCELL. Let us take a transistor.

Mr. HONAMAN. Yes.

Mr. FASCELL. I go to the Office of OSI, I say, "I have got a wonderful product here. I can use it in civilian life and make \$50 million with it on civilian application, but I have it in the back of my mind that this thing might be of potential value to the enemy."

All right. What happens?

OSI has a meeting; they call in this Interdepartmental Committee; they decide right then and there how it can possibly be applied militarily and they say, "Yes; if this information got into the hands of the enemy it could be of value of them."

Now you tell me that that information as to how it would be of value to the enemy is disseminated to the manufacturer.

Mr. HONAMAN. That is correct.

Mr. FASCELL. Is that in writing?

Mr. HONAMAN. It may be. I think the Congressman is talking about giving the manufacturer a set of reasons or an understanding of the reasons of why this would be of value to an enemy.

Mr. FASCELL. Right.

Mr. HONAMAN. That may be given in writing. But it may be—

Mr. FASCELL. You do not come up with an ultimate conclusion, do you, to the manufacturer?

Mr. HONAMAN. You mean with an instruction?

Mr. FASCELL. No; just an ultimate conclusion. Your inquiry of a new style hairbrush—"yes; this could be of potential use to the enemy."

Mr. HONAMAN. Generally, he will be given more than that. And it may be that the reasons why this would be of value to an enemy would themselves necessarily be put in one of those three classes.

Mr. FASCELL. Right.

Mr. HONAMAN. In 10501.

Mr. FASCELL. Supposing it is, you cannot release it to the manufacturer.

Mr. HONAMAN. You can as a classified document. If it is determined that there is a need to know, if he is an American citizen, for example, and it is determined that he had a need to know, you are at liberty to give him information which will bear the stamp "confidential."

Mr. FASCELL. Maybe I do not understand the workings of this thing correctly. Do I understand that an American citizen can get information which he needs to know under Executive Order 10501 that has been classified under 1 of the 3 categories without getting security clearance?

Mr. HONAMAN. On a need-to-know basis, on "confidential," "secret," and "top secret," he must have security clearance. In any case, it is on a need-to-know basis in any of the three.

Mr. FASCELL. It is your statement that in the operations of the office while you were in there you noticed no impediment or interferences with the American industry under this setup?

Mr. HONAMAN. Under the setup of this?

Mr. FASCELL. OSI.

Mr. HONAMAN. OSI; that is correct. I have not in my experience.

Mr. FASCELL. And in your experience as a businessman operating on the other side of the table now, you do not anticipate any difficulty?

Mr. HONAMAN. That is right, sir. As a matter of fact, I think I can recall occasions when perhaps we were more concerned about the strategic value of information.

Mr. FASCELL. Than the Government was?

Mr. HONAMAN. Than the people we consulted were. That is the situation that I believe will go on.

As I started to say a moment ago, people can't have all of this information. The president of a small company often feels that he wants advice and he may be more concerned, and I think this thing works both ways.

Coming back again to my statement that there have been occasions when we have been more concerned than we found the Government people—I think that this has—and I am not sure that I have in mind the specific example, but I believe it has and I believe it will have also the effect of releasing information which people in their doubts and in their caution would be inclined not to release, unless they could get some advice from others that would help them along that way.

Mr. FASCELL. That raises a question that has been in my mind ever since we started today on this hearing, and that is, is there any area



of information which is not of possible strategic value to a potential enemy?

Mr. HONAMAN. I haven't been able to think of one yet.

Mr. FASCELL. I have not either.

As a matter of fact, I read somewhere that somebody had the idea since weather in the future can be controlled for the benefit or destruction of mankind we ought to have a new Cabinet post in this country for a weather minister because it would be one of the greatest strategic weapons for man.

Mr. HONAMAN. If you and I decide to drive to Jacksonville tomorrow and go to an oil station and ask for a roadmap, I am sure that the information in that roadmap will have some strategic value.

Mr. SCHER. Would you suppress it?

Mr. HONAMAN. But nobody in his right mind would ever think that is anything but the kind of thing that must be used. You just don't stop more than a minute, you realize that the strategic aspect of that thing is so minor that you just don't do anything about it.

Mr. FASCELL. Do you feel that the economy that the American people are living under today is such that we will get further and further into this type of thing rather than less and less of it?

Mr. HONAMAN. Well, this is kind of a crystal ball; isn't it?

Mr. FASCELL. It is not so much. I am asking you as a businessman now.

Mr. HONAMAN. Maybe, what you are coming to is, will this restrain the growth of our economy.

I believe that the way it is being handled, it will not. I haven't seen it. Our economy has been growing. Our technology has been growing rather rapidly.

Mr. FASCELL. I was not thinking from the standpoint of restraint, although that is an idea. It might well restrain.

Mr. HONAMAN. It might also be stimulated again because of the fact that if people who are not completely informed became too cautious it may be helpful to them to be stimulated, to take action which in their caution they might not otherwise take.

Mr. FASCELL. So does it not occur to you that what we have discussed now from what we can see in the foreseeable future under the conditions in which we live, that we will have more and more control instead of less and less, unless we take some positive action somewhere to reverse the trend?

Mr. HONAMAN. Well, I think if this cold-war situation persists we are going to have more and more problems. I agree to that.

Mr. FASCELL. You don't want to use the words "more and more governmental control," over information?

Mr. HONAMAN. I hope not. I would rather not, because my own philosophy is that we ought to strive as far as possible without endangering or jeopardizing our national security to get an absolute minimum of controls here.

Mr. FASCELL. I agree with that as an ideal, but what are we doing as a practical matter?

Mr. HONAMAN. To the best of my knowledge, we are doing the best we can with the best administration and the best judgment we can muster for it.

Mr. FASCELL. Well, then, as I understand your opinion and testimony, you do not feel that there is any bold necessity at this point to reverse what might be considered a dangerous trend towards control of information by Government?

Mr. HONAMAN. No; I don't, sir.

Mr. FASCELL. Thank you. That is all.

Mr. MOSS. Do you feel there is need for great vigilance in watching that trend in Government?

Mr. HONAMAN. I do, indeed, and that should be continuous and alert, intelligent—we should never let up on our alertness to that.

Mr. MOSS. Your statement there indicates that you recognize that there is a great danger.

Mr. HONAMAN. Oh, indeed. There certainly is; yes, sir.

Mr. MOSS. But as I understand your testimony you feel that under the present directives and under the present administration there is no danger, but should it pursue further from this point there might be.

Mr. HONAMAN. They should be very carefully examined step by step, I think. Rather than predicting whether there might be, I would say that recognizing that things like that do take turns, I think we ought never to give up our alertness in examining this question to make sure that we do not make mistakes in the direction of withholding more than is necessary to preserve our country.

Mr. FASCELL. Does not that statement lead to the logical conclusion that the thing then to do would be to examine this thing to remove every time, every place you can, any control which would have a tendency to restrict information for any reason?

Mr. HONAMAN. As a general philosophy that agrees with my thinking.

Mr. FASCELL. In other words, your philosophy would be that we should, taking all factors into consideration, attempt to remove all restrictive regulations and rules and promulgations, that have anything to do with impeding information getting to the people?

Mr. HONAMAN. To whatever extent we can, without jeopardizing our national safety.

I hope that I made that point, sir, in this statement. I intended to make substantially that point.

Mr. MOSS. Mr. Honaman, I wonder now if we could go back to the Departmental Order No. 157, Department of Commerce, under section 3, subparagraph 1. I am very much interested in knowing just how we handle and classify and control the unclassified, nonstatistical, technical, industrial or economic information originating in departments and agencies of the executive branch.

As I understand it, this is the strategic information which cannot be classified in the three categories under the Executive Order 10501.

Mr. HONAMAN. Yes.

Mr. MOSS. How then is it controlled under existing practices?

Mr. HONAMAN. Well, I must necessarily limit my answer, I guess, to my experience there, because I have not made detailed examinations in many of the Government departments, sir.

May I talk about that?

Mr. MOSS. I would expect that you would comment only on those with which you are familiar.

Mr. HONAMAN. In the Defense Department, where information is of a nature that except for these practical problems that I described, that necessitate the care in handling the information, even though it must be widely distributed, we sometimes distribute the information widely to people who must use it, and in order to call their attention to the fact that it requires some special consideration, we will mark it "for official use only," so that people know that this is in a large number of hands, but they would also know that to put it into hands other than those that must make use of it, there ought to be another look.

Well, that is a bit like a stamp which would read "Handle with care." We recognize that that information cannot be kept within a small compass. It falls in the category of things that we must disseminate widely even though they have large intelligence value.

It is not as far down the scale as our road map, Congressman Fassel, but it is that kind of thing. This is the basis that I mentioned this morning.

Mr. Moss. Let us take an example: This information, if it is in private hands, you say that the decision, of whether or not it be released, is entirely one voluntarily arrived at, after advice from the Office of Strategic Information.

But, now, this is information which is held by the Government. Supposing a publication desires to have access to that information, wants to do some article on a related subject or a subject requiring some knowledge of this particular type of information; would it be made available?

Mr. HONAMAN. Now, this is so general a characteristic that I think I ought to phrase it in terms like this: Practically every request of that kind will involve information which may have some of these aspects and others having no question involved.

What we would do in that case would be to make all of it available except that which, if disseminated widely, would be of potential value to the enemy, and reconsider those fragments to make sure that it is wise and proper not to include those.

Mr. Moss. Well now, you have decided that it is not wise or proper to include those fragments, and you inform the publication that the information is not available.

On what grounds then is it withheld? Because it is classified?

Mr. HONAMAN. Because it is of security value to the potential enemies of the United States.

Mr. Moss. Then under what order?

Mr. HONAMAN. Under our directive.

Mr. Moss. Under what order or directive is it then withheld?

Mr. HONAMAN. This would be dealt with in several. Do you remember the numbers of these?

Let's see—5200.6, I think would deal with this question, "Information not included within the purview of Executive Order No. 10501."

Mr. Moss. And the authority for that directive is found where—the authority for the issuance of that directive controlling the release of strategic, unclassified information?

Mr. HONAMAN. Are you asking me what is the legal authority for that?

Mr. Moss. I was wondering if you had available the legal authority for it.

Mr. HONAMAN. I have not examined this question; and again, as I said before, I have been assured, or advised, that the directives under which we operate were proper ones for me to perform my functions, and not being an attorney, I haven't investigated the question of whether that legal opinion is correct or not.

Mr. Moss. Mr. Scher, will you take steps to make certain that the information is available to the committee at the time we hear the Department of Defense?

Mr. SCHER. Yes, sir.

Mr. HONAMAN. This is a departmental operation matter.

Mr. Moss. I am very much interested in the response to the questionnaire which was directed to the Department of Defense.

Did you have any hand in the preparation of the answers, the replies to the questionnaire sent out by this committee last fall?

Mr. HONAMAN. Well, I was consulted about certain parts of it and discussed certain parts of it before it was completed. Is that what you would mean by "having a hand in it"?

Mr. Moss. Yes. Are you familiar with the May 17 letter of the President, the letter issued to the Department of Defense in connection with the Army? I think they are usually referred to as the Army-McCarthy hearings.

Mr. HONAMAN. May 17.

Mr. Moss. Letter of the President.

Mr. HONAMAN. What year?

Mr. Moss. 1954.

Mr. HONAMAN. I heard about it; yes.

Mr. Moss. That was cited by the Department of Defense as an authority for withholding.

In your administration as the Deputy Assistant Secretary for Public Affairs, did you regard that as a specific order or a specific instance or a general order establishing an overall policy for the Department?

Mr. HONAMAN. Well, I haven't arrived at any judgments or made any decisions, sir, that have been based on that letter, nor was I called upon to make any that would need to be.

And so the question, as a practical problem, has not presented itself to me.

Mr. Moss. Would you not be qualified to make any comment as to the scope of application of that letter in the Department of Defense?

Mr. HONAMAN. Yes; if I were confronted with a situation where that question were presented to me, I would consult the General Counsel of the Defense Department and be guided and advised by him.

I think your first comment is correct, that I wouldn't feel in a position to comment on that personally.

Mr. SCHER. When you moved over from Commerce to Defense, Mr. Honaman, was there any specific reason why that move was made? Were you given any specific instructions on the move?

Mr. HONAMAN. No; I was given instructions as to what the duties of the office that I was to perform in the Defense Department were.

Mr. SCHER. Was there any mention of the fact that you had done creditable work in the Commerce Department in that area and, therefore, you were moving over to institute a similar program in the Defense Department?

Mr. HONAMAN. Not to my knowledge. No such thought was conveyed to me.

Mr. SCHER. But you did work in both departments?

Mr. HONAMAN. As a matter of fact, I never asked the Secretary why he got me over there.

Mr. SCHER. But your assignments in both departments were similar?

Mr. HONAMAN. Oh, yes; somewhat similar. A much broader one in the Defense Department because, actually, sir, the percentage of my time in the Defense Department that was devoted to the positive aspects of getting information out was really very much greater than the percentage of my time devoted to these considerations of strategic information, whereas in the Commerce Department it was all that. I can't give you exactly the percentage but I am quite sure it is quite large.

Mr. SCHER. Incidentally, is the balance sheet for strategic information now being used in the Defense Department to your knowledge?

Mr. HONAMAN. Not to my knowledge.

Mr. SCHER. Referring to the September 15, 1955, directive of the Defense Department, specifically to section 72.1-111, as to the matter of unclassified economic or technical information in press releases, advertisements, notice to stockholders, annual or quarterly reports, brochures, etc.—do you see any limitation there?

Mr. HONAMAN. This is the—

Mr. SCHER. The Defense Department.

Mr. HONAMAN. The voluntary guidance of defense contractors?

Mr. SCHER. Yes. Do you see any threat there to freedom of the press?

Mr. HONAMAN. No, sir; I do not.

Mr. SCHER. Do you consider an advertisement part of the nature of a free press, the right to advertise?

Mr. HONAMAN. Well, I would think it would be.

Mr. SCHER. Do you consider the right to notify your stockholders a right to freedom of expression, or the publication of annual or quarterly reports?

Mr. HONAMAN. I think that to the extent that it does not involve information which would jeopardize our country, it should be completely free.

Mr. SCHER. Could you set up in your own mind a working balance sheet which the newspaper editor can use, or any set of criteria or tests which he can use in which he can determine when to refuse to publish an advertisement or a notice to stockholders or unclassified scientific or other such information?

Mr. HONAMAN. Would you reword that?

Mr. SCHER. In short, how is the editor to know when he satisfies your requirements?

Mr. HONAMAN. I don't know that there is any suggestion that has been made to an editor that he ought to satisfy my requirements or any one person's requirements.

The only suggestion that was ever made to the editors was that they themselves participate to the extent they can in judging.

Actually, editors all exercise censorship. They don't publish every piece of information that comes to them.

Mr. SCHER. They don't need a Government agency to tell them what to censor; do they?

Mr. HONAMAN. They don't publish all of each piece of information that comes to them. This question of looking at what would harm our country is no different for an editor than when the editor is a Government employee. It is just a question of how he wants to be responsible for the protection of our country.

Mr. SCHER. Has it been your experience that the American editors generally loosely publish information that harms the country?

Mr. HONAMAN. No; I would not say that.

Mr. SCHER. Or do you have the idea that the editors of America are a pretty loyal group of people?

Mr. HONAMAN. I have no question about that.

Mr. SCHER. Why do they need these restrictions?

Mr. HONAMAN. Which restrictions?

Mr. SCHER. The restriction that makes it almost necessary in order to satisfy the Defense Department that they clear rather than publish freely?

Mr. HONAMAN. There has never been a suggestion that I know of that information that editors have been cleared with the Defense Department, unless it is—

Mr. SCHER. Didn't you suggest in a speech or a letter that they set up a code of voluntary censorship if they didn't like this?

Mr. HONAMAN. Didn't like which?

Mr. SCHER. Like the Defense Department directive.

Mr. HONAMAN. Not to my knowledge. I don't recall that there was a problem on which we could advantageously cooperate.

Mr. SCHER. But at no time did you make a suggestion that they might set up their own voluntary code of censorship?

Mr. HONAMAN. No.

Mr. SCHER. Or not calling it censorship—judge what or what might not be of that potential to the enemy?

Mr. HONAMAN. No.

Mr. MOSS. Mr. Scher, at this point, on the same directive, on subsection (c) of the section from which you are reading, there is this language—

Management should be further informed that if they have contracts with the Department of Defense, the release of certain classes of information is covered by the provisions of current public information security guidances.

Are those "guidances" directive which must be followed, or is the application of those "guidance" entirely voluntary?

Mr. HONAMAN. I believe that refers to guidances, which are truly voluntary and are issued by the services in connection with their own contracts. This is in the order.

Mr. MOSS. On September 15, 1955?

Mr. HONAMAN. I don't have a copy of that.

Mr. MOSS. Do you have a copy of that order?

Mr. SCHER. It is (c) right there.

Mr. MOSS. At the top of page 6775, the last column, paragraph (c).

Mr. HONAMAN. Paragraph (c)—

Management should be further informed that if they have contracts with the Department of Defense the release of certain classes of information is covered by the provisions of current public information security guidances.

Well then, this would refer to information in the classifications "confidential," "secret," or "top secret."

Mr. MOSS. Is that your interpretation that it refers only to the classified material under Executive Order 10501?

Mr. HONAMAN. Would you take a look at it and see about that?

Well, this may be helpful, I think, because I, not having participated in writing this, and again not administering it—it being administered in the services—Mr. Kennedy, reminds me that this was put in as a reminder that management should be reminded in turn that the three classifications of 10501 still apply, and notwithstanding the voluntary part of this thing there are still—

Mr. FASCELL. Mandatory?

Mr. HONAMAN. Mandatory restrictions under the laws and the directives when you come to the "confidential," "secret," and "top secret" classifications.

That is the best answer I can give.

Mr. MOSS. We will go into that more in detail with the Department officials.

Mr. HONAMAN. This is quite a way beyond the level of operations that would be my primary responsibility.

Mr. FASCELL. Mr. Honaman, when you were the head of the OSI, did you sit in on conferences which made a determination in answer to an inquiry as to whether or not information might be of strategic value and the uses to which it might be put were made known to an inquirer?

Mr. HONAMAN. Yes; some of those were visits by individuals.

Mr. FASCELL. I mean, you personally participated in the meetings?

Mr. HONAMAN. In some of them, yes, sir.

Mr. FASCELL. And you had information that was available to you from other Government agencies in helping you evaluate what should be sent out to the manufacturer?

Mr. HONAMAN. Yes.

Mr. FASCELL. Was there ever any instance during the time that you were there that information went to a manufacturer as to the use of information, if it were published, when as a matter of fact, our own intelligence knew that the information was already in the hands of persons or groups of persons who were not under the direct control of the United States Government?

Mr. HONAMAN. I have no recollection of any that would fit that statement.

Mr. FASCELL. Do you know of any?

Mr. HONAMAN. Of course, there are occasions when persons will have information that has strategic value when we know that there has been some publication of it, and there are two aspects of that that I think would be of interest in your study:

One is that further elaboration sometimes confirms the information that may be in the hands of an enemy and may be incomplete. It may fill in the mosaic of his intelligence pattern in a way that he needs to have it filled in.

And sometimes it will help him by confirming or denying, as it was in the case of the story that came out that we had broken the Japanese code, and for a long time—this goes back—and again now I am drawing upon what I have heard from others—that was neither confirmed nor denied for a while, for several years—neither of us happened to be

active there at the time—but it would have done us no good and would have harmed our position if the enemy had known whether or not we had broken it, you see.

Well, perhaps, in time they would get a new code.

Mr. SCHER. Is that not security information rather than strategic information—that is security information?

Mr. HONAMAN. It is information of possible damage to the country. If you ask me what classification it had been in at the time, this is a matter of fact that I am not familiar with.

Now the other aspect of it is that even though by publication a potential enemy has learned something about us, it makes it just that much easier to give him more. And the question is a valid one, shall you continue to make it easy.

Mr. FASCELL. Is not the answer to that, do not give them anything?

Mr. HONAMAN. I don't think so.

Mr. FASCELL. I don't see how you can draw the line.

Mr. HONAMAN. That is why I have been struggling so much to make the point here that good administration and judgment are called upon all along the line.

Mr. FASCELL. I think you made the point, but I still do not see how you can exercise it.

Mr. HONAMAN. Well, I think we do pretty well.

Mr. FASCELL. Do I understand you correctly then in the determination on the strategic value of something that the Office of Strategic Information has to determine from military intelligence, No. 1, whether or not the information has already been published; No. 2, the extent to which it has been published; and No. 3—

Mr. HONAMAN. Has this any bearing on developments?

Mr. FASCELL. On existing information.

Mr. HONAMAN. Has it any bearing on military weapons, for example?

Mr. FASCELL. Does it substantiate existing information?

Mr. HONAMAN. Generally.

Mr. FASCELL. Might it substantiate future information? In fact, would it not be smarter just not to say anything about it at all?

Mr. HONAMAN. It would be easier.

Mr. FASCELL. It would be safer.

Mr. HONAMAN. It would be safer and easier, but I do not recommend that we take the easy course just because it is easy.

Mr. FASCELL. How about the safer course?

Mr. HONAMAN. The safer course only in case you have satisfied yourself that it is a wiser course as well.

Mr. MOSS. Would it necessarily be safer?

Mr. HONAMAN. Not necessarily. I think again that is a pretty broad brush, you see.

Mr. MOSS. We cannot have absolute security, can we?

Mr. HONAMAN. I am sure there is no perfect answer to this problem. We can't have absolute security.

And I think that any progress we can make in the direction of helping our safety, at the same time again being sure that we resolve everything in the direction of getting out all we can, except where we are sure that we jeopardize our safety, I am sure that if we move in that direction we will make progress but we shall never get a complete answer to this question.



Mr. Moss. Primarily, it will have to be reliance upon keeping ahead of the other fellow?

Mr. HONAMAN. Except for that, we would be in difficulties.

Mr. FASCELL. One other thing that occurs to me: Do you feel in your opinion now that you have had experience on both sides of this problem, Mr. Honaman, that Government for its protection should engage in the publicatio of misleading information, in order to gain an advantage over a potential enemy?

Mr. HONAMAN. Well, you are asking me one that is awfully complex. I have not had any experience in the psychological warfare field. This is a pretty complicated problem. And I don't feel competent to answer that question.

Mr. FASCELL. Do you have any knowledge, during the time that you were in Government service, of information which was disseminated through the normal channels in the United States which was inaccurate, incorrect, or purposely misleading?

Mr. HONAMAN. Not through my contacts.

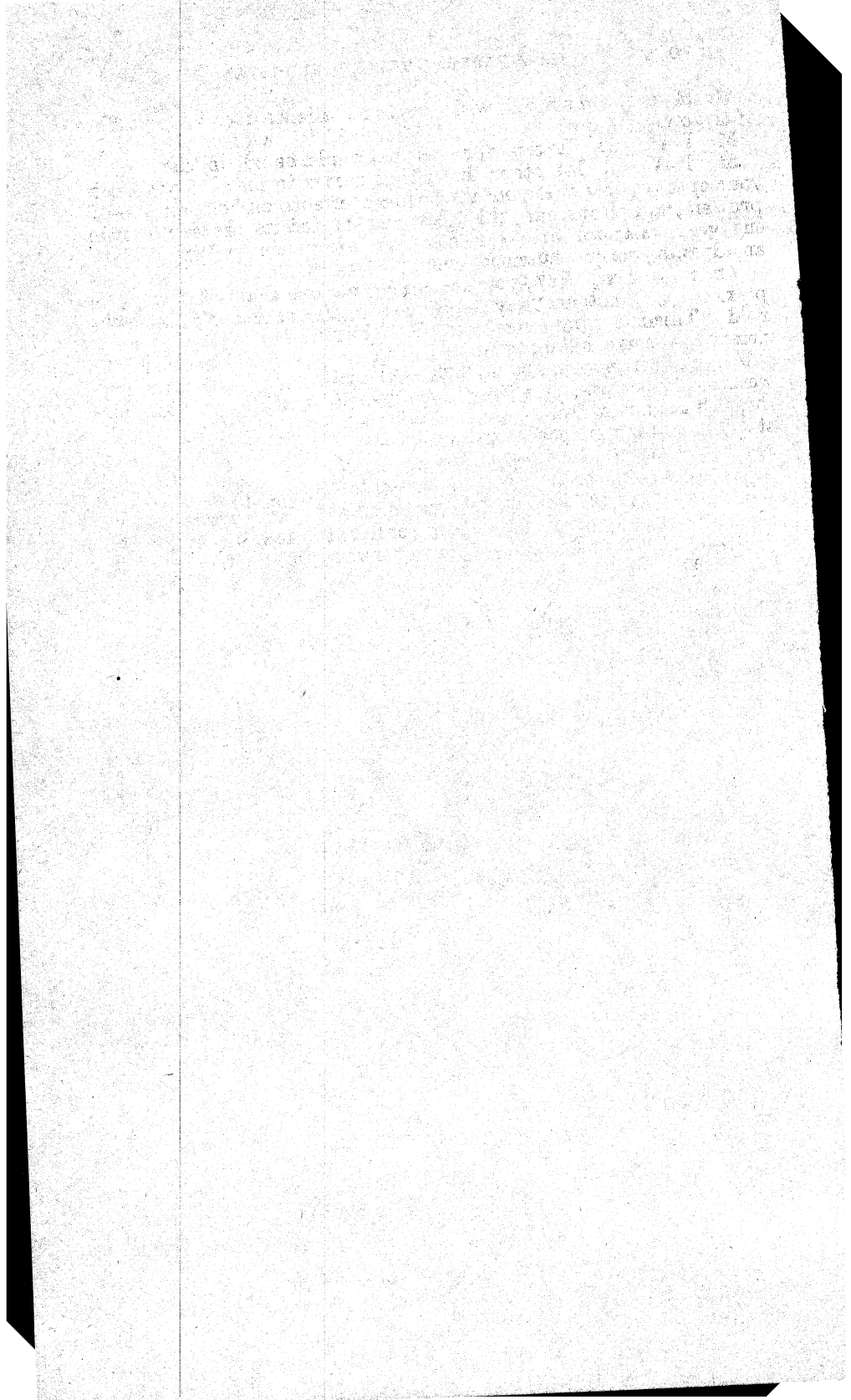
Mr. Moss. Are there any further questions?

Mr. Honaman, on behalf of the committee, I want to thank you for your appearance here today. I am confident that the discussions we have had have made an important contribution to the study this committee is making.

We will go into the question of the Defense Department in more detail at a later date.

The hearing will now stand adjourned.

(Whereupon, at 4:25 p. m., Friday, January 13, 1956, the subcommittee adjourned.)



# AVAILABILITY OF INFORMATION FROM FEDERAL DEPARTMENTS AND AGENCIES

## Part 6—Department of Commerce

WEDNESDAY, APRIL 18, 1956

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT INFORMATION  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D. C.*

The subcommittee met, pursuant to notice, at 2:20 p. m., in room 362, Old House Office Building, Hon. John E. Moss, Jr., chairman of the subcommittee, presiding.

Present: Representatives Moss, Dawson, Fascell, and Meader.

Also present: Mr. John Mitchell, chief counsel; Samuel J. Archibald, staff director; and J. Lacey Reynolds, senior consultant.

Mr. Moss. The subcommittee will now come to order.

This afternoon we are beginning hearings with representatives of the Department of Commerce. It might be helpful to outline very briefly the assignment of the Subcommittee on Government Information. It was established by the chairman of the full Committee on Government Operations to undertake a study in an effort to define clearly the types of information which are generally available from Government, to seek out those specific instances or areas of information which are held to be privileged by the executive agencies, and to determine what statutory or other legal authority the agencies have for asserting the right to withhold information or to control information.

We have with us today Mr. Philip A. Ray, General Counsel of the Department of Commerce; Mr. H. G. Morrison, former Assistant Attorney General, Department of Justice; Mr. Charles F. Honeywell, Administrator, Business and Defense Services Administration in the Department of Commerce; Mr. Charles R. Hersum, director of Industry Advisory Committees staff of Business and Defense Services Administration; Mr. Richard S. Blaisdell, public information officer with BDSA, and Mr. Burt W. Roper, Counsel for BDSA.

On the staff of the committee or members of the committee, we have at the table Congressman Fascell, of Florida. Very shortly we will be joined by Congressman Meader. The members of the subcommittee have been delayed because of a rollcall on the floor of the House.

The chief counsel of the committee, Mr. John Mitchell, will now undertake the initial questioning. Prior to Mr. Mitchell's questions, do you have a statement?

**STATEMENT OF PHILIP A. RAY, GENERAL COUNSEL, DEPARTMENT OF COMMERCE; ACCOMPANIED BY ALLEN OVERTON, JR., SPECIAL ASSISTANT TO THE GENERAL COUNSEL, DEPARTMENT OF COMMERCE**

Mr. RAY. Mr. Chairman, I have a statement which I would like to insert in the record and to read some parts of it now, if I could, although I don't think I will read it all.

Mr. MITCHELL. Mr. Chairman, I would first like to introduce into the record the letters of invitation extended by you to Hon. Sinclair Weeks, dated April 10, 1956, as exhibit 1; Mr. Weeks' reply, dated April 12, will be exhibit 2; and a reply to Mr. Weeks by your letter dated April 13.

Mr. MOSS. If there is no objection, the items will be made part of the record.

(The correspondence follows:)

HON. SINCLAIR WEEKS,  
*Secretary of Commerce,  
Department of Commerce, Washington, D. C.*

DEAR MR. SECRETARY: The House Government Information Subcommittee plans to study the information practices and policies of the Department of Commerce in public hearings beginning April 18, 1956, and possibly lasting through April 20, 1956.

The subcommittee wishes you to discuss the very important policies of the Department in this field on the morning of April 18 beginning at 10 a. m. in room 362, Old House Office Building. Following your appearance, other representatives from your Department will be asked to discuss the specific information practices in the various fields supervised by the Department of Commerce.

The staff of the House Government Information Subcommittee contacted representatives of your Department more than 2 months ago to discuss the specific matters to be covered at the hearing. Most recent contacts have been by letter from the staff to Mr. Harold B. Corwin and by a discussion between the staff members and Mr. J. Allen Overton.

The hearing will cover the Commerce Department's answers to the questionnaire sent to all Federal departments and agencies last year by the subcommittee as well as the legal authority of the Department to restrict information. Other specific items tentatively planned for the hearing include:

The policy under which the Office of Strategic Information operates and how that policy is implemented in actual practice, including legal justification of the establishment of this office and its relationship to the National Security Council; the availability of information from various advisory committees; the operation of the Department's Information Office and practices regarding contacts with editors who publish stories attributed to the Department; the operation and purpose of the "export control of technical data" regulation which was issued by the Department on February 8, 1955; changes the Department may have made recently in issuing statistical reports; the Commerce Department's role in the dissemination of information obtained by both commercial and scientific attaches of the State Department; the procedure and policy concerning patents in the atomic energy field; the policy and practice regarding the distribution of reports on tests by the Bureau of Standards on commercial products for other Federal agencies; the availability of information on private management engineering surveys contracted for by the Department, including a list of all such surveys since January 1, 1954.

There may be several other points to be discussed, but the above list will give an idea of the general nature of the hearing. The subcommittee staff will continue to contact appropriate officials of the Department for further discussions prior to the hearing.

Sincerely yours,

JOHN E. MOSS, *Chairman.*

THE SECRETARY OF COMMERCE,  
Washington, April 12, 1956.

Hon. JOHN E. MOSS,  
Chairman, Government Information Subcommittee of the  
Committee on Government Operations,  
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This will acknowledge receipt of your letter of April 10, relative to your committee's study of information practices of the Department of Commerce commencing April 18, 1956.

As Mr. Overton informed you and your committee staff, the appropriate policy officials of the Department will be prepared to discuss in detail the areas of interest set forth in your letter. We will furnish to you promptly this list of officials whom we would suggest appear.

In addition, I have designated Mr. Philip A. Ray, the General Counsel of the Department, as my representative to inform you fully concerning the general information practices of the Department as well as the legal problems with respect thereto.

As you know, my schedule at present is extremely heavy, and I regret that the press of prior commitments makes it impossible for me to be with you on April 18. However, the Department officials present will be able to furnish all the information requested.

Please be assured of our continuing cooperation.

Sincerely yours,

SINCLAIR WEEKS,  
Secretary of Commerce.

APRIL 13, 1956.

Hon. SINCLAIR WEEKS,  
Secretary of Commerce,  
Department of Commerce, Washington, D. C.

DEAR MR. SECRETARY: This will acknowledge your letter of April 12, 1956.

I am truly sorry you will be unable to participate in the House Government Information Subcommittee's study of your Department's information practices and policies. I feel the policy questions involved are so important that they should be discussed with the top-level departmental official.

The subcommittee staff has informed Mr. Overton of the other persons from your Department whom we wish to participate in the subcommittee hearings on April 18 and 19, 1956. They are:

Philip A. Ray, General Counsel; Charles F. Honeywell, Administrator, Business and Defense Services Administration; Charles R. Hersum, Director, Industry Advisory Committee Staff; Richard S. Blaisdell, Public Information Officer, Business and Defense Services Administration; Burt W. Roper, Counsel, Business and Defense Services Administration; Erwin Seago, Director, Office of Strategic Information; and Albert Leman, Director, Office of Public Information. The hearing will open at 2 p. m., April 18, in room 362, Old House Office Building, and at 10 a. m. on April 19, 1956.

The subcommittee plans to continue the study of your Department's information policies at 10 a. m. on April 27. Witnesses to be heard at that time include:

Harold C. McClellan, Assistant Secretary for International Affairs; John C. Borton, Director of Office of Export Supply, Bureau of Foreign Commerce; Newton Foster, Director, Finished Products Division, Bureau of Foreign Commerce; Nathan Ostroff, Assistant General Counsel, Department of Commerce; Robert C. Watson, Commissioner, United States Patent Office; James L. Brewink, Primary Patent Examiner, United States Patent Office; Dr. Allen V. Astin, Director, National Bureau of Standards; William I. Wiedemair, Office of Ship Construction and Repair, Maritime Administration; John J. McMullen, Chief, Office of Ship Construction and Repair, Maritime Administration; William A. Stigler, security officer, Office of Ship Construction and Repair, Maritime Administration; and John C. Green, Director, Office of Technical Services, Business and Defense Services Administration.

Sincerely yours,

JOHN E. MOSS, *Chairman.*

Mr. Moss. Now I suggest we let Mr. Ray summarize his statement and then file it for the record.

(The statement of Philip A. Ray follows:)

Mr. RAY. Thank you, Mr. Chairman. I am glad to appear before your subcommittee to discuss the policies of the Department of Commerce in the dissemination of information and to answer to the best of my ability any questions as to the legal foundation of these policies.

There is in the record of the hearings of this subcommittee the answer of the Department to the extended questionnaire issued by the subcommittee last year. It appears at pages 97 to 112 of the committee report containing replies from Federal agencies to questionnaire submitted by the Special Subcommittee on Government Information of the Committee on Government Operations, November 1, 1955.

It is obvious that the primary policy of the Department of Commerce is to disseminate information. On a host of subjects, the Department is the chief reporter of the Nation. It collects, organizes, and distributes most of the statistics and information on the state of our economy the facts and prospects of trade and commerce. The Weather Bureau alone is a vast network for distribution of information to the public. Important facts covering all aspects of our national life are constantly being collected, compiled, and distributed by the Census Bureau. Our transportation agencies, Maritime, Civil Aeronautics, and Public Roads, exist to provide aid and information in the transportation fields. There is not a major area in the Department of Commerce, from the maps and charts of Coast and Geodetic Survey to the scientific laboratories of the National Bureau of Standards, which does not have a substantial news-distribution function carried on in the public interest.

This informational function of the Department of Commerce stems from its basic statutory charter under which it is called upon to promote commerce and trade and transportation, and from other more particular statutes relating to the various bureaus and offices.

There are three qualifications as to this policy of dissemination. Quantitatively these are slight. However, each exists for a particular and valid reason. Furthermore, each is either required or recognized by act of Congress.

The first of these relates to material which, if released, would do unnecessary injury to some member of the public. In this category fall such matters as the intimate personal and financial disclosures required by law to be made by the individual to the census-taker. Congress has recognized that the disclosure of such information would needlessly embarrass the individual and dry up census sources and has made its disclosure a crime (18 U. S. C. 1905). In this concept also falls such information as individual business statistics, which Commerce obtains to compile into National, State, or regional summaries. Obviously, the promulgation of these individual statistics could place a man at a competitive disadvantage and injure him unnecessarily, and the Congress has also confirmed this by statute. The same is true of a lot of other things such as pending patent applications, export license applications, and the like.

In other words, there is a legitimate principle of privacy which is designed to protect the individual from being harmed by the operations of his Government.

The second qualifying aspect of the basic policy of promulgation has to do with information classified for national security reasons. This is designed to prevent collective harm to our country. We classify such material, not to deny it to the American public but to keep it from ever-listening Communist ears. The guidelines of the Department in this regard stem from the Espionage Acts and subsequent enactments of the Congress, as implemented by Executive Order 10501 and by sundry Commerce Department orders which are attached to the answer of the Department to the aforementioned questionnaire. This material is available to the people in terms of their representatives in Congress sitting in the executive sessions of appropriate committees.

The third qualification also rests on the public interest. It relates, for example, to the internal workings of the Department and the executive branch of Government. This includes the working papers of staffs and subordinates, preliminary research, undigested data subject to later appraisal, early drafts of memorandum as yet unchecked for errors, incomplete surveys which give only a fractional part of the final report, and other initial thinking and recommendations which must later be revised and perfected or overruled because of new facts or circumstances. Revelation of such embryonic data ripped from context would give an utterly false picture of any situation.

On occasion such restrictions are necessary to the orderly and efficient operation of the executive branch of the Government and to protect the public interest.

Now I will skip, if I may—there are some further authorities which I would like to have included in the record, if I might, Mr. Chairman, go over to page 6.

Mr. Moss. Mr. Ray, the entire statement will be included.

Mr. RAY. In point of fact, however, the occasions when the public interest demands an exercise of this inherent constitutional power by any branch of the Government are exceedingly rare.

Let me emphasize one thing about this third qualification. It does not in any sense deny the established right of the Congress to investigate the operations of the executive branch of the Government. This right is fully recognized by the Commerce Department and at all times we stand ready to have policy officials explain the actions of the Department and the reasons why before any congressional committee having jurisdiction over the subject matter.

To sum up the first and foremost policy of the Department of Commerce is to achieve the widest possible distribution of information, in the belief that this open door policy is absolutely essential to the proper functioning of our Republic. Any qualifications of this doctrine must also clearly rest and I believe do rest, upon the public interest.

I desire to compliment the subcommittee for its interest in the important issue of maintaining the free flow of information from the Government. The Department of Commerce is glad to cooperate in your study. I should be happy to answer to the best of my ability any questions you may have and I understand that others from various offices and bureaus of the Department of Commerce are prepared to testify on subjects of special interest to this subcommittee.

Mr. Moss. Mr. Mitchell.

Mr. MITCHELL. Mr. Ray will you please give for the benefit of the committee a short biographical sketch on yourself? Your work employment, and background?

Mr. RAY. I will be glad to.

I was born in Salt Lake City, Utah, in 1911; was educated in the public schools in the State of Utah, attended the University of Utah for 3 years, and then graduated from Stanford University and Stanford University Law School in 1935. Upon graduation I commenced the practice of law in San Francisco in the firm which was then McCutchen, Olney, Mannon & Green, and is now McCutchen, Thomas, Matthews, Griffiths & Greene, and when I left there nearly 2 years ago to assume this duty I was a partner in the firm and had been a partner since 1946.

In 1940 I left my firm to enter the Navy and served in the Navy as a so-called air combat intelligence officer afloat in the South Pacific. My career therefore is consistent, except for my present duty and my service in the Navy, with the practice of law in San Francisco commencing in 1935.

Mr. MITCHELL. When did you first come with the Department of Commerce?

Mr. RAY. On or about September 20, 1954.

Mr. MITCHELL. Was that your first Government employment outside of the Navy?

Mr. RAY. Yes, sir.

Mr. MITCHELL. Mr. Ray, do you know who prepared the answers to the subcommittee's questionnaire?

Mr. RAY. Yes, I know generally. The method by which that was done followed our usual practice in such matters. The Commerce Department is composed of some 11 bureaus with differing functions, and when some matter of general interest of this character is presented, it will be disseminated to the various bureaus for their comments on what it is they do or don't do, and so there would come back then to the head office the reports of the various 11 bureaus, and this was accompanied by some meetings and other things, and then through my office and the Office of Budget Management and Mr. Lehman's office, the matter was coordinated, and in that work a large number of people had a part to make sure that as far as could be it was accurate from all points of view in contents.

Mr. MITCHELL. Is there any one particular section or branch of the Department of Commerce that could be said to be responsible for the preparation of the answer to the questionnaire after you get through the groundwork? Was it your office?

Mr. RAY. I think it could be fairly described as our office because we are charged with the responsibility in respect to relationships with committees such as this.

Mr. MITCHELL. Were these answers submitted to the Bureau of the Budget before being sent to this committee?

Mr. RAY. Not to my knowledge.

Mr. MITCHELL. How many times has Secretary Weeks personally appeared before committees of Congress since he has been a Cabinet member; do you know?

Mr. RAY. Well, I will be glad to get that for you. It has been a great many.



Mr. MITCHELL. You probably don't know the answer to the next one. How many times has Secretary Weeks been requested to appear before the congressional committees?

Mr. RAY. That also I will be very glad to get.

Mr. MITCHELL. Will you please furnish for the record a complete list of all requests made by congressional committees for Mr. Weeks to appear personally and his reason for his refusal, if any?

Mr. RAY. I might say in that connection, Mr. Counsel, it is ordinary and common practice, so far as I have seen it, for all of the committees of the Congress to address the Secretary, and so in getting that information up, I think you will find that nearly every request that comes to the Department of Commerce is a request to the Secretary, but, of course, it is not at all uncommon for that to be passed to someone who has more immediate responsibility in the particular area, and again it must depend, of course, upon the Secretary's commitments.

Mr. MITCHELL. Yes; I understand.

Mr. FASCELL. I think what we are interested in, however, is not just a general request, but one which required the personal appearance of the Secretary or requested the personal appearance of the Secretary.

Mr. RAY. We will endeavor to get that. (See exhibit XXVII.)

Mr. MITCHELL. Mr. Ray, you are familiar with the functions of the Business Advisory Council and its affiliations with the Department of Commerce.

Mr. RAY. Yes.

Mr. MITCHELL. Could you explain to this subcommittee the extent, the scope of its duties, its responsibilities, and how it ties in with the Office of the Secretary of Commerce?

Mr. RAY. Yes. The Business Advisory Council came into existence, I believe, in 1933 as a standing advisory council to the Secretary of Commerce, and with its changing membership over the years, it has served under something like 7 successive Secretaries of Commerce and 3 Administrations, and its role and function is purely an advisory one. It will undertake studies at the request of the Secretary of Commerce, it will report to him on economic conditions and, in other words, serve as an advisory group. It is not in any sense an action group. The members are not governmental employees as such, although their function is to advise the Secretary. I might say that it is only one of a number of advisory committees both in the Congress and elsewhere that serve to create a tie between the industry and the citizenry on the one hand and the Government on the other.

Mr. MITCHELL. Is this a private corporation?

Mr. RAY. It is not a corporation.

Mr. MITCHELL. Could you explain the makeup of the Business Advisory Council, how it operates?

Mr. RAY. Yes. The members of the Business Advisory Council are appointed by the Secretary. They do not appoint their own members. They, however, have a Chairman. They meet at the call of the Secretary a half dozen or so times a year, sometimes in Washington and sometimes out of Washington.

Mr. MITCHELL. Does the Secretary personally appoint these members of this Committee or does he do it on the recommendation of the Business Advisory Council?

Mr. RAY. Well, I have no doubt they make recommendations but he actually makes the appointments, and the Secretary of Commerce is the actual chairman of the group and they exist solely at his will and perform functions according to his instructions and directions in this advisory area.

Mr. MITCHELL. Is the Business Advisory Council located in the Department of Commerce?

Mr. RAY. Well, there is an executive secretary of the Business Advisory Council who is officed in the Department of Commerce, and there are two Government secretaries, I believe, governmental employees, who maintain files and records for the secretary in the Department of Commerce.

Mr. MITCHELL. How was the Business Advisory Council financed?

Mr. RAY. It is financed by contributions from the members. Mr. Overton reminds me this was explained in great detail to the House Judiciary Subcommittee, Mr. Celler's committee, and a report was issued by him on the subject, I believe, last fall or early this year.

Mr. MITCHELL. Yes; the committee knows about that report, Mr. Ray. Is this a tax-exempt organization?

Mr. RAY. Well, I don't think it is an organization as such as a taxable entity. I think that the contributions made by the members are deductible under rulings made by the Treasury Department extending back into the late 1930's, I think. Mr. Harriman first raised that question, and the Treasury Department looked at the matter and determined that it was included within the normal concept of a businessman or anyone else in his line of endeavor being asked to come to Washington to meet and deliberate that such an expense is a deductible expense.

Mr. MITCHELL. As I understand you, Mr. Ray, this is a privately financed company. It has a board of directors; hasn't it?

Mr. RAY. No; it does not, and it is not a company. It is an advisory council appointed by the Secretary. It is a group of men.

Mr. MITCHELL. What I am a little bit interested in is how it acquired its tax-exempt status. How can a group of men operating as you indicate here as individuals get a tax-exempt status across the board unless they are performing a function similar to a foundation or something like that?

Mr. RAY. Well, as I just explained, the contributions to the Council are made by the individuals who compose its membership and those contributions are deductible as an expense under the rulings of the Treasury Department.

Mr. MITCHELL. By what authority does the Secretary of Commerce have the right to assign employees from the Department of Commerce to this Business Advisory Council for full-time duties?

Mr. RAY. Well, I would take it that any Cabinet officer would have a right to consult with citizens and citizen groups. In fact—

Mr. MITCHELL. That isn't my question.

Mr. RAY. I am coming to your question. If this is a part of his job and he asks them to produce written recommendations, papers and so forth, it certainly would be appropriate that he would have someone who would attend to the housekeeping end of it, I would think.

Mr. MITCHELL. Is the executive secretary paid by the Government?

Mr. RAY. No; he is paid by the contributions made by the members.

Mr. MITCHELL. Are the reports or the minutes available for public inspection of the Business Advisory Council?

Mr. RAY. Generally speaking they are not. Following the meetings there has commonly been a press conference, and there have been some reports released which have been accepted or acted upon, but generally speaking its activities come to an end when it has made some kind of a recommendation and its deliberations, and so forth, with the Secretary are not made public.

Mr. MITCHELL. Did I understand you to say it comes to an end? You said a few minutes ago that it began in 1933, and it is still in existence.

Mr. RAY. You misunderstand me. I say that the proper role and function of the Business Advisory Council comes to an end when it has made a recommendation. It is not an operating or action agency in any sense of the word.

Mr. MITCHELL. Well, they maintain the executive secretary in the Department of Commerce, don't they?

Mr. RAY. Yes; of course.

Mr. MITCHELL. Well, therefore it is a continuing operation, isn't it?

Mr. RAY. Yes. I didn't mean that the Council had come to an end. I meant to say its functions on any particular problem are advisory in character.

Mr. MITCHELL. Are the minutes and the reports of any meeting of the BAC available to the members of the BAC?

Mr. RAY. I think they are kept fully informed of the activity of the Committee on which they serve; yes.

Mr. MITCHELL. Not only the ones that serve on a particular committee, but are they available to all other members though?

Mr. RAY. Yes, who serve on the Council.

Mr. MITCHELL. Are these reports available to Congress, to congressional committees?

Mr. RAY. They have not been made available to the Congress historically and since the beginning of the operation of the BAC. The reason for that, as I understand it, is that here is an attempt to get a more candid advisory expression from men of talent in business, in industry, and that to some extent if this is opened up to a town meeting proposition, it will dry up to some extent or tend to dry up a source of information which keeps the Government in contact with the operation facts of business life.

Mr. MITCHELL. Have the reports ever been made available to Congress, to a congressional committee?

Mr. RAY. Some reports have. I would have to refresh my recollection.

Mr. MITCHELL. Well, you just cited a few minutes ago the House Judiciary Committee report on the BAC, and I believe that that report reveals that the reports were made available to the Judiciary Committee in 1951.

Mr. RAY. The facts in that regard are these: Insofar as I now recall—and this is based on an examination of the record at that time—at that time, as subsequently, a request was made that the staff of the subcommittee be permitted to make an unlimited examination of all of the files and records of the Department relating to the Business Advisory Council.

Mr. MITCHELL. Are you referring to 1951 now?

Mr. RAY. Yes. In 1951 such an examination was commenced and at that time the understanding was with Secretary Sawyer that the

results of the examination would not be made public in derogation of the long standing concept with regard to the Business Advisory Council, and the fact is they were not made public and the investigation then terminated at that time.

Mr. MITCHELL. Mr. Chairman, I would like to introduce into the record at this time a letter dated August 4, 1955, by the Secretary of Commerce to Mr. Walter White. I would like to read that letter for the benefit of the committee.

This letter is dated August 4, 1955. It is directed to Mr. Walter White, executive director, Business Advisory Council, Department of Commerce, Washington, D. C.

DEAR MR. WHITE: This is to advise that the files pertaining to the Business Advisory Council of the Department of Commerce located in the Department of Commerce Building are the files of the Department of Commerce and that you have no right or authority to deliver these files or any of the content thereof to any person or to any of the committees of Congress, including the Subcommittee on Monopoly of the Committee on the Judiciary, House of Representatives.

Sincerely yours,

SINCLAIR WEEKS, *Secretary of Commerce.*

Mr. Ray, would you care to comment on that letter, since it specifically says that they are not available, the reports, the minutes, or anything of BAC are not available?

Mr. RAY. Well, yes. What particular comment would you like me to make?

Mr. MITCHELL. Why aren't they available?

Mr. RAY. The files and records in the Department of Commerce pertaining to the Business Advisory Council, which consists of reports of committees in the Business Advisory Council, individual business statistics reports and surveys, confidential recommendations to the Secretary of Commerce for his consideration are unquestionably, I believe, a part of the files and records of the Department. The Business Advisory Council is merely an instrumentality of the Secretary of Commerce and always has been, and the files which the Secretary maintains in his Department with regard to this Council are files of the Department of Commerce, and this was a request, if I may go back, not for any particular document or reports but for unlimited and indiscriminate access to and examination of a large area of the files of the Department of Commerce, coupled with publication of it, so that people who had expressed their most candid thoughts, the most intimate facts with regard to their business, and so forth, would in effect have been asked after the fact to have this body of material thrown into publication.

Mr. FASCELL. Mr. Ray, to whom do the contributions belong?

Mr. RAY. Well, the contributions belong, I think, to the Council as a collective group of men. I would say that my own view of this, Mr. Fascell, is that it is not really different than something like this: If I were a businessman in St. Louis and you were the Cabinet officer and you came to me and said, "Mr. Ray, I would like to get your advice about some program, policy, or problem. Will you go to work on it for me?" and you said, "Yes; but this is going to take me some time and I will have to use my own secretary, and it will cost me a little money, and so forth," and that you would think you were rendering a service to the Government and your secretary would be doing likewise, and that would be an expenditure of yours. Now, what we have,

I think, in the Business Advisory Council is a collective thing that is no different from that character. Now, of course, the money with which you pay your individual secretary is your money in the illustration I have given.

Mr. MITCHELL. In other words, the contributions that are made by the individual members to the Council, which is themselves collectively, is deductible as an expense item, and therefore the Secretary of Commerce has no proprietary interest and neither does the United States Government in that money.

Mr. RAY. No; it is in the nature of a trust fund or an account, I suppose. It is deductible just for the same reasons that in the illustration I gave you of the St. Louis businessman would be entitled to deduct the expenses to which he might be put in endeavoring to give assistance to a United States Cabinet officer.

Mr. MITCHELL. Now we have a different interpretation of theory, law, and practice when we start talking about files. You tell me now that when it comes down to written matters or other matters that deal with these individuals regardless of whether they happen to be in the control or custody of the individual or regardless of whether they happen to be the individual's documents, if they pertain to anything that has to do with the BAC, the Secretary of Commerce of the United States Government suddenly has a proprietary interest in all of the documents.

Mr. RAY. Well, I wouldn't say that. What I endeavored to say was—

Mr. MITCHELL. Just a minute. I understand what you were trying to say, but I am trying to reconcile it with the statement of the Secretary of Commerce who said that all of the files—

Mr. RAY. That were in his custody and possession in the Department of Commerce. This has nothing to do with whatever files and records the members of the BAC may have in their possession and custody or what have you.

Mr. FASCELL. As a practical matter, do they have any individual files which would reflect anything that the Council did as a collective body?

Mr. RAY. I presume they might, but I don't know.

Mr. FASCELL. If they did have would you sustain the legal theory that they are not governmental files at all?

Mr. RAY. Well, I would say that the only problem I have ever had to deal with in this area is the question of the responsibility for and custody over the files resting in the Department of Commerce which are kept and maintained by employees of the Secretary.

Mr. FASCELL. But if they are not in the care, custody, and control or in the physical custody of the Department of Commerce, then a different theory would apply; is that correct?

Mr. RAY. As I say, I have not had an opportunity or—

Mr. FASCELL. Do you think it would?

Mr. RAY. I would rather not express an offhand view about it, Mr. Fascell. It presents a question. If a piece of advisory material comes from a constituent to you as a Congressman and you feel that you should protect it, the protection would be rather meaningless if the same material could be somehow obtained from the constituent; wouldn't it? So I would just as soon not endeavor to answer that problem off the cuff.

Mr. FASCELL. Well, that raises a very interesting inconsistency, I think, which is rather obvious. You say the legal status of this group is that it is not a corporation nor a company?

Mr. RAY. That is right.

Mr. FASCELL. You further state that it is not a governmental agency.

Mr. RAY. Well, it exists solely by reason of the fact that the Secretary appoints the members. I don't say there by that it has some Government character, I will grant you that, but—

Mr. FASCELL. Not in the eyes of the law.

Mr. RAY. No. That the individuals did not become employees of the Department of Commerce by reason of sitting on this Council any more than they would in being a member of an industry advisory committee of any kind.

Mr. FASCELL. They are not a governmental agency.

Mr. RAY. Well, I think in our normal concept of what is a Government agency, I would believe they are not.

Mr. FASCELL. In other words, there is no statutory authority for the actual creation of this body because you say it exists at the will of the Secretary.

Mr. RAY. I don't agree that there is no statutory authority. I think that the statutory provision that the Secretary of Commerce shall promote and develop the commerce and trade of this country would certainly carry with it his right to appoint citizens advisers and consult with citizens' groups. They might be intermittent or permanent.

Mr. FASCELL. I might not disagree with that, but is it your opinion that it carries the inherent power to clothe them with governmental authority?

Mr. RAY. Well, they have no actual authority whatsoever. It is purely advisory.

Mr. FASCELL. No, sir; and the Secretary can't give them any either; can he?

Mr. RAY. Not any action authority.

Mr. FASCELL. They are not a taxable entity?

Mr. RAY. No.

Mr. FASCELL. In other words they are just a group of citizens collected together to advise the Secretary at his request, period; right?

Mr. RAY. Yes; that is right.

Mr. FASCELL. Now, let me ask you as a private citizen, the Secretary of Commerce may request advice or he may not request advice. They might just volunteer it; might they not?

Mr. RAY. Yes; he may or may not accept it, too.

Mr. FASCELL. Yes; and as a matter of fact they often volunteer advice.

Mr. RAY. Well, I am sure they do at times. How often, I don't know.

Mr. FASCELL. And the Secretary, as you pointed out, may or may not accept it?

Mr. RAY. That is right.

Mr. FASCELL. Do you feel that there is any logic at all to the theory that if the Secretary of Commerce, one of the major agencies of the United States Government, acts on the advice of a collective group of individuals, that somebody other than the Secretary should not

know the basis upon which he acts, regardless of law, regardless of a party and all that sort of stuff? I am talking about this as a practical matter for good government?

Mr. RAY. I think I could answer it best this way, and I think it is a direct answer, that if you were going to continue to have the Government in touch with the people, that you do want advice from the citizens, and that if you are going to get the best advice that frequently you have to get from commerce because otherwise you are not going to get it. You are not going to get candid expressions of thoughts.

When it comes to these files, if I am the Secretary of Commerce and I write to a knowledgeable citizen and say would you just sit down and give me your advice on this subject, he doesn't thereby become a Government agency, I will grant you. He writes me a letter as a Cabinet officer and it comes into my file. What I am saying about those files is that there isn't any doubt in the world that that letter is now a part of the files of the Department of Commerce. The BAC is just a collective thing of that character, that is all.

Mr. FASCELL. All right, sir, let's take the case of the individual you just described. Suppose the Secretary of Commerce was a frank man and he decided that when somebody asked him a question, "well, Mr. Secretary, where did you get this idea from?" and he said quite candidly, "I followed the advice of old Joe Jones out in Iowa, and I think this is a real good idea," do you see anything wrong with it?

Mr. RAY. Supposing he didn't follow it. Suppose he took what Joe Jones said and thought it was the worst advice he ever saw and didn't follow it, should he make it public in that case, too?

Mr. FASCELL. What is wrong with the Secretary saying in response to a question, "Mr. Secretary, I understand Joe Jones came up with a fine idea. What are you going to do about it?" and the Secretary might say, "I think it is perfectly horrible and therefore I am not going to follow it."

Mr. RAY. Do you think you would ever get another piece of advice from Mr. Jones?

Mr. FASCELL. If it is that bad, do you think you ought to continue to get it from him?

Mr. RAY. You may disagree with him.

Mr. FASCELL. That is the whole point at issue.

Mr. RAY. I say if you desire to dry out the contact between the Government and citizen there could be no better way to do it—I am not saying you are suggesting it because I know you are not—than to insist any contact between Government and citizen, whether it be a Congressman or anybody else, shall be thrown into the public terrain.

Mr. FASCELL. The point is how do you know Mr. Jones advised badly until you know what advice he gave.

Mr. RAY. Well, the executive function is carried out by the executive department, and they have to decide that.

Mr. FASCELL. Yes, sir; then when you get a group which is so closely allined to a high policy position of Government which may or may not be followed by the head of that division of Government, don't you think then its entire character changes? It no longer is isolated advice; it is advice with influence directly connected and in fact right behind the desk of the Secretary or right in front of it or maybe right in his chair.

Mr. RAY. I doubt the influence myself.

Mr. FASCELL. Well, if he follows the advice he must be influenced.

Mr. RAY. What I think and I endeavored to say in the statement, something that bears on this, the executive department, the Cabinet, and policy people in the executive branch, have got to stand up and answer for the actions of their departments, and they have to stand up on the merits, and they are prepared to do so at any time. Now that is quite a different thing, I think, than putting this in a posture where all the advices that come to them, they may seek them from many, many people, and if you are going to dry those up it should be done only after a good deal of serious consideration.

Mr. MOSS. Mr. Ray, it seems to me we have just a little difference here in the matter of the Advisory Council than would be the case of the occasional advice from a citizen where the Secretary might ask for specific advice in a specific instance. Here you have a continuing body, a formalized body that meets periodically, and you supply the secretarial staff. Does it have access to governmental information supplied by the Department?

Mr. RAY. Well, only to the extent it may need to have it in connection with the work it may be doing for the Secretary in the way, as I say, always of advice and study and ultimate recommendation.

The CHAIRMAN. I really can't see the difference basically in principle. Let me say it is hard for me to think that seven Secretaries of Commerce, all with different personalities and all of them with different backgrounds, with this Council, the membership of which constantly keeps changing, could have kept something like this unless it were a thing of value in the public interest. I mean I wouldn't want to supersede their judgment by anything I might say.

Mr. MOSS. Of course, you are taking a premise here that I am not willing to grant: that is, that you cannot have candor in advice to Government unless you have it in secrecy. We get much advice in committees of Congress in the way of testimony. After all, the man who appears before a committee and testifies is in effect advising the committee, and the greater portion by far is given quite publicly. Now, I would like to feel that I can rely upon much of that as reflecting an honest opinion of the person who appears before the committee. The Secretary in effect is sitting as a committee and receiving advice in support of policies or in support of proposed policies or against policies. I don't know why there has to be a greater cloak of secrecy there than governs the deliberations of Congress or the consideration of its committees.

Mr. RAY. Well, of course, I don't think there is any difference in degree. The analogy to me would not be in your public hearings here or say in public hearings before—that would be more comparable to say public hearings before the CAB or something of that character, but the analogy would be, do you think it would be wise to make public all of the thoughts and advices that are expressed to you by your staffs in your executive sessions, by your constituents who communicate with you—I think there is your question analogy.

Mr. MOSS. Well, let's take one of the things that has been charged and certainly causes some concern or some interest on the part of the public in the Advisory Council—certainly I think you are familiar with it—that it is predominantly big business. Maybe that isn't true. We



will ask a little later that the names of the Council as it is presently constituted be made a part of the record. If it is in fact a big business advisory council maybe it is of concern to small business as to the type of advice which the Secretary might be receiving. Now, undoubtedly the advice has some weight with the Secretary. He has placed a degree of faith in the men who make up the Council because he has selected them and he has appointed them. Now, there are other groups of business in this country who have an interest in the policies which may be pursued by our Government and perhaps they would like an opportunity to examine or to have some familiarity with the type of recommendation which the Secretary is receiving.

Mr. RAY. Well, of course, no entity or organization or man or group becomes the sole advisor to anyone. I mean the prime advisor, of course, to someone like the Secretary or his advisors surround him in the Government from the lowest employee right up to his top advisors. The editorial opinion, the comment, the factual information that comes from other sources, and let me say of the Business Advisory Council, that this is not dealing with market facts or competitive situations or anything of that character such as the usual industry advisory committee. It is chosen, as I understand it, the membership is chosen for the wisdom and demonstrated public interest of the individual rather than to any size or scope of their activities.

Mr. Moss. Might he advise the Secretary on the type of statistical data which he should collect and make available to business?

Mr. RAY. If so, I know of no such advice.

Mr. Moss. What type of advice then does it give primarily?

Mr. RAY. Well, I could refer to a couple of recent ones. The Secretary asked the Business Advisory Council, I believe, to take a look at the organization as an efficient or nonefficient operating unit of a couple of the units of his office, and in the past they have studied a wide variety of problems; for example, foreign trade, tariff, and so forth. This is a group, in other words, with wide public interest, and wherever a Secretary can gain any help I am sure he goes out and tries to get it.

Mr. Moss. They were filling the role in that case of management consultant to the Secretary in the internal organization of the Department.

Mr. RAY. No; I didn't say that.

Mr. Moss. Well, you said that they advised on certain aspects of organization, of units within the Department.

Mr. RAY. They do, but I thought you said he would prefer that for the advice of his own people.

Mr. Moss. I don't want to presume to state what he might or might not prefer.

Mr. RAY. I misunderstood you.

Mr. Moss. All we are trying to find out is the role played by the Advisory Council and why more information about its activity isn't generally available.

Mr. RAY. I wasn't aware actually that this subject would be up for deliberation today. I had not been advised. I will be very glad to—I am glad to answer any questions I can to the best of my ability.

Mr. Moss. Of course, we are not trying to—

Mr. RAY. The report came after a long investigation of the subject by the Judiciary Subcommittee.

Mr. MOSS. Well, I think the Judiciary Subcommittee's interest is entirely different than that of this subcommittee. We are interested only in the informational aspects of your Department operation, and I think this has an important bearing on some of the phases of information in which there is a general interest not only on the part of the Congress but on the part of the press.

I asked a little earlier if the members of this Council had access, say, to classified material?

Mr. RAY. Not so far as I know.

Mr. MOSS. Do they originate anything which becomes classified?

Mr. RAY. I think not.

Mr. MOSS. But you don't know for sure.

Mr. RAY. Well, I think not. I would say not. If I am wrong, I will advise the chairman, but I do not understand that they originate any classified material.

Mr. MOSS. Do they keep minutes of their meetings?

Mr. RAY. Yes; I believe they do.

Mr. MOSS. Is the agenda prepared by the Department and submitted to them?

Mr. RAY. Yes; and the minutes are kept by the Department.

Mr. MOSS. It is presided over by a governmental employee?

Mr. RAY. The Secretary of Commerce is always present and presiding at their meetings.

Mr. MOSS. At all times?

Mr. RAY. That is right. In his absence I suppose the Acting Secretary, but generally speaking there are several top officials in the Department there at all times.

Mr. MOSS. But they are always chaired by an official of the Department?

Mr. RAY. Yes; the Secretary of Commerce is the continuing ex officio chairman of the BAC, the Business Advisory Council. They do have a member of the Council who is designated as chairman and who makes presentations, and so forth, but that is always in the presence of the Secretary or other Department officials.

Mr. MOSS. Then they are chaired by their own chairman rather than an official of the Department?

Mr. RAY. Yes; I would say that technically the chairman who is acting as such at the time is the Council Chairman, although the departmental officials keep the minutes and are present at the meetings. This is a creature of the Department of Commerce in all respects.

Mr. MOSS. Mr. Meader.

I wonder if I could interrupt for just a moment. I would like to acknowledge the presence of the chairman of the full Committee on Government Operations, Congressman Dawson of Illinois.

Now, Congressman Meader.

Mr. MEADER. I am sorry I was a little late in getting to the meeting. Has Mr. Ray read this prepared statement to the committee?

Mr. MITCHELL. Yes.

Mr. MEADER. I would like to direct your attention to page 6, the next to the last page of your prepared statement, the paragraph which begins on the middle of that page.

Let me emphasize one thing about this third qualification. It does not in any sense deny the established right of the Congress to investigate the operations of the executive branch of the Government.

I take it that sentence I have just quoted is a recognition on your part that the Congress does have the power to investigate?

Mr. RAY. Unquestionably.

Mr. MEADER. And it has the power to issue subpoenas to compel the production of documents?

Mr. RAY. Yes; it does.

Mr. MEADER. And to compel the appearance of witnesses to testify orally before its committee here?

Mr. RAY. That is correct.

Mr. MEADER. Now I take it that you believe there is some limitation upon that power of the Congress to investigate and to issue subpoenas for the production of persons and papers?

Mr. RAY. Yes; I think these would be the executive branch or the judicial branch of the Government. There is what I have described in here earlier as a qualification. I think it is little resorted to, but—

Mr. MEADER. Let me see if having read your statement I correctly state what your belief of that qualification is; that the Congress is entitled to testimony and documents from the executive branch of the Government to the extent that the particular department or agency believes Congress ought to have them?

Mr. RAY. Well, I would not put it that way. I would say that there are occasions when the production of materials by the executive branch would not be in the public interest, and that the courts have held that that is a decision for the executive branch of the Government, but I trust it would never be—

Mr. MEADER. Would you cite the decision? Do you mean to say the courts have held that the executive branch has the discretion to determine what information Congress is entitled to?

Mr. RAY. I didn't state it again as you put it, but the court held, and I didn't read this part of the statement, but the courts have held in relation to court subpoenas, to be accurate, directed against the executive, that the internal working papers and so forth of the executive branch are not reachable in general by the subpoena of the court, and I quoted on page 6 here from the recent Timbers case, the portion of it which refers to as authority opinions given by Mr. Justice Clark and Justice Jackson, and I might read that, and then I would like to go on and say that you are quite correct, I think, in stating that no court decision has precisely dealt with this subject as between the other two branches of the Government, the Congress and the executive branch, but I have developed some material in here on that subject as well.

Mr. MEADER. Well, you cited President Tyler and Senator Jackson, who later became a Supreme Court Justice, as saying that the legislative subpoena was on the same foundation as the court subpoena.

Mr. RAY. That is right.

Mr. MEADER. But that has not been held in any court decision that I know of.

Mr. RAY. No. As I say, these qualifications or incidents are few and usually the various branches of the Government will recognize the problem of their proper separation of powers and these things don't come to a problem.

Mr. MEADER. Let me ask you if you can see any merit in the distinction that I am going to attempt to draw between a court subpoena and the legislative committee subpoena. The court subpoena is issued, let's take in civil actions, to obtain facts necessary for the determination of a controversy between private citizens. In a criminal case it would be the interest of the State in the enforcement of the law and the interest in the defendant in presenting his defense, but the legislative subpoena is to find out about the public business and the administration of authority vested in trust with servants of the people. Do you see the distinction, in the type of subpoena, that I am trying to draw; that there might be every reason for the legislative committee to obtain facts on the operation and the execution of the laws passed by the Congress and the administration of public trust which would not be present in a controversy between individuals and a court?

Mr. RAY. Well, I think it is an interesting distinction, Mr. Congressman, but my belief is that if you assume that what the judiciary is going after, and I don't think it matters what kind of a case, is relevant to the protection of the man's rights in that case. I don't think there could be anything of higher importance, so I don't think that the distinction would be borne out, and I don't think it is borne out by the authorities.

Mr. MEADER. We both concede there aren't any authorities except Tyler and this Senator Jackson who were not actually passing upon any cases.

Mr. RAY. There are a great many authorities. They are not judicial decisions as between the executive and the legislative branches of the Government, but there are a great many historical precedents. President Tyler is one of a great many. Nearly every President since Washington has visualized this matter in, I think, almost precisely this way, and this is the first time I have heard the distinction which the eminent Congressman presents, and I was just saying that as far as I know it wouldn't be supported by the thinking in the past of constitutional lawyers and Presidents, and so forth, on the subject.

Mr. MEADER. Well, Mr. Chairman, if I might be permitted to do so, I would like to make a little statement and then ask Mr. Ray a question. It happens, Mr. Ray, that I was on the staff of the Truman committee during the war, and I had an occasion to look into the power of the committee of the Senate to obtain documents from the executive branch of the Government. I think it might be an interesting historical footnote to say that when Mr. Truman was the chairman of that committee he was very assiduous in protecting and advancing the powers of the committee of which he was the head.

I might say I was somewhat disappointed to find him equally vigorous when he transferred to the other end of Pennsylvania Avenue in keeping the committees of Congress from getting information from the executive branch of the Government. I have tried to obtain records from the Archives to substantiate this statement, but I am quite sure that at least twice Mr. Truman as chairman of the Special Senate War Investigating Committee issued subpoenas direct to the Attorney Gen-

eral of the United States, Mr. Biddle, and had them served on him. The precedents you refer to, and you will find many of them in Canon's Precedents, are instances where an effort was made to obtain information and somehow the situation was resolved by a compromise and so far as I know there is no court decision passing upon the power of the Congress to compel the production of papers in the possession of the executive branch of the Government against the will of the administrators in the executive branch of the Government.

Mr. MITCHELL. I wish to ask one question. Mr. Meader, isn't it a fact that the usual practice when a subpoena is served is that the subpoena was withdrawn and then the Cabinet member appears?

Mr. MEADER. I am not a witness here, Mr. Mitchell.

Mr. MITCHELL. I believe the records will reveal that is the technique that is used and that is why we have never had a court test on the matter.

Mr. MEADER. I wanted to ask Mr. Ray if he agreed with me that there is no authority, any court holding on the issue, and that the precedents you refer to are historical events which really didn't settle the basic issue of the power of Congress to get documents and information in the hands of the executive branch.

Mr. RAY. I think that your statement is correct and that the entire statement you made is a very enlightened statement, and I would like to make a comment or two about it if I might, not by way of repetition, but I think that this is a very obviously difficult area, and the fact that it has arisen so few times and has been stalemated and compromised somehow is testimonial to the good faith of our respective branches of Government, and their attempt to deal with what essentially becomes or might become a kind of a deadlocked problem. The Constitution attributed certain functions to each of the three great branches of the Government and surely they do not intend that they should be altered significantly, but the question day by day of how to keep them in balance is a very difficult question, and I think you would agree with that, and that is part of what you were saying.

Mr. MEADER. I am very jealous of the prerogatives of the executive branch of the Government and have often opposed attempts on the part of Congress to inject itself into administrative matters which I thought were clearly within the province of the executive, but the right to information on the part of policymaking agencies of the Government in times that are as complicated and difficult as they are today, it seems to me is one which is an inherent power of the Congress. It is a necessary adjunct to wise legislation, and I disagree with the tenor of your statement that the discretion as to what matters Congress is entitled to have rests in the executive branch of the Government.

Mr. RAY. I want to take away an impression that there would be any wisdom or justice in any arbitrary allocation of discretion to any branch of our Government. This is a matter that must be approached at all times and in each instance with the highest consideration in mind of public interest.

Mr. MEADER. Let me say, and I would like to see whether or not you see eye to eye with me on this proposition, that if the sole discretion to give or not to give information to Congress resides in the executive branch of the Government, the elected representatives of the people

and thereby the people themselves may, in its reductio ad absurdum, be excluded from knowing about the operations of their Government.

Mr. RAY. There is no doubt that there could be an imbalance created in the direction of any of these three great branches of the Government. I would be the first to admit that possibility.

Mr. MEADER. Now, I want to see if we can agree also upon this proposition; that the question of giving information to Congress, the executive branch giving information to Congress is different from the question of making it public; that is to say that there may be material classified for security reasons, or, as you point out, matters of informal conferences within a department, or there may be confidential revelations by citizens to the Department of Commerce. I think you concede in your statement that material which is classified for one reason or another can be given to committees of Congress in executive session with the confidential label maintained.

Mr. RAY. That is the policy of the Department of Commerce.

Mr. MEADER. And time and again the executive branch of the Government has turned over to congressional committees material which is classified even as top secret; isn't that true?

Mr. RAY. That is right.

Mr. MEADER. So the question of whether or not it should be released to the general public is a different question than whether or not the information should be given to a properly constituted congressional committee?

Mr. RAY. Well, that certainly is correct. The thing about it in the classified area is nobody is smart enough that I know about to give it out publicly and still deny it to the enemy. So the Congress and the executive branch get together and do the best they can with it.

Mr. MEADER. Now, speaking then solely about the right of Congress to have the information wholly apart from whether or not it should be made public, I would like to talk about this third class of confidential material, these internal disagreements and so on you referred to. I would like to ask you whether it might not be precisely that type of material that a committee like this, for example, would like to have to appraise and evaluate the efficiency and effectiveness and economy of performance of its executive function by the Department?

Mr. RAY. Well, are you suggesting that it might be made public?

Mr. MEADER. No; I am not talking about publicizing it. I am just talking about the naked right of the Congress to have access to material of that character on a confidential basis.

Mr. RAY. Well, I don't know. I know there have been instances where there was material in the executive branch which surely the Congress needed to know, but where there was some public-interest feature involved in its publication and such arrangements have been worked out. I don't know that I would be prepared to speak generally on the subject, but I am sure that in specific instances that sort of an arrangement should be made.

Mr. MEADER. Let me ask this, Mr. Ray. If the congressional committee is to be confined to the final product of the thinking of a department, the thinking that it perhaps releases to the public or sends up in the form of a message of some kind, or a report, and it has no right to go behind that to see the processes whereby that particular document came into being, has the Congress had complete access to the operations of the Department to know whether its decision is based upon fact

and thorough consideration or whether it is just something which was, perhaps, pulled out of the air?

Mr. RAY. Well, surely the chief problem is the problem of preserving the internal operations of any kind of an organization which is difficult in some areas to do.

Mr. MEADER. That is exactly the question.

Don't you think the Congress has a right to see those internal operations?

Mr. RAY. I would say certainly much of the difficulty is removed by the determination on the part of a committee to receive such material on, I won't say classified, but on an analogy to the treatment of classified material.

Mr. MEADER. Do I get your answer then that you believe that it is proper for the Congress to have access to those internal matters provided that they maintain whatever confidential characteristic the Department believes they should have, at least for the time being?

Mr. RAY. I would go so far as to say in many instances that would be the case. I wouldn't want to indicate that quite generally because there may be areas where it wouldn't be in the public interest.

Mr. MEADER. Occasionally congressional committees have done some rather constructive work in uncovering wrongdoings in the executive branch of the Government. It would be precisely that type of material which the agency would be most inclined to cover up, would it not?

Mr. RAY. I don't think so, and the thing I would like to say about that is that, of course, whenever, through any source, any congressional committee obtains any inferences or allegations or charges with regard to possible wrongdoings, then I think that it should be immediately brought to the attention of the executive branch, and it should immediately be placed under investigation by the highest investigating sources in the Government. I think that sort of thing is proper if direct charges or indications of wrongdoings are suspected or brought to light.

Mr. MEADER. If I might make one more observation, without risking putting myself on the witness stand—

Mr. MOSS. You go right ahead.

Mr. MEADER. I would like to say that my successor as counsel for the War Investigating Committee, who is now Deputy Attorney General—Mr. Rogers—had charge of the investigation of activities of Brig. Gen. Bennett E. Myers, when he was head of the Air Materiel Command in the Air Force, and that committee requests certain documents in the possession of the Air Force. They didn't think they got the complete file. Later on they requested the documents again and this time they got the complete file and among the documents in the file they obtained the second time there was a little memorandum attached to a paper, and the memorandum said, essentially, this:

We believe this is the document the committee wants, but we don't think they should have it.

Mr. RAY. I would not be in sympathy with that.

Mr. MEADER. What I am trying to get to, Mr. Ray, is some meeting of the minds, if we can, on the right of the Congress to this third class of material you are talking about. I don't believe you contend for a moment that the Congress should be confined to the ultimate product of the Department and that it would have no right to go behind that.

Mr. RAY. I think that, generally speaking, these issues arise in some sort of specific context. However, I do consider that on a purely legal question, and I don't think it would be for me to speak here as to the whole possible policy as between one branch of our Government and the other, but just as someone who has looked at some of the authorities, Justice Jackson said that the courts have held repeatedly that they will not and cannot require the executive branch to produce papers which in the opinion of the Executive would be contrary to the public interest to produce, and that this determination is for the Executive and not for the court.

Mr. MEADER. He was Attorney General when he said that.

Mr. RAY. Yes.

Mr. MEADER. Did you ever look up the decisions he cites from the courts repeatedly holding that?

Mr. RAY. Of course, I am familiar, as you are, with *Marbury v. Madison* in this particular area.

Mr. MEADER. That didn't involve the subpoena power of Congress.

Mr. RAY. No. I say I am dealing with this as being a sound analogy. I realize you presented a possible distinction a moment ago, but as far as I am concerned, I consider it an analogy that we have in three areas, three departments of Government, and with respect to the things entrusted to them they are coequal branches.

Mr. MEADER. I don't expect to have you say that you agree with me and I feel pretty strongly about this, that the Congress should have rather complete access to the files of the executive branch of the Government, wholly apart from the question of whether they should be made public or not, but I think you will agree with me that you do not intend to tell this committee that it is only the final product of the Department that the Congress is entitled to have.

Mr. RAY. Well, not at all times. What I was saying there is that the Congress has the right at any time to have the people who take action and who make policy to come up before them and explain what they did and why they did it, and to subject themselves to whatever public criticism or congressional criticism can be derived in that course of action.

Mr. MEADER. You would apply that also to documents, would you, rather than just the oral testimony of the official?

Mr. RAY. Well, if the ultimate final action of the Department or executive branch is a document, then, yes, the document, but I do make a distinction between the differing views, where the subordinate goes from one administration to another, and who are called upon to energetically express their candid views, and they are frequently on the wrong side in the sense of not having recommended or advised the final action taken.

Mr. MITCHELL. Mr. Ray, isn't it a fact, to follow up the line of thought Mr. Meader had, that when the courts do look at a case that comes up before them, all they do is look and see if there has been a delegation of official discretion in the statute. They do not look at the use of that official discretion except and unless it is a wide abuse of that discretion, and there never has been a decision by the courts, so that in America today we have a situation where nobody checks on the official discretion of the executive, and this committee has received case after case cited by the Government attorneys, and particularly in



the questionnaire, but never has it received one where the courts themselves have looked at the use of official discretion.

Mr. RAY. Well, I think that is right. I don't believe that the courts have directly passed upon the problem, as I said to Congressman Meader, as between the executive and legislative branches, but, nevertheless, I consider that the decision—the court decision—in the matter of the relationship between the executive and the courts, to be a precise analogy. Furthermore, I would like to refer to what I think, again, is a precise analogy, although it is not a court decision. It is the action of the House of Representatives. When its internal records and inter-office communications and so forth were subpoenaed by a court, which was presented to the whole House, it was then resolved and the subpoena was returned respectfully to the court and the House resolved that by the privilege of this House no evidence of a documentary character under the control and in possession of the House of Representatives can, by mandate or process of ordinary courts of justice, be taken from such control or possession, but by its permission. So that you see in almost every conceivable aspect the problem of possible collision, which, as I say, needs to be solved by the highest considerations of the public interest.

Mr. FASCELL. Mr. Ray, I just want to ask do you suggest, then, that Congress pass another resolution or a law which says specifically that Congress and the public shall have the right to all of this information in any executive agency?

Mr. RAY. I think you are dealing with the constitutional function.

Mr. FASCELL. Will you be kind enough to point out to me wherein Congress passed the law saying that it would contravene the Constitution of the United States?

In other words, you are saying, in effect, that it should be by constitutional amendment and not by law; am I correct?

Mr. RAY. Well, this was debated in the Constitutional Convention and it is a problem inherent in our Constitution ever since.

Mr. FASCELL. What problem?

Mr. RAY. The problem of the separation of powers of three branches of our Government.

Mr. FASCELL. I am not talking about that; I am talking about the right of the public to have any information.

Mr. Moss. I think I might inject myself at this point. You cite as authority for withholding in this third category two statutory enactments of the Congress, and if the Congress, in those instances, laid out the guidelines for control of information, cannot it go further and direct a freeing-up of the information?

Mr. RAY. Mr. Chairman, I cite those two statutes as illustrative of a recognition by the Congress of the inherent or constitutional right of the executive branch of the Government.

Mr. Moss. Would you cite for me where in the Constitution the executive branch of the Government is mentioned?

Mr. RAY. Yes; it is mentioned in the Constitution; it is established by the Constitution and given many functions.

Mr. Moss. Isn't the executive power in the President?

Mr. RAY. The executive power is in the President; yes, sir.

Mr. Moss. And you say that the opinion of the Attorney General Jackson, which is cited—

that they will not and cannot require the executive branch of the Government to produce papers which, in the opinion of the Executive, would be contrary to the public interest to produce; and that this determination is for the Executive and not for the courts.

Now I notice that your Department is one of those that cites the May 17 letter, and that has been cited by so many agencies, and yet what principle is founded in that letter?

Mr. RAY. Well, this letter is based upon the constitutional document and the separation of powers.

May I go back and say it rests in the executive, but in all of the cases which I say by analogy apply as between the judiciary on the one hand, and the executive on the other, this executive power in the area in which a department operates is exercisable by the department head.

Mr. Moss. At the direction of the President in the withholding from Congress.

Mr. RAY. No, sir. Attorney General Jackson said:

\*\*\* it has been universally recognized from the very foundation of this Government that the judicial department of the Government cannot call for papers and procure them either from the President or the head of an executive department at its own will. \*\*\*

Mr. Moss. Mr. Ray, we take the May 17 letter, which is cited as an authority, and then the memorandum of the Attorney General which accompanied it, and I think in each instance we are faced with citations where the President has claimed as his right the authority to direct a department or agency in a specific instance to withhold specific information from a specific committee.

Mr. RAY. I am not familiar enough with all of the precedents they cited in that to know. In the judicial authorities, both the case of *Boske v. Comingore*, which is referred to herein and which is usually considered the leading case, dealing with, I believe, an order of the Treasury Department, and the case of *Toey v. Regan*, which is another authority frequently cited in this area, we are dealing with an order or regulation of the Attorney General with respect to his employees in his Department.

Mr. MITCHELL. But you are again citing cases that have never really been determined by the court as to the use of the official discretion, and you know it, Mr. Ray.

Mr. RAY. That is because you deny the soundness of the analogy between those cases which arose as between the judiciary and the executive. You deny the application of that to the other two branches, but I, myself, figure it is a precise analogy.

Mr. MITCHELL. I deny it for the fact that the court never did look into the use of official discretion in both of those cases.

Mr. RAY. All I am saying is I have no reason to suppose they reached a different result as between the executive and judiciary.

Mr. MITCHELL. Then that is throwing it right back with the executives, solely in the use of official discretion, and you know that fact.

Mr. RAY. Well, I can refer you again to what the House of Representatives said, that no document should be taken by a court subpoena from its control without its permission. I am sure the House would not exercise that arbitrarily.

Mr. MITCHELL. Was that ever tested as to its constitutionality?

Mr. RAY. No; but I think it is constitutional.

Mr. MITCHELL. Therefore, that does not mean that that is constitutional, just because Congress passed it; isn't that correct?

Mr. MITCHELL. That is right, of course.

Mr. FASCELL. That is a very interesting point. You say it is constitutional. Why?

Mr. RAY. Under the doctrine of separation of powers.

Mr. FASCELL. All right, sir. That doctrine gives rise to what theory of law?

Mr. RAY. It gives rise to the theory of law that none of the great departments of Government, the three branches of Government, shall destroy the powers granted by the Constitution to any of the others.

Mr. FASCELL. All right, sir. Now, how does that theory apply to the theory that the public shall be entitled to all information regardless of what branch of the Government it comes from? Where is there a division of power between the three branches of Government as it applies to the public information?

Mr. RAY. Well, we believe and have said so that an informed public as to what goes on in your Government is absolutely essential to our form of republic government.

Mr. FASCELL. I will agree with that philosophy.

Mr. RAY. On the other hand, I don't think that that necessarily means that always the information contained in any one of the departments of the Government is to be made public if to do so would be against the public interest.

Mr. FASCELL. All right, sir, but let's get back to the legal theory now of the separation of powers. Is there a greater power in one agency of the Government over another that deals with the right of the public to have information?

Mr. RAY. No.

Mr. FASCELL. There is not?

Mr. RAY. The executive branch of the Government is not endeavoring to assert any control over the Congress.

Mr. FASCELL. No, sir, but it is endeavoring to exercise control over information.

Mr. MOSS. Well, to the extent that it controls information, it does exercise a control over the right of the Congress to function efficiently.

Mr. FASCELL. That is undoubtedly correct indirectly. I am just trying to leave this whole question strictly on the problem of information, on the right of the public to have the information. What I am trying to get from you is your analysis that you have laid out here in which you talk about the separation of powers. You are talking about one case in which the Executive has inherent or inferred power—I am not sure yet because we have not gone into that question—through some constitutional provision. You say he has the right to withhold, and we have not yet decided, as far as you are concerned as a matter of law, whether or not he can delegate that right. We are discussing that problem as one phase, but separated from the problem of the general public's right to know and from whatever right the Executive has over any other agency or branch of the Government to withhold.

Mr. RAY. I think, generally speaking, that all branches of the Government should make public, available to the public, the actions they

take and the reasons why in everything they can, which is not against the public interest, but you won't find in the Constitution any provision that says that the committees of Congress cannot meet in executive session and keep that secret from the public, nor will you find in the Constitution a provision that the executive branch of the Government shall not give away state secrets to an enemy. But, nevertheless, we have to weigh those things in the public interest, it seems to me, and make a decision as to what will serve the public interest best.

Mr. FASCELL. I will agree with you, but is it custom or necessity, or both, or common sense, or what do you think it is?

Mr. RAY. Well, several areas. If you are speaking about harm to the individual, I say that much Government information, as I said in here, would injure the individual needlessly.

Mr. FASCELL. In other words, you are going back to your theory expressed in your statement, and that is that the executive has some inherent or inferred power to withhold in those cases where it is going to injure the individual?

Mr. RAY. I think the individual has rights which must be protected and that is the judgment which every department should exercise, and that includes the executive branch of the Government with respect to their area of responsibility under the Constitution.

Mr. FASCELL. But you admit that there is no specific provision in the Constitution that deals with that?

Mr. RAY. There is no specific provision about the executive sessions of the Congress either. You exercise your judgment about that.

Mr. FASCELL. Well, these powers that we have assumed or adopted, are they inherent or inferred or did they give rise by virtue of custom?

Mr. RAY. They were intended, as the Federalist papers clearly show.

Let me put it this way: The Constitution doesn't say that the Supreme Court can invalidate an act of this Congress. You can read the Constitution from beginning to end and you will find no such words. But the court so held because that was what was intended by the framers of our Constitution. But you won't find those words in the Constitution either.

Mr. FASCELL. Well, as a matter of fact, if you carry it one step further, it is only what the public will accept that becomes law, too.

Mr. RAY. That is right.

Mr. FASCELL. Because that is what law is, is it not?

Mr. RAY. In the last analysis.

Mr. FASCELL. In the last analysis, if you believe in the democratic form of government, that is what it is.

Mr. RAY. Exactly. We change our Constitution, but until it is changed, you have to operate within it.

Mr. FASCELL. Then I think we are in agreement on one thing, are we not, and that is that the right to know is a right which is inherent in the people and not in any law or Constitution or anything else?

Mr. RAY. The people in America can change everything, including our Constitution.

Mr. FASCELL. Yes, sir. That has to be done by law, since we have that type of government, does it not?

Well, it can be done by constitutional amendment.

Mr. Dawson.

Would you give a distinction, Mr. Ray, between the *United States v. Reynolds*?

I am not sure I am too familiar with the facts of *United States v. Reynolds*, but I think that the decision in *United States v. Reynolds* suggests that there should be a deliberate decision on the part of any executive that publication would be contrary to the public interest.

I have said here several times, Mr. Dawson—I don't know whether you were here—that obviously it is incumbent upon everyone in every branch of the Government—certainly the executive—not to be frivolous about a matter of this importance.

Mr. Dawson. It says that it protects the court's right in each case as it might arise. It didn't surrender jurisdiction and it said that he had the discretion himself to do what he pleases, but the court will look on each case as it arises, whether or not he should produce. He didn't lay down a pointblank decision giving him authority under all circumstances to determine whether he would release it or not.

Mr. Ray. I wouldn't be able to say, but my own personal belief in the Department is that there should always be, in each instance of that character, a determination based on all of the facts and in the public interest by the person charged with the responsibility and not a frivolous exercise of any such power.

Mr. Dawson. Don't you think, under the circumstances, where there were deletions from lists prepared by the Secretary of State, with the advice of the Advisory Committee, and those deletions were not made available to the American public under his right to withhold knowledge, but were published in foreign papers, in Great Britain and other countries, that the people of the United States should know what is given to all of the rest of the world?

Mr. Ray. Well, you are speaking now about the matter of East-West trade.

Mr. Dawson. Yes. Those items were taken from the lists and it was so secret that the American people shouldn't know it. Congress wasn't entitled to find out by subpoena, and yet it appeared in the papers in Great Britain and in other countries. Don't you think that Congress ought to be interested in such a situation?

Mr. Ray. Well, I welcome the opportunity to answer that question. First, there is not in any time, as far as I know, and I know something of this, any secrecy or withholding of any trade statistics. What our allies ship to the Soviet bloc is an open book. That was not the question and is not the question; rather, the question is whether we are going to testify in public to the reasons, the strategic reasons why, including the intelligence data and other material available to make the decision, thereby conveying that information to the Russians, as to why changes were made in the list, revisions were made, certain things were now considered strategic which had not been, certain things which had been were now in production and the Russians were going to be taken off. The executive branch of the Government, in that instance, merely sought to present those things in executive session of the committee.

Mr. DAWSON. Did you give the information to the members of the BAC?

Mr. RAY. Not to my knowledge. I would say sure not.

Mr. DAWSON. Did the Secretary of Commerce consult you concerning the deletion of those items from the East-West strategic materials list before the items were dropped?

Mr. RAY. No. Let me say right there that this is not a responsibility of the Secretary of Commerce, Mr. Congressman; it is a responsibility of the Battle Act Administrator, who is partially allied to the State Department. The Secretary of Commerce has no responsibility in this area except to apply and enforce our own export-control matter, and that matter was not and is not in question. We have our own stiff controls and they are public and known.

Mr. DAWSON. Wasn't this discussed with the Advisory Committee?

Mr. RAY. No, sir. The question to which you refer, I believe, relates to the voluntary controls which we endeavor to maintain to the Co-Com countries. These are not done pursuant to any statute of our own, but are a matter of trying to get our allies who have different needs, and so forth.

Mr. MITCHELL. You are saying now that the list that was deleted from the strategic materials list was not made available to the United States, to anybody?

Mr. RAY. Nor to any other country and was not published in Britain either.

Mr. MITCHELL. Weren't they made available and published in Europe?

Mr. RAY. No.

Mr. MITCHELL. The items I am talking about—

Mr. RAY. May I answer that question?

Mr. MITCHELL. Yes.

Mr. RAY. The British published a so-called board of trade list. That is akin to our own United States positive list in our country. This is Britain's version of what Britain controls, but they did not publish the international list, which some of our allies adhere to undercover, because they do not have clear authority to restrain the trade, and what Britain published was board of trade list, and, of course, it contained some of the same items that are on the 15 nation Co-Com list, but it didn't publish those items which are on the watch list and under surveillance for strategic reasons, and it didn't publish the quotas. There are many, many other differences between that list and it is not correct to assert that the British published the list and why don't we publish it. That is not the fact.

Mr. MITCHELL. What did we publish?

Mr. RAY. We published the United States positive list, which has been published at all times.

Mr. MITCHELL. The positive list? You mean those items that are on the list?

Mr. RAY. What we control as a Nation, not what our allies control.

Mr. DAWSON. I wasn't present when you testified. I am quite sure you testified to this, but I would like to ask a question or two.

How often does the Business Advisory Council meet?

Mr. RAY. I believe they meet 6 or 8 times a year, Mr. Dawson.

Mr. DAWSON. And they have offices within the Office of the Secretary of Commerce?

Yes. I covered that. They have an office in the Department of Commerce building and this consists of an executive secretariat of commerce employees who work in that area.

And did I understand you to say that Mr. Weeks is Chairman and he has presided at all meetings?

He has been present at all meetings, but he subsequently—usually, you would say the designated Chairman of the Council is presenting the next thing to be presented, but the Secretary is always present.

Mr. DAWSON. That would be Mr. Harold Boeschstein?

Mr. RAY. He was the Chairman.

Mr. DAWSON. Who is the Chairman now?

Mr. RAY. Mr. Eugene Holman.

Mr. DAWSON. Was he drawn from the membership, Eugene Holman, of the Standard Oil Company of New Jersey?

Mr. RAY. Yes, sir.

Mr. DAWSON. Now, when they met, did the executive committee meet or did the full membership meet?

Mr. RAY. On what occasion?

Mr. DAWSON. Whenever they met.

Mr. RAY. Well, the meetings which I have—

Mr. DAWSON. I will withdraw that question. They met at whose call?

Mr. RAY. They meet at the Secretary's call.

Mr. DAWSON. And how many times has the full membership met?

Mr. RAY. They meet at the call of the Secretary of Commerce. As I say, the full membership meets either 6 or 8 times a year—something in that area.

Mr. DAWSON. How about your executive committee? How often do they meet?

Mr. RAY. I don't know, sir.

Mr. DAWSON. What is the purpose of this executive committee when you have a full committee in an advisory capacity? Why have an executive committee of them?

Mr. RAY. There would be times when, at the request of the Secretary of Commerce, the Council would be studying various things with a view to making a recommendation, and I presume they met to coordinate those activities that are taking place in between meetings.

Mr. DAWSON. Would he call members of the executive committee or members of the full committee to meet with him in accordance with the matters discussed? I see such a wide variety of industries involved. He didn't call all of them together to consult on all problems, did he?

Mr. RAY. Yes. In other words, as I said earlier, and you weren't here, this is not put together by industries; it is put together by background, experience and public interest and talent of the particular people.

Mr. DAWSON. How was the executive committee selected? By whom?

Mr. RAY. I will have to supply that to you, Mr. Congressman. I don't know. As I say, I had not expected to get into this subject and some things I am just not clear about.

Mr. DAWSON. I am just interested in these people who could be present and get all this information and give all this information that

the public can't have. I thought privilege was a thing to be claimed by the President and he then would claim it for each head, would notify them whether or not the Executive claimed it. I didn't know each Cabinet member was a little president in himself. The power to deny or refuse to give up information requires the approval of the Congress. I thought they acted only on the power delegated to the Chief Executive. Tell me if I am wrong.

Mr. RAY. I don't understand that is the case. I think the best authority on that subject, by analogy again, Mr. Congressman, are the decisions as between the judiciary and the executive, and there it is perfectly clear that with respect to their operations under the present areas of the executive operations, they exercise that power of the executive branch.

Mr. DAWSON. But I don't think that is the state of affairs, sir. Then there would be no reason why the President should issue Executive orders to the heads of the departments not to give certain information if each little head of the departments had the power inherent in himself.

Mr. RAY. I am not saying that the President has done it on many occasions.

Mr. DAWSON. The Attorney General at times has given his opinion on what the views are.

Mr. RAY. Yes. It has commonly been done by the President in the past.

Mr. DAWSON. If a request came to the head of the Department, would it be referred to the Bureau of the Budget or to the President himself, or would they refer it to the Bureau of the Budget before they would withhold it, and wouldn't they recite to the Congress the authority under which they withheld it?

Mr. RAY. I can only talk about a specific situation. I don't think anything of that character would generally take place without thorough understanding in the executive branch about it.

Mr. DAWSON. The business of the Government is the people's business.

Mr. RAY. That is right.

Mr. DAWSON. Then do you believe that merely because a man is an executive of a big corporation he is more entitled to know than anybody else, any other citizen?

Mr. RAY. Not as such.

Mr. DAWSON. Well, let's look for a minute at the executive committee. Mr. John D. Biggers, Libbey-Owens-Ford Glass Co., chairman; also director of Baltimore & Ohio Railroad Co., Bendix Aviation, Worthington Co., and Armco Steel Co. Libbey-Owens-Ford Glass Co. is its leading domestic manufacturer of safety glass and second largest producer of window and plate glass.

Mr. James B. Black, Pacific Gas & Electric Co., chairman of the board; also director, United States Steel Corp., Southern Pacific Co., Shell Oil Co., and Del Monte Properties Co. Pacific Gas & Electric Co. is the sixth largest electrical utility system in the United States.

Harold Boeschstein, Owens-Corning Fiberglass Corp. He is chairman of the board and president; also director of International Paper Co., National Distillers Products Corp., Owens-Corning Fiberglass Corp., is affiliated with Owens-Illinois Glass Co. and Corning



Glass Works, two of the largest producers of glass in the United States.

Then we have Mr. John L. Collyer, B. F. Goodrich Co., chairman of the board; also director of J. P. Morgan & Co. And you go on down this list and we find all the big companies. Here is Quaker Oats; Sears, Roebuck; the E. I. duPont de Nemours & Co., Mr. Greenewalt; Mr. Holman from Standard Oil Co.; Mr. Fred Lazarus, Federated Department Stores, Inc.; Mr. Love, Pittsburgh Consolidation; Mr. J. P. Spang, Gillette Co., and so forth. I don't know what we would find if we went down the list of all these active members, but it seems to me that the people are entitled to know what is going on in this country. I think there ought to be somebody there to represent the rank and file of people.

Mr. RAY. These men are not dealing with things which an industry advisory committee does in the allocation of orders and things like that. They are chosen, as I say, not for their companies, but because of their talent and standing in the business community; their knowledge and their public interest. I would like an opportunity, if it could be granted, to supplement the record here as to the nature of their public service background.

Mr. DAWSON. Certainly. There are many people in the country with public service background who deal directly with the people and the problems of the people every day. Don't you think that the common man of America is interested in the commerce of this Nation?

Mr. RAY. Well, certainly, but no committee of that character is a sole or even a primary source of advice, ideas, information. The question, rather, is, What are you going to get?

Mr. DAWSON. Do they advise on policy?

Mr. RAY. They may advise on policy. It depends on what you mean by policy.

As I was saying, I recall not too long ago they were asked by the Secretary to consider the structural organization of a unit in a department and develop a report or idea through him. I suppose that is policy.

Mr. DAWSON. Who on this committee, if you know, is interested in the nonindustrial point of view, the point of view of the common man?

Mr. RAY. I think you ought to bear in mind—I am sure you do—that the Commerce Department is not the only department in the Government. We tend to want to know all of the business facts we can get our teeth on, and I think that maybe that is a good idea for the Secretary of Commerce.

Mr. DAWSON. The people are still interested, even in big business.

Mr. RAY. I know over at Agriculture, they meet with Agriculture, and so on around the Government.

Mr. FASCELL. Mr. Chairman, may I inquire at this time?

Mr. MOSS. Congressman Fascell.

Mr. FASCELL. You named some lists of material that the Department of Commerce has responsibility in. You said the positive list, the watch list, and did you say the strategic list?

Mr. RAY. No; perhaps I could say this by way of background: The United States has its own policy of what it exports and does not export, which is designed to deny the Soviet bloc anything of strategic value.

Mr. FASCELL. You are talking about export-import control?

Mr. RAY. Yes.

Mr. FASCELL. Is that administered by the Department of Commerce?

Mr. RAY. This is administered by the Department of Commerce. The list there is of this character: We have a United States positive list; it is a public list.

Mr. FASCELL. Now, this is the export-import international control by the United States, not in conjunction with anybody else?

Mr. RAY. That is right.

Mr. FASCELL. But it is our positive list?

Mr. RAY. That is our positive list.

Mr. FASCELL. Let's stop there for a moment. Does the Business Advisory Council have anything to do with this list?

Mr. RAY. No.

Mr. FASCELL. Do they have access to the information?

Mr. RAY. Well, it is public.

Mr. FASCELL. Have they ever been requested, to your knowledge, to give any advice to the Secretary as to what should or should not be on the published list?

Mr. RAY. No; not that I know of.

Mr. FASCELL. In other words, it is your testimony that as far as you know the Business Advisory Council does not and has not made any recommendation, or given any advice, or influenced any policy with respect to the making of the positive list?

Mr. RAY. I know of none.

Mr. FASCELL. All right, sir, let's get down to this other list, this international list, or what is that?

Mr. RAY. It is the international list.

Mr. FASCELL. That is the list of strategic items that the United States joins with other countries in controlling?

Mr. RAY. Yes; and here is what we would like: We would like the international list to be exactly at the same level of our own stiff controls, but the only tool we have with the other 15 nations of Co-Com is the power of persuasion and there our governments are constituted differently. Their historic trade patterns are different, so we have a difficult time maintaining the international list at the high level of control that we maintain on our list.

Mr. FASCELL. On the international list, are those materials which are considered strategic and would not be exported to the Communist bloc by this group of nations?

Mr. RAY. By any one of them.

Mr. FASCELL. That is by agreement between the nations?

Mr. RAY. Yes.

Mr. FASCELL. Has the BAC made any recommendations or given any advice with respect to any materials which are either on the list or taken off the list?

Mr. RAY. I think not.

Mr. FASCELL. You don't know for sure?

Mr. RAY. Well, I would say not. I mean if I am wrong, I will correct it, but until I do I will say not.

Mr. FASCELL. Do you know whether or not anybody on the BAC, individually or collectively, has access to any of the information in the Department of Commerce with respect to any of these controls?

Mr. RAY. Of course, as I say, what we do—and this is Commerce responsibility—the State Department has the international list negotiations and the establishment of it.

Mr. FASCELL. You mean on what goes on or off the list?

Mr. RAY. The international list?

Mr. FASCELL. The international list, that problem is in the State Department, and the responsibility is not with the Department of Commerce?

Mr. RAY. That is right.

Now, you asked, I believe, does the BAC have anything to do with Commerce lists, and so forth. Our lists are all public, and everybody knows what they are. The only thing we do not publish, and neither does the BAC or anybody know about this, except sworn employees of the Department, is who has made application for a license in this or that area—the specific commercial facts.

Mr. FASCELL. What are the mechanics for determining inside the Department—what does it mean when an item is published on the positive list?

Mr. RAY. I was going to explain a little more how it works. The positive list is a list of items which we control. First, we don't send them at all to Russia or the Soviet bloc.

Mr. FASCELL. In other words, that list is published?

Mr. RAY. We do not send them to a friendly country unless we have absolute assurance they won't transship.

Mr. FASCELL. That list is published?

Mr. RAY. This list is published, and it is our own list. Then everything is embargoed to China, everything by the United States, and anything that is to be shipped to Russia, the Soviet-European bloc, whether or not it is on the positive list, requires a specific license, even if it is just one can of beans.

Mr. FASCELL. All right. Now, let me ask you this question:

Mr. RAY. All of the statistics of what is shipped pursuant to specific licenses are also public.

Mr. FASCELL. Supposing you want to take something off the positive list now. What are the mechanics for that?

Mr. RAY. Well, if anything is to be taken off the list—of course, the list is constantly under study because we don't merely take things off.

Mr. FASCELL. Do I understand your testimony correctly, that the BAC has nothing to do by way of recommended advice or knowledge with either taking something off or putting something on the positive list?

Mr. RAY. That is my understanding.

Mr. FASCELL. So they are completely excluded from export-import control?

Mr. RAY. I think so, although I should think that the Secretary, if he wished, could ask anybody to advise him about the method of operation or whether the controls should be stiffened and get as many ideas as he could.

Mr. FASCELL. I won't deny the Secretary's right to speak with anyone he wants to. I am trying to analyze exactly what recommendations or policies or what general areas we might get into.

Now the Department of Commerce is responsible for collecting and disseminating statistics of all kinds.

Mr. RAY. Yes, sir.

Mr. FASCELL. BAC makes recommendations and advises with respect to that duty and function?

Mr. RAY. Not that I know of.

Mr. FASCELL. All right, sir. How about itemizing in that same fashion, then, all of the duties and responsibilities of the Department of Commerce in general areas and indicate those which the BAC has made recommendations or has acted in some fashion—I don't want the specific recommendations—and those areas in which they have had no responsibility of any kind?

In other words, we have already determined, for example, on export-import control that there is nothing that they do with respect to that.

Mr. RAY. They don't have any kind of functional job. I want to make that clear. They are not told, "Now, you fellows go to work in this area and take a responsibility in here."

Mr. FASCELL. Well, generally, what does the Secretary ask them to advise him on?

Mr. RAY. He will take a specific problem that he has on the question of some general public character.

Mr. FASCELL. Give me an example. I mean I don't know anything about this operation. I am just trying to find out.

Mr. RAY. As I said earlier, I think when the matter of the discussion of foreign trade and policies was under deliberation—

Mr. FASCELL. You mean the extension of the Reciproval Trade Act?

Mr. RAY. No. I am calling on my recollection now, but this was a general policy question of what they would suggest as ingredients for the foreign trade policy. This was the time when countries were beginning to come back economically. Aid was dwindling. It was a matter of what kind of trade and tariff policies did they have.

Now the Secretary would ask literally every group he could get his hands on to come up with their ideas about it.

Mr. FASCELL. In other words, as to what the Department—

Mr. RAY. The BAC didn't run it or control it, but he may have asked them, like he would ask a hundred other people, for their ideas on the subject.

Mr. FASCELL. In other words, a determination as to whether or not the Secretary would approve or disapprove a particular legislative matter, he might ask, in conjunction with other people, the Advisory Council of BAC. Is that what you mean?

Mr. RAY. He might, although I think generally not, on bills or legislative proposals. At least not to my knowledge.

Mr. FASCELL. If they are not going to advise Commerce generally with respect to legislative proposals, what in the world would they counsel on? That is what I am trying to get at.

Mr. RAY. I endeavored to give a couple of illustrations.

Mr. FASCELL. I am sorry; it must have escaped me.

Mr. RAY. I said the Secretary asked them to look into organizational structure.

Mr. FASCELL. That is, internal management?

Mr. RAY. Yes.

Mr. FASCELL. That is pretty legitimate. These are all big-business men and ought to know about internal management.

Mr. RAY. Another one—I am not too clear when this arose, but it was a reconsideration all around of what the dominant features of a foreign trade policy ought to be, and that would be the whole gamut, I presume, of what would your ideas be about State Department tariff action as a procedure; what do you think of quotas and how about the whole scope, to get a man's broadest thinking in the general area.

Mr. FASCELL. What responsibility does the Department of Commerce bear with respect to that?

Mr. RAY. Well, the Department of Commerce has a very direct interest in the whole policy problem there because, you see, under our basic departmental charter we are charged with promotion of trade and commerce, including foreign trade and commerce, and we have an Assistant Secretary for Foreign Commerce and we are constantly concerned with the problem of the injury, say, to the United States industry by given imports from particular countries.

Mr. FASCELL. Then would it be a fair statement to say in arriving at the Department's position with respect to the extension of the reciprocal trade that in some part it was governed or counseled by the study of the BAC?

Mr. RAY. Well, I don't know that there was such a study, but it might well be. It wouldn't be governed by it, but they might well ask them for their advice.

Mr. FASCELL. Maybe I misunderstood you, but I thought you said that one of the things that the BAC was requested to undertake was a study of the overall foreign-trade policy of the United States.

Mr. RAY. Well, I think so, but you use the term "reciprocal trade," which led me to think you were speaking about FR 1.

Mr. FASCELL. Well, that was in that one specific case, but you are now talking about an overall study.

Mr. RAY. Yes.

Mr. MOSS. Would it be in connection with the OTC?

Mr. FASCELL. I don't know. I was trying to find out what they were requested to do, and, as I understand, they were requested to conduct a study and advise and recommend with respect to the overall trade policy of the United States.

Mr. RAY. This is just an example.

Mr. FASCELL. I understand this is just an example. Is there such a study now going on?

Mr. RAY. This was some time ago.

Mr. FASCELL. That has been concluded?

Mr. RAY. I don't know what they are studying now.

Mr. FASCELL. You say this full committee meets 6 or 8 times a year and you are not sure about how many times the executive committee meets, but it might meet in between these meetings, and, therefore, it might be 16 meetings of that, for a total of some 24 meetings a year. Do you know whether or not the BAC would meet even though they might not have any business?

Mr. RAY. Well, yes; I think they would.

Mr. FASCELL. They just meet and disband?

Mr. RAY. They have certain things. For example, they have a standing committee that reports on some of the basic or very current economic facts, not only in their industry but occasionally in their particular companies, which is more timely.

For example, you take the textile industry. There will be someone there who will busy himself and check all of the profit-inventory trends and so on in a meeting and this is conveyed to the secretary and discussed and is of great value to him, as you can see, because while we have lots of material coming in from State agencies and other collectors and compilers of trade information and all the trade publications and everything, any source that you can get that gives you current information on inventories, pricing, depressed areas, wages, and everything else, is of value.

Mr. FASCELL. What you are telling me is this is some continuity of work, thought, and effort with respect to BAC?

Mr. RAY. With respect to fundamental economic statistics.

Mr. FASCELL. Now, getting back to the specific instance you just related, is that a duplication of responsibility of the Department? In other words, are you telling me now that this independent citizen group performs a responsibility of the governmental agency?

Mr. RAY. No.

Mr. FASCELL. Is it a duplication of effort?

Mr. RAY. No.

Mr. FASCELL. The Department, then, does not collect this statistical information with respect to trends in industry and business that you are talking about?

Mr. RAY. Of course, we do, from every source we can get it, and this is one of them.

Mr. FASCELL. This is just another collection, then?

Mr. RAY. That is right.

Mr. FASCELL. But it is not in the routine working processes of the Department, as it would be with the other businesses who are not a part of this BAC?

Mr. RAY. Nobody can sit in an office in the Department and be a self-producer of statistics. You have to get them some place, and you get them every place you can. You compare them and judge them, and so forth.

Mr. FASCELL. All right; but I am just trying to find out now—I will just grab an example out of the hat. I have not examined this list, but let's take shoe manufacturers, or retail producers, producers of retail items, hard goods. If your Department is going to collect statistics from them, that is, the Department of Commerce, you go through certain routine fundamental processes—which are part of the responsibility of the Department of Commerce—do you not?

Mr. RAY. Are you talking about our census operations?

Mr. FASCELL. I don't know. I am talking about any statistics or business information the Department is supposed to get.

Mr. RAY. Of course, the Census Bureau makes censuses of all manners and descriptions. The Secretary's office and the Office of Business Economics are on the prowl at all times, from trade associations, from business groups, from the industry advisory groups, from individual concerns, from magazines, to get every scrap of current and projected information they can get.

Mr. FASCELL. I follow you.

Now, if you are getting—the Department of Commerce—information from all sorts of industries and businesses, which it is required to do under its charter, does it normally perform that function within the confines of its own organization?

Mr. RAY. I would say "No." They are meeting with all kinds of groups and people at all times.

Mr. FASCELL. I realize that, but I mean it is a responsibility of their own organization to get the information; right?

Mr. RAY. Of course, it is. Most of it is derived from things that other people who are not in the Government compile.

Mr. FASCELL. Now, to get back to the shoe manufacturers, the Department would get the same information from all shoe manufacturers, wouldn't it?

Mr. RAY. He might, and it might be a year late.

Mr. FASCELL. I will go for that qualification. They would go about getting it the same way, wouldn't they? They wouldn't treat one man one way and another man another, would they? It would be the same form, for example, that went to everybody, would it not?

Mr. RAY. Well, it sounds as though, to me, Mr. FASCELL, you are talking about census data which we get from individuals by the process of census takers mailing in forms, and so forth, and I am talking about much more current and volatile economic information than that.

Mr. FASCELL. For example?

Mr. RAY. Precisely this: It is part of the Secretary's job to get an idea of whether the inventories have reached the position that they are going to have an effect on the economy.

Mr. FASCELL. Let's stop there. You are going to check inventories to see what their position is?

Mr. RAY. Right.

Mr. FASCELL. If the Department of Commerce were doing that and you checked all inventories, you would check them all the same way, wouldn't you?

Mr. RAY. If you wanted to get current information, I presume you would get them largely from trade organizations gathering that information, which would be the most timely source you could get. You wouldn't necessarily go out and canvass all of the individual concerns, although you may be doing that in your census.

Mr. FASCELL. Let me just get this one question and then you can have him.

If a shoe manufacturer is submitting to you current data; that is, to the Department of Commerce, and he happens to hold a position on the Business Advisory Council, what different information does he give the Business Advisory Council that he doesn't give the Department of Commerce, or vice versa?

Mr. RAY. Well, he may be asked to make a 5-year survey of the shoe business, or he may be asked something that doesn't have anything to do with the shoe business.

Mr. FASCELL. All right, sir. Mr. Biggers, of Libbey-Owens-Ford Glass Co. is a member of this Advisory Council. Not all glass companies are represented on this Council.

Mr. RAY. This is not a Council forum by type of business, although they do, as I say, come in with economic judgment for whatever it is worth in the way of guidance to the Secretary, and those who need to know.

Mr. FASCELL. You don't mean though, for example, he might be called upon to give his economic judgment with respect to the entire glass industry?

Mr. RAY. Well, he might. He might be asked to express his opinion as to whether they are going to have a good year or bad year, or what.

Mr. FASCELL. Even though some other section of the Department of Commerce might actually be going on and getting the current data from all of the glass companies in the country?

Mr. RAY. That is right. We don't regulate the glass industry, Mr. Fascell.

Mr. FASCELL. I am not suggesting you do; I am trying to find out what you do. You say you are collecting data and statistics, current trends, economics.

Mr. RAY. It is a part of the process and only a small part of keeping the Secretary informed of what is happening in the economy, and it isn't mysterious to me.

Mr. FASCELL. I am obviously not getting through to you, and I am sorry because I am trying desperately to do it. But I would like to tell you what impression I have been left with so far, and that is that the Business Advisory Council was called upon to do a big study with respect to the whole field of foreign trade; that the study has now been completed, so this committee is just sitting around and advising the Secretary of Commerce every now and then when he has a hot potato and he wants some inside dope, and they do, too. That is the impression you left with me. I don't want to have that impression.

Mr. RAY. I don't believe I said anything that would lead to the impression they were sitting around getting a lot of inside dope, and I will state that is not the case.

Mr. FASCELL. Well, I am glad to hear you state that, and I am perfectly willing to believe you, but I am still trying to find out what field, what general areas the Business Advisory Council gives advice or recommendations or counsel to the Secretary of Commerce.

Mr. RAY. In the business field, organizational field, just like the farmer group advises Mr. Benson, I presume.

Mr. FASCELL. That is a good general statement.

Mr. MOSS. You have industry advisory committees, don't you?

Mr. RAY. Yes; a great many.

Mr. MOSS. And they advise on particular industries?

Mr. RAY. Yes; and they have a particular and different function, too.

Mr. MOSS. The Department of Commerce has regular procedures which it follows whenever it desires to develop specialized statistical information on any segment of American business, has it not?

Mr. RAY. Surely, and we so utilize it.

Mr. MOSS. And you do try to maintain currently important and valuable information as a guide. At the moment we recognize that the automobile industry is faced with a very heavy inventory. Now, I imagine you keep currently informed through the regular, normal procedures within the Department of Commerce as to the status of those inventories?

Mr. RAY. Yes.

Mr. MOSS. Then any information along the lines of what a particular business might be experiencing, which is developed by the Business Advisory Council, is supplemental?

Mr. RAY. It is supplemental; that is right. But, as I say, the Business Advisory Council is supplementary in every sense because it is not organized by businesses at all; it is organized by people.



Mr. Moss. It gives a comprehensive, a more complete comprehensive advice than the Industry Advisory Committee?

Mr. RAY. It is another type or facet of advice by people who are deemed to be people of knowledge and general stature, and so forth.

Mr. MITCHELL. Mr. Ray, Congressman Dawson, Congressman Fawcett, and the chairman, and all of the members of this committee have asked you questions this afternoon in which you said, "No; I don't believe so; I don't think it is possible." Can you tell this committee how the American people would find out just exactly what the BAC, the Business Advisory Council, does since Mr. Weeks has written the letter that was read before denying access to the Business Advisory Council's records to any committee of the Congress? And, in general, one specific question: Are these minutes and records available to the Department of Justice?

Mr. RAY. They have not generally been sent to the Department of Justice.

Mr. MITCHELL. Have any ever been sent to the Department of Justice?

Mr. RAY. I think not.

Mr. MITCHELL. Why not?

Mr. RAY. No request for them has been made, insofar as I know. The reason we send the Industry Advisory Committee minutes to the Department of Justice—

Mr. MITCHELL. I didn't ask that. We are talking about the Business Advisory Council now.

Mr. RAY. Well, what reason is there, Mr. Congressman, to send them to the Department of Justice?

Mr. MITCHELL. Who in the Government gets these Business Advisory Council minutes?

Mr. RAY. The Secretary of Commerce.

Mr. MITCHELL. He and he alone?

Mr. RAY. That is right.

Mr. MITCHELL. Are these reports available to be used by an individual or corporation participating in the BAC for defense purposes in an antitrust action initiated by a member of the public, a public citizen in a private damage action under the antitrust laws?

Mr. RAY. I don't think so. I would think not. Then I wouldn't think they would be relevant, in any case.

Mr. MITCHELL. You say that the member of BAC could not have access for his defense in an antitrust action?

Mr. RAY. I would not think so. These are developed to be advisory to the Secretary of Commerce. They are as far away as the moon in any antitrust case.

Mr. MITCHELL. Could this Business Advisory Council operate as an administrative lobby within the Government since the Celler committee report showed that it has access completely across the board, practically, in the entire Federal Government service?

Mr. RAY. I don't think so.

Mr. MITCHELL. You don't think it is possible?

Mr. RAY. No. I take issue with that. I don't think it is. Composed of men of this character and for the purpose for which they are established, I think not.

Mr. MITCHELL. That impression has been created. This subcommittee has received information to that effect from various people. Will the Secretary of Commerce see fit to change his mind and now make available the minutes and records of the Business Advisory Council?

Mr. RAY. I think not. In other words, when you have been obtaining advice from people on two considerations: one, that you want his best and most candid thinking and that you can get it even though it may conflict with some business position or other, and it may have to be used solely for your work product and thinking to get another form of idea, and that kind of confidence ought to be kept.

Mr. MITCHELL. Shouldn't that kind of an opinion be made available to the people?

Mr. RAY. What kind of opinion?

Mr. MITCHELL. His advisory opinion to the Secretary of Commerce.

Mr. RAY. Does the Congressman publish the advice of its staff?

Mr. MITCHELL. Anything this committee does is available to anybody in the United States.

Mr. RAY. The advice of his staff, the meetings of the executive session?

Mr. MITCHELL. The advice of staff, yes. We never have an executive meeting.

Mr. MOSS. Mr. Ray, I may say unless we are required by the claimed authorities of some of the executive departments to withhold information which is presented to us in our studies—and we may face that when we get into the more technical security questions—this committee has held no executive sessions and our files are not classified. The only information which we would have any classification on is that placed in there by the executive department.

Mr. RAY. Mr. Chairman, you are in a very fine position to conduct this study. I want to assure you that I consider it worthwhile.

Mr. MEADER. Mr. Chairman, you don't mean to say you are going to invite the press in on the debate on any possible report we may issue?

Mr. MITCHELL. Sure. Why not?

Mr. FASCELL. It is all right with me.

Mr. MEADER. I might say, Mr. Chairman—I don't mean to inject any discord in here—that I agree that you ought to do the public business in the open, but I think there is value in executive sessions, and particularly in that area where there may be some reason for not making public information, and yet the Congress ought to have access to it. The question whether it should be made public can be thrashed out later on. I have a very firm belief in the value of executive sessions and executive hearings. I don't like to have the right of Congress to information from the executive branch of Government confused with the question of whether or not matters should be made public. I think the Congress has a right, under proper safeguards to classified material. It has been recognized again and again by the executive branch of the Government. I think it confuses our thinking to insist that just because Congress has, or a committee has, the right to the information that necessarily it means that it should be made public.

Mr. Moss. I think I indicated that where the executive agencies regard the information which might be required as being classified for security purposes, the committee, of course, would have to honor it, and I think that most, or a great many, of the executive sessions of the committees of the Congress are executives at the insistence of the various departments with which the committee deals. It isn't the desire of this committee to work under any cloak of secrecy. We will do everything possible to avoid any sessions of an executive type.

Mr. MEADER. Mr. Chairman, might I ask Mr. Ray one further question?

Mr. Moss. Congressman Meader.

Mr. MEADER. Mr. Ray, in some of these communications, and possibly an expression of views similar to your own statement to this committee this afternoon, I wonder if there may be some feeling on the part of the executive branch of the Government that Congress is not to be trusted with information, that it does not possess the discretion that abounds in the executive branch of the Government. Now, I don't think you will hold any such view but I would like to hear you say it on our record.

Mr. RAY. If I have left any such inference, I refute it.

Mr. MEADER. It seems to me we aren't really too far apart on the legal right of the Congress to have access to information in the executive branch of the Government. The question is which department is to have the power to decide what is in the public interest, and the Executive repeatedly and historically has asserted that where, in his judgment, it would be in the public interest to deny Congress access to information in the possession of the executive branch of the Government, it will not give the information to the Congress. My own view is that that discretion should be in the Congress.

Mr. RAY. Well, I think, and I surely agree with you, that anything that can be done to narrow any possible differences, infrequent as they are, in this separation of power area is desirable, and the basic tool for it is that every department, every branch of the Government approach it in the best faith and rely upon it only after the most soul-searching consideration. I believe that to be the case.

Mr. Moss. Well, Mr. Ray, don't you think we are faced here with a matter frequently of emphasis?

Mr. RAY. Very definitely.

Mr. Moss. I certainly wouldn't want to leave the impression that this committee regards the executive department of the Government as being the only ones responsible for a tightening up of information or the availability of information to the American people and to the Congress. I think that the Congress must share the responsibility because we have legislated, in many instances I think unwisely. I have in mind the Export-Import Control Act for an example, where information is required to be withheld unless in the opinion of the Secretary its release would not be contrary to public interest. Don't you think it would be better if all of those statutes were looked over and a change of emphasis given that information inherently is open and free unless there is affirmative finding that it must be withheld for a good and sufficient reason?

Mr. RAY. Mr. Chairman, I certainly would have an open mind on that subject. Mr. McClellan, who is Assistant Secretary in the For-

eign Commerce area, is going to be before you. I will ask him to be prepared on this question. I realize exactly what you are saying, that the burden of proof ought to be the other way, and I think there is a lot to what you are saying.

Mr. MOSS. As Government expands—and certainly within the past 23 or 24 years Government has grown tremendously—and it has a much greater impact upon industry, science, education, on the daily lives of the people. It controls so very much information that just a little withholding here and there can add up to a very substantial amount in the totality of information withheld from the American people. Unless we do change emphasis, we are going to continue toward lesser availability of information about Government.

Now I feel very strongly that there is a constitutional right of the people to know. I think there is a constitutional right of the press to know. I think freedom of speech and freedom of press is meaningless without a free access to information and that whenever Government withholds, it should find affirmatively and for a good cause that it must be withheld. If we can change that emphasis as a result of the work of this committee, I think we will accomplish a tremendous job. I wouldn't ask for an open mind on that. I would like a little prejudice on my side.

Mr. RAY. I think you are always going to have some reservation of right in each of the branches under the conclusion to keep it in balance with the other departments and the only way I know to answer that is to publicly announce what those limitations ought to fairly be.

Mr. FASCELL. Do you think it would be wise and that it could be done, for example, for Congress to lay down exactly what the executive branch could or could not do? At the present time it seems to be left up to each court case as it arises. That is what I am getting at.

Mr. RAY. The Congress and the executive branch have gotten along for a long number of years, and if you look back at these precedents, while they lay out a pretty definitive pattern, they have really been scarce as hen's teeth, and I would say that the Congress ought to consider it a long time before they pass a law endeavoring to state what is the constitutional power of another branch of the Government because I suspect that either the courts would not look at it or it would break down finally in the usual compromise that takes place and it would be better to have that in an area where it is dealt with flexibly rather than with some intent through legislation to design by category the method of dealing with a problem which is essentially internal to the three branches of the Government in their check and balance.

I personally agree with you and I guess you can see that, but I would rather have Mr. McClellan speak on the subject. In preparing this statement, Mr. Chairman, I kept feeling that I was overemphasizing the negative. I think any time you say there are qualifications on the doctrine of a full and public release, you have to search and make sure you are dealing with the right qualifications, but nevertheless in sitting and putting them down on paper, you tend to make it sound as though this is just sort of the usual way you do think, that you give out here and there but in explaining what you don't give out you take a lot of pages and sound like you don't have an affirmative mind on that. So in response in a way to your remarks I would like to say I consider these qualifications on the doctrine of full disclosure must

be tested as you say in each case against the public interest, with a serious purpose in mind.

Mr. MOSS. And we shouldn't just close them out as we have done by, I think, very badly worded provisions of law? That has tended to make just a little reluctance on the part of the officials to disclose any other information.

Mr. FASCELL. Mr. Chairman, I wonder if Mr. Ray would care to comment on whether or not the testing he is talking about should be laid down by guidelines in the congressional act, or ought to be a loose policy of emphasis between departments, or ought to be tested by court action or just what?

Mr. RAY. Are you speaking now about—

Mr. FASCELL. Yes, about the first draft of your brief, if you didn't have enough sense to throw it in the wastebasket, to drag that up before this committee and make it public either before or after the trial of your lawsuit—do you think Congressmen are that foolish? That is what bothers me.

Mr. RAY. You are coming back to the distinction as to whether or not the Congress shouldn't see that first draft, bad as it is, in executive session, I take it, because otherwise my opponent in the litigation has the first draft if it is made public, even though you don't care to read it.

Mr. MEADER. You see what I resent is the rather implicit assumption in all this denial of information to Congress that the elected representatives of the people are not trustworthy and they don't have any judgment. I don't think that is the case. I am not going to say that Congressmen are paragons of virtue, but I think at least they are a good cross section of the American public and probably as good a cross section as the executive branch of the Government. I don't think there is any perfection in the personnel of the executive branch of the Government and no perfection in Congress but by and large I think that no committee that I know of in Congress would take your brief and give it to the opposition.

Mr. RAY. Well, it is kind of like classified material or material made confidential by law. Some intimate fact is developed in the course of a census that you get only because you make, you might say.

Mr. MOSS. I think we have here a much broader question than just the rights of the Congress and the rights of the executive branch. We have the rights of the people. We have the right of the people for information. I think it is a very strong and a very important one.

Mr. RAY. But times change and circumstances change, and I would think that, if you would deal with this complicated subject for what it is in the executive branch, the disclosure of which at a given time is or is not in the public interest, you would have a difficult task on your hands. Let me take just one illustration. I am working on a brief in a case in which Commerce is interested. The Government has been sued. I have that brief in draft. I go home and the next morning I realize that this is one of the worst briefs that was ever written, so I go back to work on it some more. Now, do I make all those drafts public and give them in effect to the opposition lawyer? This is a difficult thing to start trying to work out.

Mr. MEADER. May I make a comment on that point, Mr. Chairman? I don't know whether Congress would even be interested in reading your briefs, either the first draft or the last draft.

Mr. RAY. My opponent would, I assure you. I might make an admission in the early draft.

Mr. MEADER. I just don't like the implication that Congress and the committee cannot be trusted to handle information and deal with it intelligently.

Mr. RAY. Well, I have said before, and I will say again, that Secretary Weeks and all of his Department feel the Congress as an honorable group is entitled to the respect of every man in the Department from the top to the bottom. We just are sitting here trying to thresh out principles and at times you have seen it from one vantage point and we are seeing it from another, but I am sure we are all operating in the best of faith.

Mr. MOSS. Mr. Ray, I think that this will conclude the hearings for this afternoon. We will want you back later on in this series of hearings, and at that time we will want to go over the questionnaire rather extensively.

Mr. RAY. I will endeavor to be prepared on that. Would you indicate any time when you think that might be? I am going to have to take a fairly active role next week in the Department presentation of the transport policy matter before Chairman Harris' committee. I might be pretty well trapped.

Mr. MOSS. We will get together with you and work out a schedule. It will be another 3 or 4 days at least with the Department of Commerce.

Mr. RAY. I will be glad to return at any time.

Mr. MOSS. The committee will reconvene at 10 o'clock tomorrow morning with Mr. Erwin Seago as the first witness. The committee will now stand adjourned.

(Whereupon, at 4:55 p. m., the subcommittee adjourned until 10 a. m. Thursday, April 19, 1956.)

# AVAILABILITY OF INFORMATION FROM FEDERAL DEPARTMENTS AND AGENCIES

## Part 6—Department of Commerce

THURSDAY, APRIL 19, 1956

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT INFORMATION  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D. C.*

The subcommittee met, pursuant to recess, at 10 a. m., in room 362, Old House Office Building, Hon. John E. Moss, Jr., chairman of the subcommittee, presiding.

Present: Messrs. Moss, Fascell, and Meader.

Also present: Samuel J. Archibald, staff director; John Mitchell, chief counsel; and J. Lacey Reynolds, senior consultant.

Mr. Moss. The subcommittee will now come to order and we will start our hearings with Mr. Seago, Director, Office of Strategic Information.

I wonder if you would give a brief biographical statement for the members of the committee.

Mr. SEAGO. Yes, Mr. Moss.

My name is Erwin Seago. I am a graduate of the University of Chicago Law School. I practiced law in Chicago for about 25 years. I am admitted to the bar of Illinois and of Virginia.

More recently I have been a lecturer at the University of Virginia Law School, from which I am now on leave.

Since the latter part of June 1955, I have been serving in this place as Director of this Office of Strategic Information.

Mr. MOSS. You have a statement that you would like to present?

Mr. SEAGO. I do.

Mr. Moss. All right, commence.

### STATEMENT OF ERWIN SEAGO, DIRECTOR, OFFICE OF STRATEGIC INFORMATION; ACCOMPANIED BY ALLEN OVERTON, JR., SPECIAL ASSISTANT TO THE GENERAL COUNSEL, DEPARTMENT OF COMMERCE

Mr. SEAGO. Mr. Chairman, gentlemen, we welcome an opportunity to tell you about the Office of Strategic Information in the Department of Commerce and the direction in which its studies and work are proceeding.

In this 20th century mankind is confronted by a new series of problems of record magnitude which call for a fresh examination of procedures by which freedom and security have long been sustained.

These new conditions require profound thought and wise action by Government and every segment of the public, including science, industry, and the press.

Mindful of the changes, and alert to the new dangers inherent in these changes, and prompted by the desire to preserve historic rights, expert minds throughout the Nation are giving much attention to these problems.

In order to study and make recommendations in one sphere of this widespread problem the Department of Commerce was asked to take a fresh look at the publications and international exchange of nonclassified information in relation to these new conditions.

Accordingly, the Secretary of Commerce in November 1954, established the Office of Strategic Information and charged it with the responsibilities in this area. The work of this office is with respect to nonclassified scientific, technical, industrial, and economic information.

The Secretary of Commerce has three exploratory responsibilities which are:

1. To study and furnish guidance to executive agencies, with the advice of an interagency committee, on the publication of nonclassified information which might be prejudicial to the defense interests of the United States.

2. To study, develop, and coordinate, with the advice of an interagency committee, uniform guides on the international exchange of nonclassified information.

3. To provide a central clearinghouse to which science, business, and industry may look for guidance, on a voluntary basis, in considering the public release of nonclassified information which might be prejudicial to the United States defense interests.

This office is not an office of operations. We have been concerned primarily thus far in studying freely disseminated nonclassified information to see what part of this material may be aiding unfriendly nations and the need of balancing the flow of information to unfriendly nations.

Too much of our technical, industrial, scientific, and economic information is going to the Soviet bloc. This is a problem which requires the attention of the entire Nation.

This problem was recognized by Congress when it considered the Defense appropriation bill for 1956. The report of that bill states—too much information has been released which is of no benefit to the American public, but which is of tremendous value to our opponents. (See exhibit XXII.)

As far back as October of 1950, the Interdepartmental Committee on Internal Security asked Secretary of Commerce Sawyer to initiate a program for the voluntary protection of nonclassified technical information, the release of which might endanger the national security.

In January of 1951, Secretary of Commerce Sawyer established a service in the Department of Commerce to implement this program. It was announced to the public through a release of 20,000 brochures. In June 1953, the office charged with its operation recommended a complete review.

The Interdepartmental Committee on Internal Security studied this recommendation and other recommendations, all of which resulted in the establishment of this office.



I would now like to indicate additional basic concepts involved in the OSI program.

Mr. MEADER. Mr. Chairman, I wonder if it would be in order, before you proceed, to give us a brief description of the size and character of your establishment.

Mr. OVERTON. Mr. Congressman, his statement covers this matter.

Mr. SEAGO. Russia and its satellites are doing an amazingly successful job of preventing the transmission abroad of their own scientific and technical data and are at the same time collecting a disproportionate amount of the free nations' technical information.

In studying this matter we have to be guided by one of our most basic principles and that is the freedom which information must have in our way of life.

We know that without the free exchange of information, industry is less efficient and production is more expensive.

To maintain our technical superiority we must, among other things, promote wide dissemination of scientific and technical information in this country.

However, on the other side is the recognized fact that the military potential of possible enemies has been substantially increased by the fact that we have given them the answers to many problems that otherwise would have taken them much time to develop.

I believe you will agree that these various considerations present all of us with a difficult problem. Difficult as it may be, we believe that our studies indicate progress can be made to maintain and increase the flow of information from the Soviet countries to the free world and to protect information, the unwise release of which would be harmful to the national defense.

The OSI approach is positive and not negative. Our study and work is to increase the flow of information to our own people and to the people of the free world—in this way we will be serving the cause of peace.

These positive purposes flow from the twin needs of:

1. Maintaining and increasing the flow of such information to our own people.
2. Avoiding harm to the national defense.

We will first consider Government publications. The purpose here is to strike a balance between the public's right to know and the aid to potential enemies that may result from the release of such information.

In order to do this there is need for prudent and uniform action throughout Government.

In studying and working with the Government publications problem, it should be remembered that the Office of Strategic Information has an Advisory Committee on Publications so that it has at all times the advice of members from the most interested Government agencies.

One guide developed with the advice of this committee relates to defense contract information. Here the purpose is to give the American businessman the necessary information on defense procurement while at the same time minimizing the release of information harmful to the national defense.

This is accomplished by eliminating overly specific descriptions and quantities on awards and procurement offers concerning new weapons and special installations.

For instance, the first public indication of a classified radar project on our southwest borders was revealed through a Government publication where bids were solicited for construction of an "aircraft early warning station."

If words such as "special installation" had been substituted for the words "aircraft early warning station," harmful information would not have been divulged.

This emphasizes the type of thing with which we are concerned in Government publication. This is not censorship or suppression of news. It is just commonsense.

Another study example has to do with aerial photographs, many of which, we are told by the intelligence people, contain information of strategic significance. The purpose is to suggest uniformity in Government as to publication and release for publication of aerial photographs. It is hoped to accomplish this by indicating the Defense Department as the central place where all Government aerial photographs (not just Defense Department photographs) are to be reviewed prior to such publication.

It should be pointed out that this arrangement recognizes the necessary release of aerial photographs to our own people for such necessary uses as farming, engineering, mining, city planning, etc.

The second major study concerns the international exchange of non-classified Government information. There has been a trickle of information flowing from the bloc countries to us compared to the wealth of information available to them in the United States.

The objective here is to gain a net advantage from this exchange.

This can be done by a united effort of all in Government for the purpose of obtaining value for value.

Here, also, the Office of Strategic Information, in studying this exchange work, has an Interdepartmental Advisory Committee on International Exchanges. At all times it has the advice of members from the interested departments and agencies of the Government.

On exploratory guide developed with the advice of our Exchange Committee is for handling Communist requests for nonclassified Government information which has been published.

Under this guide, published Government information will be furnished the Soviet bloc upon request but attempts will be made on a coordinated basis to obtain information of value in return.

Another guide has to do with the handling of Communist requests for unpublished, nonclassified Government information. By unpublished information, we mean information that is not "published" by the Government, but which is available to our own people upon request.

This guide indicates that in general unpublished Government information will be furnished to Soviet bloc requestors only after definite exchange arrangements have been completed for equally valuable information.

We know, of course, that we cannot entirely shut off the availability of nonclassified information to the Communists. They have been known to obtain even our classified information. They can use new agents, letter drops, and numerous other tactics. We do not have to give our information to them on a silver platter. We can bargain for information in exchange. The Soviets are known to be hard bargainers and they respect the bargaining aspects of a quid pro quo approach.

Any steps the Government takes to increase the flow of information from the bloc brings us that much closer to our objective, and we are already reaping benefits from this approach.

To augment the exchange program, a list is being compiled of specific Soviet bloc publications and items of information which we do not have in this country and which we want. This is the first time that this has been done in Government. It is by the use of such a list that the United States can be businesslike and specific in this international exchange area.

There are other factors which must be considered in the exchange area.

We are studying a mechanism for evaluating the information received in exchange. Only in this way will we be able to determine whether we are getting value for value, quid pro quo, and a net advantage.

Logically, another step follows and that is the dissemination of the foreign technological information received in exchange. This may well be one of the most important studies of the overall program. Information so received must be made available to science, business, and industry in the United States, and for it to be made available, translation may be required. The long-range exchange program is just good business. It is common sense. It does not invite retaliation. It invites respect. It furnishes the best method of overcoming the existing imbalance.

The third major study assigned to Commerce is to serve as a clearing-house for, and to enlist the cooperation of, science, business, and industry. In this area, advice rendered to a person or firm seeking assistance is on the basis of the coordinated judgment of the principal Government agencies involved.

The objective here is to foster the technological growth of our country by maintaining and increasing the flow of information to our own people without harm to national defense.

We are convinced that, in general, science, business and industry are aware of these problems. In our early efforts to increase this awareness, there was some criticism levelled at the Government and there was some talk of censorship. We take the position that the Government should put its own house in order before seeking the voluntary cooperation of science, business, and industry, and we are pointing our studies to that end.

From our experience and letters received, science, business, and industry are for the most part, more than willing to cooperate and in some instances would be stricter than Government might finally recommend.

Now as to the mechanics of operation within the Office of Strategic Information. The office is small, consisting of a Director and four staff assistants.

As our studies may indicate the need and feasibility, guides will be suggested with the advice and recommendations of the two advisory committees established for that purpose. All of the interested Government agencies are represented on each committee.

Any studies developed in this area of nonclassified information must be on a dynamic approach and geared to meet the changing world situation. Such studies must be approached on the basis of common-

sense, sound collective administrative judgment, and full exploration within the interagency committees where science, technology, military, defense, economic, propaganda, and other factors may be considered.

In conclusion, let me suggest:

(1) We guard against the attitude that these studies are too difficult and that nothing can be accomplished in the areas involved.

(2) That the problems we have discussed are not negative, but on the contrary, they promote the publication and exchange of information where the defense interests of the United States will not be harmed.

(3) We keep in mind the President's many statements with respect to the necessity for reciprocity in the exchange of information with the Soviet bloc. In an editorial of April 2, 1956, the Washington Evening Star endorsed these principles of reciprocity and quid pro quo, and said, "This is an eminently sensible view." The editorial stated further that such a quid pro quo program would have the added virtue of helping materially to promote peace.

We will be glad to answer any questions that we can and we are pleased to cooperate in your study.

Mr. MOSS. Mr. Meader, do you have any questions?

Mr. MEADER. Would you mind adding to the information about your personnel, your annual budget? What does it cost to run your office?

Mr. SEAGO. I have not the complete details on that, Mr. Meader. I can furnish you with that information. It is approximately \$60,000. I can get that information for you.

Mr. MEADER. Do I understand that both of these advisory committees have as members only officials of the Government, and there are no industry members?

Mr. SEAGO. That is correct.

I might say, in answer to your question, OSI was a line item in the Department of Commerce budget presentation to the Appropriations Committee for fiscal 1956. Funds were appropriated for OSI subsequent to a full explanation to the committee of the operations and functions of the OSI.

Mr. MOSS. Mr. Seago, do you have a list of the members of these two advisory committees, and would you outline for the committee the exact function of each committee?

Mr. SEAGO. I have furnished, I believe, a list of the committee members. Whether I brought that second list with me today, I am not sure.

Mr. MOSS. Do we have a copy of the list, Mr. Mitchell?

Mr. MITCHELL. Mr. Chairman, we have been furnished by the Department of Commerce a list entitled "Interdepartmental Advisory Committee on Publications," and we have an additional list entitled "Interdepartmental Advisory Committee on International Exchanges."

Mr. MOSS. Those are the two advisory committees?

Mr. SEAGO. Yes.

Mr. Moss. The lists will be made a part of the record at this point. (The lists are as follows:)

*Interdepartmental Advisory Committee on Publication*

Agency	Member	Alternate
Agriculture Department.....	Gold, Theodore S.....	
Atomic Energy Commission.....	Marshall, Charles L.....	
Central Intelligence Agency.....	Salisbury Morse.....	
Commerce Department.....	VanSlyck DeForest.....	
Defense Department.....	Green, John C.....	Burgess, Donald R. Edgerton, Joseph.
Health, Education, and Welfare Department.....	Allen, Philip K.....	
Interior Department.....	Letcher, J. Clifford.....	
Justice Department.....	Howard, Paul.....	Banks, Lemuel.
National Science Foundation.....	Canavan, James J.....	
State Department.....	Thompson, Dr. Alberto.....	
U. S. Information Agency.....	Rusch, William H.....	Pope, George A. Finney, George J.
Ex officio: Office of Defense Mobilization.....	Dunlap, Henry A..... Schooler, Lee W..... Beckler, David.....	

*Interdepartmental Advisory Committee on International Exchanges*

Agency	Member	Alternate
Agriculture Department.....	Mohrhardt, Foster E.....	Bercaw, Louise.
Atomic Energy Commission.....	Salisbury, Morse.....	Fry, Bernard.
Central Intelligence Agency.....	Toth, Alexander B.....	Vance, John K.
Commerce Department.....	Astin, Dr. Allen V.....	Hockersmith, Forrest D.
Defense Department.....	McCaffrey, H. Frank.....	Martino, Robert A.
Health, Education, and Welfare Department.....	Bush, Harvey A.....	Adams, Scott.
Interior Department.....	Howard, Paul.....	Banks-Lemuel.
International Cooperation Administration.....	Blachly, Frederick.....	McPherson, Walter C.
Library of Congress.....	Coffin, Lewis C.....	Cronin, John W.
National Science Foundation.....	Thompson, Dr. Alberto.....	
Post Office Department.....	Goff, A. M.....	Blandford, Joseph H.
Smithsonian Institution.....	Roberts, Dr. Frank.....	
State Department.....	Pope, George A.....	Shipman, Fred W.
Treasury Department.....	Fishman, Irving.....	
U. S. Information Agency.....	Lyon, Scott C.....	Kormann, John G.
Ex officio: Office of Defense Mobilization.....	Schooler, Lee W..... Beckler, David.....	

Mr. Moss. Now, will you outline for us the duties and functions of these two advisory committees?

Mr. MITCHELL. I would like to point out, Mr. Chairman, that these two lists contain the name of the Government employees who are on the committees. That is correct, is it not?

Mr. SEAGO. Yes.

Mr. Chairman, the members of these committees assist in the studies and exploratory work we are doing in these three areas we have just described.

Mr. Moss. They represent Government departments and agencies only? There are no representatives of industry, business, or science on these committees?

Mr. SEAGO. Well, I am sure that is correct. They are all Government employees.

Mr. Moss. Mr. Mitchell.

Mr. MITCHELL. Mr. Seago, do you have a copy of the NSC directive establishing the Office—requesting the Department of Commerce to establish the Office of Strategic Information with you? I believe I requested that of you over a month ago.

Mr. SEAGO. It is a classified document.

Mr. MITCHELL. It is a classified document?

Mr. SEAGO. Yes.

Mr. MITCHELL. Can you explain to the committee why it would be classified?

Mr. SEAGO. No; I don't believe I could.

Mr. MOSS. Can you tell us the classification the document bears?

Mr. OVERTON. Mr. Chairman, just on the basis of general observation, I believe most of the papers of the National Security Council bear a classification of at least secret.

Mr. MITCHELL. This matter does not pertain to classified material, sir, in any way, according to the interpretation of the Department of Justice's own regulation. This has nothing to do with classification.

Mr. OVERTON. I didn't understand. I am merely making—

Mr. MOSS. Let's stay right on the point that you made, that all of the documents of the National Security Council are classified.

Mr. OVERTON. I didn't say all of them, but I was speaking from general observation in an effort to be helpful, and therefore I would assume that this document bears the classification secret.

Mr. MOSS. This is a very important point. Is the committee to assume that we have large areas of classified material, that the classification is placed upon the document because of the agency originating it, rather than the material itself?

Mr. OVERTON. That is a matter beyond my competence and if it is a question with regard to NSC matters, I suppose it should be directed to someone in that area.

Mr. MOSS. We will, of course, direct an inquiry to the agency itself, but it is your experience that all of their papers are classified regardless of their content?

Mr. OVERTON. I don't feel that my contact or experience in that area is sufficient for me to comment, sir.

Mr. MOSS. Well, Mr. Mitchell, you will direct an inquiry to the National Security Council and have them give us detailed information on their classification procedures. That is a matter that the committee is going to go into very carefully because we have much that leads us to believe that there are, in fact, large masses of documents and information which are classified without regard to the content of the document itself, and, of course, if that finally proves to be true, it is an abuse of the intent of the classification privilege as laid out by the President in his Executive Order 10501.

Mr. MITCHELL. Mr. Seago, you administer this program?

Mr. SEAGO. Yes.

Mr. MITCHELL. Is there anything in the subject matter of the NSC directive that is classified? I mean there is nothing classified about the procedure and the use of the OSI, the Office of Strategic Information; is there?

Mr. SEAGO. The work that I do is not classified.

Mr. MITCHELL. The work you do. Are you cleared?

Mr. SEAGO. Oh, yes.

Mr. MITCHELL. By which department were you cleared, sir?

Mr. SEAGO. The Department of Commerce.

Mr. MITCHELL. The Department of Commerce?

Mr. SEAGO. Yes.

Mr. MITCHELL. Are you cleared on a basis of need to know?

Mr. SEAGO. No.

Mr. MITCHELL. Do you have access to all Government files, classified or unclassified files throughout the Government?

Mr. SEAGO. I have what is known as a top-secret clearance.

Mr. MOSS. Do you have a "Q" clearance?

Mr. SEAGO. No. Not that I know of.

Mr. MOSS. Would you then be closed out from certain information of the Atomic Energy Commission?

Mr. SEAGO. I think I would.

Mr. MOSS. Do you feel that it might be helpful if we had a uniform security clearance in our Government, where one would apply generally government?

Mr. SEAGO. I do not have enough experience, Mr. Moss, to comment on that.

Mr. MITCHELL. Have you made requests for information that have been denied to you on the basis of security in your position as Director of the Office of Strategic Information?

Mr. SEAGO. No.

Mr. MOSS. Have you made any such requests, then, to the Atomic Energy Commission?

Mr. SEAGO. No.

Mr. MOSS. You are to deal in the field of strategic information; you are to evaluate and advise others on publications. One of the very large areas of information is that under the control of the Atomic Energy Commission. Do you coordinate with the Atomic Energy Commission?

Mr. SEAGO. In this way, Mr. Moss: We have on our advisory committees, both of them, members from the Atomic Energy Commission and they deliberate in the studies that we carry on.

Mr. MOSS. And the information which is controlled by other agencies, do you deliberate on the information of interest to the Atomic Energy Commission?

Mr. SEAGO. Well, we do not control the information of other agencies.

Mr. MOSS. That is the fact that, let's say, at the moment we regard as debatable. We want to find out whether you do, in fact, control.

Mr. SEAGO. We do not.

Mr. MOSS. Mr. Mitchell.

Mr. MITCHELL. Mr. Chairman, at this time I would like to introduce Department of Commerce Order No. 157. It was issued on November 19, 1954, and became effective on November 1, 1954, but it was not put into the Federal Register until December 6, 1954.

Mr. MOSS. The order will be made part of the record.

(The document referred to is exhibit XXIII.)

Mr. MITCHELL. Mr. Chairman, I would also like to introduce an amendment to Department Order 157; date of issuance, August 23, 1955; effective date, August 23, 1955; but not put in the Federal Register until when, Mr. Seago?

Mr. SEAGO. I do not have the date that it appeared in the Federal Register.

Mr. MITCHELL. I believe the committee asked you for it. I think it will show it was September 28, 1955.

Mr. MOSS. The copy of this order will also be made part of the record.

(The document referred to is exhibit XXIV.)

Mr. MITCHELL. Mr. Seago, can you explain why the 1954 order became effective on November 1, but it was not issued until November 19, 1954?

Mr. SEAGO. I was not here at that time, and I have no information or knowledge about the situation.

Mr. MITCHELL. Can you explain, then, why the amended order dated August 23, 1955, was not filed in the Federal Register until September 28, 1955?

Mr. SEAGO. I cannot. It would not strike me as an abnormal lapse of time.

Mr. MITCHELL. The point is that the law requires that when a rule or regulation is promulgated by any department of the United States Government it does not become effective until it is put in the Federal Register—this is a lapse of about 5 weeks' time—because the citizens, the people of the United States, are not responsible for any compliance with it until it is published in the Federal Register. Could you explain that lapse of time?

Mr. SEAGO. I would agree that if that is the law the effective date then was September 28.

Mr. MITCHELL. Who is making the effective date, you or the Federal Register? You have an effective date of August 23, 1955, on your order. The document speaks for itself and it is so published that way in the Federal Register.

Mr. SEAGO. As I said, if that is the law, I certainly would assume that the effective date would be September 28, rather than August 23.

Mr. MITCHELL. Mr. Chairman, neither of these two Department of Commerce orders contain the NSC directive. They refer to the NSC directive, but this committee has no way of knowing whether or not this is an interpretation of the Department of Commerce or whether it is a specific directive from the NSC to the employees of the Department of Commerce or to the public. Could you explain that?

Mr. SEAGO. I am here to tell you, to the best of my ability, what Commerce and OSI does. I cannot talk about the National Security Council's classified papers.

Mr. MITCHELL. We are interested in knowing where you get your legal authority from and why, as of right now, this committee doesn't know it, except the nebulous statement of an NSC directive. The chairman has already pointed out to you that that is not available. Why shouldn't it be available? You are the man that administers this program.

Mr. SEAGO. The executive side of the Government certainly has an obligation to explore problems, and I think this is within that realm and that area.

Mr. MITCHELL. Mr. Seago, will you refer to page—

Mr. MOSS. I think perhaps we should pursue this point just a little further. I don't think that anyone wants to challenge the fact that the executive departments have certain responsibilities, but we do have here the creation of an agency to carry out specifically assigned duties based on a directive which you inform us was classified by the originating agency.

Mr. SEAGO. That is right.

Mr. MOSS. "This order is issued pursuant to a directive of the National Security Council." There is nothing in here that quotes from



that National Security Council order or tells us the scope of it or gives us any information at all.

Mr. SEAGO. I think that would be proper, that it should not quote from it. It is a classified document.

Mr. MOSS. Do these orders have numbers? Are they identifiable in any way?

Mr. SEAGO. No.

Are you referring, Mr. Chairman, to the NSC orders?

Mr. MOSS. Yes. "This order is issued pursuant to a directive of the National Security Council. \* \* \*" Which directive?

Mr. SEAGO. I can't speak about that.

Mr. MOSS. Wouldn't it be reasonable to have some reference to the directive so that it would be identifiable even though it may be classified?

If you were established pursuant to a law, you would undoubtedly cite the authority. That isn't done here.

Mr. SEAGO. No. We are not established by a law.

Mr. MOSS. Well, a directive is the law on which you rely for establishment of this Office of Strategic Information, isn't it?

Mr. SEAGO. It may be that it was improper to have referred to the National Security Council in that Commerce Department order.

Mr. MOSS. It would be improper unless you were relying upon the directive of the National Security Council for authority to establish the Office of Strategic Information. I imagine that the National Security Council has issued many directives.

Mr. SEAGO. Yes.

Mr. MOSS. Are any and all of them the authority for the establishment of this Office or is there one specific one?

Mr. SEAGO. Well, I believe that is beyond my competence.

Mr. MOSS. I don't agree with you. I think it is very much within your competence to tell us whether or not the directive is identifiable by number or other identifying symbol or marks.

Mr. SEAGO. Of course, as my counsel indicates, the OSI itself was established by the Secretary of Commerce.

Mr. MOSS. Pursuant to a directive.

Mr. SEAGO. Yes.

Mr. MOSS. He is the one that says it is. I am not saying that. The committee will ask that there be some identification of the directive of the National Security Council supplied to the committee so that we will have some means of knowing what it is, because we are going to, undoubtedly, as we continue to study, go into some of the classified material which is originated by a number of these agencies.

Mr. OVERTON. Mr. Congressman, with regard to the NSC question, we will be glad to check into that as soon as we get back to the Department to see what we can do to comply.

Mr. MOSS. We will ask that you do supply us with the information, and failing that, that you give us a specific citation of authority for not supplying the information.

Mr. OVERTON. We will be glad to check into the matter promptly.

Mr. MITCHELL. Mr. Seago, the subject of the Office of Strategic Information has become one of considerable confusion in the minds of the American people. Will you admit that?

Mr. SEAGO. I am not sure that that is true, and we will certainly do what we can to help you and others and try to straighten it out.

Mr. MITCHELL. Certainly with all the complaints that this committee has received, the articles that have been published concerning the Office of Strategic Information, it is very questionable as to how it is operating. I will agree that you might have attempted to clarify that.

Now my question is, since you referred to your appropriation in your prepared speech, Why didn't the Department of Commerce ask Congress for a clear mandate for the establishment of this Office and thereby make it legal?

Mr. SEAGO. Mr. Mitchell—

Mr. MITCHELL. Excuse me, let me clarify the last part. I don't want to infer it is not legal until you answer the question and unless you agree to it. Why didn't you ask Congress for a clear mandate for the establishment of this Office and thereby clarify the whole matter in the eyes of everybody, because Congress does legislate for people?

Mr. SEAGO. Let me say one more thing, Mr. Mitchell, and that is in my prepared statement there were no comments about this appropriation. We made some remarks here in response to a question about appropriations. The appropriation of this Office is through the Secretary of Commerce Office.

Mr. MITCHELL. But did he ask for a clear mandate?

Mr. SEAGO. To my knowledge, he did not.

Mr. MITCHELL. Why not? Since the Office has been highly criticized since its establishment in November of 1954, don't you think that would have been a good way to clarify its objective and purpose and intent?

Mr. SEAGO. The Appropriations Committee apparently did not have that feeling, and then, too, it is a short period of time. This exploratory work may yet call for such.

Mr. MITCHELL. Mr. Chairman, could you request the Department of Commerce to provide us with a written answer to that question?

Mr. Moss. Which question is that?

Mr. MITCHELL. The question is why the Department of Commerce did not request a clear mandate from the Congress as to the functioning of this Office.

Mr. Moss. I would suggest that at the conclusion of the hearings on this agency that we will undoubtedly have a number of requests and that we make all of them at that time.

Mr. MITCHELL. Thank you, sir.

Mr. Seago, in your prepared statement, on page 3, at the bottom, next to the last paragraph, there appears this sentence:

Difficult as it may be, we believe that our studies indicate progress can be made to maintain and increase the flow of information from the Soviet countries to the free world and to protect information the unwise release of which would be harmful to the national defense.

Throughout your whole statement you have indicated that you have had some success. Could you cite for the committee some examples of that? Of the success you have had in obtaining information from the Soviet bloc?

Mr. SEAGO. Yes; I think I can give you an example. I have a particular example here.

I thought I had it written out there, but I can tell you about it. There was a request from the Soviet bloc to the Department of Labor

for certain special published information. The Department of Labor contacted us and we suggested to them that there was published in Russia a certain document that we did not have in this country and that it would be quite proper for them to send the document requested by the Soviet bloc, but at the same time to request this particular document we did not have. That was received and it was furnished to the interested agency.

Mr. MITCHELL. Was that document available in the Western World?

Mr. SEAGO. No; it was not.

Mr. MITCHELL. Nowhere?

Mr. SEAGO. Mr. Mitchell, our information was that it was not available in the United States.

Mr. MITCHELL. But was it published outside of the Soviet Union, available outside of the Soviet Union?

Mr. SEAGO. We understand that it was not.

Mr. MITCHELL. Could you give us another example?

Mr. MEADER. Mr. Chairman, before we leave that example, may I ask this: What kind of information was that?

Mr. SEAGO. It had to do with labor statistics.

Mr. MEADER. What kind of labor statistics?

Mr. SEAGO. I have forgotten at the moment. I will be glad to furnish the full information. I thought I had it right here. I am not able to cite you the title, but it had to do with labor statistics.

Mr. MEADER. You don't know whether it was cost-of-living information or unemployment information?

Mr. SEAGO. No; it was not cost of living. It was employment, labor statistics, as I remember—more in that nature.

Mr. MEADER. Why wouldn't the best thing be to supply the committee with a copy of each document so we can see the type of thing we are exchanging with the Soviet of nonclassified material?

Mr. SEAGO. It will be voluminous, but I think it would be all right.

Mr. MOSS. You may regard that as a request of the committee.

Mr. SEAGO. I would like to work it out in detail.

Mr. MEADER. If you just have 1 or 2 of the documents, you might let the staff look at it.

Mr. OVERTON. Are there numerous exchanges? Are you talking about a truckload?

Mr. SEAGO. No; not a truckload. We can furnish the documents to give you an example of the information.

Mr. MITCHELL. That is, all of the documents you have.

Mr. SEAGO. Well, for instance, all of the documents wouldn't be in our office. The various agencies would have the documents that they asked for in return.

Mr. MITCHELL. Would those be classified in those agencies?

Mr. SEAGO. No; not at all.

Mr. MITCHELL. Could you furnish us with a list of agencies that have received such documents?

Mr. SEAGO. I think I can. (See exhibit I.)

Mr. MITCHELL. And entitle it so, for proper identification.

Mr. MEADER. May I proceed with one further question?

Mr. MOSS. Congressman Meader.

Mr. MEADER. Mr. Seago, I am a little intrigued about this business of swapping information. Who was it that suggested that the

Russians had information that we might want? Was that you or was that the Labor Department?

Mr. SEAGO. In this particular instance?

Mr. MEADER. Yes.

Mr. SEAGO. We have started to develop what is known as a want list; that is, a compilation of the items that, throughout the Government, are not in this country and they would like to have them, and those are items that we know, for instance, were published in Russia.

Mr. MEADER. Can you furnish the committee a copy of that want list or one edition of it?

Mr. SEAGO. I think we can. (See exhibit I, table 7.)

Mr. MEADER. And was that utilized in this particular instance that you referred to?

Mr. SEAGO. I think that in that particular instance that it may have been just at the inception of the work on that want list. It may not have been, but it was worked out, the mechanics of the way the want list is worked out.

Mr. MEADER. In this bargaining for the exchange of information, do you confine the exchange to similar fields of information?

Mr. SEAGO. We try to.

Mr. MEADER. Or could you, for example, say to the Russians, "Now, you want some information about employment figures in the United States. We don't care about your employment figures in Russia, but we do want some information about the number of scientists you have working in the atomic energy field." Do you exchange different information in different fields in your bargaining?

Mr. SEAGO. I think the answer to that is that you do, but in the first instance you try to exchange in the same field.

Mr. OVERTON. Mr. Chairman, in order that we make sure we supply the committee with the information which it desires, am I to understand that Mr. Mitchell will give us an itemization of these requests from the record so that we will have it, or should I be noting these requests as we go along?

Mr. MOSS. You will be furnished with a copy of the record.

I wonder if at this point you will identify yourself for the record.

Mr. OVERTON. I am Allen Overton, Jr., special assistant to the General Counsel, Department of Commerce.

Mr. MEADER. I had some more questions, but not on this particular point.

Mr. FASCELL. May I ask a question?

Mr. MOSS. Mr. Fascell.

Mr. FASCELL. I see in your statement, in talking about the mission of the OSI, you state, "The work of this office is with respect to non-classified scientific, technical, industrial, and economic information." Is that the full scope?

Mr. SEAGO. Yes, it is.

Mr. FASCELL. Now, if that is the field you work in, do I understand that you, in some way, review information to determine whether or not it should be released?

Mr. SEAGO. I have not done that.

Mr. FASCELL. You, personally?

Mr. SEAGO. That is right, and my staff does not.

Mr. FASCELL. In other words, OSI has nothing to do with reviewing information to determine whether or not it should or should not be released?

Mr. SEAGO. No.

Mr. MOSS. Who does the reviewing, the individual departments and agencies represented on your two advisory committees?

Mr. SEAGO. No. There is no review with which we are concerned.

Mr. MOSS. You do have material submitted to you?

Mr. SEAGO. I do not, Mr. MOSS.

Mr. MOSS. You do not have material submitted to you?

Mr. SEAGO. No.

Mr. MEADER. Mr. Chairman, maybe I can clarify that.

Mr. MOSS. Mr. Meader,

Mr. MEADER. You are just a little congress down there, passing laws, determining policies and furnishing guidance, and you say right in your statement you don't conduct operations. You are just a little policy group.

Mr. SEAGO. We are a small organization to furnish studies and guides in this field of exchange and publications.

Mr. MEADER. That really raises a question I want to ask in this Manual of Orders, Part I, dated August 23, 1955. It says that you will formulate policies and provide advice and guidance to public agencies, industry, and business and other private groups who are concerned with producing and distributing information, nonclassified information. I just wonder how many teeth there are in your directives or orders or guidance, or whatever they may be.

Mr. SEAGO. I would say that there are no teeth at all. We are studying these problems, where we can, to give some guidance.

Mr. MEADER. You can't compel the Department of Defense for example, if it has some information that it wants to give to the general public about new guided missile developments—you can't compel them to suppress that?

Mr. SEAGO. Not at all. We are only advisory. We are only studying.

Mr. MEADER. Let me say, then, that probably the great value of your operations and your policies and advice and guidance are to give them something to hide behind in case they don't want to give it out, even though it is unclassified. They can point over to the Office of Strategic Information and say, "Well, here is the policy of the Government, not to release the information, even though it is not classified." You can't compel action, but you can provide a cloak under which they can conceal things that they may not want to give to anybody.

Mr. SEAGO. I am not aware that that is the feeling of anybody that is involved in this strategic information.

Mr. MOSS. Apparently you don't draft regulations?

Mr. SEAGO. No.

Mr. MOSS. Do you send out advisory letters?

Mr. SEAGO. We have only sent out, really, one, you might say, governmentwide or executive agencywide—a suggested guide on the exchange.

Mr. MOSS. How do you get your advice into the hands of the departments and the agencies of the Government and to the business and scientific world?

Mr. SEAGO. Mr. Moss, there are two questions there. So far as the business and industry side of the thing, that is entirely voluntary. We do not make any effort to suggest anything.

Mr. MOSS. But you have me completely confused. You say it is entirely voluntary, but what is voluntary?

Mr. SEAGO. Any effort on their part to consider the question of publications and exchange of information.

Mr. MOSS. Who would they consult?

Mr. SEAGO. They would probably write to us.

Mr. MOSS. And you don't review their material?

Mr. SEAGO. Not at all.

Mr. MOSS. Then how do you give them advice?

Mr. SEAGO. The question usually comes about like this: They will write in and say that someone in Russia has asked them for their technical publication; that they understand that the Government may have some policy in this regard.

Mr. MOSS. Let's leave Russia for a moment and let's get to the problem of writing an advertisement. I want to know whether my ad is going to perhaps glamorize some new project on which I have a contract. Certainly it is going to do my business some good, make it look pretty good in the eyes of the people, but I am a little troubled as to whether I should phrase the ad as I had intended. To whom do I send a copy of the ad for advice?

Mr. SEAGO. Well, no such item has ever come to my office that I know of.

Mr. MOSS. Then who does it go to?

Mr. SEAGO. Well, I don't know that any such item goes any place.

Mr. MOSS. Have you recommended to any of the departments—say the Department of Defense, for example—that it have some clearing house for that type of information?

Mr. SEAGO. The Department of Defense issued what they call an industry security letter. I could read that to the committee if you would like.

Mr. MOSS. Is that as a result of suggestions by the Office of Strategic Information?

Mr. SEAGO. That happened before I was in this Office, but I think it was in collaboration.

Mr. MOSS. Now in the domestic field, or in relations with the other departments in the Government, what have you done? What policies have you advocated? How have you gotten that information to the agencies? Exactly what are your accomplishments in the domestic field in information?

Mr. SEAGO. To date there has been no finalized action or study recommendations in that area.

Mr. MOSS. You have not recommended to any department that it publish or withhold any information?

Mr. SEAGO. We have an incomplete situation about aerial photographs. We have suggested that they be handled in a certain way. As I said in my statement, we are suggesting that aerial photographs for release, publications of aerial photographs, be funneled through the Department of Defense.

Mr. MOSS. Have you objected to the publication of some of the photographs?

I noticed a few months ago—perhaps last fall—shortly after the President enunciated the open-sky proposal that a number of publications contained some very interesting aerial photographs. I have seen none recently. Did you feel those were improper and did you recommend they not be published?

Mr. SEAGO. At the very beginning of that program, we did say that we thought a lot of those photographs should not be published.

Mr. MOSS. Did you say it to the departments that controlled the photographs themselves—the various branches of the military services?

Mr. SEAGO. Yes.

Mr. MOSS. And how did you say that?

Mr. SEAGO. Well, we had a conversation about that with various members of the Defense Department.

Mr. MOSS. You say “we”; you had a conversation?

Mr. SEAGO. Our staff.

Mr. MOSS. Did you reduce any of those recommendations to writing?

Mr. SEAGO. We reduced one recommendation to writing. I think it was to the disarmament staff.

Mr. MOSS. The disarmament staff?

Mr. SEAGO. Yes.

Mr. MOSS. But not to the other departments, to the Department of Defense? Did you have any contact with them?

Mr. SEAGO. Yes. As I said, we discussed this matter with them on several occasions.

Mr. MOSS. Now in arriving at the conclusion that it was improper to publish them, was that a decision of your staff or did you consult with these agencies and on their advice arrive at the conclusion that it would be improper to publish them?

Mr. SEAGO. Oh, I think it was a joint thing. We consulted with our entire agency committee.

Mr. MOSS. Was there complete agreement?

Mr. SEAGO. There was complete agreement in the final stages of the matter, and there was no disagreement in the early stages.

Mr. MOSS. There was no disagreement?

Mr. SEAGO. No.

Mr. MOSS. And this matter of aerial photographs is the only instance that you can call to mind where you consulted with the other agencies or departments?

Mr. SEAGO. The only other thing is this one I mentioned, and that is the information contained in the contract awards.

Mr. MOSS. In the writing of the specifications?

Mr. SEAGO. Yes.

Mr. MOSS. Do you follow the practice, then, of now reviewing specifications?

Mr. SEAGO. No; we do not.

Mr. MOSS. Do you review them after they have been drafted?

Mr. SEAGO. We review them in no way. We merely made the suggestion, as indicated, so that they would be aware of that problem.

Mr. MOSS. Was this in connection with this early warning project, the construction of some land installations?

What I am interested in is how often you can actually control the information. What happens if an agency agrees with you that this unclassified material should be withheld under the Executive Order

10501—there is a clear right by Executive order to withhold the material, and it must be classified in 1 of 3 categories. Now, we have a great mass of material. It could be a logical extension of this program, an ever-increasing mass of information. It isn't classified. How is it identified?

Mr. SEAGO. There is no identification that I can think of, Mr. Moss.

Mr. MOSS. Is there some other designation now being used to label that material?

Mr. SEAGO. Not so far as my office is concerned.

Mr. MOSS. What authority, then, would there be for withholding?

Mr. SEAGO. There is no such authority.

Mr. MOSS. I thought you agreed now that certain types of aerial photographs would not be published.

Mr. SEAGO. Should not.

Mr. MOSS. Then do we classify them?

Mr. SEAGO. No.

Mr. MOSS. How do we control them?

Mr. SEAGO. We don't control them.

Mr. MOSS. And yet they are not being published?

Mr. SEAGO. Many of them are.

Mr. FASCELL. Mr. Seago, don't you feel that there is something a little bit inconsistent about the executive, on the one hand, through the President of the United States, advocating an open-sky policy, and the executive on the other hand, through the OSI and this inter-agency committee, advocating a closed-sky policy?

Mr. SEAGO. I don't know that there is. The open sky was finally concluded as being not a complete release of information anyway.

Mr. FASCELL. In other words, you see nothing inconsistent?

Mr. SEAGO. I don't think so; no.

Mr. FASCELL. I see in your statement, and I recognize it in several speeches that you made on the question of exactly what the OSI is supposed to guide, you say—

\* \* \* on the publication of nonclassified information which might be prejudicial to the defense interests of the United States.

which I assume is your definition of strategic information.

Mr. SEAGO. I think that is correct.

Mr. FASCELL. And would you let this committee have the minutes of the Inter-Agency Advisory Council, please, so that we could see what kind of material you are passing judgment on? This is an Interdepartmental Advisory Committee. The way I see this thing, Mr. Seago, we have a situation where you are either required by law or by some executive order to delineate very carefully the limits within which information will be withheld, and then we have out of the Department of Commerce, through an across-the-board group, an agreement agency which says despite the fact that it takes real strict law to do all this job, now we have a bigger rubber stamp over here so that we can apply a stamp to all of the information even though not classified. That is the way this thing looks to me.

You admit there are not teeth in this thing. So what we have is a correlating group within the Department which has reached the position were it will determine for itself what information, even though nonclassified, shall or shall not be made available to the American public and to the world.



Mr. SEAGO. We have no rubber stamp. We have no power to do what you are suggesting, Mr. Fascell.

Mr. FASCELL. But you are telling me, on the other hand, that it has been done, and I believe you.

Mr. SEAGO. I am saying that we are studying these problems and there are certain instances, consistent with that, where we take some steps and suggest; that is correct.

Mr. FASCELL. I still would like to see the minutes of the Committee so we can determine what nonclassified information this advisory group passes on which is detrimental to the defense interests of the country, and which, however, can't be classified under the Executive order. I mean that distinction escapes me at the moment, but I am willing to not pass judgment on it until we see what we have got.

Mr. SEAGO. I will take up with counsel the supplying of all of those minutes.

Mr. MOSS. There are minutes maintained then?

Mr. SEAGO. Yes.

Mr. FASCELL. Now, one other thing, Mr. Chairman, and then I will be through on this aspect of it.

Mr. MOSS. First you are making a request now for the minutes, and we don't want it to sort of go in the undefined area of discussion.

When will we have an answer from counsel on the minutes?

Mr. OVERTON. We will be glad, Mr. Chairman, to take the matter under advisement and try to communicate with you promptly.

Mr. MOSS. How promptly?

Mr. OVERTON. I would say, certainly, as promptly as we can. The only question that comes in my mind is perhaps this may involve a problem that Congressman Meader and Mr. Ray discussed at some length yesterday. It could possibly get into that area. I would like to have the opportunity to check with the General Counsel.

Mr. MOSS. Which area is that?

Mr. OVERTON. This is under your proposition of the internal working papers of executive branch agencies and so on, which was discussed at some length yesterday.

Mr. MOSS. Don't the minutes reflect some final or definitive action?

Mr. OVERTON. I have never seen the minutes. I didn't know that there were minutes until now. I am not familiar with the operations of this office.

Mr. MOSS. Let's place our request to the committee? Any objection to the minutes being produced?

Mr. MEADER. I have no objection.

Mr. MOSS. Then the committee requests that it be supplied with copies of the minutes, and if the Department decides that it cannot give them, we ask for specific citations to support the position that the Department takes.

Mr. MEADER. Mr. Chairman, might I ask some questions?

Mr. MOSS. Congressman Meader.

Mr. MEADER. Section 4.02, which I read to you a few minutes ago, concerns your responsibility for forming the policies and providing the advice and guidance to public agencies, industries and businesses, and other private groups. Now, have you given advice, as you are ordered to do under that section 4.02?

Mr. SEAGO. When business and industry makes a request, we do tell them what we think might be done in these areas.

Mr. MEADER. You mean to interpret that section to mean when requested for advice you give it?

Mr. SEAGO. Exactly.

Mr. MEADER. But you don't give it unsolicited?

Mr. SEAGO. Not at all.

Mr. MEADER. Well, that certainly doesn't appear from the wording of your Manual of Order, part I, does it?

Mr. SEAGO. I did not write that.

Mr. MEADER. Well, this sounds like you are supposed to make a study of this whole field and you are supposed to work out policies and tell these other agencies and industry what they ought to do about publishing unclassified information, but you have not drafted any text or manual to guide either the Government agencies or business on what unclassified information they should publish?

Mr. SEAGO. No; nothing has been done in that way for business. There is a guide for the Government for the exchange of information.

Mr. MEADER. Something which you prepared?

Mr. SEAGO. Yes.

Mr. MEADER. Does our committee have a copy of that?

Mr. SEAGO. I am not sure, but I think they may have.

Mr. MEADER. Mr. Chairman, I would like to request that we be furnished with this guide.

Mr. SEAGO. I have it here.

Mr. MOSS. That will also be a request of the committee, that we be supplied with a copy of the guide.

Mr. SEAGO. Let me tender it right now. This is on the exchange of published information.

Mr. MEADER. This deals only with the exchange?

Mr. SEAGO. That is right.

Mr. MEADER. That is your bargaining for information on the other side of the Iron Curtain?

Mr. SEAGO. That is right.

Mr. MOSS. I wonder if I might interrupt. The Guide To Implementation Policies for Handling Requests From Soviet Bloc Countries to United States Government of Nonclassified Published Information will be made a part of the record. (See exhibit XVII.)

Mr. MEADER. Mr. Seago, I understand, then, except for this exchange of information you have not any general statement of policy or advice to give either to the Government or to industry.

Mr. SEAGO. That is right.

Mr. MEADER. And with respect to the publication of unclassified information, it is only when a Government department or some private organization approaches your office and asks for your advice that you give it?

Mr. SEAGO. Well, certainly so far as science, business, and industry is concerned. As far as the working with our committees, as I have said before, we do take the attitude that we can suggest, on occasion what can or what should be done in these areas.

Mr. MEADER. Even though no one has formally requested your opinion?

Mr. SEAGO. Yes. But then that is within the executive branch, and an exact example of that, again, would be that early aircraft warning announcement.

Mr. MEADER. Do you sometimes have disagreements with these departments?

Mr. SEAGO. Well, no. We have lots of discussion. I think that the record might well indicate, and does indicate, that there have been unanimous decisions of whatever studies we have made to date. There has been plenty of discussion.

Mr. MITCHELL. Mr. Chairman, I would like to have Mr. Seago read the attached document into the record for the committee. It is an article from Aviation Week, dated January 30, 1956, and please comment.

Mr. SEAGO (reading):

Military services are increasingly annoyed at Commerce Department's controversial Office of Strategic Information.

OSI was set up to encourage "voluntary" censorship by civilians of nonclassified technical information which might possibly be of use to an enemy.

But services says OSI is gaining more and more power in the field of military censorship. They feel OSI has no authority to operate there, and less knowledge, background, and experience for making decisions on release of classified information.

Surprising thing about this "collision of the censors" is that military sometimes has thought it safe to talk and then been overruled by the civilian OSI.

Most exasperating difference has come over President Eisenhower's "open sky" plan for mutual aerial inspection of other nations' military installations.

United States Information Agency was told to promote the plan both here and abroad with pamphlets, photographic exhibits, and movies showing how effective aerial reconnaissance can be.

USIA's efforts had support at the very highest Government levels. Cooperation from the services was excellent.

But OSI stepped in and overruled military on release of some of its own pictures and information. Some photographs blocked by OSI had been cleared years before and published many times.

OSI apparently also used the time-proven Washington technique of having military men "investigated" when it disagreed with their decisions on release of information.

Ironically, the supercautious OSI censors cleared one piece of photographic equipment for display even though the military thought that would break security. Military finally won that skirmish.

"If the OSI is to have authority over us," one officer said, "then let the National Security Council promulgate such a policy, and we will follow it.

"But the way the situation is now, OSI is reviewing what we have already reviewed and telling us what we can and can't be done with it, and we damn sight know a lot more about these things than they do.

"They are rapidly becoming a governmentwide office of censorship."

Mr. FASCELL. Mr. Seago, despite the fact that this might be within an area of definition of information on which your department is supposed to guide, I think it would be proper for you to go ahead and comment.

Mr. SEAGO. All right. I would deny that there is any voluntary censorship. Then they say, "Surprising thing about this 'collision of the censors' is that military sometimes has thought it safe to talk and then been overruled by the civilian OSI." I would deny that. We have never overruled anybody.

Mr. FASCELL. Let's stop there. How does this interagency thing work? Is it a majority vote?

Mr. SEAGO. We have never had to have that question decided.

Mr. FASCELL. How do you reach a conclusion?

Mr. SEAGO. We have voted in the committee.

Mr. FASCELL. That is what I just got through asking you.

Mr. SEAGO. We never have had to have a question on a decision whether the majority rules or not because, as I indicated, the record, I think, shows a unanimous vote every time any vote has been taken.

Mr. FASCELL. Did you vote on this?

Mr. SEAGO. On this question right here? This question was worked around in more ways than that. We had advice of the committee, and I don't know that this question ever got all the way to a vote in the committee. I was talking about the general procedure.

Mr. MOSS. I think a very important question at this point is: Does the National Security Council directive require compliance on the part of other agencies and departments of the Government with the policies which might be evolved by the OSI?

Mr. SEAGO. I am not competent to answer that.

Mr. MOSS. Have you seen the directive under which you operate?

Mr. SEAGO. Oh, yes.

Mr. MOSS. And you can't recall whether it requires compliance?

Mr. SEAGO. Well, this is the directive under which I operate. (See exhibit XXV.)

Mr. MOSS. That directive is issued pursuant to a directive of the National Security Council, so you always operate under the directive of the National Security Council. Does that directive calling upon the Secretary of Commerce to establish an Office of Strategic Information require compliance by other departments and agencies of the Government with the policies which might be evolved in the Office of Strategic Information?

Mr. SEAGO. No, Mr. Chairman; I operate under this departmental order of Commerce.

Mr. MOSS. You mean that the directive of the National Security Council has no force or effect in any way, directly or indirectly, in the authority of the OSI?

Let's assume, for the sake of discussion, that the directive issued by the National Security Council calling upon the Secretary of Commerce to establish the Office of Strategic Information did require compliance by other agencies and other departments in Government with whatever policy might be laid down by the Office of Strategic Information. Would it then have any effect on your policies?

Mr. SEAGO. I didn't understand the question, Mr. Chairman.

Mr. MOSS. Well, to go back to this National Security Council directive—I don't know how it is phrased, but apparently it called upon the Secretary of Commerce to establish an Office of Strategic Information or some office to define policies or to suggest policies on this broad field of unclassified but potentially important security information.

I think perhaps I should read this section 1 of the amendment to order No. 157.

The purpose of this order is to define the organization and the functions of the Office of Strategic Information established by department order No. 157, effective November 1, 1953.

02. This order is issued pursuant to a directive of the National Security Council, which provides that the Department of Commerce shall be responsible for the implementation of certain policy determinations.

Now, it shall have a responsibility for implementation of policy determinations governing unclassified scientific, technical, industrial, and economic nonstatistical information. Does that order of the National Security Council, which appears to be, certainly, a very major part of the overall authority of the Office of Strategic Information, require compliance?

Mr. SEAGO. Mr. Chairman, may I say that this may or may not be a part of that order, but I do not believe I am competent to say what the National Security Council document is.

Mr. MOSS. Who would be competent?

Mr. SEAGO. The National Security Council.

Mr. MOSS. You have received a copy of the directive. It has come to you, and it said for the Department of Commerce to do this.

Mr. SEAGO. That is right.

Mr. MOSS. Those are instructions to the Department of Commerce. Now, do those instructions require compliance of other agencies?

Mr. SEAGO. The instructions are in the classified document, Mr. Chairman. I do not believe I am competent to talk about it.

Mr. MOSS. Now we are not going to, at the moment, resolve this question of unclassified documents. We will if we have to.

The committee will want to know, as soon as you can get the information, whether or not compliance is required by the directive of the National Security Council. It is very important to the study we are making. It is information which we must have. (See documents and discussion during subcommittee hearing June 11, 1956.)

Mr. MEADER. Mr. Chairman, will you yield to me at that point?

Mr. MOSS. Congressman Meader.

Mr. MEADER. Mr. Seago, I wonder if we need to go to the National Security Council directive. It seems to me that the language the chairman just read to you is pretty clear. I wonder if I couldn't get your interpretation of it.

It says—

\* \* \* shall be responsible for the implementation of certain policy determinations.

Now implementation, of course, is one of those bureaucratic words I never use myself, but I think I understand what it means. It means to carry out something, doesn't it? It means to execute, put into effect.

Mr. SEAGO. Work with, study. There are several words you could add there, I think, Mr. Congressman.

Mr. MEADER. Doesn't implement mean or doesn't it carry with it the meaning of something compulsory and mandatory?

Mr. SEAGO. Oh, I would not think it is mandatory at all.

Mr. MOSS. Mr. Meader, wouldn't you agree with me that the connotation would be more in the line of compulsion than just pure, sweet persuasion?

Mr. FASCELL. Mr. Chairman, if the gentleman will yield at this point. As a matter of fact, it actually depends on what they do, not on what he thinks this thing means. Implementation can be by voluntary methods or by compulsion. The question of fact is what do they actually do and I don't believe he has testified yet on that point.

Mr. MEADER. Well, the language, Mr. Seago, would indicate that certain policy determinations governing unclassified scientific, tech-

nical, industrial, and economic nonstatistical information had been made by the Security Council and that there was a directive which ordered the Department of Commerce to carry out those policy determinations.

Can you make any other meaning out of that language which the chairman read to you?

Mr. SEAGO. Well, I think that that causes us to study these areas and it is certainly consistent with the studies of the areas that we study, and then we give advice as described.

Mr. MEADER. I can't quite buy that, Mr. Seago. When you talk about implementation of policy determinations, it means that the Security Council has made a policy determination and the Department of Commerce was given the authority and responsibility of seeing that that policy was carried out. I don't see how you can make any other interpretation of it. If that doesn't imply authority in the Department of Commerce to do more than advise and counsel with other departments, then I just don't understand the English language.

Mr. SEAGO. We have indicated that there are no teeth. You can't cause anybody to do anything.

Mr. MEADER. Well, you certainly can speak with whatever authority the National Security Council can speak; can't you?

Mr. SEAGO. Oh, no.

Mr. MEADER. They have made a policy determination and have ordered the Department of Commerce to see that that policy is carried out. Aren't you clothed with the power of the National Security Council when you attempt to carry out their policy determinations?

Mr. SEAGO. I don't think so, Mr. Congressman.

Mr. MEADER. We are trying to build up your agency for you, Mr. Seago, and you seem to kind of think that you are rather innocuous.

Mr. FASCELL. Will the gentleman yield?

Mr. MOSS. Mr. Fascell.

Mr. FASCELL. I think you are absolutely right because the order goes on to say that the authority vested in the Secretary of Commerce by NSC with respect to the matters described below is hereby redelegated to the Director of OSI. If you haven't got anything that stems from the National Security Council, it is only because of your interpretation because the order makes it clear you have all the power they gave you.

In fact, the Secretary of Commerce cuts himself out with this directive. Actually you are an independent agency within an agency, if there is such a thing.

Mr. MEADER. Mr. Chairman, I might observe this is an unusual experience of seeing an empire building in reverse.

Mr. MOSS. I would concur in that, Mr. Meader.

Mr. FASCELL. Has the gentleman finished?

Mr. MEADER. Yes; I have finished.

Mr. MOSS. Mr. Fascell.

Mr. FASCELL. Let's get back to these remarks, because I believe they certainly should be answered, Mr. Seago—the remarks that appear in this article. Do you still have a copy there?

Mr. SEAGO. You mean Aviation Week?

Mr. FASCELL. Yes. What is your comment on this statement: "But services says OSI is gaining more and more power in the field of military censorship"?

Mr. SEAGO. Well, I would categorically deny it.

Mr. FASCELL. There is no basis at all, in your opinion, for that remark?

Mr. SEAGO. None whatsoever.

Mr. FASCELL. What is your comment on the statement that OSI has less knowledge, background, and experience for making decisions on release of classified information?

Mr. SEAGO. Where is that statement?

Mr. FASCELL. That is the next sentence.

Mr. SEAGO. That doesn't strike me as very argumentative.

Mr. FASCELL. Well, now, it strikes me as very argumentative. You and I are arguing about it right now, but I will let you have your opinion on that.

Mr. SEAGO. I certainly would say this—

Mr. FASCELL. It sort of seems to me that they are taking a good punch at you, and I thought you might like to punch back.

Mr. SEAGO. We have no power in the field of military censorship. I certainly would deny that. We have no power.

Mr. FASCELL. The answer is, of course, you are not supposed to be dealing in classified information anyway, are you?

Mr. SEAGO. That is right.

Mr. FASCELL. You are strictly in the field of unclassified information?

Mr. SEAGO. That is right.

Mr. FASCELL. Then I think you ought to send back that classified directive you have from the National Security Council because it is in violation of your own directive. You are not supposed to be handling classified information, so I think you ought to send it back.

This position about these photographs, did that actually occur as stated in this article?

Mr. SEAGO. No. I think—well, I know it is a garbled account.

Mr. MEADER. What is the true account?

Mr. FASCELL. Thank you. That is what I want.

Mr. SEAGO. They wanted to get this exhibit going—

Mr. FASCELL. Who is "they"?

Mr. SEAGO. As I remember it, it was the disarmament staff and USIA, and some part of the Department of Defense. We were advised about the matter and suggested the need of taking a second look at the aerial photographs that would be published or released for publication, and the final decision was that they were going to be used in the exhibit, and that, accordingly, they might not be considered as a release or release for publication.

Mr. FASCELL. Let me see if I follow this course of events. How did the matter come to the attention of the OSI to start with?

Mr. SEAGO. I actually don't remember the details.

Mr. FASCELL. Could you recall whether or not the military brought it to the attention of the OSI?

Mr. SEAGO. I will refresh my memory and tell you about it, but I just don't remember how the material came up.

Mr. FASCELL. The reason I ask is because you just testified OSI suggested to the military that these photographs might be reviewed.

Mr. SEAGO. To take a second look at them, by them, not by us.

Mr. FASCELL. Well, then, this decision was not reached with the Interdepartmental Advisory Council?

Mr. SEAGO. As I said before, Mr. Congressman, that particular aerial photograph matter did not come up in the committee, but it was reviewed by them.

Mr. FASCELL. How often does this agency committee meet?

Mr. SEAGO. Once a month.

Mr. FASCELL. And when you are providing the services of the central clearinghouse for all of the agencies, business, and industry on problems that might arise, do you tell me now that matters are not disposed of until the regular meeting of this agency committee once a month?

Mr. SEAGO. Certainly as far as the Government is concerned, I think that would be true. So far as business and industry is concerned, where they voluntarily write in, what answers are given are consistent with what actions or steps or advice or guidance or studies are made in these committees.

Mr. FASCELL. So, then, what you are telling me is that as a practical matter, as far as industry is concerned, the matter is handled by staff and is allocated, depending on how the work comes in?

Mr. SEAGO. Well, yes, but it is consistent with what the Government is trying to do.

Mr. FASCELL. But those matters are not individually passed on by the interagency committee?

Mr. SEAGO. No.

Mr. FASCELL. It is strictly a matter within the operational setup of OSI?

Mr. SEAGO. That is right.

Mr. FASCELL. So OSI then establishes this guideline in a particular case and in all probability it is a particular staff member who is assigned to that group of work?

Mr. SEAGO. Yes.

Mr. FASCELL. So we have one individual, then, in a particular case who is exercising his judgment as to what he thinks the OSI policy is and applying it to the request of a particular business or industry?

Mr. SEAGO. Well, I think that is stating it a little strongly, Mr. Congressman. Any of those questions are threshed out in the office and they are based on the deliberations that have heretofore taken place in the committees.

Mr. MEADER. Will the gentleman yield to me on this aerial photograph matter?

Mr. FASCELL. Certainly.

Mr. MEADER. When did this photograph problem that the United States Information Agency wanted to use in this exhibit arise?

Mr. SEAGO. I don't remember the date.

Mr. MEADER. It was after you came to the agency?

Mr. SEAGO. Yes.

Mr. MEADER. Apparently sometime before January 30, 1956, because that is when the article appeared.

Mr. SEAGO. I do not remember the exact date, Mr. Congressman.

Mr. MEADER. You don't know how the matter came to your attention?

Mr. SEAGO. I do not remember exactly who brought it to my attention.

Mr. MEADER. Do you recall whether USIA or the Defense Department asked you for an opinion on this matter?

Mr. SEAGO. I do not.



Mr. MEADER. Are there any documents on this particular problem?

Mr. SEAGO. The particular communication that I talked about a little bit ago, there was a letter addressed to the Disarmament Staff about the matter.

Mr. MEADER. That was the conclusion that your office came to?

Mr. SEAGO. Yes.

Mr. MEADER. But isn't there any documentary evidence of what preceded that?

Mr. SEAGO. No. Not that I know of. I don't remember any.

Mr. MEADER. You can't say to the committee now whether this is a matter which someone brought to your attention, either the USIA or Defense Department, or some other Government agency, or whether it is one which you learned about and volunteered some advice on?

Mr. SEAGO. I just don't remember the exact details of how it happened.

Mr. MEADER. Well, I understood your previous testimony, Mr. Seago, that aside from this document which we have made an exhibit here, about the exchange of information, you acted only when you were requested to act.

Mr. SEAGO. Well, I think that is consistent; yes.

Mr. MEADER. I mean you passed advice only when it was solicited and did not give unsolicited advice?

Mr. SEAGO. Well, that is certainly a positively true statement so far as the business and industry are concerned. There may be things that come up in the committees that are discussed there.

Mr. MEADER. This aerial-photograph problem was not of that character?

Mr. SEAGO. I don't remember exactly how that came up. I will refresh my recollection and tell you.

Mr. MEADER. I would certainly like to have a statement of the history of this specific instance of the operation of this office because I think frequently we can get more information out of a detail account of a specific instance than we can by reams of generalities.

Mr. MOSS. We will make that request and note that it be made a part of the record. (See exhibit I.)

Mr. MOSS. I notice another item here:

Ironically, the supercautious OSI censors cleared one piece of photographic equipment for display even though the military thought that would break security. Military finally won that skirmish.

Mr. SEAGO. I believe that to be completely and wholly untrue.

Mr. MOSS. You have no recollection of any such thing?

Mr. SEAGO. No; I do not.

Mr. MOSS. Do you have any recollection of any discussions of any type?

Mr. SEAGO. No, Mr. Chairman, I do not, and I did not see any photographic equipment.

Mr. MEADER. You mean this story about clearing a piece of photographic equipment for display is just made out of whole cloth, and you have no recollection of anything of that kind?

Mr. SEAGO. The statements contained in this are not consistent with the way I remember the situation. I did not examine any photographs and I did not pass on any photographs.

Mr. MEADER. This talks about a piece of photographic equipment for display.

Mr. SEAGO. I don't even know what that is referring to.

Mr. MOSS. Is it possible that they could be discussing some policy which might have developed in one of your Council meetings? Do you recall any discussion in the Council meeting?

Mr. SEAGO. No.

Mr. MOSS. Do you attend all of them?

Mr. SEAGO. No; I do not.

Mr. MOSS. Does a representative of your office attend all of them?

Mr. SEAGO. No.

Mr. MOSS. You know, I am, very frankly, puzzled. I am now at the point of wondering just what kind of an animal we have. You counsel with departments and agencies of the Government, meeting regularly once a month; you do not attend all of them and you are not even certain that members of your staff attend all of them.

Mr. SEAGO. Mr. Chairman, I misunderstood your question. Did you ask me if I attended all of the Committee meetings?

Mr. MOSS. Yes.

Mr. SEAGO. Oh, I do. I thought you meant something else.

Mr. MOSS. Then let's get on to another point. Because you thought I meant something else, you said you didn't attend.

What type of meetings occur regularly under your jurisdiction that you do not attend?

Mr. SEAGO. You used the word "council," Mr. Chairman.

Mr. MOSS. Yes.

Mr. SEAGO. I thought you meant the National Security Council.

Mr. MOSS. No. I assume that you don't attend the National Security Council meetings, but all of the Committees, you do attend those meetings?

Mr. SEAGO. Yes.

Mr. MOSS. Your recollection is there has never been any discussion in those of photographic equipment?

Mr. OVERTON. May I—

Mr. MOSS. Mr. Overton, do you attend the Committee meetings?

Mr. OVERTON. No, I don't. I must confess I am slightly confused, also.

Mr. MEADER. Mr. Seago, did you see this article or editorial about the time it came out?

Mr. SEAGO. I saw it.

Mr. MEADER. Didn't that intrigue you a little bit?

Mr. SEAGO. Whatever intrigue means. I considered it a confusing statement. Yes, I saw it.

Mr. MEADER. I know if I had been in charge of an agency that was lambasted like this, I would want to look into this business. Didn't you make a little investigation to find out what they were talking about, this charging you with wanting to release and declassify a piece of photographic equipment for display, over the objection of the military? That is a serious accusation.

Mr. SEAGO. It seems to me it fell of its own weight.

Mr. MEADER. You mean you didn't conduct an investigation of what this writer was talking about?

Mr. SEAGO. No. I didn't have anything to do with the problem they are talking about there, so why should I look into it?

Mr. MEADER. Well, they charged that you had something to do with it.

Mr. SEAGO. Well, I didn't.

Mr. MEADER. Did you deny it to the press?

Mr. SEAGO. No.

Mr. MEADER. Don't you think it would have been a good idea to clear the record?

Mr. SEAGO. Oh, it might have.

Mr. MITCHELL. Mr. Meader, may I point out that this is one of the confusing points that the public and the press has on the OSI. He has taken no pointed action, and that is the reason I asked the question this morning.

Mr. MOSS. I think we might explore this further. The Department of Commerce is interested in the establishment of affairs and expositions in the United States and overseas. It does participate in those, doesn't it? Is it possible that perhaps in the Department of Commerce, in some other agency, that they were presenting for a display a piece of equipment and that it might, therefore, be confused with OSI, which is also in the Department of Commerce?

You made no effort to determine whether that had occurred?

Mr. SEAGO. No, sir, Mr. Chairman.

Mr. MOSS. We have clearly established the point that it was never discussed in any of these Committee meetings?

Mr. SEAGO. As I stated, Mr. Chairman, this entire matter was discussed after the initial—

Mr. MOSS. I am not talking about the aerial photographs. I say we have established the point that the equipment was never discussed in any of these Committee meetings.

Mr. SEAGO. I don't know anything about a piece of photographic equipment. I have no recollection of any such thing.

Mr. MOSS. But do you want the record to show that it definitely was not discussed or merely the fact that you do not recall?

Mr. SEAGO. To the best of my knowledge, there was no discussion about a piece of equipment, photographic equipment.

Mr. MOSS. Now, in order to have the record clear, will you establish for certain that it was not discussed?

Mr. SEAGO. To the best of my knowledge, there was no discussion about a piece of equipment.

Mr. MOSS. Will you review the minutes of your meeting and tell us finally in a letter whether it was ever discussed?

Mr. SEAGO. Yes. (See exhibit XIX.)

Mr. FASCELL. Mr. Chairman, I might add right there, since they are going to bring us the minutes and papers and what not of this inter-agency group, we might as well have the correspondence and other papers that revolve around this open-sky photograph and everything else. The equipment might be buried in there.

Mr. MOSS. We were told that was a matter of discussion. There has only been one letter, as I understand, that you have written; is that correct?

Mr. SEAGO. I think it was one. It may have been two.

Mr. FASCELL. Was that the letter you said you wrote to the Disarmament Staff?

Mr. SEAGO. Yes.

Mr. FASCELL. I have a question or two, Mr. Chairman.

Mr. MOSS. Mr. Fascell.

Mr. FASCELL. Mr. Seago, are you surprised that some of the military, at least, have taken the position that OSI has control over them with respect to the release of information?

Mr. SEAGO. There seems to be some confusion, generally, so I am not overly surprised, but I do deny that there is any control over them.

Mr. FASCELL. In other words, then, this statement that if the OSI is to have authority over us, then let the National Security Council promulgate such a policy and we will follow it is an unnecessary statement because OSI does not have any authority over any of the military with respect to the release of any of their information?

Mr. SEAGO. I think the spokesman there was misinformed.

Mr. FASCELL. How about the other statement? Are you ready to testify now that the OSI has no authority over any of the military with respect to the release of any information?

Mr. SEAGO. I have already said that.

Mr. FASCELL. Are you ready to testify that the OSI has no authority over any of the other agencies of the Government with respect to the release of any information?

Mr. SEAGO. Sure.

Mr. FASCELL. Well, then, sir, will you tell me how you comply with your directive which says that you would provide a clearinghouse—that you would be the clearinghouse for all information across the board, in industry and in Government? How can you be a clearinghouse if all of the information is not funneled through your agency?

Mr. SEAGO. The first step in this is a study and that is where we now are, and a clearinghouse—

Mr. FASCELL. I missed your answer.

Mr. SEAGO. The first step in such a thing would be a study and a clearinghouse does not imply, Mr. Congressman, that you have anything to do with compelling order, and so forth.

Mr. FASCELL. In other words, if I understand your testimony correctly, then, you are not at the point—that is, the OSI is not at the point yet—of complying with the manual of order with respect to acting as a clearinghouse for information?

Mr. SEAGO. No; and I don't know that we will ever get there.

Mr. FASCELL. In other words, you are never going to carry out the directive?

Mr. SEAGO. I did not say that.

Mr. FASCELL. You say you don't know whether you will ever get there, meaning that you would never get there to act as a clearinghouse of all information.

Mr. SEAGO. In the first place, a clearinghouse doesn't mean control over information.

Mr. FASCELL. What does it mean?

Mr. SEAGO. It is a very simple thing. A clearinghouse could be nothing more than an exchange of information.

Mr. FASCELL. Well, you have to get the information to exchange it; don't you?

Mr. SEAGO. We are studying that and we don't have to have the information itself. We can suggest to others how it might be done.

Mr. FASCELL. Now, you say you are not doing that, meaning you are not receiving the information, but you are studying that?

Mr. SEAGO. Well, our studies would not take us to the point of piling up bits of information, records, and pamphlets. We would never have such.

Mr. FASCELL. Of course not. I am not saying that you would be a storehouse of information. I am just asking the question as to how you can comply with your directive of acting as a clearinghouse for information which, in my book, means bringing it to you to determine whether or not it may be cleared for release.

Mr. SEAGO. That is not my interpretation of it.

Mr. FASCELL. All right, sir, if that is not your interpretation of it, how do you get any information upon which you would pass judgment?

Mr. SEAGO. Well, in the first place I do not pass judgment on information.

Mr. FASCELL. You establish a policy which somebody else implements?

Mr. SEAGO. We suggest a guide. For instance, the only thing that has been definitely suggested to date is in this field of exchange.

Mr. FASCELL. In other words, the only definite policy guide has been on the question of exchange of material?

Mr. SEAGO. That is right.

Mr. MOSS. I wonder if I could interrupt there for a moment.

Mr. FASCELL. Surely.

Mr. MOSS. Now, you are to advise other departments and agencies. Recently the Secretary of Defense indicated that he felt there was too much information of a strategic importance being made available, and I believe he issued a new directive to strengthen the controls of the Department of Defense over information of that type. It was done rather recently. Did you advise the Department of Defense in that instance that in the judgment of your office of your committee that there was, in fact, too much information being made available?

Mr. SEAGO. I have no recollection of the document about which you speak, but, in addition to that, we have not given the Department of Defense any such suggestion.

Mr. MOSS. You have not advised them, then, to tighten their control or their review of strategic nonclassified information?

Mr. SEAGO. No.

Mr. MITCHELL. Mr. Seago, have you issued any rules or regulations or guide lines to the various departments of the Government, and if so, may this committee have a copy of those?

Mr. SEAGO. I furnished to the chairman a little bit ago the only such guideline that has been issued.

Mr. MITCHELL. In other words, where a specific question is brought up, your office does not give an answer?

Mr. SEAGO. I do not understand the question.

Mr. MOSS. To get back to my ad which we were discussing a little earlier, let's take a good loyal American that has a defense contract. He doesn't want to give out too much information. Where does he take the ad for advice? Does he go to the Department of Defense or, to you?

Mr. SEAGO. If it had to do with defense contracts, I suppose he would go to the Department of Defense.

Mr. MOSS. You have recommended no policy on that?

Mr. SEAGO. No, we have not. (See exhibit XX.)

Mr. MOSS. Can you tell me how many agencies or departments of Government have some facility for the review of nonclassified strategic information?

Mr. SEAGO. None that I know of.

Mr. MOSS. Mr. Seago, I think you must have misunderstood my question.

Mr. SEAGO. Maybe I did.

Mr. MOSS. Certainly you are aware, as I am, that in the writing of documents—take the Atomic Energy Commission. If you want to write about anything in the field of atomic energy, you take it to the Atomic Energy Commission for clearance. It was testified before this committee by your predecessor, Mr. Honaman, that there are other agencies of the Government where they do undertake to review information of this type on a voluntary basis. Now, certainly in your agency, which is going to act as an adviser to the Government in this whole field of strategic information, you must have made some determination of the existence of facilities within the Government for the review of such information. Wouldn't it be a logical step? Whom do you advise with?

Mr. SEAGO. We advise with the members of our interdepartmental committees.

Mr. MOSS. And you have made no determination as to the number of facilities in the Federal Government, in the agencies and departments, of the facilities where a review of this material can be made or is being made?

Mr. SEAGO. I know of no such study.

Mr. MOSS. Frankly, I am amazed.

Mr. OVERTON, maybe you can help me on this.

Mr. OVERTON. If I understand Mr. Seago correctly, he is saying that he knows of no organized function in any of the departments to screen the dissemination of nonclassified information. Is that a correct statement?

Mr. SEAGO. That is correct.

Mr. OVERTON. There are no such agencies, as I understand him. Of course, this is a matter of factual information that I have no personal knowledge of.

Mr. SEAGO. Each agency would have to say what their function is in that respect.

Mr. OVERTON. With reference to your question concerning the Atomic Energy Commission—I believe you used that as an example—perhaps there you are into an area of classified national security information.

Mr. MOSS. Well, if you even have a thought about atomic energy, the moment you have the thought it is classified.

Mr. OVERTON. This is a matter I am not aware of.

Mr. MOSS. But at least we know, generally, that that agency does review material for publication, even though it may deal with material controlled by the Atomic Energy Commission, which has been declassified.

Mr. OVERTON. Has that been reviewed to determine whether or not the material is classified material? I think we are involved in two different types of questions.

Mr. MOSS. No; whether it is strategic, whether it should be discussed even though it is unclassified.

Mr. OVERTON. These are matters beyond my competence.

Mr. MOSS. We have instances where writers have submitted to agencies in the Department of Defense manuscripts which have been held up for long periods of time for review to determine whether or not they contain material of strategic importance, and it just seemed to me a very reasonable approach to your assignment, that you determine how many of the agencies have a facility for review of material, and what their guideline might be.

If you are going to advise them, certainly you should know the present policies or criteria employed by them in determining whether or not material has strategic importance.

Mr. OVERTON. I might say, Mr. Chairman, I have not heard of the existence of any such organized units in any of the executive branches. This is not to say that there may not be some.

Mr. MOSS. My thought is that there has been, apparently, no effort to discover whether or not such agencies or facilities exist.

Mr. OVERTON. Has there been such an effort?

Mr. SEAGO. No.

Mr. OVERTON. In other words, you have confined your effort so far to a study of the exchange program; is that correct?

Mr. SEAGO. Yes.

Mr. MOSS. Foreign exchange only?

Mr. SEAGO. No; and a study of the other problem.

Mr. OVERTON. But you have not arrived at or made any effort in regard to other agencies, other than this matter of an increase in the flow of information?

Mr. SEAGO. That is right.

Mr. FASCELL. May I interrupt?

Mr. MOSS. Mr. Fascell.

Mr. FASCELL. You testified that the OSI has no authority over any other governmental agency with respect to release or withholding of information.

Mr. SEAGO. That is right.

Mr. FASCELL. You testified that OSI has issued no policy guide with respect to the release of any information as it might flow from any governmental agency.

Mr. SEAGO. That is right.

Mr. FASCELL. You have testified that the only policy guide you have issued deals with exchange of information between the United States and Soviet bloc?

Mr. SEAGO. Of published information.

Mr. FASCELL. Of published information?

Mr. SEAGO. Yes. (See exhibit XVIII.)

Mr. FASCELL. And that you are presently in the process of a study to determine—

Mr. SEAGO. We are studying all of those other problems you mentioned.

Mr. FASCELL. Therefore, at the present time am I correct in saying that any agency of the Government is at liberty to release any unclassified information that it wants to?

Mr. SEAGO. Yes, except insofar as it is prohibited by law.

Mr. MOSS. There it would be classified by law.

Mr. SEAGO. Yes.

Mr. FASCELL. I am talking and you are talking about nonclassified or so-called strategic information?

Mr. SEAGO. That is right.

Mr. FASCELL. Any individual is at liberty today to release any information of that type?

Mr. SEAGO. That is right.

Mr. OVERTON. The only restriction on the dissemination of any information in the executive branch, as I understand it, are those matters which are prohibited by law, and we discussed yesterday that aspect of it as it related to the Commerce Department, or by Executive order or constitutional concept under the doctrine of separation of powers. Otherwise you have an open-door policy on information, stemming from the age-old philosophy in existence in this Government, that the public business is the people's business.

Mr. FASCELL. What you are telling me is that despite the fact that Section 3.01 of the manual order says that the Department of Commerce has been assigned responsibility for several aspects of a program designed to coordinate the release of unclassified scientific, technical, industrial and economic importance, the indiscriminate distribution of which may be inimical to the defense interests of the United States—despite the fact that the order says that, you are not doing it?

Mr. OVERTON. The order, as I understand the testimony adduced here this morning, is not consistent with the program. Therefore, I would say that the order—

Mr. MOSS. Wouldn't it be very helpful?

Mr. OVERTON. I don't think there is any question about it, and the order possibly is not a properly drawn order.

Mr. FASCELL. Mr. Chairman, allow me to intervene at this point and say I don't agree with that at all. I think it would be a lot better just to do away with the order. In fact, I am not so sure about OSI at this point, from the testimony I have heard. What are they doing? "We are conducting a study in this committee on information." If all OSI is doing is a duplicate study with respect to Government agencies, then we ought to get together and maybe we could work things out good, but at this point I see no need for OSI, this directive, or the National Security Council order, or anything else in this whole field, because it leads to this kind of statement, that the military feel that OSI has authority over them, and OSI denies it.

We do know there is no basis for it in law; there is no basis for it, in fact. We do not require them to bring a specific problem, and yet somebody says it is so. It not only creates confusion, but has a tendency to dry up information which might be useful.

Now I might point out another thing while I am on this soapbox. The order says that "the indiscriminate use of which \* \* \*." That presupposes the fact that you might have discriminate usage which might be all right. You haven't done anything on that.

Mr. OVERTON. No, sir. The point I am making is, if I understand Mr. Seago's testimony and what the facts are, there are no efforts or no limitations in the executive branch on the dissemination of information, other than those matters which we discussed from the legal



standpoint on yesterday, and you have an open-door policy of information.

Mr. MOSS. Of course we are going to go into this question with much more thoroughness when we have the Defense Department before the committee because apparently there is a feeling in the Defense Department there is too much information, as evidenced by the statements and directives of the Secretary. I am just amazed that they were issued without the advice of the Office of Strategic Information, which is specifically charged by the National Security Council with advising in this field.

Mr. FASCELL. That raises another question, too, Mr. Chairman. It raises this question: If the OSI is not coordinating the release of unclassified information, as they have been required to do, pursuant to a directive, why have an interagency committee from all of the departments which meets once a month? What in the world do they do?

Mr. MOSS. I am as curious on that as you are. I would suggest before we pass—

Mr. FASCELL. I am not passing judgment on that. I am thinking out loud what is probably happening is they are blithely bringing in these little problems and somebody is passing on them and making a decision with respect to them, and that is that.

Mr. MOSS. I think this afternoon, immediately after lunch, we will get into the exchange program of information, and perhaps there we will find the justification for the OSI's continued existence.

Mr. MITCHELL. May I interrupt a minute?

Mr. MOSS. Yes, Mr. Mitchell.

Mr. MITCHELL. Mr. Chairman, will you ask Mr. Leman, the Director of the Office of Public Information, to produce all correspondence and memoranda and telephone notes concerning an article about the Business Advisory Council written by Mr. Walter Shead, the syndicated columnist. The correspondence that we specifically want is the correspondence exchanged with Mr. James P. Hinchey, editor of the Berlin Reporter, Berlin, N. H.

Mr. MOSS. We will ask Mr. Leman to be prepared to give us the fullest information on that when he appears before the committee later in the day.

Mr. Seago, we will continue with you at 2 o'clock. The committee is now in recess until 2 o'clock.

(Whereupon, at 12:15 p. m. the committee recessed, to reconvene at 2 p. m. the same day.)

AFTERNOON SESSION

Mr. MOSS. The subcommittee will now come to order and we will continue with the hearing.

Mr. Seago, Office of Strategic Information will resume.

Do you have a further statement that you would like to make at this time, Mr. Seago?

Mr. SEAGO. I have no formal statement, Mr. Chairman.

Mr. MOSS. I think it might be helpful to the subcommittee if you would outline for us the foreign-exchange program that you have.

Tell who cooperates with you on it and whether or not you review material. Give us a fairly detailed story on it.

Frankly, it seems to me from the testimony this morning, this is really the heart of the present workings of the Office of Strategic Information.

**FURTHER STATEMENT OF ERWIN SEAGO, DIRECTOR, OFFICE OF STRATEGIC INFORMATION; ACCOMPANIED BY ALLEN OVERTON, JR., SPECIAL ASSISTANT TO THE GENERAL COUNSEL, DEPARTMENT OF COMMERCE**

Mr. SEAGO. It is very important.

Mr. Chairman, I think to aid in that respect, it would warrant me to just restate three paragraphs of the statement this morning. For instance—

In this 20th century mankind is confronted by a new series of problems of record magnitude which call for fresh examination of procedures by which freedom and security have long been sustained.

These new conditions require profound thought and wise action by the Government and every segment of the public, including science, industry, and the press.

Then I might say the advance in technology and science is probably in areas of struggle, now, rather than another type of struggle between nations.

Accordingly you, we, and all of us must examine the advances, the advantages, and disadvantages that can occur in those areas. Of course, this question which you have asked me now, the question of exchanges is very important. I think you will agree that in the past there has been a terrific amount of technical scientific, and economic information that has been available without, you might say, restraint, and it is to balance that flow of information that we are studying.

Mr. MOSS. How do you become aware of information which might be exported?

Mr. SEAGO. I presume we learn about that through the various departments of Government.

Mr. MOSS. Much of this originates in the universities and private research?

Mr. SEAGO. And much of it originates in Government.

Mr. MOSS. Do you try to control and guide—

Mr. SEAGO. Not to control. We suggest, in the case of public information, that something be secured in return for that which is being sent.

Mr. MOSS. Are we talking now only of information which is controlled by agencies of Government for which a formal request has been made by some foreign government?

Mr. SEAGO. I am talking about published information that is unclassified and for instance in this case, by Government.

Mr. MOSS. By "public information" you mean the type that I can buy through the Government Printing Office?

Mr. SEAGO. Yes.

Mr. MOSS. If I as an individual go down there and buy some for export, how do you know about it?

Mr. SEAGO. Well for instance, the Soviet bloc has a resident agency in this country known as the Fourth Continent Book Store in New York. They buy through various sources but in one year they bought through the Government Printing Office, 10,000 pieces of published information. It is available to them. We might as well use that information that is available to them, to get something back from them.

Mr. Moss. Suppose they did not bother to contact you but just had some anonymous individuals go down to the Government Printing Office and purchase this material.

Mr. SEAGO. That is a question that occurs, always. In the end, as I indicated earlier, you cannot stop all little leaks, or you cannot have an effect on all of those instances but where you can—

Mr. Moss. Do you attempt to license or control in any way?

Mr. SEAGO. We have no control or licensing powers.

Mr. OVERTON. In response to your question, he was speaking with reference to the OSI.

Under the Export Control Act which is also administered in the Department of Commerce, in its Bureau of Foreign Commerce Section, you have some regulations concerning the export control of technical data, stemming from the Export Control Act of the Congress, and when you ship technical data to the Soviet bloc, then there are certain procedural matters that have to be treated with.

Mr. Moss. Do you advise with the officials operating under the Export Control Act?

Mr. SEAGO. Upon occasion.

Mr. Moss. Do you maintain a continuing liaison for the purpose of obtaining types of information which should be more closely guarded because of possible strategic value?

Mr. SEAGO. No; I do not.

Mr. Moss. You do not advise them at all?

Mr. SEAGO. Well, the only kind of advice they would have would be to try to get back for published and freely available information, similar information from the Soviet bloc.

Mr. Moss. They would try to get back, or you would try to get back?

Mr. SEAGO. They.

Mr. Moss. Then it is those who operate under the Export Control Act.

Mr. SEAGO. In that instance.

Mr. Moss. Do they use the same method you do?

Mr. OVERTON. I might make mention of the fact that I believe it is on the 27th we have scheduled for appearance before this committee at your invitation, Assistant Secretary McClellan, who is Assistant Secretary for Foreign Commerce, together with Mr. Borton, and those other people in that area.

Mr. Moss. It still has a direct bearing on this office. I am very much interested in what it does—what we get for even the small budget that we have for the Office of Strategic Information.

Apparently we are down now to the field where you are actually operating.

Have you evolved any material as guidelines to agencies? If a department receives a request from one of the Communist-bloc nations for certain publications, is that referred to you, or have you referred to them a policy suggestion?

Mr. SEAGO. The latter in most instances.

Mr. Moss. And in what form are those policy suggestions made?

Mr. SEAGO. That one policy was the one about which I spoke this morning.

Mr. Moss. That is the one publication we have?

Mr. SEAGO. That is right. (See exhibit XVII.)

Mr. MOSS. But it doesn't actually provide any effective control?

Mr. SEAGO. No, none whatsoever.

Mr. MOSS. In administering the Export Control Act, then, there have been developed criteria for trying to bring about an exchange of information in return for a license to export certain types of technical data from this country and that is administered outside of your agency?

Mr. SEAGO. The Export Control Act is administered outside of our office.

Mr. MOSS. And it is a program of trying to promote an exchange of information that is administered outside of and independently, in all respects, of your office.

Mr. SEAGO. Well, I would think so.

Mr. MOSS. Mr. Meader—

Mr. MEADER. Mr. Seago, I am trying to follow this line of questioning of the chairman to relate the operation of Mr. Borton's office on export control under a statute to your office, which seeks in the first place to limit the amount of nonclassified material being exported or being available to the Soviet.

Mr. SEAGO. Mr. Borton's office?

Mr. MEADER. No; I am speaking now of trying to get the relationship between your activities and those of the agency in your Department administering the Export Control Act.

I presume that in a sense your objectives are identical. Is that correct?

Mr. SEAGO. I would think so.

Mr. MEADER. Only they operate under a statute which wishes to deny to the enemy, or potential enemy, information and strategic materials that may be of benefit to them.

Mr. SEAGO. There is nothing inconsistent there, because we deal with unclassified and published information in this instance, and they have granted a general license for that to be freely disseminated.

Mr. MEADER. In other words, they do not attempt to limit the export of nonclassified information, is that correct?

Mr. SEAGO. I think that is correct.

Mr. OVERTON. As I say, Mr. Congressman, the people who have intimate knowledge of this will be here on the 27th but it is my understanding that the export control general license does confine the limits beyond which technical data of a certain content should not be freely transhipped abroad. Mr. Seago's operation is not duplicatory of the export control function because they are controlling and he is interested in exchange aspects—when something goes out that falls within the framework of the general license provisions then he is interested in securing a quid pro quo return to the United States.

Mr. MOSS. What leverage does he have at that point?

Mr. SEAGO. I have no leverage.

Mr. MOSS. As long as the license has been granted they can export the technical information and nothing you say or do, suggest or whatever you might do, would have any bearing on it.

Mr. SEAGO. I understand neither question.

Mr. MOSS. You say they control and therefore it is not a duplication of your function.

Mr. SEAGO. That is right.

Mr. Moss. You try to bring about an exchange with the country seeking to export from the United States?

Mr. SEAGO. That is right.

Mr. Moss. Certain type information, and then you go directly to the country or you go to the State Department. How do you make your contact to try to arrange for this exchange?

Mr. SEAGO. We do not go to anybody, Mr. Chairman. We have issued—and I say “we,” it is the Secretary of Commerce, has issued that guideline that we spoke about this morning and they follow that guideline. By “they,” I mean the various executive offices. And they are not bound to follow it. If they have any questions about the following of that guideline, then they might call us.

Mr. Moss. You say the Secretary of Commerce has issued the guidelines.

Mr. SEAGO. Yes.

Mr. Moss. That gets me back to this very interesting thing you have here.

Sec. 2. The authority vested in the Secretary of Commerce by the National Security Council with respect to the matters described in section 3 below is hereby redelegated to the Director of the Office of Strategic Information.

Mr. Seago, anything like this would be issued through the Secretary of Commerce.

Why did they delegate the authority to you, then?

Mr. SEAGO. I think that since the discussion has developed here about that departmental order, we could very well take a look at that for clarifying it.

Mr. Moss. It just has interesting possibilities, I might observe.

What do you do, then, that couldn't be done just as effectively under the Export Control Act—done by those who are charged with the responsibility of administering that?

Mr. SEAGO. I see no reason why it couldn't have been assigned to any particular group. It happened to be assigned to my group.

Mr. Moss. Well, I asked the question because one of the instructions delegated to the Government Operations Committee by law is to determine the economy and efficiency of the operations of agencies of the Government. If there appears to be duplication, it certainly is the responsibility of the committee to examine into the need for a duplication.

During the morning it seemed to be very difficult to tie down the function of this agency in the domestic field and there seemed to be much emphasis on the point that there was this function in the foreign field, with regard to the exchange of information.

All I want to know is what we are getting for our dollars and our effort in this field that we could not get just as readily without OSI.

You say in the export control program that they also try to encourage an exchange of information.

Mr. SEAGO. Mr. Chairman, they do that upon suggestion made by our Office, just as any other Government office might do the same.

Mr. Moss. Is the net result of some 18 months operation of the Office of Strategic Information, is the net final product of all of the effort, time and dollars, this one publication which suggests that it might be wise in any exchange of information, or in any export of information abroad, to try to encourage an exchange of information

coming into the United States? Is that the final end product of all of the energy that has been put forth on the part of the Office of Strategic Information?

Mr. SEAGO. There are a good many areas that are under study. This is one that has reached a point of interim finality, you might say. It has reached a point of where we are trying to operate the thing, where we are trying to make the thing work.

Mr. MOSS. Could you briefly summarize for us some of the other areas now under study where you hope to have some final recommendations?

Mr. SEAGO. Yes. There is for instance in this exchange area unpublished information which is nonclassified and that exists on both sides.

We are working on a policy, or guidelines in that area.

Mr. MOSS. How closely do you coordinate with the National Science Foundation?

Mr. SEAGO. The National Science Foundation has a member on our committee.

Mr. MOSS. Have there been recommendations put before your committee for a study, as a result of the interests of the National Science Foundation in getting more information about scientific progress or technological progress in the Iron Curtain countries?

Mr. SEAGO. Not specifically, if I remember correctly, but there are certainly such suggestions made to the committee for study.

Mr. MOSS. Do you have any timetable on these things?

Mr. SEAGO. No, Mr. Chairman; we do not.

There is another study and that is the necessary dissemination of the information we are beginning to get back.

Mr. MOSS. Well now, isn't that a function which was originally assigned to the National Science Foundation to collect and disseminate scientific information, aid in getting that out?

Mr. SEAGO. I am not competent to answer you in full. I would doubt that they have been assigned the job of getting out economic information and technical information.

This area, you see, covers scientific, technical, economic and perhaps there is one other term of it.

Mr. MOSS. But in the field of scientific information, we can assume they have that responsibility.

Mr. SEAGO. I am unaware of any particular point.

Mr. MOSS. You haven't any other agency in the Department of Commerce charged with the responsibility of collecting statistical data on foreign countries, compiling it and making it generally known?

Mr. SEAGO. As I understand it, not in foreign countries; no.

Mr. MOSS. Is this a duplicating function?

Mr. SEAGO. Well, I would not think so, because the information that we try to get back by exchange is that information which is not in this country.

Mr. MOSS. Now what information have we gotten back? You have cited the instance of certain labor statistics this morning.

Mr. SEAGO. We have many instances of it. I happen to have one here. A firm asked for advice on handling an order for their house organ from Czechoslovakia. A review was made of the publication of the Czechoslovakian firm.

Mr. MOSS. I didn't catch the first part of that.

Mr. SEAGO. A firm here in our country asked for advice on handling in order for their house organ from Czechoslovakia. A review was made of the publications the Czechoslovakian firm had produced, to determine what was not available to the United States and it was suggested they furnish the requested information and asked for certain unavailable information in return. These publications are periodic and we have now been receiving from them the Czech publications for the last 6 months.

Mr. MOSS. That is a case where an American business had a request to the Czechoslovakian company to be placed on the mailing list for their house organ. In turn, they asked for some cooperation from the Czechs to be put on their list?

Mr. SEAGO. A request for information which we were not getting.

Mr. MOSS. Do you receive requests in this field from individuals and governments—what do you have abroad to determine information we are not receiving abroad?

Mr. SEAGO. There is a unit established at the Library of Congress which prepares a want list and they are to receive from Government, business, and industry, items which they are, which are not available. Much of the information which that want unit prepares is from a document they have now been able to get out of the bloc—

Mr. MOSS. Who pays for this? Is it a part of the Department of Commerce or are they carried under the Library of Congress? Do they operate under the Office of Strategic Information?

Mr. SEAGO. They work with the Office of Strategic Information under a contract, and the Department of Commerce pays for that work.

Mr. MOSS. Then this is a staff function of the Office of Strategic Information, handled under contract by the Library of Congress?

Mr. SEAGO. Yes.

Mr. MEADER. I understand that you have lists prepared by the library of Congress of those documents we have received?

Mr. SEAGO. And of that which we want to get.

Mr. MEADER. Also the want list. They are both handled by the library of Congress; is that correct?

Mr. SEAGO. I am not sure the Library of Congress keeps any particular record of the things we have received. We could make up such a list as that, I think, ourselves.

Mr. MEADER. I thought this document you gave us this morning said that anybody who got any of this exchange information was supposed to report it to the Library of Congress?

Mr. SEAGO. I don't remember it exactly that way. I would have review with my staff executive how the mechanics of that one item were worked.

Mr. MEADER. Do you have prepared by the Library of Congress otherwise a list of those documents we have received under this exchange program?

Mr. SEAGO. I think we could prepare such; yes.

Mr. MEADER. Could you furnish that to the committee?

Mr. SEAGO. Yes; in due course. It will take some time to prepare it.

Mr. MEADER. You have already agreed to provide us with the want list this morning.

Mr. SEAGO. The way the matter is worked, we can give you that information.

Mr. MITCHELL. Will you indicate the source, where the information came from, whether it came from business, like the illustration you just gave, or whether it came from other Government agencies? Of the data you received.

Mr. SEAGO. If I understand your question, I think we can do that. (See exhibit I.)

Mr. MEADER. Now one other thing, Mr. Seago. This guide on exchange of information requires agencies of the Government to furnish you with any blanket agreements or formal exchange agreements they may enter into with Iron Curtain countries. Do you have any such agreements?

Mr. SEAGO. That is a new study and that is for the purpose of evaluating this material that we are getting back. There is not much use to get it back unless you evaluate it and that is one of the things we have been doing in that area.

Mr. MEADER. I don't think I made my question clear. Item 5 (a) says this:

Exchange agreements or arrangements: There are instances in which agencies will want to draw up a formal exchange agreement.

The final sentence in that paragraph says:

Information concerning all new formal exchange agreements should be furnished to the OSI.

Now this was March 7, 1956.

Mr. MEADER. Do you have any such agreements?

Mr. SEAGO. I am not sure, if any, how many have come through. We will find out.

Mr. MEADER. If there have been some, you should know about it shouldn't you?

Mr. SEAGO. There is a little bit of work done around the staff and I just don't recall that one of those has come through.

Mr. MEADER. Does that contemplate that the Defense Department for example, would enter into a formal agreement with the Soviet Embassy here, to exchange information? Is that what you contemplate by that paragraph?

Mr. SEAGO. Not necessarily. Any of the departments and agencies, I am advised, over many years, unless there are strained relations, they do enter into formal and informal arrangements about the exchange of information, and in order to evaluate what is coming and going in that area, it has been worked out through the committee that this office be furnished information on the volume that is being carried on in that way.

Mr. MEADER. This idea of exchanges in information, either classified or nonclassified information—

Mr. SEAGO. Nonclassified.

Mr. MEADER. It strikes me as an innovation. Am I correct? Is this the first time, to your knowledge, anything of this character has been attempted?

Mr. SEAGO. Since this period of strained relations, you might say it has been felt in Government that it has been a one-way street, information going to the bloc.



Mr. MEADER. Until this development creating your office, as far as you know, there was no attempt to trade or swap information?

Mr. SEAGO. There has always been some effort to trade and swap information. I don't think there is any question about that.

Mr. MEADER. At least not formalized to the extent there is a Government agency with responsibility for controlling the exchange of information?

Mr. SEAGO. There is no control here. There has been no formalization of the study of it; that is right.

Mr. MEADER. In other words, for about a year, this exchange of information program has been in effect and as far as you know, prior to that time there was no formal attempt on the part of our Government to make any exchange of information on a formal basis?

Mr. SEAGO. With the Soviet bloc, that is right. There has been no coordinated attempt. This is the first time there has been a sort of coordination of efforts in that area.

Mr. MOSS. Has OSI ever had occasion to say to some business firm in this country, "In our judgment, you shouldn't perhaps send this information abroad."

Mr. SEAGO. I think perhaps we could find such examples. I don't remember any, but we might well find such examples in the office.

Mr. MOSS. What happens if the individual decides, "Well, in my judgment, I should, and I will"?

Mr. SEAGO. He would do as he wishes.

Mr. MOSS. How do you inform business, industry, educational institutions, research groups, that you have this service available?

Mr. SEAGO. Well actually there is an awareness about this that is surprising to me because since I have been here, there has been very little done about that.

Mr. MOSS. I would say that is a mild understatement. It seems to me that there is an awareness of an organization far more powerful and far-reaching than the one you have described to us here today.

Mr. SEAGO. Well, I am surprised, too, because there is hardly anything we have done except to answer requests for information that have come into our office.

Before I came to the office I am sure there were some efforts toward creating an awareness of the problem and I think you agree that there is a problem of the flow of this information to the Soviet bloc without a corresponding amount coming back.

Mr. MOSS. Yes, I don't think anyone would challenge that. The only question in my mind is a lacking of leverage and there is a lacking of leverage.

Mr. SEAGO. We have no leverage to compel any of these suggestions.

Mr. MOSS. Apparently we cannot refuse permission to let the information go out. Really, then, it is a matter of just nice cordial relations.

Mr. SEAGO. Which I think has been effective.

Mr. MOSS. Are we getting much more than we were getting before?

Mr. SEAGO. We think so and we think we can produce information to indicate it.

Mr. MOSS. As I recall when we had the scientific panel before the committee, a number of publications were shown us containing scientific information, published by the Soviet Government, exchanged apparently quite freely with American scientists.

In this instance, I think in the field of astronomy, or astrophysics.

It is my understanding that none of that information had been in any way reverted to your agency. Do you have any way of knowing about the mass of material that might be coming in on a regular exchange basis? Has there been any contact made with some of the individuals who might well be making use of information of that type?

Mr. SEAGO. I think over a time there have been many contacts with scientists.

Mr. MOSS. What have you done since you became Director of the Office of Strategic Information, to make these contacts?

Mr. SEAGO. Let me suggest one thing that occurred before I came to the Office.

Early in the operation of OSI, the studies indicated that the export control regulations unduly restrict the free exchange of scientific and educational information. OSI recommended the relaxation of the controls on scientific and educational information to permit a freer flow of this type of information. This recommendation was adopted and it included correspondence, attendance at or participation in scientific meetings, and instruction in the academic institutions and laboratories.

I can say further that there has always been a better exchange in the pure scientific area than there has been in the, for instance, technical and economic areas.

Mr. MOSS. That indicates the OSI recommended the freeing of restrictions to permit more information to come in and go out. But there have been no actual contacts?

Mr. SEAGO. There have been contacts.

Mr. MOSS. How?

Mr. SEAGO. I made a speech to the American Chemical Society one time.

Mr. MOSS. That is the only contact?

Mr. SEAGO. Prior to my time, there were a good many contacts.

Mr. MOSS. You have been in the Office now for about 11 months?

Mr. SEAGO. Yes.

Mr. MOSS. You have been in operation for what, about 18?

Mr. SEAGO. I think it has been about that.

Mr. MOSS. So for the major part of the time, you have been Director of the Office?

Mr. SEAGO. Yes.

Mr. MEADER. Mr. Chairman, might I ask a question at this point?

Mr. MOSS. Surely.

Mr. MEADER. Mr. Seago, can you give us an example of information received from the Iron Curtain countries as a result of an exchange such as is provided for in your guide?

Mr. SEAGO. Yes. I just read one and I think I can read another. There is a large industrial research laboratory here in the country that has been following somewhat this same policy for the last several years. They have had some very fruitful exchanges with the Soviet bloc. It has been somewhat of a pilot-plant operation and we have been following it closely.

Now as I indicated a little while ago, we will give you a list of these.

Mr. MEADER. I am trying to determine a little more specifically the type of information we have gotten. Have we gotten some information about their handling of labor relations or something?

Mr. SEAGO. Yes, that is right.

Mr. MEADER. Give me some examples of what we have gotten and the benefit we have received from the information we got through this exchange program.

Mr. SEAGO. If I may suggest, what I would like to do is furnish you a list of those items. We can do that. I do not have here a list of those documents we have received back. (See exhibit I.)

Mr. MEADER. Do you think we have gotten anything that has been helpful?

Mr. SEAGO. Surely.

Mr. MEADER. What would you say is the most helpful piece of information we have gotten through this exchange program?

Mr. SEAGO. It would be difficult for me to say right here.

Mr. MITCHELL. Is your Office qualified to judge?

Mr. SEAGO. I don't believe that—to answer that yes or no would be impossible. The information would go to the agency that wanted it and then that agency would be the one that would value—place a value on what they received back. They were the ones who asked in the first instance to have it, under this suggested procedure.

Mr. MEADER. Some of our scientific witnesses in hearings we had a short time ago indicated they had received some very valuable information, I think at Geneva, and there was no question of exchange—at least not any quid pro quo exchange, but they felt they had gotten quite a lot of information that was useful to us, that had been developed in the atomic field by Russian scientists.

Mr. SEAGO. I think there was a spirit of quid pro quo there.

Mr. MEADER. It wasn't done on any exchange basis, "I will give you this piece of information if you will give me that one."

I am trying to get from you something specific that I can understand, of information that we have received as a result of this quid pro quo exchange program that has been of some use, either to the Government or to private industry in this country.

I am surprised you can't name something specifically that you think is really valuable.

Mr. SEAGO. There are many of those pamphlets that have come back from various parts of Government.

Mr. MEADER. Can't you just cite any one that you think is really worth while?

Mr. SEAGO. The Department of State on March 17, 1955, transmitted a note to the Soviet Embassy in Washington proposing exchange on a reciprocal basis of medical films. This initiative arose from discussions between Major Shafer, of the Medical Corps, of the Walter Reed Hospital, and from the Medical Scientists Association. The Department received a note from the Soviet Embassy—

Mr. Moss. Would you mind reading it a little louder? I didn't catch the name of the conference.

Mr. SEAGO. It involves an exchange of medical film. It wasn't particularly a conference. It was discussions that were held between Major Paul Shafer, of the Medical Corps, of the Walter Reed Army Hospital, and Professor Petrovsky, member of the Soviet Academy of Medical Sciences.

The Department received a note from the Soviet Embassy September 5, 1955, expressing Soviet agreement to participate in an exchange of medical film, as proposed by the United States. It is contemplated that for the initial exchange, each country would make available 10 technical films on medical subjects. This exchange was completed recently.

Mr. MEADER. As I understand it, you say March 17, 1955?

Mr. SEAGO. That is when the matter started and the exchange was just now completed.

Mr. MEADER. It took from March until September for them to arrive at an agreement and you say the 10 films have actually now been exchanged?

Mr. SEAGO. Yes.

Mr. MEADER. What did the OSI have to do with that?

Mr. SEAGO. They coordinated the entire project.

Mr. MEADER. It sounds like something the State Department took up with the Soviet Embassy.

Mr. SEAGO. The matter was coordinated by our office.

Mr. MEADER. Aside from that exchange of medical film—and we still don't know what kind of medical films they were—is there any other instance where you think that we have actually benefited from this exchange?

Mr. SEAGO. There are some publications which are very difficult to pronounce.

We received some publications through a request that was made to one of the industries here, and those publications named here are—do you want me to try to read them?

Kozponti, Fizikai, Kutato, Intet, from Budapest. These publications were received and forwarded to the Library of Congress.

Mr. MEADER. Do you know what they had to do with?

Mr. SEAGO. In this instance I don't remember what they are, but they were requested by some department here in our Government.

Mr. MITCHELL. Were they requested by your office, or how?

Mr. SEAGO. No.

Mr. MITCHELL. I think the Congressman is trying to determine the procedure as to how it is accomplished. Mr. Meader asked for an example of how it is being done. You left out there the facilities or means of transmission and exchange.

Mr. MEADER. I wasn't so much interested in the procedure but whether we had gotten any benefit out of this exchange. When you read off all those letters in the alphabet and you don't know what they are and neither do I, I don't see how we can tell.

Mr. SEAGO. Someone in Government wanted that and it means something to them.

Mr. MEADER. Whether it was of any advantage to us or not you don't have the slightest idea, do you? At least I don't.

Mr. SEAGO. Yes, I think it does. I think if they wanted something that was not in this country and they knew what they wanted. I think it is of value to them.

Mr. MOSS. You know, I would just like to observe that after reading that alphabetical menagerie, I would like to see it, too.

Mr. MEADER. Mr. Seago, as I say, I am a little bit intrigued about this idea of exchanging information on a kind of a bargaining basis.

You can bargain for wheat or you can bargain for manganese or you can bargain for a lot of materials but it is kind of unusual to bargain for ideas and information. This seems to me to be a kind of an innovation.

Do you know of any of our allies who have an Office of Strategic Information similar to yours?

Mr. SEAGO. We have thought that might be important to look into.

Mr. MITCHELL. It is very hard to hear you.

Mr. SEAGO. We thought that might be important to look into. We understand that they do carry on some such process as this, but we have no definite information.

Mr. MEADER. Do the British have anything that compares to OSI?

Mr. SEAGO. I don't know whether they have anything that compares to OSI, but they have an exchange program.

Mr. MEADER. What is their exchange program like?

Mr. SEAGO. From what I have understood, it is similar to this; it is an attempt to obtain information on a quid pro quo basis.

Mr. MEADER. Who handles that?

Mr. SEAGO. I don't know.

Mr. MEADER. Do any of the Iron Curtain countries have anything comparable to OSI?

Mr. SEAGO. I think you might answer that question this way, and that is that all of the publications there, unlike publications in this country, are on a controlled basis.

Mr. MEADER. In other words, they have a full, complete, and open office of censorship; is that correct?

Mr. SEAGO. I think that is correct.

Mr. MEADER. And that would be the closest parallel?

Mr. SEAGO. It would be no parallel.

Mr. MOSS. Now I have just a few additional questions.

I am intrigued by this exchange of film and your role as coordinator. As I understand it, this was brought about originally as a result of discussion by an American officer in Walter Reed Hospital, and a member of the Russian Academy of Science, or Medicine. There was a suggestion to the Department of State.

How did you coordinate what would appear to be a historic function of State to negotiate with the foreign government; Did State refer the request to OSI?

Mr. SEAGO. I think that is what occurred; yes.

Mr. MOSS. We should be very certain in this, because I think it is important in this study. Did they refer it to OSI, or did it come up as a result of State's representative on the Council of the Committee?

Mr. SEAGO. I think, whether it came one way or the other, it would be all the same.

Mr. MOSS. Did State say to OSI, "We would like you to undertake coordination?" Then what did you do in coordinating?

Mr. SEAGO. From whatever agency it came, it came from either State or Defense and they suggested we coordinate the matter.

Mr. MOSS. How did you coordinate it?

Mr. SEAGO. We brought the people together; we arranged for the collection of films and exchange of them.

Mr. MOSS. Did you contact representatives of American medical groups or schools?

Mr. SEAGO. Yes; we did.

Mr. Moss. Did you then deal directly with the Russians?

Mr. SEAGO. No. You deal with them through the Department of State.

Mr. Moss. Then you undertook a limited assignment from State to collect internally the material which State would propose to exchange with the Russian government?

Mr. SEAGO. We took on a coordination of the problem there.

Mr. Moss. Why couldn't this assignment have been handled just as easily by State? It is very difficult for me to get the picture of the role being played by OSI in what would appear to be a very normal and routine function of State. I imagine we have exchanges of educational material with friendly governments—completely friendly governments, within the Western bloc of nations. There must be a continuing exchange of much information. You don't coordinate that; do you?

Mr. SEAGO. No.

Mr. Moss. So that the degree of coordination required in this instance, aside from that which State itself is capable of giving, would seem to be somewhat of an exception, or an unusual procedure, rather than a normal one.

Mr. SEAGO. Well, I think we need again to look at the question—we are in an area where there is a greater importance on technological, economic, and scientific information than ever before and there has been a struggle for it.

Mr. Moss. What liaison do you have for maintaining contacts with foreign governments?

Mr. SEAGO. We do not have such.

Mr. Moss. Then if you have a request, as a result of this list of wanted publications which has been developed by the staff of the Library of Congress, when you have a request from an American businessman to send his publication overseas, how do you contact, or whom do you contact, to arrange for an exchange? Do you go to State? Do you go to the American commercial attachés, or how do you do it?

For a while we had a scientific attaché and I, for one, am very much disturbed that our Government has discontinued the American scientific attaché, at the same time that the Russians have adopted the program and apparently are extending the system of assigning scientific attachés to their Embassies and consular offices. And we have apparently abandoned the practice.

Do you make these arrangements through our State Department foreign office representatives or do you make them direct?

Mr. SEAGO. As I understand your question, you are asking, when a request has been received from the Soviet bloc by an American businessman—

Mr. Moss. Yes.

Mr. SEAGO. Well, in that instance, he is on his own unless he happens to write in and ask us whether it is a good idea to furnish the information that has been requested of him.

Mr. Moss. Let us suppose that the request was made—and this again is something we apparently haven't very well defined in the discussions because these publications, many of them, are available through the Government Printing Office—suppose one of the Soviet bloc

of nations comes down to the Government Printing Office and wants 1,000 copies of publication X; is that referred to you?

Mr. SEAGO. It has not been referred to us; no.

Mr. MOSS. Suppose they go to the Department of the Air Force and indicate they would like to buy certain unclassified publications?

Mr. SEAGO. In such volumes, the Department might well think—

Mr. MOSS. Suppose they only want to buy one. They do not want to arouse your interest and perhaps they feel they have means of duplicating them. They only want one of them; is that referred to you?

Mr. SEAGO. Not the document, but the person who received such request would be guided by this guide statement that has been prepared.

Mr. MOSS. What would he do?

Mr. SEAGO. He would furnish the statement and ask for something in return. Now heretofore, we have found, too often, statements were sent on without asking for anything in return.

Mr. MOSS. If he asks for it, then he is the one who is doing the negotiating with the foreign power?

Mr. SEAGO. That is right.

Mr. MOSS. So that your role of coordinator in that instance is merely in the role of giving the original advice, saying that "It seems to us as though it would be sound and prudent policy to ask for something in exchange"?

Mr. SEAGO. And if he for instance does not have anything that he would like to have then he would use our office to find out what else—where else in Government, there might be something wanted.

Mr. MOSS. And in the meantime, does he hold up the request?

Mr. SEAGO. Yes. Yes.

Mr. MOSS. So that you are only covering a very tiny area in this field. They can go down to the Government Printing Office and buy a publication and there is no effort there to secure an exchange?

Mr. SEAGO. That is another area that is under study and we are about to work out some arrangements with the Government Printing Office to also suggest exchanges.

Mr. MOSS. Well, you can just go in there and request a document.

Mr. SEAGO. That is right, but we are working on plans and studies to try to get exchanges for what is purchased there.

Mr. MOSS. Do you mean a person going into the Government Printing Office to buy a document would have to indicate who he is?

Mr. SEAGO. Yes. The State Department has already asked bloc representatives to identify themselves.

Mr. MOSS. Would you then have identified in the Government Printing Office, a person coming in and asking for certain types of publications, they will have to identify themselves but if they ask for other types of information they will not have to identify themselves?

Mr. SEAGO. No. If they do not identify themselves, there is nothing that they can do about it. If they are known to be representatives of the bloc, it is very likely they will say, "Well, why don't you go and get this document from, for instance, the Department of Agriculture, if it is an agricultural bulletin that you want," and there, that gives the Department of Agriculture an opportunity to ask for something in return.

Mr. MOSS. Isn't it possible, if we go that far, we might be encouraging the use of anonymous individuals to purchase this material so that we lose track of some of the things we might be interested in?

Mr. SEAGO. There are bound to be some of those instances.

Mr. MITCHELL. Mr. Chairman, I believe the testimony next week will disclose that the Soviet Embassy has a general export license granted on the export control law and that they practically back a car up down at the Government Printing Office. That has already been revealed to this committee through the good offices of Mr. Overton and the members of the Bureau of Foreign Commerce, and that they have every right to go down there to the Government Printing Office and get that data and in fact, do, every day.

Mr. OVERTON. I might say, Mr. Chairman, that I have no knowledge of having myself informed the committee or counsel with regard to this.

Mr. MITCHELL. Excuse me. You were not the one. It was Mr. Borton, of the Bureau of Foreign Commerce.

Mr. OVERTON. This is a matter of which I have no knowledge.

Mr. MITCHELL. I thought with this foundation, you could then explain to the chairman just how your office functions under the light of those facts, as far as the Office of Strategic Information is concerned.

Mr. MEADER. Mr. Seago, I would like to direct your attention again to this guide dated March 7, 1956.

Is this the first guide issued by your office?

Mr. SEAGO. Yes.

Mr. MEADER. There was no predecessor guide?

Mr. SEAGO. No.

Mr. MEADER. Let me direct your attention to item 6, the section which requires each agency to evaluate the information they have received in exchange, and item 7, reporting, which requires the agencies to report to the Library of Congress, and in item C under 7 it says—

Agencies should furnish OSI the evaluation report as described under paragraph 6, at the end of each quarter of the calendar year.

Have you yet received any such reports?

Mr. SEAGO. No; that guide has just been put out and the 3 months period has not come about.

Mr. MEADER. When will the first reports be due?

Mr. SEAGO. I think in another 30 days.

Mr. OVERTON. Mr. Chairman, may I ask the counsel a question? I wanted to be sure that I understood him.

Mr. MOSS. Wait until Congressman Meader has concluded his questions.

Mr. OVERTON. Surely. I'm sorry.

Mr. MEADER. So these two examples you have given us—the 10 medical films, and the others, this long name that nobody knows what it means, you do not have any other informal reports from agencies of information they have received as a result of this quid pro quo exchange which you think is very important?

Mr. SEAGO. Not right here, but we can furnish them to you.

Mr. MEADER. I am correct then that from your recollection and your records, there are only two items—



Mr. SEAGO. I think that would be unfair, Congressman. I cannot remember these details. There are a good many of them.

Mr. MEADER. I don't know that it should be so unimportant. If you think this exchange program is valuable enough to go through all this process of issuing a regulation, or a guide, and you seem to contend that it is useful to us to make this exchange, I don't think it is too unreasonable to expect that you as a director of this program should have some knowledge about benefits that would be received as a result of the program.

Mr. SEAGO. I think we can furnish a list of those benefits.

Mr. MEADER. But you do not recall any other than these two examples you have given to the committee, today?

Mr. SEAGO. I cannot name them in detail.

Mr. MOSS. I think we should have the list, and your evaluation of the items on the list, because the list as such would be relatively meaningless to the committee.

Mr. SEAGO. I think this is important. We would have to take the evaluation of the agency that asked for the particular document. That we would try to get.

Mr. MOSS. I would not care who does the evaluating.

Mr. SEAGO. We would not attempt to evaluate each document.

Mr. MEADER. Mr. Chairman. I do not want to belabor the point but it strikes me from listening to this testimony and it is all new to me, I have no previous familiarity with Mr. Seago's operation—here we have set up an agency to control to some degree, at least—maybe not by compulsion but at least by persuasion or advice and counsel—the dissemination of nonclassified information, both from the Government and from private business, and it seems to me one of the advantages, or claimed advantages of that control was the exchange of information of a nonclassified nature which we have, for information which the Soviet bloc countries have.

The OSI has been in operation apparently well over a year, and it seems to me we ought to have some kind of a bill of particulars of the results that we have obtained from it, the benefit that we have received from this exchange program.

Mr. SEAGO. I have the two comments. I agree with you. In addition to that, this exchange program has only been gotten under way recently. It is not a year and a half old. It took time to get these things started.

Mr. MEADER. If anyone in your Office of Strategic Information would know about these benefits, Mr. Seago, you would be likely to be the one, wouldn't you?

Mr. SEAGO. As well as any of them; yes.

Mr. MEADER. And you have four assistants?

Mr. SEAGO. That is right.

Mr. MEADER. Do you get out any periodic reports to the Secretary of Commerce, or anyone, on your operations, your achievements and your expenditures and so on?

Mr. SEAGO. We make a semiannual report to the Interdepartmental Committee on Internal Security.

Mr. MEADER. When was the most recent report made?

Mr. SEAGO. About a month ago.

Mr. MEADER. Do we have a copy of that report, Mr. Counsel?

Mr. MITCHELL. I didn't hear which report he was referring to.

Mr. SEAGO. That was a report to ICIS. That came out about a month ago. It is classified.

Mr. MEADER. It is classified?

Mr. SEAGO. Yes.

Mr. MEADER. I thought it was unclassified.

Mr. SEAGO. My report to the Committee on Internal Security would be classified.

Mr. MOSS. What classification do you assign to it?

Mr. SEAGO. I think it was confidential.

Mr. MOSS. And that is under Executive Order 10501?

Mr. SEAGO. Yes.

Mr. MOSS. And you yourself classified it, because you originated the report?

Mr. SEAGO. We classified it ourselves.

Mr. MOSS. This is your progress report?

Mr. SEAGO. That is correct.

Mr. MEADER. A report on the operations of your agency.

Mr. SEAGO. Yes.

Mr. MEADER. Why should there be anything confidential about that?

Mr. SEAGO. I think communications back and forth between that Committee and our office have always been on a classified basis.

Mr. MITCHELL. Will you spell out the correct name of that committee please?

Mr. SEAGO. Interdepartmental Committee on Internal Security.

Mr. MOSS. The Interdepartmental Committee on Internal Security?

Mr. SEAGO. Yes.

Mr. MOSS. And you report to them on the progress of the Office of Strategic Information, an agency dealing entirely with unclassified information which could have a strategic value?

Mr. SEAGO. Yes.

Mr. MOSS. Now I am very much interested in why, in your judgment, and in this instance it must be your judgment because under Executive Order 10501, you are the classifying authority—why in your judgment must that progress report be a document classified in the interests of the security of the United States?

Mr. SEAGO. I think that—

Mr. MOSS. That is the only criteria you could use under Executive Order 10501 fix that number in the other two occasions back there?

Mr. SEAGO. I think in this area it would be wrong to furnish that information to possible enemies.

Mr. MOSS. You are trying to bring about an exchange of information. You say that is all you are trying to do.

Mr. SEAGO. That is not quite correct, Mr. Chairman. We were studying these other areas.

Mr. MOSS. Well, frankly, I believe almost anyone who looks at the record of the hearings, today, would be forced to almost the same conclusion that I have reached, that virtually your entire operation is in developing this program of exchange of information.

Now, I would like you to tell us what particular types of information in that report would warrant the security classification, and what classification do you assign to it?

Mr. SEAGO. Much of the matter contained in that report affects our national security, and, accordingly, in my judgment it should have been classified.

Mr. MOSS. Much of it affects our national security, coming from an agency dealing entirely in nonsecurity information.

Well, we will arrange for a properly cleared member of this staff to review that report, because one of the things that we have to go into is the possible abuses of classifying under the guise of the security of the United States.

I hope that his findings bear out the wisdom of your classification, because at the moment I am strongly of the opinion that this is probably an example of abuse of the privilege of classification. It would be difficult for me to imagine how a progress report, in an agency of this type, would have any great bearing upon the national security, but I feel that it may have a very important bearing upon the economy and efficiency of the operation of the agency, and that, in my opinion, is not a national-security question. (See exhibits X, XI, and XII; also discussion of declassification of OSI Progress Reports at subcommittee hearings June 11, 1956.)

Mr. MITCHELL. Mr. Chairman.

Mr. MOSS. Mr. Mitchell—

Mr. MITCHELL. Only one further question on this subject, but the staff of this subcommittee has constantly received telephone calls and information that the psychological effect of an NSC directive which is not available and which this morning we were told is classified, when waved in the eyes of Government employees, forces them to withhold information which would ordinarily not come under Executive Order 10501, and the mere fear of an NSC directive forces the employee to withhold information.

This is practically across the board in Government service because the OSI goes into practically every agency, as you have seen from the list of representatives on the two advisory committees that they have in the Government.

Mr. Seago, could you please comment on that for the benefit of the committee?

Mr. OVERTON. Mr. Counsel, I assume that you are going to put in the record the list of those phone calls and from whom they were received as well as the letters and the other communications.

Mr. MOSS. That would be entirely within the determination of the committee.

Mr. OVERTON. I was merely asking a question, Mr. Chairman.

Mr. MITCHELL. Refer to the one specific one which was brought up this morning, in the Aviation article right here, right now.

"If the OSI is to have authority over us," one office has said, "then let the National Security Council promulgate such a policy and we will follow it."

By the way, the situation is now, OSI is reviewing what we have already reviewed and telling us what can and cannot be done with it, and we damn ought know a lot more about these things than they do. They are rapidly becoming a governmentwide office of censorship.

There is a clear-cut one, right there.

Mr. SEAGO. Yes, Mr. Mitchell, and I denied those comments, this morning.

Mr. MITCHELL. You are going to give us a full report, surely, at the request of the chairman, on this whole transaction; is that correct?

Mr. SEAGO. Yes.

Mr. MITCHELL. You will include that in your report?

Mr. SEAGO. Yes, we can. (See exhibit I.)

Mr. MOSS. Mr. Meader, have you any questions?

Mr. MEADER. I think not.

Mr. MOSS. Mr. Mitchell.

Mr. MITCHELL. That is all.

Mr. MOSS. Mr. Seago, we thank you for your appearance here, and the committee is now finished with your agency for the moment. We will have some specific requests to you, and one of those will be a request for a member of the staff to review carefully the progress reports which are at the moment classified.

Mr. SEAGO. We will be glad to have them do so.

Mr. MOSS. The next witness will be Mr. Leman, Director of Public Information for the Department of Commerce.

#### STATEMENT OF ALBERT N. LEMAN, DIRECTOR OF INFORMATION, DEPARTMENT OF COMMERCE

Mr. MOSS. Mr. Leman, will you give us a brief biographical sketch? And then I understand you have a prepared statement you would like to read.

Mr. LEMAN. My name is Albert Leman. I was born in Rockport, Mass.; educated in the public schools and attended Boston University. I left Boston University to enlist in the First World War.

During the First World War, among my services overseas were some matters connected with G-2, the Intelligence Section.

I have been a newspaperman most of my life. I began as a reporter on a small paper—then became a reporter on a large paper, a feature writer, a foreign correspondent, and an editor of the Boston Post in Boston, Mass.

I have been a free-lance writer for numerous other publications. I have been the editor in chief of the McClure Newspaper Syndicate in New York. As such, I handled very many different kinds of news, including foreign news, political news, business news, and so forth.

I have been in addition a public official, an elected public official in a municipality. I have served in the office of the Governor of Massachusetts as one of the secretaries. I have been connected with Gov. Sherman Adams and others in the pre-Eisenhower campaign before Chicago, in regard to publicity and newspaper work.

I have served on General Eisenhower's advisory staff after the Chicago convention. I came to Washington as the assistant to the Assistant to the President—in other words, to Gov. Sherman Adams

And since the 20th of March, I think, but since March 1953, at any rate, I have been the Director of Public Information for the Commerce Department. I am also the assistant to the Secretary of Commerce.

Now with your kind permission, I have a statement along the lines of what I would like to have you hear.

The chairman of the House Committee on Government Operations, in his initial letter chartering this subcommittee, stated that charges have been made that Government agencies have denied o

withheld pertinent and timely information to newspapers, radio, television, and magazines. He requested the scrutiny of information practices of the administration and the disclosure of any evidence of unjustifiable suppression of information or distortion or slanting of facts.

I welcome the opportunity to set forth to this committee the policies and practices of the Commerce Department in respect to material available to press, radio, television, publications, and other communication media.

We sincerely believe that the American people have a right to know the truth about the Commerce Department and that the Department has the responsibility to make that truth accessible to various press media. And when I refer to "press" hereafter, I mean radio, television, and all the media.

Mr. Moss. I wonder if you would mind if I just inject the statement that the committee is specifically charged with inquiring into the information practices of the executive branch, the independent agencies, and not the administration.

Mr. LEMAN. I referred to the whole administration rather than the legislative or the judicial.

Mr. Moss. Most important to us, we are not charging that these practices have developed under any one administration.

Mr. LEMAN. I understood that.

Mr. MOSS. It is well to state clearly on the record that it is the executive branch.

Mr. LEMAN. Surely. That is all right.

Mr. MEADER. We are just trying to make it perfectly clear that both Democrats and Republicans when they are in charge of the executive branch of the Government may have a tendency to suppress information, and we would like to give a little nonpartisan color to this area.

Mr. LEMAN. I understand.

The information which the public learns about government can be misinformation and therefore detrimental to the general welfare unless it is accurately given and truthfully reported. We do not distort or suppress news. Except for a few categories to which access is limited by law and restricted in the public interest—which will be described later—we maintain an open-door policy on Government information.

One of the major functions of the Department is the collection, analysis, and distribution to the public of facts, statistics, censuses, surveys, charts, reports, scientific and technological data, and other information. The very names of some of our agencies emphasize his public service: Weather Bureau, Office of Business Economics, Bureau of the Census, National Bureau of Standards, and so forth.

I repeat, we do not suppress news. In fact, for instance, we have not only the duty but the satisfaction of continually reporting the progress of the all-time record prosperity which this nation now enjoys.

If desired later, I shall be willing to spell out the organized system maintained by the Department to make its vast collection of information available to the press. In a nutshell, we provide the raw materials and the press selects information to fit its own requirements. For example, reports on certain commodities may be of inter-

est only to a certain limited number of trade publications. But the latest report that March employment jumped half a million and was the highest March on record was of interest to nearly everyone. Our recent report that business plant and equipment expenditures for 1956 are 22 percent above last year's expenditures was front-page news.

We are constantly examining our accumulation of facts to see if we can improve their dissemination. We are using huge electronic computers at the Census Bureau to speed up certain economic reporting. Approximately 3,000 publications—ranging from booklets to press releases—were turned out last year. Daily contact with the press is centered in the Department's newsroom and in the contact points of the various agencies. Additional contacts are by telephone, letters, and personal interviews. Speeches, statements, briefings, TV-radio appearances and press conferences are frequent.

So much for what may be described as the standard information functions of the Department in relation to the press.

Now for a few thoughts directly on the general scope of Government information accessible to the press and certain limitations placed thereon by law, tradition, and sound practice.

I approach the subject from a personal background which covers a lifetime of reporting and editing, including Washington experience as a private syndicate editor during the administrations of President Roosevelt and Truman, and as a Federal Government information director in the administration of President Eisenhower. I also have attended some of the hearings of this subcommittee, at which newspapermen testified, and have discussed the subject of Government information with many members of my own former profession.

Naturally, as an ex-newspaperman, I am proud that the editors of this country are ardent champions of freedom of speech and freedom of the press and have so effectively stated their position to this subcommittee.

They know from long history that the tool of tyranny is the muzzle. In our own day they have seen great newspapers silenced and writers exiled or tortured in concentration camps. Stalin, Hitler, and Peron—all three—snuffed out free press and perverted journalism to government propaganda and falsehood. No such threat confronts this nation today.

Editors understand from experience that the tendency of officials in timid government, blundering government and corrupt government at every level is to "cover up" and to duck scrutiny by inquiring reporters. Every champion of freedom owes a debt of gratitude to the age-long persistence of the press to get the news about all kinds of government. In my opinion, the executive branch is cooperating with the press both in spirit and in practice.

But everyone who has studied this question thoroughly and earnestly comes to realize that the problem of providing truthful information about government is not a simple problem. The committee already has performed a public service in focusing renewed attention on the subject. The problem is as old as the Republic. Its definition never have been clearly formulated or accepted over the years by all of the press. It is further complicated by the giant size of modern government; the expansion of private records—like income-tax dat

of which the Government is custodian; the hazards of cold war with new perils resulting from scientific and technological progress; the requirement of a certain amount of secret diplomacy affecting foreign relations; the need for confidential advice in the discharge of executive duties; and other factors.

In addition, there is the obligation of the conscientious public official. He strives to conduct his affairs properly. He wants the public to have a reliable record of his policies and programs not only because the public has a right to know the truth but also because unless it receives the truth it cannot render fair judgment on his stewardship. However, a conscientious public official must act in the public interest. That duty impels him at times to withhold some specially defined types of information from indiscriminate disclosure. To do otherwise could constitute a betrayal of trust and often an exposure of security.

It is in this narrow zone that the press and public officials sometimes have sincere differences of opinion. They always have recognized the problem. Progress is steadily being made in solving some parts of the problem. More progress is likely if each respects the other's integrity of purpose.

So far as the Department of Commerce is concerned the press has access to a stream of information produced daily by different agencies. But there are three limited categories of information which are not fully available to the press—and, I believe, never have been since the establishment of the Department in 1913. The committee probably will find that somewhat similar categories have been specified over many years in other executive branch agencies and also in the Congress and the courts.

They are:

1. National security information—required by law or executive order to carry a security classification.
2. Information made confidential by statute—certain private business data furnished on pledge of secrecy, applications for patents and other material whose publication is prohibited by law.
3. Internal working papers of the executive branch—such as advisory opinions, interoffice memoranda, personnel files, preliminary drafts of recommendations of subordinates, reports on legislation to be submitted to Bureau of the Budget, Congress, etc.

Disclosure in many cases not only would violate the law and make chaotic the orderly housekeeping of Government but also would be contrary to the public interest. But Commerce Department policy is to keep such categories as limited as possible. Release is effected as far as reasons justifying nondisclosure no longer pertain.

The establishment in the Commerce Department of a relatively new Office of Strategic Information has aroused some interest in the publishing field. A full description of its objectives has been scheduled for others to give to his committee.

Since its inception this Office has not recommended any arbitrary curtailment in the flow of Government information to the press from department agencies. It has been in close and frequent consultation with the Office of Public Information as it has carried forward its studies and determined certain areas of guidance to executive branch agencies in the field of Government publications.

The current keynote of its major effort is exploratory in relation to the functions committed to it by the National Security Council. It continues to welcome suggestions from the press and other interested parties on how best to approach the subject of certain borderline information, whose release might be of significant strategic value to an enemy, without jeopardizing the freedom of the press.

The problem, of course, is accentuated by the character of a free democracy and the nature of cold-war technology. Arguments of great validity and sincerity can be advanced on both sides of the question. It behooves those concerned with the freedom of ideas and the survival of civilization to recognize the problem, to study feasible solutions and to initiate constructive thinking on the entire subject.

In conclusion, to sum up the Department's relations with the press:

Excepting only such restriction established by law or sound practice as necessary in the public interest, the policy of the Department of Commerce as determined by the Secretary, is an open-door policy with full and free access by the press to Government information so that the public may know the truth.

During the noon recess, counsel for your committee asked for certain correspondence. I should be very glad to give you the originals, though I have no copies.

Mr. MITCHELL. Could you read them into the record?

Mr. LEMAN. They are considerably long. Perhaps you could examine them and determine what you would like to do with them.

Mr. MOSS. I would like to take this opportunity to point out the fact that this committee is concerned not only with the withholding of or control of information as it relates to the press, but also to business, industry, science, education, the public generally, and the Congress, itself.

Mr. LEMAN. Mr. Chairman, thank you for that. You understand I am speaking primarily as what might be called in the governor's office or some place else, a press secretary. The matters that go out to the public through the various channels of the press media.

Mr. MOSS. We are also very much interested in the availability of information which may not be generally reported on by the Information Office of the Department.

Mr. LEMAN. I will be very glad to answer insofar as I can. The information that would be available to the press and the various media of the press, is that right?

Mr. MOSS. Information and general availability to whoever might desire it.

Mr. LEMAN. I will do what I can and if there is some area in which I am not qualified to answer, I will be pleased to secure the information.

Mr. MOSS. I notice you cited some limitations placed thereon by law.

Mr. LEMAN. Yes. A quick illustration.

Mr. MOSS. I was going to continue: "or tradition."

Mr. LEMAN. Yes.

Mr. MOSS. And sound practices.

Mr. LEMAN. Yes.

Mr. MOSS. Now those placed by law, we may question the wisdom of the law and in fact we intend in some instances to question the wisdom of the law and as a result of the studies of this committee we will probably make some recommendations for changes in the law.



Getting into the field of withholdings because of tradition—

Mr. LEMAN. I will be very glad to answer that.

You will understand in doing this, instead of preparing a great legal document as an attorney would and making citations, I condensed it with the understanding that you probably would want me to explain the condensation.

Mr. MOSS. Mr. Leman, not being an attorney, I much more appreciate this presentation.

Mr. LEMAN. You and I would have the problem of trying to make layman language acceptable to the attorneys, but this is what I had in mind: The tradition is the field of the executive powers, the separation of powers, the confidential working papers of the executive branch.

Now in those, the public information duty of mine comes into the picture. The private working papers of the executive branch.

Now sound practice in my mind would include what is specified later, the classified reasons for not giving material to the enemy and so forth, you see.

Mr. MOSS. Those are by law?

Mr. LEMAN. Yes.

Mr. MOSS. The Executive orders of the President are in some respects law.

Mr. LEMAN. I was referring to that as what would follow, as if I had spelled it out in more detail, which I omitted.

Mr. MOSS. I wonder if you gave any thought to the effect, the impact of, well, really, 3 wars, in a brief span of years? What effect have they had upon these traditions—traditions which are developed under the pressure of war and continue into more peaceful times?

Mr. LEMAN. I think that is a very good question because I have thought on that. You see, I have thought on it in this way: Not only does it make more information, but more masses of information, because of the very size of our Government. Our Government, today, as it was before, just concerned mainly with America; we have assumed a world stature. We are part of a permanent alliance. We are the greatest power on earth and we are exerting leadership.

Well, now all of that has brought about a tremendous mass of Government information, because the very nature of the expanding thing is the result of the three wars. It also makes on the other side a great problem and that is the problem of the responsibility of the Executive. The Executive is duly elected—as the servant of the people—to perform great duties in this kind of a world. And that in turn, you see, places on the Executive a very, very important thing, the importance of getting much more advice, perhaps, than might have been the case, before. Many more confidential advices on many intricate subjects. In the one case, it expands the horizon of information. In the other case, it places a great, great responsibility on the Executive—on what use we would make of this great amount of advice that we might receive.

Mr. MOSS. And the very expansion of information under the control of Government places upon Government a great responsibility to be very diligent in seeing that that information is freely available to the people who, after all, are in the final analysis the governors of this type of republic or democracy.

Mr. LEMAN. That is right.

Mr. Moss. I have other questions. However, I believe it would be more in the interest of orderly procedure to have Mr. Mitchell now undertake the questioning on points which he wishes to develop.

Mr. MITCHELL. Mr. Leman will you kindly refer to page 2 of your prepared statement?

Mr. LEMAN. Yes, sir.

Mr. MITCHELL. The first paragraph:

I repeat, we do not suppress news.

This committee has had called to its attention, Mr. Chairman, a series of communications that have transpired between Mr. Leman, and the editor and publisher, Mr. Hinchey, of the Berlin Reporter, I think is the name of it, and also the National Weekly Newspaper Service in Kentucky.

Mr. LEMAN. Is that the Stead letter that you are referring to?

Mr. MITCHELL. Yes.

At this time, Mr. Chairman, I would like to read into the record a statement which was published by the National Weekly Newspaper Service, September 5, 1955, and which was carried throughout the country.

Do I have your permission, sir?

Mr. Moss. Certainly. Proceed.

Mr. MITCHELL (reading):

The most recent evidence of arbitrary censorship in the executive department of the Government at Washington has run afoul of a congressional committee. As a result, a full-dress probe of censorship in the name of security likely will be one of the burning issues in the 2d session of the 84th Congress.

This latest evidence of peacetime censorship comes at the hands of Secretary of Commerce Sinclair Weeks, who has refused to make information relative to his Department available, either to the public or to a House Judiciary subcommittee.

Secretary Weeks charged the House committee with playing politics, with a attack against free enterprise. He said it was no business of the Congress to probe into the operations of his Business Advisory Council.

The Secretary's arbitrary refusal is the result of the same kind of thinking among some businessmen who have come into the Government that has resulted during the past several months in the resignation of 2 or 3 Cabinet members—that what he does or his Department does is no business of the Congress, and therefore is not the public's business. It is the same kind of thinking that many top businessmen take into Government. They fail to realize when they enter the Government that the rules are changed. They cannot do as they please, and operate the Government's business as they would their own, for the Government's business is the public's business, and the Congress as the elected representative of the people has a perfect right to investigate the operation of any government agency.

Secretary Weeks is hiding behind two false premises: (1) That the President's security order gives him the right to decide what is and what is not security; (2) that his Business Advisory Committee is financed with private funds, draws no pay from Congress, and therefore Congress has no business investigating what his committee does.

But that isn't true. The Council has official status which makes it a part of the government as an advisory group to the Department of Commerce. Here is what happened. The Bureau of the Budget, with the approval of Secretary Weeks, eliminated many of the services which the Commerce Department was giving to business generally. These services in the way of industrial and other business surveys were invaluable information and open to all business, large and small. Business rebelled at the loss of these services so Mr. Weeks set up an advisory committee supported by contributions from big business firms to provide these services to big business. The result is, little business is shut out from the service.

Mr. Weeks contends, as other businessmen of the Government have contended, and as the President has contended thus far, that the executive branch of the Government has a right to keep its affairs to itself, secured by a Presidential order, against the prying eyes of Congress; that the President has the constitutional right to do so.

Mr. Chairman, may I read into the record this letter?

Mr. LEMAN. Oh, yes, indeed. Anything there.

Mr. MITCHELL. Mr. Chairman, this is a letter dated October 4, 1955, signed by Albert M. Leman, Director of Public Information. The letter is addressed, "Editor, Berlin Reporter, Berlin, N. H."

DEAR SIR: There has come to my attention an article in your newspaper under "Washington Newsletter" (about September 8, 1955) which makes certain charges in respect to Secretary Weeks which are not in accord with facts.

1. Secretary Weeks has always given information to the Congress, the press, and the public regarding the operations of the Commerce Department. In the case you cited, officials of the Department testified at great length at hearings and supplied a great mass of informational data.

2. The Secretary has refused to make public statistics, whose disclosure is forbidden by law, and advisory opinions given to the executive branch in confidence by its advisory groups. This separation of powers has been followed by presidential agencies since the earliest days of the Republic.

3. You say, "Mr. Weeks set up an advisory committee supported by contributions from big business firms to provide these services to big business. Result is little business is shut off from the service." The group you mention was set up not by Secretary Weeks but by Secretary Roper back in President Roosevelt's day. It has advised all succeeding Secretaries on ways and means of strengthening national security and promoting prosperity—subjects of vital concern to business of all sizes and to every man, woman, and child in America.

I am sure that you, a highly respected editor of a Berlin paper, would not wish to give a false picture of a neighbor from Lancaster, N. H., who also is Secretary of Commerce. It may well be that some outside source sent you the article with the deliberate purpose of deceiving you and your readers. But because I believe you want to be fair, I bring the facts to your attention and we should appreciate hearing from you, if you care to write.

Secretary Weeks and other members of the Eisenhower administration willingly seek counsel from every segment of society—press, agriculture, law, military, labor, science, and business. For from knowledge come sound policies. They are trying to save American families from the horror of bomb attack and from the worry and suffering of depression and inflation. Because they have been helped by a wise counsel and have acted in the public interest, our country right now enjoys prosperity and peace.

Sincerely yours,

ALBERT N. LEMAN,  
*Director of Public Information.*

P. S.—I am enclosing some data which bear out some of the things I have written.

Mr. Chairman, on October 13, Mr. James P. Hinchey, editor of the Berlin Reporter, Berlin, N. H., replied to Mr. Leman and in the following letter:

DEAR MR. LEMAN: Many thanks for your letter of October calling our attention to an article in our newspaper which, to quote your letter, made "certain charges in respect to Secretary Weeks which are not in accord with fact."

This information was obtained from a syndicated service which we have been purchasing for quite some time. To the best of our knowledge, it has always been reliable.

The article which you refer to is not an article at all \* \* \* it is an editorial opinion of a phase of Washington, D. C., activities prepared for us by a service for weekly papers. It appeared on our editorial page of September 8, 1955.

In publishing this editorial, we had no intention of giving "a false picture of a neighbor from Lancaster, N. H., who also is Secretary of Commerce." Rather, we put our faith in the judgment of our weekly service firm believing that they were accurate with their words as we ourselves endeavor to be at all times.

We have called the matter to their attention by forwarding a copy of your letter to them and have also requested a prompt reply from them with an explanation concerning this matter. We will be happy to forward to you the information which we receive from them.

Again, many thanks for your information.

Yours very truly,

JAMES P. HINCHEY, *Editor.*

As a result of the correspondence I have just read, Mr. Chairman, the author of the article, Mr. Walter A. Shead wrote on January 15, 1956—

Mr. LEMAN. You are going to include the Hinchey letter to me, enclosing that as part of the record; are you not? The one of July 27, 1956?

Mr. MITCHELL. I am, when I come to it.

Mr. LEMAN. Very well.

Mr. MITCHELL. "Mr. James P. Hinchey, editor, the Berlin Reporter, Berlin, N. H."

DEAR MR. HINCHEY: I am in receipt of your letter addressed to the National Weekly Newspaper Service at Frankfort, Ky., under date of December 29, and enclosing copy of a letter to you from Mr. Albert N. Lemman, Director of Public Relations of the Department of Commerce, together with other communications signed by Sinclair Weeks, Secretary of Commerce and a statement by Philip A. Ray, General Counsel of the Department of Commerce \* \* \* all concerning an article which I wrote for National Weekly Newspaper Service and sent to weekly newspaper subscribers to the service under date of September 5, 1955.

Ordinarily I would ignore such criticism, but there is one passage in Mr. Lemman's letter to you which marks for the first time in my experience an attempt by any Government agency to bring pressure to bear on a reporter with his editor and impugning the motives of the reporter. This passage reads: "It may well be that some outside source sent you the article with the deliberate purpose of deceiving you and your readers."

Permit me to report to you that I have been a newspaper reporter since 1912. That covers a span of 44 years. I have been in Washington since 1941 which covers 15 years and I have written a column for weekly newspapers for National Weekly Newspaper Service for about 12 of those 15 years which measures up to some 624 columns. In addition, for about 9 years I wrote a byline column for the Western Newspaper Union until it retired from the weekly newspaper syndicate field. And I repeat that this is the first time in my career that my motives were ever impugned or questioned \* \* \* which is not to say that all editors agreed with every column which I wrote.

The story in question had to do with the Business Advisory Council for the Department of Commerce and a subpoena issued by a subcommittee on antitrust of the Judiciary Committee of the House of Representatives. This Business Advisory Committee is composed of business executives named by the Secretary of Commerce from the ranks of private industry to serve in an advisory capacity. The Government is full of such advisory committees which come under the general heading of w. o. c.'s, or men who serve without compensation.

The Department of Justice has laid down criteria for these advisory groups governing their operation and among other rulings is that they "should be called and chaired by full-time Government officials" and similarly the rulings declare that agenda should be formulated by Government representatives and that full and complete minutes should be kept.

Mr. Weeks contends that the reports of his BAC are privileged and that they are a part of the Department files under his control and custody and that under his orders the Secretary of BAC has no right to remove or produce them.

However the Department of Justice on September 13, 1951, issued regulations that all Government advisory groups, including the Secretary of Commerce were subject to "these standards and policies which are applicable to all industry advisory groups utilized by the various departments and agencies and are not limited to those committees formed under the provisions of the Defense Production Act."

Again on August 4, 1955, Stanley N. Barnes, Assistant Attorney General, Anti-Trust Division, stated the advisory group criteria of the Department of

Justice "are applicable in our opinion to all advisory groups." In response to a direct question, Mr. Barnes said of the BAC; "Yes, I think it is an advisory group."

There is no law which prohibits the reports of these advisory groups from becoming public property. Mr. Weeks is using an opinion of the Attorney General handed down in the so-called McCarthy hearings, which had to do with conversations between members of the executive branch of the Government as being privileged, to keep the reports of his BAC from congressional committees. No other Secretary of the Department of Commerce has held them privileged. As a matter of fact Secretary Charles Sawyer, his immediate predecessor, made the complete files available to this same committee.

The BAC was in fact set up during the Roosevelt administration by Mr. Roper, the then Secretary of Commerce. But Mr. Weeks has named every member of the present active committee, and terms are for 1 year only.

The only color of privilege of the reports of this advisory group come from a ruling of the Internal Revenue Bureau that contributions from private industry to or for use of the BAC are deductible from taxable income of those making the donation. This determination is made upon the opinion of the Commissioner of Internal Revenue that the BAC is "a part of the Department of Commerce" thereby making contributions to BAC fall within the definition of "charitable contributions" as provided by the Internal Revenue Code.

These donations from private industry to the BAC, which if Mr. Weeks is right and the BAC is actually a part of his Department of Commerce, makes private business make private donations to the Government. According to the report of the antitrust subcommittee: "From its large contributions the council (BAC) has built up a substantial reserve which has been invested in United States securities. The Council presently holds United States Treasury notes, 2 percent August 15, 1956, valued at \$100,000 and United States Treasury bonds, 2% percent June 15, 1958, valued at \$70,087.52. Altogether at the end of June 1955, the Council had on hand over \$200,000 in cash and securities. This does not include the principal in a retirement fund for the executive director of the Council, Mr. White, of \$128,585.25 which is represented by a variety of investments in common and preferred equities, Government securities, and corporate bonds."

There is no color of law whereby a department of the Government can set up a private fund from private donations for its own expenses, nor set up a private retirement fund for its own Executive Director. So Mr. Weeks' claim that BAC is in fact a part of the Department of Commerce is more or less shallow. Neither can any agency or department of Government hold conventions costing as much as \$12,000; hire private registered lobbyists, nor do many things which the BAC had done according to the testimony of Mr. White and others before the committee.

The Judiciary Committee of the Congress and the subcommittee as well believe they have a right to inquire into these matters, and particularly so, if BAC is officially a part of the Department of Commerce, as Mr. Weeks contends.

The BAC is financed with contributions from private business organizations. Mr. Weeks does not contend that it is not, so therefore certainly Congress has a right to inquire into any donations received from private business to either an agency of Government or a quasi-agency, or any agency acting in behalf of Government.

There is no quarrel with any agency of Government seeking advice and counsel from any segment or segments of business. President Eisenhower just recently issued an order, however, that all such consultants serving without compensation, or with compensation should be subject to the "conflict of interest" statutes. If Mr. Weeks' contention is correct that BAC is part and parcel of the Government, then most certainly they come within this category.

Active members of the BAC are limited to 60 and may serve for 5 successive 1-year periods upon appointment by the Secretary of Commerce on recommendation of a membership committee. After 5 years they assume what is called graduate status. Officers and the Executive Committee are made by the Secretary after consultation with the Membership Committee.

In my story I reported that small business was shut out and that big business profited, by its contributions to the Council, or words to that effect. The report of the subcommittee says:

Additional factors which assure that the BAC reflects the views of large corporations is the fact that its officers and Executive Committee are composed almost wholly from representatives of the larger corporate segment of the economy. Chairman of the Council is currently Harold Boeschstein, chair-

man of the board and president of Owens-Corning Fibre Glass Corporation, while its three vice chairman, Crawford H. Greenwalt, Eugene Holman, and Sidney J. Weinberg, come respectively from E. I. DuPont de Nemours & Co., the largest chemical company in the chemical industry; Standard Oil (New Jersey), the largest concern in the oil industry; and Goldman, Sachs & Co., a large investment and financial house. The composition of the Executive Committee of the BAC, which, according to Mr. Walter White, Executive Director of the BAC, provides a more manageable and intimate group for the exchange of ideas and views on subjects of timely importance, is of the same character. According to the testimony of Mr. White, only one (Mr. John C. Virden) out of the 13 business members of the Executive Committee may be truly said to emanate from small business. The others as disclosed by the table below, are all representatives of large business interests. The table lists the names and firms of the 13 members of the Executive Committee. Virden, said to be representing small business is chairman of the board and director of Interlake Iron Co., Diamond Alkali Co., Eaton Manufacturing Co., according to the committee report.

Mr. White, whose salary is paid by private industry, maintains an office in the Department of Commerce Building. Aside from the office space the Department of Commerce furnishes two departmental secretaries. White draws a salary of \$25,000 annually, paid entirely out of private donations from business, donations exceeded \$94,100 for the year 1955, the committee report says. The Council holds 6 general meetings a year, 4 in Washington and 2 at vacation resorts such as White Sulphur Springs, Va., or Sea Island, Ga., lasting about 4 days, and to which expenses are borne out of the tax-deductible funds of the Council. At none of these meetings is criteria set by the Department of Justice followed.

If you would follow this further, there are available three reports of the anti-trust subcommittee during August 1955. The first contains 37 pages, the second 1192 pages and an interim report, 68 pages. They may be obtained by writing to Mr. Kenneth R. Harkins, cocounsel, antitrust subcommittee, House Office Building, Washington 25, D. C.

Mr. Hinchey, there is a six-page dissent from the majority report of the Committee filed by three members of the Subcommittee, upholding the Secretary of Commerce for withholding the files of the BAC from the House committee, and praising the work of the BAC as an adjunct to the Department of Commerce. No one questions the value of the work of the BAC, however. What the Anti-trust committee objected to, as I read the report was the Secretary's refusal to furnish files of the BAC, its setup weighted in favor of big business, and the Secretary's claim that it was part and a part of his Department, although supported by donations from private industry, and the Secretary's censorship of these reports from public consumption.

And what I object to is the attempt of a government information director to bring pressure upon an editor by questioning the motives of a veteran reporter who seeks to be objective in the reporting of all news out of Washington.

Trusting that this may answer some of your questions and those raised in the Department of Commerce letter,

Sincerely,

WALTER A. SHEAD.

1420 NEW YORK AVENUE,  
Washington, D. C.

In accordance with Mr. Leman's request, the letter of January 27 is—

Mr. LEMAN. I don't think it is necessary. If you want to read it, it is all right. You have given the man's reply.

Mr. MOSS. It adds nothing to read it all. I think the last paragraph summarizes it.

Mr. MITCHELL. It is a short letter.  
January 27. It is from Mr. James P. Hinchey, the Berlin Reporter, addressed to Mr. Leman:

DEAR MR. LEMAN: We just received an answer from the news reporter who prepared the story you took exception to in a letter to us dated October 4, 1955. Although we have no thorough knowledge of the situation, the news reporter

(incidentally, a news-veteran of 15 years in Washington) in a four-page reply, seems to have both feet on the ground and fully explains his reasons for writing the story as he did.

Now, that we have read both letters again, the one from you and the one from the news reporter, we still do not know to whom we should direct our apologies. Both letters present very good reasoning.

Very truly yours,

JAMES P. HINCHEY.

Mr. MITCHELL. Following is Mr. Shead's column:

SCANNING THE NEWS

[From National Weekly Newspaper Service—September 5, 1955]

The most recent evidence of arbitrary censorship in the executive department of the Government at Washington has run afoul of a congressional committee. As a result, a full-dress probe of censorship in the name of security likely will be one of the burning issues in the 2d session of the 84th Congress.

This latest evidence of peacetime censorship comes at the hands of Secretary of Commerce Sinclair Weeks who has refused to make information relative to his department available either to the public or to a House Judiciary Subcommittee. Secretary Weeks charged the House committee with playing politics, with an attack against free enterprise; said it was no business of the Congress to probe into the operations of his Business Advisory Council.

The Secretary's arbitrary refusal is the result of the same kind of thinking among some businessmen who have come into Government, that has resulted during the past several months in the resignation of 2 or 3 Cabinet members \* \* \* that what he does, or his department does is no business of the Congress, and therefore is not the public's business. It is the same kind of thinking that many top businessmen take into government \* \* \* they fail to realize when they enter the Government that the rules are changed \* \* \* they cannot do as they please, or operate the Government business as they would their own \* \* \* for the Government's business is the public's business, and the Congress as the elected representative of the people has a perfect right to investigate the operation of any governmental agency.

Secretary Weeks is hiding behind two false premises: (1) that the President's security order gives him the right to decide what is and what is not security; (2) that his Business Advisory Committee is financed with private funds, draws no pay from Congress, and therefore Congress has no business investigating what his committee does.

But that isn't true. The Council has official status which makes it a part of the Government as an advisory group to the Department of Commerce. Here's what happened. The Bureau of the Budget, with the approval of Secretary Weeks eliminated many of the services which the Commerce Department was giving to business generally. These services in the way of industrial and other business surveys were invaluable information and open to all business, large and small. Business rebelled at the loss of these services. So Mr. Weeks set up an advisory committee supported by contributions from big business firms to provide these services to big business. Result is little business is shut off from the service.

Mr. Weeks contends, as other business men in the Government have contended, and as the President has contended thus far, that the executive branch of the Government has a right to keep its affairs to itself, secured by a Presidential order, against the prying eyes of Congress; that the President has the constitutional right to do so.

Mr. MITCHELL. There is one other letter which can easily be identified, from Mr. Shead to Mr. Leman, in which he enclosed a copy of the letter I just put in the record.

Mr. Leman, you have explained to this committee this afternoon that you are a veteran newspaperman, that you have had considerable experience. I would like to ask you how you would feel if this same incident had occurred when you were a newspaper reporter.

Mr. LEMAN. Do you mean the whole incident, or do you mean the substance of this Hinchey letter and the substance of his article? Which?

Mr. MITCHELL. I mean how you would feel as a reporter of having something that you wrote called to the attention of an editor of a paper that was subscribed to.

Mr. LEMAN. If I wrote what I believed was a tissue of lies, of course, I would want it brought to my attention. And I believe I have a perfect right to reply to an attack that I believe is false about the Department of Commerce.

Mr. MITCHELL. You are misinterpreting my question.

Mr. LEMAN. All right, restate it.

Mr. MITCHELL. I said would you—not in your relationship as Director of Public Information in Commerce, I said as a reporter, how would you feel if somebody had done this same thing to you?

Mr. LEMAN. My dear fellow, the newspaper people—since you are quoting me on newspaper background I am now speaking as a newspaperman—they are not that fragile. Of course, I wouldn't be at all upset by that sort of thing. I would say that gives me an opportunity to reply.

Mr. MITCHELL. Has it ever occurred in your experience?

Mr. LEMAN. Has it every occurred in my experience? Do you mean everything I have written in a paper, where somebody excerpts?

Mr. MITCHELL. Where somebody has gone over your head. And you in fact did go over the head of this reporter. Why didn't you call the reporter in?

Mr. LEMAN. Why didn't he sign his name so I would know who he was?

Mr. MITCHELL. He writes for a weekly. Just a moment. Was your name on the McClure Syndicate all the time?

Mr. LEMAN. Indeed it was.

Mr. MITCHELL. This man services a whole raft of newspapers, some are published and some are not.

Mr. LEMAN. You say why didn't I go to the writer. How would I know the writer, except doing exactly what I did, go to the paper?

Mr. MITCHELL. All you had to do was write, or ask the source of the article, and instead of complaining about it—

Mr. LEMAN. Now let's get back—

Mr. MITCHELL. Now all I want to know is how you would feel if this has happened to you, when you were a newspaperman. Not as Director of Public Information, Department of Commerce.

Mr. LEMAN. I will answer that just as I did before. If anybody at any time in my life wanted to go over my head to any editor on something that I had done that was wrong, he had that right, and I would be very glad.

I am not that fragile and neither are newspapermen.

Mr. MITCHELL. Now as the Director of Public Information for a Government agency—

Mr. LEMAN. I will answer from that point of view. Do you want that?

Mr. MITCHELL. Yes, because that brings in the censorship factor Mr. Hinchey complains of.

Mr. LEMAN. I do not want anyone to suppress my right to reply to what I believe was misinformation about the Secretary of Commerce



and the Commerce Department. What do you want me to do, not say anything? Deprive the public of the opportunity of my reply?

Mr. MITCHELL. Why didn't you publish it?

Mr. LEMAN. Publish it where?

Mr. MITCHELL. Your denial in a newspaper.

Mr. LEMAN. I wrote to the editor of the paper.

Mr. MITCHELL. No, no, no. Why didn't you publish it? You have access to all kinds of those outlets, here. Why didn't you publish this letter of October 4 that you wrote to the editor?

Mr. LEMAN. Because I wrote it personally to the editor of the paper and if you carefully read it, you will see I said "We will be happy to forward to you the information"; no, I'm sorry, I am reading the wrong letter.

I point out here, I think at the end,

but because I believe you want to be fair, I bring the facts to your attention. To his attention. Now if he wanted to use it, all right. I wasn't going to go to a little New England newspaper where I came from and pillory him. I was being kind to the editor bringing it to his attention about a neighbor of his, Sinclair Weeks who lived in the next town. If the local editor wanted to make it public, that is fine.

Mr. MITCHELL. Did Secretary Weeks direct you to do that?

Mr. LEMAN. Secretary Weeks did not direct me to do that. Not at all. I do not know that Secretary Weeks even knows about the thing.

Mr. MITCHELL. You still haven't answered my question. Why didn't you publish that here in Washington, D. C.? You certainly have as Director of Public Information available to you all the news channels of the United States.

Mr. LEMAN. I tried to answer that. Perhaps I haven't made myself clear.

My only act in this process—there were two acts; one to read what I believe was a serious misstatement of facts about depriving the little people and so forth and so forth, and handing it out to big business—wait. You want me to reply. Give me a chance. All right.

Now what did I do? I wrote to the editor because it wasn't signed—it might have been the editor's own words. I don't know whether he bought this as "boiler plate" or what. So I wrote to him, giving him the letter. After I had written to him, a specific paper, in regard to a problem in his paper, I would not broadcast it to the country, unless he wanted to.

Mr. MITCHELL. This article was taken from an official publication of Congress, wasn't it?

The background of this?

Mr. LEMAN. You mean what the man wrote?

Mr. MITCHELL. Yes.

Mr. LEMAN. I am not going to stand here and try to explain the sources from which this man got his information. I do not know.

Mr. MITCHELL. He has already given it for the record.

Mr. LEMAN. You understand, now, you must get this clear: what you are talking about. So far as it affects me, I saw the article in the paper. I made the reply to the editor. Now this man's long reply, you understand, I had no knowledge of when I wrote the letter.

Mr. MITCHELL. Did you have a copy of the congressional report when you wrote the letter?

Mr. Moss. I think we might in a manner of this type, direct our questions if we can, Mr. Mitchell, to one of the types of complaints which has come to this committee. That has been that there has been a tendency to apply pressure, or to retaliate against people who write articles which appear to be critical of officials of Government.

In the last paragraph on this first page of your letter, Mr. Leman, it says,

It may well be that some outside source sent you the article with the deliberate purpose of deceiving you and your readers.

Now I think perhaps in your reaction to critical articles, you are in very much the same position that I am or any Member of Congress or any person in Government is. I never recall having written an editor, or taken exception to some of the most flagrantly untrue statements that I think could possibly be devised. I happen to have in my district a few newspapers who disagree with me very violently, and I feel it is their right to disagree with me and I just haven't gone after the reporters or the editor or anyone else.

In Government, I wonder how wise it is for Departments or agencies—certainly I think if you wish to address a letter to the editor and take exception to the content of an article, but to question the motives of the reporter in a manner such as was done here, I think could well be interpreted as attempting to apply pressure upon the reporter in writing his opinions. And after all, this was apparently on the editorial page and was editorial in nature. It was opinion.

Mr. LEMAN. I will be very glad to answer that. Let us understand this: This just happens to be a small paper in the home section of the Secretary. Now ordinarily we wouldn't have time to reply to all kinds of criticisms and things of that nature that might appear in the press.

Now I did not say that a reporter had done that, as you thought I said. I said, "It may well be that some outside source sent you the article." I did not name any reporter. I did not say it was a reporter. In fact, the reporter wasn't in my mind when I wrote the thing.

I thought the source was not in the newspaper world at all. I thought the source was a different source—a source which sometimes sends information to papers. And this was a small paper without access to great Government things. It was in a little weekly paper. I did not want to see its editor misled by the outside source which I think would be perfectly capable of sending him that sort of stuff. I do not want to name the source.

Mr. MOSS. It was identified as a newsletter?

Mr. LEMAN. The source I refer to, the source that gave him that material. Anybody can put a title over the thing.

Mr. MOSS. I think the interest of the committee is in the possibility that the action of an official in Government might be construed as applying pressure upon a reporter—and obviously it was written by a reporter.

Mr. LEMAN. No, sir; I didn't say a reporter. I said "outside source."

Mr. MOSS. I recognize there is considerable care in phrasing. "It may well be that some outside source sent you the information."

Mr. LEMAN. That is just it. I didn't think it was a reporter. I thought it was an outside source. I didn't say definitely. I said "maybe."

Mr. MOSS. Of course, you are entitled to your opinions.

Mr. LEMAN. All I have written is my opinion. Nothing but my opinion.

Mr. MOSS. But I do question seriously the propriety of the information officer for a department of the Government to impute very improper motives to a reporter.

Mr. LEMAN. "An outside source."

Mr. MOSS. The article has a heading, "Washington News Letter." I would assume that came from some regular service to the newspaper reporting on activities in Washington.

Mr. LEMAN. Now you said, Mr. Chairman, that you are not a newspaperman and I can see where you might make a very simple mistake. Just because somebody labels it that way doesn't necessarily mean that it was written by a newspaperman, you see. "Weekly letter," or "Tidbits" and so forth. There was nothing to indicate it was written by any reporter. I didn't think it was written by a reporter. I thought it was some outside source.

Mr. MOSS. Don't you think there is room for honest disagreement as to what the Secretary is doing?

Mr. LEMAN. Of course.

Mr. MOSS. Surely there were some rather caustic comments by members of the Committee.

Mr. LEMAN. Surely.

Mr. MOSS. And the reports filed by members of the committee, on the part of some Members of Congress, would be in very complete agreement with the position taken by the writer of this newsletter.

Mr. LEMAN. Mr. Chairman, of course, I am not asking for acquiescence in opinions and so forth. Not one bit. All that was concerned here was my honest judgment that I believed, an outside source was deceiving this fine New England editor.

Mr. MOSS. Do you feel it is the proper function of the information officer—

Mr. LEMAN. I feel it is the proper position—

Mr. MOSS. Of the Government to question the motives of an unidentified writer?

Mr. LEMAN. I think it is the proper function of an information officer of the Government to try to have truth told about his department. And I think further that if he sees—

Mr. MOSS. If he makes an abundance of information available, in other words, he can hope it will be published.

Mr. LEMAN. I hope it will be published. I do not always know, you see.

Mr. MOSS. But to go to the additional assignment of keeping track of the news and taking issue with those articles which might disagree with your own views, I question whether that is a proper role.

Mr. LEMAN. I think we are both spinning around a top, here.

Mr. MOSS. I don't want to spin. Let me define it now.

I say that it is my considered opinion that it is not the proper role for a public information officer of the department of the Government to take issue with articles which may express a view different from that which he holds.

If you, as an individual citizen on your own time and in your own station and in your own area, wanted to take exception to that, I

think that is the privilege of every American. But I think it is highly improper when it comes as the considered official action of the director of information for any department of Government.

Mr. LEMAN. Mr. Chairman, I know you are since in what you are saying. I know that you believe that you are right. I equally believe that I am right. I have said nothing there about opinion.

I believe that this little editor was given facts which, in my judgment, were very far from being correct. And that is what I was referring to. Not what he thinks, but what the fellow said as the facts.

Mr. Moss. That is of concern to all of us in Government. As it affects us individually and our friends.

Now I think I probably am not disclosing any great secret when I say that as a Democrat, I frequently read things in the press that make my blood boil. But thank God we have the press than can print it without fear of any retaliation. I don't think that I would be able to attend adequately to my duties as a member of Commerce if I spent all my time worrying about what people said about me or my party or my friends or associates.

And if each of the information officers of Government should try to keep track of unfavorable press comment and undertake to comment specifically upon those unfavorable articles, I think they would be spending far more time in rebuttal than they would in the constructive efforts of supplying better information to the American people.

Mr. LEMAN. You are taking a single episode and projecting it as if it was a policy which I sat down and replied every day to whatever appeared. Of course not.

Mr. Moss. Let me clarify my reasons for doing that.

We have had many complaints that have not been as specific as this, because we are told upon occasion that it is unwise to give this specific information. This is one of those that happens to come up at this moment in connection with your department, where there is a specific instance of what could be construed as pressure from a department of the Government.

I just wanted to make it perfectly clear when we considered it that in studying this field of information, I feel things which you as an individual citizen might do with complete propriety, become somewhat questionable when you do them as an official of government.

Mr. LEMAN. Now, Mr. Chairman, I will reply once more, although I don't know that we are progressing very far.

First of all, I do believe that you, who say you are not a newspaperman, are trying to make newspapermen seem much more timid, frightened types of persons, who would pay any attention to coercion from anybody in government. That is point 1.

The second point is this: There is no coercion there. There is no coercion there in the sense—I will put it the other way around: Have I not a duty to try to have information about my department go to the public that is truthful information? That procedure I was following. It was only anxiety about the seriousness of what I felt to be untruthful information.

Now I come to the third point, the one you dwelled on before and that was the phrasing of the thing. That this is coercion of the press. In my kindness to him, I said to him, "Perhaps some outside source has given you that information."

And I as an honorable person tell you that I did suspect it was some outside source and not a writer.

Now I do not think I have done anything that is improper.

Mr. MOSS. I would be more inclined to agree with you if you had not continued after the "outside source," with the statement "sent you the article with the deliberate purpose of deceiving you and your readers." This denies the possibility that there could be good-faith disagreement as to what the facts might be.

Mr. LEMAN. I said "It may be." I am giving him this information to weigh, himself, "because I believe you want to be fair," and so forth. Everything on the basis of phrasing to him my feeling.

Mr. MOSS. If I were the editor there, I would wonder, perhaps, if I had a very reliable reporter supplying me with this information. After all, the Department says it looks like a deliberate attempt to mislead me.

Mr. LEMAN. I didn't know who supplied it.

When it was discovered that it was a reporter and not the outside source I expected, then the reporter replied at great length, which is quite proper. Even though the reply in my judgment had more mis-statements than the original article.

Mr. MOSS. I might go on and point out some other things. We had a panel of very distinguished members of the press.

Mr. LEMAN. I sat here and heard what they said.

Mr. MOSS. You will recall the statement, I believe by Mr. Joseph Alsop, Jr.:

The newspaperman who ventures to publish what he regards as life-and-death fact of considerable national importance is ordered to be investigated.

Mr. Alsop said:

Now this investigation entails no personal inconvenience to the newspaperman at all except lingering doubt about whether he is having his wires tapped, but it does entail the most inconvenience for his friends and acquaintances.

He points up a fear which was strongly expressed to the committee—now this isn't something which the committee has raised. This has been something which has been stated to the committee on numerous occasions. That is the fear of the press that some retaliatory action will be taken if they print independently their own views on these important questions.

Mr. LEMAN. I am very glad you brought that up. I was here when he made that statement. I listened to him making it. He was giving the assumption that the FBI or somebody was hounding him and trailing him and so forth.

Now I don't know what basis he had for it. As a newspaperman listening to him, I thought it was somewhat sensational to express that fear.

Mr. MOSS. Yet he is a very respected and very able member of the press.

Mr. LEMAN. He is a very capable writer and has a very wide following. He is a very capable man.

But I mean that to take the fear that he had and then try to project it to an episode like this is fantastic in my judgment.

Mr. MOSS. That leaves the assumption that that is the only fear expressed to the committee, and that I deny because there has been

from many sources the same fear expressed to this committee. It is a matter which we hope we will have the time to go into as a specialized study.

Mr. LEMAN. I just don't want to keep prolonging the matter, because we are not making much headway, because we have two different concepts.

Mr. MOSS. I think perhaps you are right. We might now get on with the more general questions.

Mr. MITCHELL. Mr. Chairman, Mr. Poland has some questions.

Mr. POLAND. Mr. Chairman, this session is one that recalls to me some 25 years of similar occasions with Mr. Leman present. Once more I hear those ringing phrases so characteristic, such as "The tool of tyranny is the muzzle." I am also taken by the uniqueness of the expression that it is a function of a public information officer to protect innocent country newspaper editors.

I am sure Mr. Leman won't mind if I call to his attention what I think I caught in his statement here, a reference to income-tax data as being private records.

Mr. LEMAN. I used that like our patent applications. I meant as a sample of private information.

Mr. POLAND. Then, simply to correct the record, the United States Code—I think title 26, section 55, defines them as public records. We will have that just as a minor correction.

Mr. LEMAN. I will always defer to the lawyer on matters of law. It gratifies me sometimes when others in discussing newspapers give me a little deferment, perhaps, too.

Mr. POLAND. There is one other matter that I noticed here. I noticed it as sort of a harbinger of good tidings: "The high number of those employed."

I thought you were getting a little extra mileage on this statement when you referred to the all-time prosperity this Nation enjoys. I wondered why it was you found no occasion to mention the fact that the business failures in number are the highest in the current statistical record, and are increasingly high.

Mr. LEMAN. Mr. Attorney, I don't want to discuss statistics without double-checking, particularly when sometimes the pattern of the thing is not—I am not quite sure of as of the moment. I think, though, that that is incorrect, and I would be very pleased to explore further to get the data to back it up. But you see what I had in mind.

Mr. POLAND. I think, if you want opportunity for further explanation, I might make the same suggestion with respect to the parity ratio on farm prices, except that is down instead of up.

Mr. LEMAN. There was a great deal of talk about suppression of news and holding back news and all that sort of thing. I thought I owed it to the committee to let them know the satisfaction that the public information people have, in pouring out good news, and such news as the all-time record prosperity which everybody shares, and things of that sort.

Mr. POLAND. I detected an evangelistic fervor in that one instance, but seemed to be strangely missing when it came to the rest of it.

I just want to spare you the labor and the time it might take to find those figures, because I have them from a source that I deem to be reliable. They are the Department of Commerce figures in the Survey of Current Business.

Mr. LEMAN. I am familiar with the Survey of Current Business.

Mr. POLAND. I was reading from those, if that is of any help to you, in evaluating them.

Mr. LEMAN. I don't want to get down to the technical things, Mr. Attorney, because I am not sure of all of that part. I am not in this particular thing giving out a set of economic statistics.

Mr. POLAND. Then, Mr. Leman, if you will pardon me once more—

Mr. LEMAN. I didn't include all the economic reporting of the Department.

Mr. POLAND. Couldn't we summarize it this way, and save perhaps a little more time of the committee, that this is in confirmation of a statement you earlier made, that after all, there is a selective emphasis in the news?

Mr. LEMAN. I said a selective emphasis in the news. That the newspapers could select from the materials we have for them, what they want. I mean the New York Times would want one thing and a highly technical business publication would want something else. It wasn't in that particular reference that I made that allusion; no.

Mr. POLAND. But we find evidence of selection.

Mr. LEMAN. We have a small picture of the type of news we have the good fortune of giving out. How well off the American people are today, with the exception of the farmer. They could be much better off if the President's soil-bank bill was passed and not blocked, but I don't want to go into that.

Mr. MOSS. I might observe that the Chair has been somewhat lenient in this exchange between two very old and dear friends. I think we have for the first time indulged in a little political exchange.

I would now be interested in some of the information that you have on this very interesting creature in the Department of Commerce, the Office of Strategic Information.

I gather from this statement that you have made to the committee, that you are quite familiar with the workings of that agency.

Mr. LEMAN. Yes, sir.

Mr. MOSS. Perhaps if you could do what was not done in a considerable period of time earlier today, perhaps you could tell me what it does.

Mr. LEMAN. Mr. Chairman, understand I am the press officer of the Department. I try in that function to be able to gather information that would be suitable—

Mr. MOSS. Mr. Leman, I would prefer you to become the sales manager and sell me OSI.

Mr. LEMAN. I want to say this about the Office of Strategic Information, and that is this: I was in the position, you see, before the present people, who are in the Office of Strategic Information, were in the Commerce Department.

Mr. MOSS. You were the predecessor of Mr. Honaman?

Mr. LEMAN. Oh, yes. I have been here since President Eisenhower came in.

Mr. MOSS. You were at the White House for a while; were you not?

Mr. LEMAN. That is right. I was at the White House before I came to the Commerce Department, for a brief time filling out my assignment, but I have some knowledge of the background, you might say, about the Office of Strategic Information.

This matter has troubled not only this present administration, but you will recall the other day reading in Life magazine, President Truman's Memoirs. He too, was troubled about the amount of strategic information that gets out to our enemies.

Mr. Moss. I might say at the time we had Mr. Honaman before the committee, we made a part of the record some rather caustic statements of Mr. Truman relating to the release of information.

Mr. LEMAN. Yes; I think so.

Let me try to make this background clear—and you understand, perhaps, I have more feeling on this, because, as I had said earlier in my statement, I come from a profession that believes in the freedom of the press, and I couldn't suddenly reverse myself in 2 brief years against a lifetime of belief, and that of my father before me who also was an editor.

The great, great urging of the American press for freedom of discussion, and those who believe we can't have a democracy without the free flow of scientific information. And yet there comes into the picture another group, the general, the military person, who in the last war has known, for example, that by having—the military people would have given their eye teeth if they could have had a photograph of some of the cities they bombed—they would have given everything if they had the contours of the coast on which they landed.

Mr. Moss. They should have had access to some of the good maps put out by American oil companies.

Mr. LEMAN. That is true, and the Coast and Geodetic Survey.

You asked me for some background and that is what I am trying to give you.

Mr. Moss. I think we have had a very thorough statement of background at the time Mr. Honaman appeared before the committee. And it was in context with that background that I tried to learn today, just what the agency is doing.

Do you have a representative of your office in attendance at the meetings of the committee?

Mr. LEMAN. No, Mr. Chairman.

Mr. Moss. What liaison do you maintain with the OSI?

Mr. LEMAN. I frequently talk with members of that committee on certain phases of the problem, as such. I do not meet in the day-by-day discussions of their committees. It is more in the broad background of the problem, you see.

I do think you should weigh very carefully this point. It is a new group. It is a new group up against an extremely complicated problem that nobody has yet solved. They are groping their way around—with the deepest conscientious feeling of public duty—to find some way in which to progress with this problem, which is a problem. What to do and what not to do in this modern type of work; to study, explore, and try to find out something; to determine what they might do getting advice and so forth.

Perhaps the very nature of that kind of an exploratory thing does not lend itself to pieces of paper, yet—actual lists of what have been accomplished. But even so, the problem is still there, even if the accomplishments are not quite yet jelled and so forth.

Now I do not believe I have told you very much, but I feel this: I feel the problem, just as all of us do, is immense. I hope that as they



study, they may be able to get just a little bit closer to the solution of it. I don't know.

Mr. Moss. How much success do you feel we are going to have in controlling internally the publication of information, which in the judgment of some in government might possibly have a strategic importance, but which is not classified, and which is generally available?

Mr. LEMAN. I am sincerely in an exploratory mood, and I am not going to commit myself on the thing. I see a lot of bad things about it, as well as good things. I fully recognize the newspaperman's reaction: If you do not want it printed, classify it, and do not give it out. There is that old conception—which was my conception for many, many years. But there is this, perhaps, insofar as the Government agencies go: The Government agencies must try to do this right. They may go to extremes, and I am deeply pleased this committee is studying this whole problem, because it is a problem.

Suppose I said to myself, "I am a Russian enemy. Would I be helped by the publication of that information?" That is approaching it in a little different way. Now if the answer is "Yes," should we give it to them? I want in frankness to say, maybe you should, because almost all information is good to them. I mean our weather reports, all of our economic reports are important to them. But maybe by the rephrasing of certain words you do not have to do this. Maybe you can slow them down a little bit in getting the information. They are so bureaucratic in the Russian system, that all this information might get in one file and so forth and by the time they got it through—

Mr. Moss. Do you think there is any possibility of making our bureaucracy so complex that the same thing might occur?

Mr. LEMAN. That is one of my pet subjects. Yes, yes, yes, I believe so, making our own bureaucracy so complicated. And that is why I am hoping that perhaps from this pioneer, pilot plant, we will be able to have a little more simple approach to a solution.

Now let me give you one illustration about the thing—and I may be wrong on my detail but as I recall, a young student was writing a doctor of philosophy thesis—did they tell you that story? The doctor of philosophy wrote it and put in all these unclassified facts. When he turned in his doctor of philosophy thesis, the Defense Department said, "Good heavens, we have to classify that, because that would hand over to the Russians the full story."

Now that is a humorous story, and it is somewhat ridiculous. What a queer world we are in when those things happen.

Mr. Moss. On the record of this committee is the testimony of a member of the scientific panel, that a man came to Washington at the invitation of one of the agencies of Government to accept a new position. While waiting for his clearance, he undertook a little independent study and prepared the outline of some suggestions, of policies which he would pursue in the position. The document was immediately classified.

Mr. OVERTON. It was classified "secret."

Mr. LEMAN. Now there you are. On one side you get a great hazard and on the other side you get some of the ridiculous way of handling that hazard.

I do know this—and I have tried to make it clear in the statement—I think, sometimes on these new things we have to be a little patient with the growing pains.

Mr. MOSS. Do you envision any duplication?

Mr. LEMAN. Yes, there is duplication, I believe. I think that is one of the characteristics of a new group. And I listened to the explanation, which I think is very, very sound. You will find duplications here and there and slowly they are ironed out.

Let me make this observation—and we are talking somewhat informally but both very sincerely: I think you will find one of the problems of the new plan, like myself, the new administration group, is not familiar with the huge mass of things that are available. It is like an ordinary high-school kid going into the Library of Congress. There are so many books there he cannot quite use them, you see.

And I think you will find as you explore along, suddenly you will discover there is another agency doing something. Well, after that process gets done and after the trials and errors and those things happen, out of them comes something that is workable, I hope. I am not sure, yet.

Mr. MOSS. You know, I share your hope, and I might say it is on the basis of eternal hope. In this committee—the full Committee on Government Operations—charged by law with an effective post-audit review of all the functions of government, wherever there is a Federal dollar, we are always trying to find the duplicating functions. It is not a case of just finding them, it is merely a matter of where you are going to probe next. There is paydirt all along the line and therefore when it comes to the attention of the committee or any of the subcommittees, when we find duplication we wonder about the economy and efficiency of government at that point.

Mr. LEMAN. There is one point you brought up and you will notice our ears perked up because it was something we had not noticed. You see, before you have written your final report you have already accomplished something. We will go back and check and perhaps find you are right.

Perhaps there is a misinterpretation of terms, and it isn't quite like we thought. I think it is very helpful, what you are exploring.

I know how easy it is to smile and, you know, shrug off a complicated thing because the very descriptions and the language sound complicated. But still that does not remove the problem. The problem is still there.

Mr. MOSS. It is getting late, now, and we would like to have you back Monday morning at 10.

The committee will now stand adjourned until Monday at 10.  
(Whereupon, at 5 p. m., the subcommittee adjourned to reconvene at 10 a. m., Monday, April 23, 1956.)

# AVAILABILITY OF INFORMATION FROM FEDERAL DEPARTMENTS AND AGENCIES

## Part 6—Department of Commerce

MONDAY, APRIL 23, 1956

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT INFORMATION  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D. C.*

The subcommittee met, pursuant to recess, at 10 a. m., in room 1501, New House Office Building, Hon. John E. Moss (chairman of the subcommittee) presiding.

Members present: John E. Moss, Dante B. Fascell, Clare E. Hoffman, and George Meader.

Also present: Samuel J. Archibald, staff director; J. Lacey Reynolds, senior consultant; and John J. Mitchell, chief counsel for the subcommittee.

Mr. Moss. The committee will reconvene with Mr. Leman of the Department of Commerce, Director of Public Information of that Department, continuing his testimony.

Mr. Moss. I think it might be helpful, before we start into a new phase, to discuss this matter, Mr. Leman, of the classification on the progress report. You mentioned the possibility that it might not be classified under Executive Order 10501, but there would be some other classification applied to it.

### STATEMENT OF ALBERT N. LEMAN, ASSISTANT TO THE SECRETARY OF COMMERCE AND THE DIRECTOR OF PUBLIC INFORMATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY ALLEN OVERTON, JR., SPECIAL ASSISTANT TO THE GENERAL COUNSEL, (IN CAPACITY AS COUNSEL FOR THE DEPARTMENT), DEPARTMENT OF COMMERCE

Mr. LEMAN. I did not want to go that far, and we were just chatting around. I just raised the possibility that it might have been that there was mention of classified documents in the report. I do not know whether that is true or not. As I said to you, I left Friday and I did not have a chance to check.

Mr. Moss. I think the committee could only rely on the testimony of the Director of OSI, Mr. Seago, when he told us that the document was classified because it was a progress report, and it was classified by him under the Executive order, the authority of the Executive order.

Mr. LEMAN. I just do not know. It puzzled me somewhat. That is why I raised that point in my own mind.

Mr. MOSS. Frankly, sir, it has puzzled the committee no end, and we are most anxious to clarify the type of classification and the need for classification in that instance.

Mr. LEMAN. I do not want to get into a field which I am not sure about, because then I would be both misleading you and not giving my full knowledge to it. I really do not know. There was just a possibility of why it should.

I had come up against something like that at different times in my life. I just wondered whether it might be possible that was the reason. But of course you are going to explore it further and then you will get the real answer.

Mr. MOSS. Yes.

Mr. LEMAN. That is right.

Mr. MOSS. Together with the National Security Council directive under which the OSI was established. We want to find out the content of that order, also.

Mr. MITCHELL, will you resume the questioning of Mr. Leman?

Mr. MITCHELL (chief counsel for the subcommittee). Mr. Leman, how many people do you have on your staff in the Office of Public Information?

Mr. LEMAN. Now—

Mr. MITCHELL. In your immediate staff.

Mr. LEMAN. We have, in my immediate staff, three professional people besides myself, and clerical workers.

Mr. MITCHELL. What is the total number of people on the staff?

Mr. LEMAN. The total number of secretaries?

Mr. MITCHELL. Everybody in your office.

Mr. LEMAN. Six additional.

Mr. OVERTON. It is about 15.

Mr. LEMAN. I just want to get clear. I am the Director of Information.

Mr. MITCHELL. I am going to qualify that for you.

Mr. LEMAN. Yes.

Mr. MITCHELL. I asked that question as to your immediate office, on your staff.

Mr. LEMAN. In my immediate office I have myself and two secretaries.

Mr. MITCHELL. Then, as I understand it, charged to your budget you also have other people.

Mr. LEMAN. Yes. I am coming to that.

Mr. MITCHELL. Fine. That is it.

Mr. LEMAN. Then there is a headquarters Office of Public Information. In that Office of Public Information are three professional information people. In addition to that there are four supplementary workers. That is the headquarters office.

Then in the Department of Commerce there are in the different agencies information offices or information contacts which are under the policy direction of the Headquarters Office. Is that clear?

Mr. MITCHELL. How many of those people are there in the various departments?

Mr. LEMAN. Fifteen in the Information Service of the Department.

Mr. MITCHELL. That is 15 public information officers?

Mr. LEMAN. That is right—no; not 15 public information officers; 15 public information people.

Mr. MITCHELL. That includes secretaries and clerical help?

Mr. LEMAN. No. Those are the professionals. In most cases there is one other. Just add about 15 more for clerical.

Mr. MITCHELL. In other words, a total of 30, about?

Mr. LEMAN. Approximately. Now, I want one thing clear, so that you would understand in this way: In some offices the information functions—when I am using “information,” as I said the other day, I am referring to what would be the press secretary of a governor or something like that; primarily the news-release contacts.

Mr. MOSS. Would that be in the nature of a reporting staff?

Mr. LEMAN. It would be in the nature of those who directly service the press. As you know, I refer to the press as radio, television, business publications, and magazines; the press media.

Now, in the different agencies in some cases there is no direct information office, because the work is primarily publications and very limited time which they would serve the press directly. Those in charge of publications would do that.

If, for example, the information were of greater importance or beyond technical importance of general interest, someone from the Headquarters Office of Public Information would assist the publications technicians in preparing that information for the press.

Mr. MOSS. Is congressional liaison included?

Mr. LEMAN. Congressional liaison is not a part of my office. In the questionnaire you will recall, Mr. Chairman, that is under the General Counsel.

Mr. MOSS. Do you prepare or process requests from individual Members of Congress?

Mr. LEMAN. Of Congress? Not ordinarily. For example, most of the requests for the Congress go to the Congressional Liaison. Very frequently someone in a congressional office will call up and want a press release or want a report. We will do, shall we say, a minor courtesy service for speed or time. But if the Congress is requesting, shall we say, original information or special information then the Liaison Office ordinarily does that.

Mr. MOSS. Then you are never in the position of determining as a matter of policy whether a request from a Member of Congress or a committee of Congress should be complied with?

Mr. LEMAN. That does not come directly to me. It is primarily the helping of a Congressman in answering a letter to a constituent about, let us say, some census information or some information about CAA. When on occasion anything of that nature might arise it would be automatically directed to the Office of the General Counsel.

For example, on the monthly unemployment figures a great many Congressmen are eager to know them. We either telephone them as they call or send them releases, or whatever it might be.

Mr. MOSS. Do you have the responsibility of determining the policy as to which requests for information will be filled? We are familiar, I believe, with the highly controversial directive from the Department of Defense, which was called—and this committee has been informed incorrectly—the Honaman directive, which laid down the rule that information should serve a constructive purpose.

Mr. LEMAN. If in the Department of Commerce there were any policy with regard to press information I would lay down that policy in conjunction with the feelings of the Secretary of Commerce.

Mr. MOSS. Have you laid one down by directive?

Mr. LEMAN. Not by printed directive; no. We have maintained what we call the open-door policy.

Mr. MOSS. What restrictions are placed on that policy?

Mr. LEMAN. No restrictions are placed on the dissemination of information to the press, except those which are referred to in my original statement and appear in the questionnaire, the ones on national security; that information; private information.

Mr. MOSS. Would that always be governed by a classification applied under Executive Order 10501?

Mr. LEMAN. Well on the very limited requests that might be reviewed—for instance, if there were a slight question of whether we should give it out or not we would not arbitrarily say “no” until we had reviewed the matter, you see. Then it would be reviewed in relation to those three categories which I mentioned in my statement.

Mr. Chairman, may I make one point clear?

Mr. MOSS. Yes.

Mr. LEMAN. So that you can get the background of the thing. Different individuals in positions such as mine would have different techniques. Now, I came to the Department, you see, with a news editor's background. I have also been a press secretary. I have attempted to have as the policy a wide open policy of servicing the press.

In other words, it was my intent and my desire and my policy to make all the information about the Commerce Department available to the press insofar as it was possible. You see, the very nature of the information man's ambition is to get the thing out, rather than to withhold it.

Mr. MOSS. Then your policy, as stated to your subordinates and the one followed by you in the Department, is to comply with all requests unless they must be reexamined or evaluated under the exceptions noted in your statement of last Friday?

Mr. LEMAN. Yes. And, Mr. Chairman—go ahead.

Mr. MOSS. I quote here:

Now for a few thoughts directly on the general scope of Government information accessible to the press and certain limitations placed thereon by law—

and that of course we have no difficulty understanding.

Mr. LEMAN. I understand.

Mr. MOSS. Where there is a restriction by law—  
tradition—

and there we get into a grey field.

Mr. LEMAN. That is right.

Mr. MOSS (reading):

and sound practice.

Of course, one of the things that is of interest to the committee is this matter of tradition. How long does a policy have to be in effect before it becomes a traditional policy?

Mr. LEMAN. I think I said in my testimony on Friday that in condensing the statement I used the word "tradition" primarily to include the development of the policy of separation of powers, you see, in regard to the release of the confidential advices of the executive branch. I would not want you to have the impression that apart from those categories of limited access any tradition has developed.

Mr. MOSS. Let us take it in the context of that interpretation.

Mr. LEMAN. Go ahead.

Mr. MOSS. In defining the policies which might be inherent in maintaining a separation of powers could you define for us some of the items?

Mr. LEMAN. Yes, indeed.

Mr. MOSS. Which would be in that category?

Mr. LEMAN. Yes, indeed. For example, if there were a question of releasing the advice that a member of an advisory committee was giving to the Secretary of Commerce, I would not release it.

Mr. MOSS. Can you give us other examples?

Mr. LEMAN. Almost all of that type of information would be in the nature of advice, which various advisory groups might give to the Secretary of Commerce; either to the Secretary of Commerce or his Assistant Secretaries, and so forth.

Mr. MOSS. Then it would be in the nature of advice given?

Mr. LEMAN. That is right.

Mr. MOSS. Informally or formally?

Mr. LEMAN. And then, too, some of the questions would be reviewed by the General Counsel, because it would be under a rule of law.

Mr. MOSS. There we get into another point.

Mr. LEMAN. Yes.

Mr. MOSS. If you were going to make the determination as to the information you can release in order to preserve this doctrine of the separation of powers—of course, at the moment the committee is somewhat in doubt as to what that doctrine might be. It may be broader than we envision it, or it may be considerably narrower than you folks contend at the moment. However, it becomes highly technical in determining that. Do you make the determination or does the Counsel?

Mr. LEMAN. Let me say this: The Secretary of Commerce himself, you see, makes the determination of what is advice to him.

Put it this way: The broad pattern of the fields which I do not touch are there. I mean, I would not ordinarily give out information about the advices which some advisory group has given to the Secretary. On occasion he himself has given out that advice in the form of a report. Then I would certainly do it, you see. But those categories we do not touch.

Mr. MOSS. Then your category would be, under the "tradition" label, advice to the Secretary?

Mr. LEMAN. That is right. The advisory councils and the working papers which are all part of the advice to the Secretary.

Mr. MOSS. Would the same rule apply to giving information to the Congress?

Mr. LEMAN. I understand, I would not ordinarily be—

Mr. MOSS. To your knowledge would it apply?

Mr. LEMAN. I would assume that that might also be part of the reply, but I do not want to explain another area of the Department

which I would not have the pertinent information from; the General Counsel's office.

Mr. MOSS. Do you in making these determinations rely upon the May 17 letter which was cited in your reply?

Mr. LEMAN. There is a question of review, you see. Then it goes to the General Counsel's office, and I rely upon his judgment.

Mr. MOSS. Your determination, then, is not final? It is always referred to the General Counsel?

Mr. LEMAN. Only on those three categories which I outlined.

Mr. MOSS. Mr. Leman, I think we are getting to the point where we are going around in circles. If we have those three categories of law and tradition and sound practice and you make the final determination in those three categories you have made the determination in everything that is at issue before this committee.

Mr. LEMAN. Oh, I do not think so, Mr. Chairman. I think that part of the Commerce information is a very, very small area. Even in that small area there is review and consideration.

Mr. MOSS. Of course, we recognize that on this whole question of the restricted types of information taken as a part of the total of Federal information it is a very small part. There is also the feeling that it might be a very important part.

Mr. LEMAN. Yes.

Mr. MOSS. And that it is as important that you justify the need to withhold a small part as a large part.

Mr. OVERTON. Mr. Chairman?

Mr. MOSS. Mr. Overton.

Mr. OVERTON. If I may make an observation on this point, there are only three areas where you run into any restriction on the dissemination of information either to the Congress or into the public domain.

Mr. MOSS. We understand that. Mr. Leman stated that he made a final determination in these three areas. He had indicated previously that if there were a question as to whether or not the information should be given that he would refer it to the Chief Counsel.

Mr. LEMAN. That is right.

Mr. MOSS. Then he went on to say he made the final determination in these three areas. I am trying to clarify his statement.

Mr. OVERTON. That is not correct. I think you had better straighten it out.

Mr. LEMAN. I do not think that is what I wanted you to understand."

On the three areas I think we should realize it comes up on specific pieces of information.

Mr. MOSS. Surely.

Mr. LEMAN. Specific reports and so forth. Now, in every case when one of those situations presents itself if in my judgment it is in those three categories it is then reviewed, if it is new, with the General Counsel.

Mr. MOSS. If it were not in one of the three categories you would immediately make the information available?

Mr. LEMAN. That is right.

Mr. OVERTON. That is correct.