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ADVISORY COMMITTEES

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

S. 3067

TO AMEND TITLE 44, UNITED STATES CODE, TO PROVIDE FOR
CONSUMER, LABOR, AND SMALL BUSINESS REPRESENTATION
ON ADVISORY COMMITTEES UNDER THE COORDINATION OF
FEDERAL RECORDING SERVICES, AND FOR OTHER PURPOSES

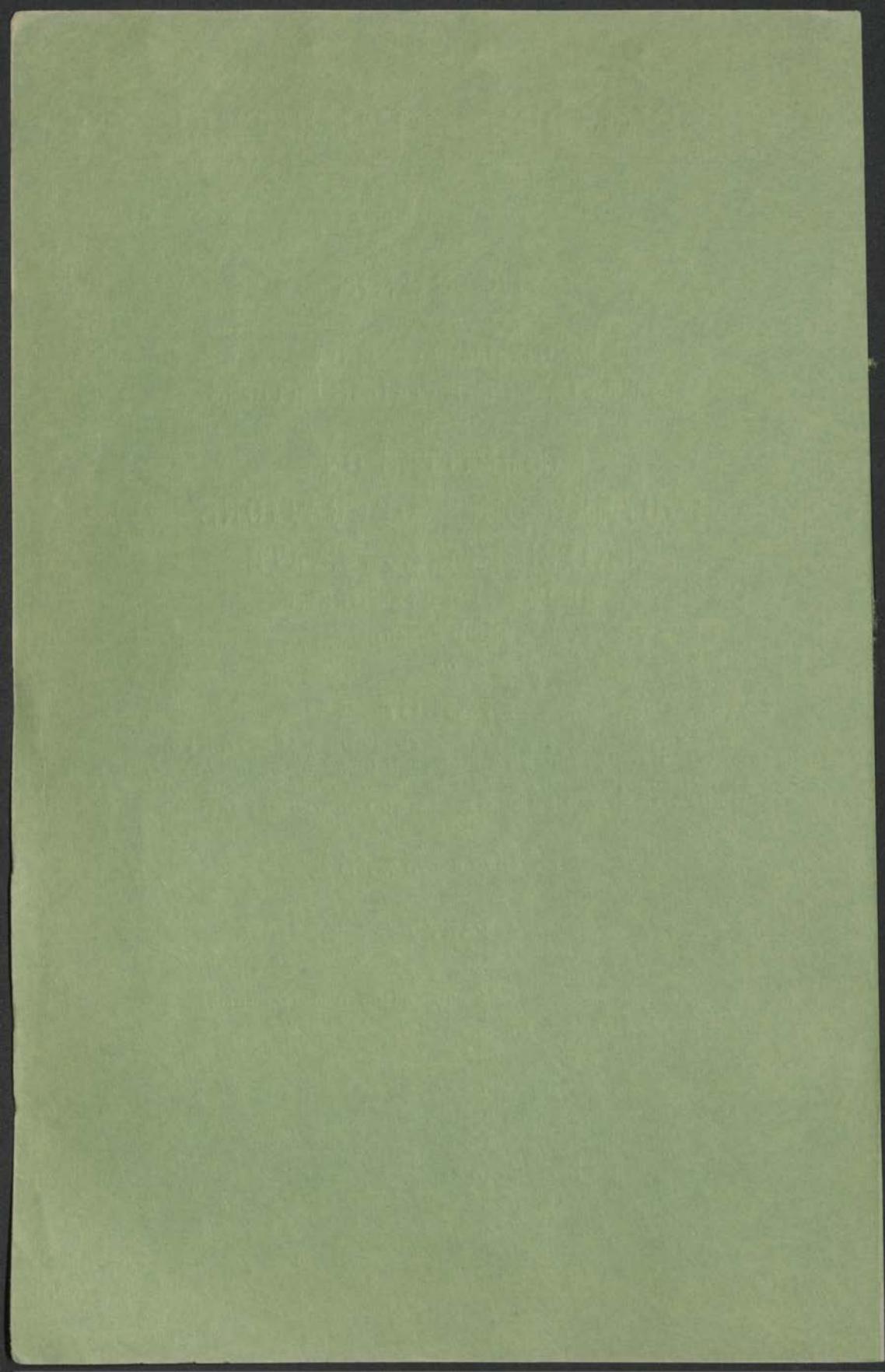
OCTOBER 6 AND 7, 1970

PART 1

Printed for the use of the Committee on Government Operations



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ADVISORY COMMITTEES

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WASHINGTON : 1970

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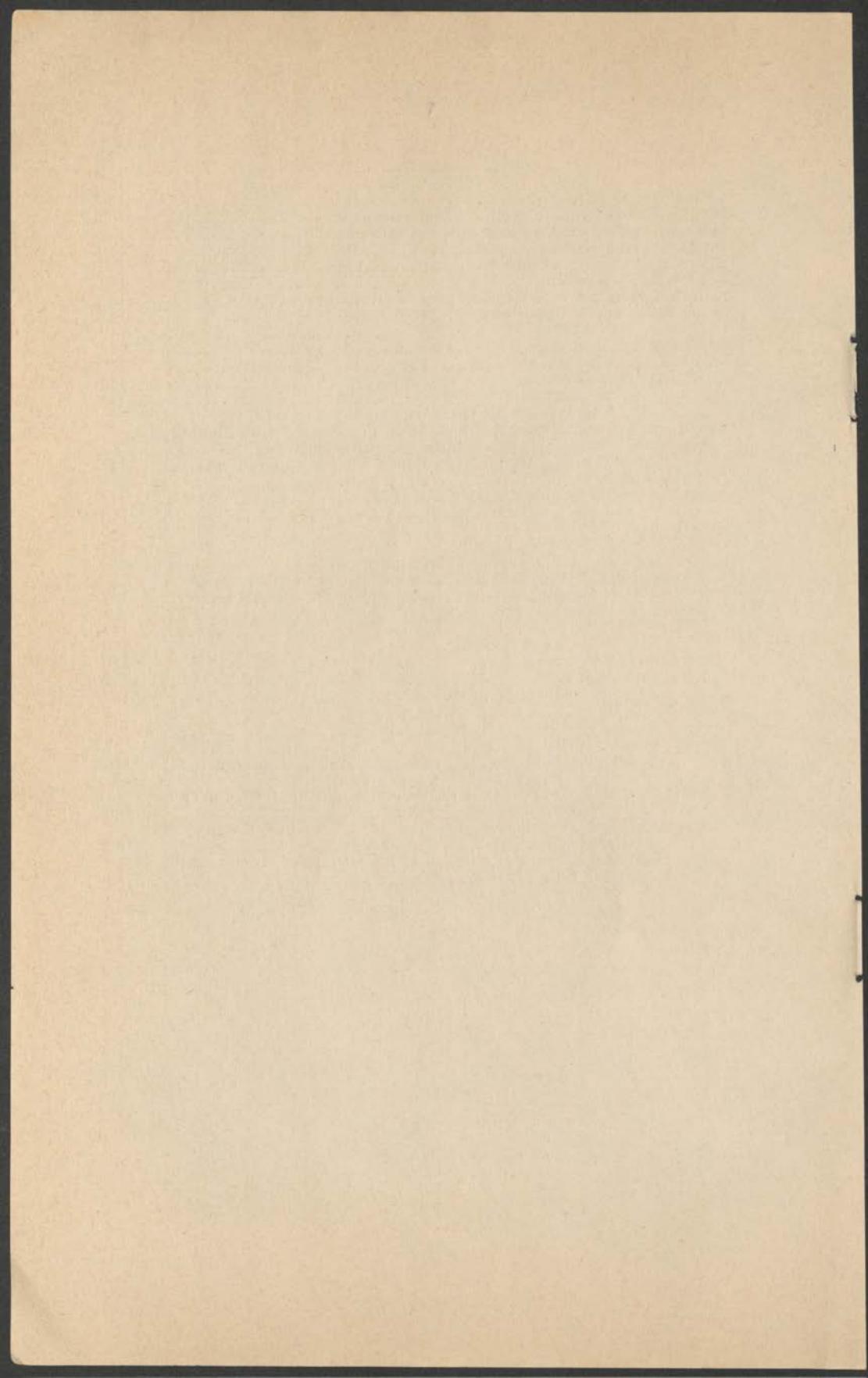
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ADVISORY COMMITTEES

TUESDAY, OCTOBER 6, 1970

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:23 a.m., in room 3302, New Senate Office Building, Senator Lee Metcalf presiding.

Present: Senator Metcalf.

Also present: Edwin W. Webber, staff director; E. Winslow Turner, general counsel; Irish McRae, minority counsel; and Mrs. Lucinda Dennis, administrative secretary.

OPENING STATEMENT OF THE CHAIRMAN

Senator METCALF. The subcommittee this morning begins hearings on the advisory committee system used by the Office of Management and Budget in its role as a clearinghouse for informational and investigative reports. We may also explore use of advisory committees by other agencies. The Special Studies Subcommittee of the House Government Operations Committee has already developed a broad record in this area.

The subcommittee has before it S. 3067, which I introduced, a bill to broaden membership of the Budget Bureau advisory committees. I hope witnesses do not limit their comments to this bill. It is one approach—and not necessarily the best one, to substantive issues—the collection of information by the Government and the processes by which Government obtains and reacts to comment from nongovernmental parties of interest.

I should emphasize that the manner of collection of information goes to the heart of policymaking and law enforcement. Congress tends to generalize in its instructions to agencies and commissions. They are told to gather what information they need and are left to their own devices until someone fears the agency is collecting too much—or not enough—information.

Congress told the Budget Bureau, in the Federal Reports Act of 1942, to coordinate collection of information by agencies from 10 or more persons or firms. This legislation stemmed from complaints by small businessmen that they were obtaining too much paperwork from Washington, and that these questionnaires impeded the war effort. The Federal Reports Act of 1942, recognized these small businessmen's plight to the extent that the act—which will be made part of the record—includes a provision that information would be obtained by Government with a minimum burden upon business, especially small business.

Within a year after the 1942 act became law, the Budget Bureau began to develop advisory committees, although the act provided no statutory basis whatsoever from them. These committees deal with banking, chemicals, communications, equal employment, fats and oils, meat packing, natural gas, oil, railroads, trade, and utilities. They are housed within the Advisory Council on Federal Reports. The Council terms itself the official business consultant to the Bureau of the Budget. Yet, it states that it is responsible only to the business community. In fact, it is funded by private groups, not by the U.S. Government.

At this point, I would like to make it clear that the Chairman of the Advisory Council on Federal Reports, Mr. Charles W. Stewart, was invited to appear before the subcommittee. He declined, but indicated a desire to submit a statement after studying the record of these hearings. I would also like to state that I shall be glad to conduct a special hearing for him and, if they wish, other members of the Council or the subcommittees, if they wish to appear later this year. If his statement is received before the record is printed, it will be placed at the end of today's hearing.¹

Finally, I should like to put these hearings in perspective. We do not infer by either the legislation or these hearings that there is any present wrongdoing in this advisory process. There are, however, substantive policy questions regarding the method which has been used by the Bureau to allow one segment of the public ready access to it, without providing opportunity for debate and dialog among all interested parties.

This morning we have a very abbreviated session. Unanimous-consent agreement late yesterday afternoon changed the legislative schedule and we will be unable to hold this hearing past the hour of 10 o'clock.

I shall place in the record at this point 3 exhibits: the text of S. 3067, title 44, United States Code, sections 3501-3511, and the Statement of the Managers on the Part of the House, Committee of Conference, on the Federal Reports Act of 1942.

I shall ask the staff to place in the record at the appropriate place my introductory remarks with attachments.²

(The material to be inserted at this point follows:)

[S. 3067, 91st Cong., first sess.]

A BILL To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3506 of title 44 of the United States Code is amended by inserting "(a)" before the word "Upon" and by adding at the end thereof the following new subsections:

"(b) No advisory committee which includes among its members individuals who represent the interests of business or commercial enterprises may be used by the Director to assist or advise him in or with respect to the administration of this Act unless that advisory committee includes among its members one or more individuals who are chosen from private life to represent the economic interests of consumers, labor, and small business within the United States. Not less than one-third of the membership of any such advisory committee which is composed of three or more members shall be individuals so chosen to represent the economic interests of consumers.

¹ See p. 36.

² See p. 103.

"(c) All records, minutes, and other information of any advisory committee appointed to carry out the provisions of this chapter shall be available for public inspection and copying in accordance with regulations established by the Director.

"(d) In addition to publication in the Federal Register, the Director shall establish procedures for giving timely, conspicuous public notice, by such means as he deems appropriate, to persons interested in the conduct of the business of advisory committees appointed under this chapter."

SEC. 2. The amendment made by this Act shall take effect on the first day of the second month beginning after the date of enactment of this Act.

Title 44, United States Code, 1964 Edition, Supplement V

CHAPTER 35—COORDINATION OF FEDERAL REPORTING SERVICES

Sec.

3501. Information for Federal agencies.

3502. Definitions.

3503. Duties of Director of the Bureau of the Budget.

3504. Designation of central collection agency.

3505. Independent collection by an agency prohibited.

3506. Determination of necessity for information; hearing

3507. Cooperation of agencies in making information available.

3508. Unlawful disclosure of information; penalties; release of information to other agencies.

3509. Plans or forms for collecting information; submission to Director; approval.

3510. Rules and regulations.

3511. Penalty for failure to furnish information.

§ 3501. Information for Federal agencies

Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code 1964 ed., Supp. II, § 421 (Dec. 24, 1942, ch. 811, § 2, 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S. Code Cong. and Adm. News, p. 4438.

LIBRARY REFERENCES

Administrative Law and Procedure 341 et seq.

Census 1 et seq.

C.J.S. Census § 1 et seq.

C.J.S. Public Administrative Bodies and Procedure § 78 et seq.

§ 3502. Definitions

As used in this chapter—

"Federal agency" means an executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but does not include the General Accounting Office nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

"person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State or territorial government or branch, or a political subdivision of a State or territory or a branch of a political subdivision;

"information" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1302.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 426 (Dec. 24, 1942, ch. 811, § 7, 56 Stat. 1079).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S. Code Cong. and Adm. News, p. 4438.

CROSS REFERENCES

Federal Register and Code of Federal Regulations, Federal agency defined, see section 1501 of this title.

§ 3503. Duties of Director of the Bureau of the Budget

With a view to carrying out the policy of this chapter, the Director of the Bureau of the Budget from time to time shall—

(1) investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies;

(2) investigate the methods used by agencies in obtaining information; and

(3) coordinate as rapidly as possible the information-collecting services of all agencies with a view to reducing the cost to the Government of obtaining information and minimizing the burden upon business enterprises and other persons, and using, as far as practicable, for continuing organization, files of information and existing facilities of the established Federal agencies.

Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(a) (Dec. 24, 1942, ch. 811, § 3(a), 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S. Code Cong. and Adm. News, p. 4438.

§ 3504. Designation of central collection agency

When, after investigation, the Director of the Bureau of the Budget is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and other interested persons may have an opportunity to present their views. After the hearing, the Director may issue an order designating a collecting agency to obtain information for two or more of the agencies concerned, and prescribing (with reference to the collection of information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. The Director may modify the order from time to time as circumstances require, but modification may not be made except after investigation and hearing.

Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1303.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(b) Dec. 24, 1942, ch. 811, § 3(b), 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S. Code Cong. and Adm. News, p. 4438.

§ 3505. Independent collection by an agency prohibited

While an order or modified order is in effect, a Federal agency covered by it may not obtain for itself information which it is the duty of the collecting agency designated by the order to obtain.
Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1303.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S.Code, 1964 ed., Supp. II, § 422(c) (Dec. 24, 1942, ch. 811 §3(c), 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

§ 3506. Determination of necessity for information; hearing

Upon the request of a party having a substantial interest, or upon his own motion, the Director of the Bureau of the Budget may determine whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency or for any other proper purpose. Before making a determination, he may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines the collection of information by the agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1303.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S.Code, 1964 ed., Supp. II, § 422(d) Dec. 24, 1942, ch. 811, § 3(d), 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

§ 3507. Cooperation of agencies in making information available

For the purposes of this chapter, the Director of the Bureau of the Budget may require a Federal agency to make available to another Federal agency information obtained from any person after December 24, 1942, and all agencies are directed to cooperate to the fullest practicable extent at all times in making information available to other agencies.

This chapter does not apply to the obtaining or releasing of information by the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department, nor to the obtaining by a Federal bank supervisory agency of reports and information from banks as authorized by law and in the proper performance of the agency's functions in its supervisory capacity.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1304.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 422(e) (Dec. 24, 1942, ch. 811, § 3(e), 56 Stat. 1078).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

NOTES OF DECISIONS

1. *Commodity shipments*

Under the provisions of this section, the Director of the Bureau of the Budget may require the Corps of Engineers, Department of the Army, to make available to the Maritime Commission information obtained since December 24, 1942, relating to commodities shipping in the domestic water trades of the United States, 1949, 41 Op.Atty.Gen., September 28.

§ 3508. Unlawful disclosure of information; penalties; release of information to other agencies

(a) If information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law including penalties which relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent

and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

(b) Information obtained by a Federal agency from a person under this chapter may be released to another Federal agency only—

- (1) in the form of statistical totals of summaries; or
- (2) if the information as supplied by persons to a Federal agency had not, at the time of collection, been declared by that agency or by a superior authority to be confidential; or
- (3) when the persons supplying the information consent to the release of it to a second agency by the agency to which the information was originally supplied; or
- (4) when the Federal agency to which another Federal agency releases the information has authority to collect the information itself and the authority is supported by legal provision for criminal penalties against persons failing to supply the information.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1304.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S.Code, 1964 ed., Supp. II, § 425 (Dec. 24, 1942, ch. 811, § 6, 56 Stat. 1079).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

§ 3511. Penalty for failure to furnish information

A person failing to furnish information required by an agency shall be subject to penalties specifically prescribed by law, and no other penalty may be imposed either by way of fine or imprisonment or by the withdrawal or denial of a right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity is legally conditioned on facts which would be revealed by the information requested.

Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1305.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S.Code, 1964 ed., Supp. II, § 427 (Dec. 24, 1942, ch. 811, § 8, 56 Stat. 1080).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 423 (Dec. 24, 1942, ch. 811, § 4, 56 Stat. 1079).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub. L. 90-620, see 1968 U.S. Code Cong. and Adm. News, p. 4438.

LIBRARY REFERENCES

Witnesses 216.

C.J.S. Witnesses § 264.

NOTES OF DECISIONS

1. Authority for collection of information

Where the Director sought release of information from the Corps of Engineers to the Maritime Commission, the latter agency was entitled to such information on meeting the conditions that it had "authority to collect the information itself" and such authority was "supported by legal provision for criminal penalties." 1949, 41 Op.Atty.Gen., September 28.

§ 3509. Plans or forms for collecting information; submission to Director; approval

A Federal agency may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency has submitted to the Director the plans or forms, together with copies of pertinent regulations and of other related materials as the Director of the Bureau of the Budget has specified; and

(2) the Director has stated that he does not disapprove the proposed collection of information.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1304.

HISTORICAL AND REVISION NOTES

REVISER'S NOTE. Based on 44 U.S. Code, 1964 ed., Supp. II, § 424 (Dec. 24, 1942, ch. 811, § 5, 56 Stat. 1079).

LEGISLATIVE HISTORY. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S. Code, and Adm. News, p. 4438.

§ 3510. Rules and regulations

The Director of the Bureau of the Budget may promulgate rules and regulations necessary to carry out sections 3501-3511 of this title.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1305.

COMMITTEE OF CONFERENCE

No. 2722, Dec. 10, 1942

FEDERAL REPORTS ACT OF 1942

For text of Act see p. 1796

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1666) to coordinate Federal reporting services, to eliminate duplication and reduce the cost of such services, and to minimize the burdens of furnishing information to Federal agencies, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate bill and the House amendment both declared it to be the policy of Congress that information needed by the various Federal agencies should be obtained with a minimum burden upon the business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government. It was also declared that all necessary duplication of effort in obtaining such information through the use of reports, questionnaires, and other such methods should be eliminated as rapidly as practicable, and that information collected and tabulated by any Federal agency should, insofar as expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

To carry out this policy the Director of the Bureau of the Budget was directed from time to time to investigate the needs of the various Federal agencies for information, to investigate the methods used by such agencies in obtaining such information, and to coordinate as rapidly as possible the information-collecting services of all such agencies with a view to reducing the cost to the Government of obtaining such information, minimizing the burden upon business enterprises and other persons, and utilizing, as far as practicable, the continuing organization, files of information, and existing facilities of the established Federal departments and independent agencies.

Provision was also made in both the Senate bill and the House amendment for hearing the various Federal agencies with respect to their needs for information, for designating a collecting agency to obtain necessary information for any two or more Federal agencies, for requiring Federal agencies to make information available to other such agencies, and for applying to the officers and employees of such agencies the provisions of law, including penalties, relating to unlawful disclosure of information.

The conference agreement adopts the basic provisions which appeared both in the Senate bill and in the House amendment.

There were certain differences, however, between the House and Senate provisions. In the first place, the House amendment contained a provision that the act should not apply to any information now required by law to be given or required by law to be withheld. There was no corresponding provision in the Senate bill. The conference agreement eliminates the provision of the House amendment in this respect.

In the second place, the Senate bill provided that the act should apply to the Treasury Department only to the extent that the Secretary of the Treasury might determine that compliance would not interfere with the proper administration of the functions and duties imposed upon that Department by law. The House amendment eliminated this provision. The conference agreement provides that the act shall not apply to the obtaining or releasing of information by the Bureau of Internal Revenue, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department. It is also provided in the conference agreement that the act shall not apply to the obtaining by any Federal bank supervisory agency of reports or information from banks as provided or authorized by law and in the proper performance of such agency's functions in its supervisory capacity.

The House amendment also provided, in effect, that the act should not apply to the General Accounting Office. There was no corresponding provision in the Senate bill. The conference agreement retains the House provision under which the act will not apply to the General Accounting Office.

The House amendment also contained a provision that any person failing to furnish information required by any Federal agency should be subject to such penalties as were specifically prescribed by law, and that no other penalty should be imposed either by way of fine or imprisonment or by the withdrawal or denial of any right, privilege, priority, allotment, or immunity afforded to any other person. There was no corresponding provision in the Senate bill. The conference agreement retains the House provision with clarifying changes.

Will M. Whittington,
John F. Hunter,
Henry O. Talle,

Managers on the Part of the House.

EXECUTIVE ORDER 11007

PRESCRIBING REGULATIONS FOR THE FORMATION AND USE OF ADVISORY COMMITTEES

Whereas the departments and agencies of the Government frequently make use of advisory committees; and

Whereas the information, advice and recommendations obtained through advisory committees are beneficial to the operations of the Government; and

Whereas it is desirable to impose uniform standards for the departments and agencies of the Government to follow in forming and using advisory committees in order that such committees shall function at all times in consonance with the antitrust and conflict of interest laws:

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The regulations prescribed in this order for the formation and use of advisory committees shall govern the departments and agencies of the Government to the extent not inconsistent with specific law.

Sec. 2. As used herein,

(a) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, that is formed by a department or agency of the Gov-

ernment in the interest of obtaining advice or recommendations, or for any other purpose, and that is not composed wholly of officers or employees of the Government. The term also includes any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, that is not formed by a department or agency, but only during any period when it is being utilized by a department or agency in the same manner as a Government-formed advisory committee.

(b) The term "industry advisory committee" means an advisory committee composed predominantly of members or representatives of a single industry or group of related industries, or of any subdivision of a single industry made on a geographic, service or product basis.

Sec. 3. No advisory committee shall be formed or utilized by any department or agency unless

(a) specifically authorized by law or

(b) specifically determined as a matter of formal record by the head of the department or agency to be in the public interest in connection with the performance of duties imposed on that department or agency by law.

Sec. 4. Unless specifically authorized by law to the contrary, no committee shall be utilized for functions not solely advisory, and determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends shall be made solely by officers or employees of the Government.

Sec. 5. Each industry committee shall be reasonably representative of the group of industries, the single industry, or the geographical, service, or product segment thereof to which it relates, taking into account the size and function of business enterprises in the industry or industries, and their location, affiliation, and competitive status, among other factors. Selection of industry members shall, unless otherwise provided by statute, be limited to individuals actively engaged in operations in the particular industry, industries, or segments concerned, except where the department or agency head deems such limitations would interfere with effective committee operation.

Sec. 6. The meetings of an advisory committee formed or used by a department or agency shall be subject to the following rules:

(a) No meeting shall be held except at the call of, or with the advance approval of, a full-time salaried officer or employee of the department or agency, and with an agenda formulated or approved by such officer or employee.

(b) All meetings shall be under the chairmanship, or conducted in the presence of, a full-time salaried officer or employee of the Government who shall have the authority and be required to adjourn any meeting whenever he considers adjournment to be in the public interest.

(c) For advisory committees other than industry advisory committees, minutes of each meeting shall be kept which shall, as a minimum, contain a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The accuracy of all minutes shall be certified to by a full-time salaried officer or employee of the Government present during the proceedings recorded.

(d) A verbatim transcript shall be kept of all proceedings at each meeting of an industry advisory committee, including the names of all persons present, their affiliation, and the capacity in which they attend: *Provided*, that where the head of a department or agency formally determines that a verbatim transcript would interfere with the proper functioning of such a committee or would be impracticable, and that waiver of the requirement of a verbatim transcript is in the public interest, he may authorize in lieu thereof the keeping of minutes which shall, as a minimum, contain a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The accuracy of all minutes shall be certified to by a full-time salaried officer or employee of the Government present during the proceeding recorded.

(e) Industry advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises.

(f) In the case of advisory committees other than industry advisory committees, the department or agency head may waive compliance with any requirement contained in subsection (a), (b) or (c) of this section when he formally determines that compliance therewith would interfere with the proper functioning of such a committee or would be impracticable, that adequate provisions are otherwise made to insure that committee operation, is subject to Government control and purpose, and that waiver of the requirement is in the public interest.

SEC. 7. The head of each department or agency sponsoring an advisory committee may prescribe additional regulations, consistent with the provisions and purposes of this order, to govern the formation or use of such committees, or the appointment of members thereof.

SEC. 8. An advisory committee whose duration is not otherwise fixed by law shall terminate not later than two years from the date of its formation unless the head of the department or agency by which it is utilized determines in writing not more than sixty days prior to the expiration of such two-year period that its continued existence is in the public interest. A like determination by the department or agency head shall be required not more than sixty days prior to the end of each subsequent two-year period to continue the existence of such committee thereafter. For the purpose of this section, the date of formation of an advisory committee in existence on the date of publication of this order shall be deemed to be July 1, 1960, or the actual date of its formation, whichever is later.

SEC. 9. The requirements of this order shall not apply:

(a) to any advisory committee for which Congress by statute has specified the purpose, composition and conduct unless and to the extent such statute authorizes the President to prescribe regulations for the formation or use of such committee;

(b) to any advisory committee composed wholly of representatives of State or local agencies or charitable, religious, educational, civic, social welfare, or other similar nonprofit organizations;

(c) to any local, regional, or national committee whose sole function is the dissemination of information for public agencies, or to any local civic committee whose primary function is that of rendering a public service other than giving advice or making recommendations to the Government.

SEC. 10. (a) Each department and agency utilizing advisory committees shall publish in its annual report, or otherwise publish annually, a list of such committees, including the names and affiliations of their members, a description of the function of each committee and a statement of the dates of its meetings: *Provided*, that the head of the department or agency concerned may waive this requirement where he determines that such annual publication would be unduly costly or impracticable, but shall make such information available, upon request, to the Congress, the President, or the Attorney General.

(b) A copy of each such report shall be furnished to the Attorney General, and all records and files of advisory committees, including agenda, transcripts or notes of meetings, studies, analyses, reports or other data compilations or working papers, made available to or prepared by or for any such advisory committee, shall be made available, upon request by the Attorney General, to his duly authorized representatives, subject to such security restrictions as may be properly imposed on the materials involved.

SEC. 11. This order supersedes the directive of February 2, 1959, entitled "Standards and Procedures for the Utilization of Public Advisory Committees by Government Departments and Agencies," and all provisions of prior Executive orders to the extent they are inconsistent herewith.

JOHN F. KENNEDY.

THE WHITE HOUSE,
February 26, 1962.

Senator METCALF. The first witness this morning was to be the Honorable John E. Moss, he is a very distinguished Congressman from California. He has informed me that he desired to be here. He is concerned and interested in this subject matter but he has the same shift in schedule that we have and is having one of his own bills on the House floor and is unable to be here. So his statement and attachments will be filed and appear at this point in the record.

(The statement referred to follows:)

STATEMENT OF HON. JOHN B. MOSS, A U.S. REPRESENTATIVE FROM THE NINTH DISTRICT OF CALIFORNIA

Mr. Chairman, I appreciate the opportunity to respond to your invitation to present my views on the legislation under consideration, and to discuss in general some of the problems and issues relating to governmental advisory groups.

There is a great need for a thorough public examination of the functions, operations and make-up of these sub-government bodies and I commend you, Mr. Chairman, for providing a forum toward this end.

Let me say at the outset that with the exception of those required by law, I personally feel that the vast majority of interagency and industry advisory groups, ad hoc committees, panels and the like could be abolished without any appreciable setback to the conduct of the government's business. As for the panels that *are* established by statute, I feel they must be brought under tighter supervision and review.

It has been my experience as Chairman of the Subcommittee on Foreign Operations and Government Information and as an individual member of the Congress for the last 18 years that Executive branch advisory groups far too often seize the role of the governing without assuming the attendant responsibilities. One flagrant manner in which they do this is in making government policy without representation of or accountability to the public. For example, there is no question in my mind that special Presidential advisory group reports on the SST were decision making. The reports, of course, were hidden from the public.

Personal feelings aside, there still remains the hard fact that proliferation, not abolishment, is the horoscope for government advisors and so it is appropriate and most timely that the Congress lay down statutory guidelines to steer these special functionaries away from the temptations of self service into the channels of public interest.

S. 3067, although limited to budgetary operations, is an important step toward expressing Congressional guidance and intent, and hopefully its enactment will set a pattern leading to the improvement of advisory functions government-wide.

I wholeheartedly concur in the legislative proposal to broaden the membership of advisory committees to include representatives of labor, small business and the consumer. Recognition of the consumer as an entity is especially important because far too often his counsel is not sought by government advisory planners.

For example, consumer representation as well as small business representation in the form of service station operators, distributors and refiners were excluded from decision making sessions of the Administration's Panel on Automotive Fuel and Air Pollution during its study on leaded fuels.

And again, interested public segments as well as the press were barred from decision making sessions of a special industry advisory group charged with making a judgment on policies to be set in coping with off-shore oil spills in California and elsewhere.

Expansion of membership as provided in S. 3067 is vital, but I feel that perhaps an even more important feature of the bill is paragraph (c) which, in effect, makes it mandatory for advisory groups to keep the public informed on what they are up to. Mr. Chairman, if ever there was a need to apply the doctrine of the public's right to know, it is in the context of government business conducted by government advisors.

Over the years the news media, private citizens and members of Congress have complained time and again to my Subcommittee about being the victims of information blackouts ordained by advisory panels. By vigorously objecting to closed sessions on principle and specifically to closed sessions not sanctioned by law and by just plain hell raising in general, the Subcommittee has been able to resolve most of the complaints. But this is not a satisfactory way to stimulate and assure a flow of government information to which the public has an inherent right and of equal importance a need to know the fullest details.

Several years ago it looked as if the problem might be resolved when President Kennedy issued Executive Order 11007 which, as you know, prescribes the rules and procedures for advisory committee meetings. Parenthetically, the Order stemmed from Committee complaints about a series of secret meetings including those by the old Business Advisory Council when it operated under the jurisdiction of the Department of Commerce.

Unfortunately, the Executive Order does not come to grips with the issue of public access to information about advisory committee activities. I directed this glaring omission to the attention of President Kennedy, but time ran out while the matter was still under consideration.

In 1968, the Subcommittee made a spot check on advisory committee operations by sending a six-part questionnaire to the Department of Health, Education and Welfare. We selected the Department for the sampling because of its wide scope of interests and functions and because of information complaints involving many of its advisory panels.

At that time the Department admitted to having 432 public advisory committees and I am informed the number has now surpassed the 500 mark. As the questions and answers may be helpful in your current study, I am submitting them for the record as an attachment to this statement. The document is in the form of a letter dated August 19, 1968 to me from then Secretary Wilbur Cohen.

I would like to discuss briefly two of the question areas which will be of interest to your study.

We asked the department whether the transcripts or minutes of each advisory-type meeting is available for public inspection and if not, to cite the statutory authority for withholding.

The department answered that its transcripts and minutes are not made available on a regular basis on the claim that "release of minutes and transcripts would inhibit effective committee action and preclude further successful development of discussions and recommendations"—whatever that means. Then the department goes on to cite one of the exemptions in the Freedom of Information Act in support of this claim to withhold. Well, as an author of the information legislation I can unequivocally state that the law does *not* prohibit the disclosure of information concerning the business carried on by advisory committees. But if the Executive branch remains in doubt on this point, enactment of S. 3067 will clear it up.

The other question I have in mind covers the conduct of advisory committee meetings. The Department admits it has no statutory authority to hold closed meetings. In lieu of legal authority, it relies on the point that there is no statute which *prohibits* advisory panels from barring the press and the public from its meetings. Remedial legislation would resolve this point.

Mr. Chairman, I think the intent of the information paragraph of S. 3067 is clearly stated, but I am a little concerned about the reference to regulations to be established by the Director. We all know from sad experience that all too often Executive branch administrators cite their regulations as the authority for their conduct of business, completely ignoring the law itself. Perhaps it should be made more specific that implementing regulations must reflect the intent of this paragraph. Another suggestion the Subcommittee may want to consider is the inclusion of specific language to provide for the uncontested right of Congressional access to advisory committee information. Judging by mounting complaints to my Subcommittee, too many Executive branch officials are not aware of the entitlements or the needs of the Congress.

Another levy on advisory groups the Subcommittee may want to consider is a requirement that the names and affiliations and other pertinent data about advisory groups members be periodically published. The public certainly has a right to know who these functionaries are without having to dredge the information piecemeal out of the files.

My Subcommittee has found that the long existing government policy of secret sessions for its advisory groups is based more on tradition and convenience than it is by law. It is not a partisan policy as it has long been practiced by the administrations of both parties. Administrations, past and present, have been urged and pleaded with to inquire, on their own, into the policies and practices of advisory groups with a view toward opening their sessions to the public to the fullest extent provided by law and to establish ways and means to keep the public better informed about government business conducted in those sessions whether they are open or closed.

As administrative responses to these recommendations have been sporadic and inadequate, it is obvious that any corrective action that is to be taken must rest with the Congress. Enactment of legislation as envisioned in S. 3067 will help accomplish this objective.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE.

Washington, D.C., August 19, 1968.

Hon. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
House Committee on Government Operations, Rayburn House Office Building,
Washington, D.C.

DEAR MR. MOSS: We are pleased to furnish you the following information on the activities of public advisory committees of the Department of Health, Education, and Welfare, which you requested in your letter of July 19, 1968, and in accordance with our acknowledgment to you of July 29.

Question 1. How many advisory committees are functioning within the Department? List by number the distribution of the committees among the operating agencies, and by number for each subdivision thereof.

The Department currently has a total of 432 public advisory committees distributed among the Department's operating agencies as follows:

<i>Operating agency</i>	<i>Number</i>
Office of the Secretary.....	17
Office of Education.....	24
Office of the Commissioner.....	1
Bureau of Adult, Vocational, and Library Programs.....	5
Bureau of Education for the Handicapped.....	1
Bureau of Educational Personnel Development.....	2
Bureau of Elementary and Secondary Education.....	6
Bureau of Higher Education.....	6
Bureau of Research.....	3
Consumer Protection and Environmental Health Services.....	46
National Air Pollution Control Administration.....	8
National Center for Radiological Health.....	7
National Center for Urban and Industrial Health.....	6
Food and Drug Administration.....	25
Office of Commissioner.....	3
Bureau of Medicine.....	17
Bureau of Science.....	3
Bureau of Veterinary Medicine.....	1
Office of Legislative and Governmental Services.....	1
Health Services and Mental Health Administration.....	95
Office of the Administrator (in transition due to reorganization).....	22
National Center for Health Statistics.....	4
Office of Comprehensive Health Planning.....	19
National Communicable Disease Center.....	7
National Institute of Mental Health.....	43
National Institutes of Health.....	198
Office of the Director.....	1
National Institute of Allergy and Infectious Diseases.....	9
National Institute of Arthritis and Metabolic Diseases.....	10
National Cancer Institute.....	10
National Institute of Child Health and Human Development.....	9
National Institute of General Medical Sciences.....	21
National Institute of Neurological Diseases and Blindness.....	13
National Institute of Dental Research.....	6
National Heart Institute.....	17
Division of Biologics Standards.....	1
Division of Environmental Health Sciences.....	2
Division of Research Resources and Facilities.....	9
Division of Research Grants.....	61
Fogarty International Center.....	1
National Library of Medicine.....	4
Bureau of Health Manpower.....	24
Social and Rehabilitation Service.....	46
Administration on Aging.....	3
Assistance Payments Administration.....	0
Children's Bureau.....	8
Medical Services Administration.....	2
Rehabilitation Services Administration.....	17
National Center for Social Statistics.....	1
Office of Research, Demonstration, and Training.....	15

Operating agency—Continued

	Number
Social Security Administration-----	6
Office of Research and Statistics-----	1
Bureau of Disability Insurance-----	1
Bureau of Health Insurance-----	2
Bureau of Retirement and Survivors Insurance-----	1
Office of Program Evaluation and Planning-----	1

Question 2. How many advisory committees regularly hold closed meetings? What is the statutory authority to conduct closed sessions? How many committees regularly open their meetings to the general public and the press?

All of the Department's advisory groups hold closed meetings with the exception of seven which regularly open their meetings to the general public and press.

There is no statute of general application, nor any specific statute directed to the Department which authorizes advisory councils to hold closed sessions. There is also no statute which prohibits the Department from holding meetings of advisory councils closed to the press and public.

Executive Order 11007 dated February 26, 1962, although it prescribes in some detail rules for the conduct of meetings of advisory groups, is silent as to the admission of the press and public to such committee meetings. This Department and its operating agencies have long been of the view that proper and effective administration requires that meetings of advisory councils, advisory committees, or advisory groups not be open to the press and public. Exclusion of the press and public from the meeting has been deemed necessary primarily to assure the full, unhampered exchange of ideas. The Department's general practice has been to assure the participants, at the beginning of the meetings, that the matters to be discussed will not be disclosed until the final report of the committee. Often a responsible official will give a summary of the matters discussed in the meeting to the press at the conclusion of the meeting.

Question 3. Are committee meetings chaired by Government officers or employees? Are all committee meetings otherwise conducted in the presence of an officer or employee of the Government?

Not all our public advisory committees are chaired by Government officers or employees. All meetings are conducted in the presence of a full-time salaried officer or employee of the Government, as required by Executive Order 11007 and by Department procedures.

Question 4. What are the Department's requirements for keeping verbatim transcripts of the proceedings of each advisory committee meeting? What are the requirements for keeping certified minutes of each meeting?

Verbatim transcripts are kept of all proceedings at each meeting of an industry advisory committee. The department or agency head may waive the requirement of a verbatim transcript by formally determining that a verbatim transcript would interfere with the proper functioning of such an industry advisory group, and authorize in lieu thereof the keeping of minutes.

For advisory committees other than industry advisory committees, minutes of each meeting are kept. The accuracy of all minutes are certified to by a full-time salaried officer or employee of the Government present during the proceedings recorded.

Questions 5 and 6. Are the transcripts and/or minutes of each meeting available for public inspection? If not, what is the statutory authority for withholding?

Specifically, how and to what extent is the public informed of the business transacted by advisory committees?

The transcripts and minutes of each meeting are not made available on a regular basis since the proposals, discussions, and recommendations are normally of a tentative nature. In addition, free and frank expression of opinion by committee members is desired. Release of the minutes or transcripts would inhibit effective committee action and preclude further successful development of discussions and recommendations. These considerations were recognized by the Attorney General in his Memorandum on the Public Information Section of the Freedom of Information Act (p. 35) in explaining the exemption from disclosure of interagency or intra-agency memoranda or letters:

"* * * internal communications which would not routinely be available to a party to litigation with the agency, such as internal drafts, memoranda between officials or agencies, opinions and interpretations prepared by agency staff personnel or consultants for the use of the agency, and records of the deliberations

of the agency or staff groups, remain exempt so that free exchange of ideas will not be inhibited. As the President stated upon signing the new law, 'officials within Government must be able to communicate with one another fully and frankly without publicity.'

The release of this information also involves the problem of premature disclosure. The House report on the Public Information Section of the Administrative Procedure Act (Public Law 89-487) states in part, " * * * Moreover, a Government agency cannot always operate effectively if it is required to disclose documents or information which it has received or generated before it completes the process of awarding a contract or issuing an order, decision or regulation. * * * " Transcripts and minutes may be made available upon request; however, each request must be evaluated on the basis of the characteristics of the content of the material reported.

This does not mean that the press and public are not informed of the end results of the business transacted by advisory groups. Official actions taken on some advisory groups' recommendations are reported publicly in a variety of ways—in news releases, notifications to individual members of Congress, reports to Congressional committees and to the Congress, annual reports, etc. All grants, awards, fellowships, etc., are reported publicly either at the point of approval by the operating agency or monthly, quarterly, or annually in a variety of publications.

Other types of action taken on advisory group recommendations, such as those involving policy matters, legislative proposals, or appropriations, may not be released as recommendations. But the value of the advisory groups' activities is realized and the end product of its work is made public, through appropriate procedures, such as new administrative methods, legislative proposals, new or adjusted budgets, etc. The business conducted by these groups will thus have been publicly reported through this process, even though, in many instances, the advisory group whose recommendations influenced the action may not be referred to in announcing the end result.

Enclosed are two copies each of Departmental regulations governing advisory committee meetings and activities. We also enclose a copy of Executive Order 11007 which prescribes the regulations for the formation and use of advisory committees which govern the Department to the extent not inconsistent with specific law.

Sincerely,

WILBUR J. COHEN, *Secretary.*

Senator METCALF. The opening witness will be Mr. William H. Rodgers, Jr., associate professor of law, University of Washington at Seattle.

Mr. Rodgers, we are delighted to have you with us this morning. Go right ahead.

STATEMENT OF WILLIAM H. RODGERS, JR., UNIVERSITY OF WASHINGTON SCHOOL OF LAW

Mr. RODGERS. Thank you, Mr. Chairman, and good morning.

My name is William H. Rodgers, Jr. I am an associate professor of law at the University of Washington School of Law. I received my law degree from Columbia in 1965. My interest in the present bill arises because of a number of experiences I have had with governmental agencies in connection with my legal research into environmental and consumer matters and related litigation.

Now, I have a statement for the record. I would simply like to highlight a few points from that statement.

Senator METCALF. Your statement will appear in the record in its entirety. Go right ahead.

(The statement referred to follows:)

PREPARED STATEMENT OF WILLIAM H. RODGERS, JR.

Mr. Chairman and Members of the Committee: My name is William H. Rodgers, Jr. I am an Associate Professor of Law at the University of Washington School

of Law. I received my law degree from Columbia in 1965. My interest in the present bill arises because of a number of experiences I have had with governmental agencies in connection with my legal research into environmental and consumer matters and related litigation.

1. *The Federal Reports Act of 1942*

At the outset, let me stress the vast practical importance of the legislation being considered today. Formally, the Federal Report Act changes the Director of the Office of Management and Budget (OMB) with responsibilities to investigate the needs of the various Federal agencies for information from business enterprises and the methods used in obtaining information.¹ The Director is further instructed to "coordinate as rapidly as possible the information-collecting services of all agencies with a view to reducing the cost to the Government of obtaining information and minimizing the burden upon business enterprises. . . ."² These commendable objectives were thought to justify the further power given to the Director to resolve conflicts between two or more agencies making duplicitous demands for information from business enterprises.³ More surprising is the unprecedented authority given to the Director to determine, upon the request of an interested party or upon his own motion, "whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency or for any other proper purpose."⁴ Furthermore, a Federal agency is forbidden from conducting the sponsoring or collection of information "upon identical items" from ten or more persons unless the Director "has stated that he does not disapprove the proposed collection of information."⁵

It is indisputable, then, that the Director of OMB has what amounts to an unreviewable authority to slam the door on the investigative sorties of the Federal agencies. This veto power to decide whether requests for information voluntarily given are "necessary" or for a "proper purpose" of the inquiring agency should be contrasted with the rules that obtain when an agency seeks the compulsory disclosure of information in an administrative proceeding where subsequent judicial review requires only a showing that "the inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant."⁶ Where administrative investigations are concerned, the Supreme Court has gone so far as to say: "[E]ven if one were to regard the request for information in this case as caused by nothing more than official curiosity, nevertheless law-enforcing agencies have a legitimate right to satisfy themselves that corporate behavior is consistent with the law and the public interest."⁷ That the Director of OMB has a power of prior restraint over agency initiatives that contrasts sharply with the (limited power of the courts in enforcement cases raises serious questions over how this admitted informational dictatorship is being conducted. Plainly at issue in these hearings is whether the Director's industry advisory committees have influenced how, when and whether an informational-gathering initiative shall be undertaken by a federal agency.

What I would like to do is to provide some background before commenting specifically on S. 3067 and the broader issues it raises.

2. *The pattern of industry advisory committees*

The recitation of some experiences with industry liaison committees should help point up the problem. It is unnecessary to dwell at great length upon the thoroughly documented politics of procrastination in the Bureau of the Budget advisory committees that have held up a federal industrial water wastes inventory for several years.⁸ By 1968, the patience of the House Natural Resources and Power Subcommittee had worn sufficiently thin to inspire these caustic comments: "it is disgraceful that the national industrial wastes inventory proposed by [the subcommittee] has been delayed and obstructed for over four years."⁹ This disgrace had become a national scandal when, finally, only last

¹ See 44 U.S.C. § 3503 (1), (2).

² 44 U.S.C. § 3503(3).

³ See 44 U.S.C. §§ 3504, 3505.

⁴ 44 U.S.C. § 3506.

⁵ 44 U.S.C. § 3509.

⁶ *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (emphasis added).

⁷ *United States v. Morton Salt Co.*, *supra* note 6, at 642-43.

⁸ See Reinemer, Budget Bureau: Do Advisory Panels Have an Industry Bias? 169 Science 36 (1970); Hearings on Presidential Advisory Committees, Before the House Special Studies Subcommittee, 91st Cong., 2d Sess. 117-60 (1970) (Testimony of the Honorable Lee Metcalf, U.S. Senator from the State of Montana.)

⁹ H. Rep. No. 1579, The Critical Need for a National Inventory of Industrial Wastes (Water Pollution Control and Abatement), 89th Cong., 2d Sess. 13 (1968).

month Commissioner Dominick of FWQA informed the Reuss subcommittee that the long awaited inventory would be undertaken. It remains to be seen whether the form of the questionnaire and the data it solicits will promote or deter efforts to come to grips with our abysmal ignorance about the debauchery of the nation's waterways.

The minutes of the Bureau of the Budget advisory committee meetings bear elegant testimony to the stifling impact of the administration of the Federal Reports Act.¹⁰ Concern was expressed that the information sought was unnecessary to the fulfillment of the federal role in the water pollution field, the state agencies already had the information, a federal inventory would cost too much and would duplicate efforts being pursued by the industry. Industry spokesmen were fearful "that the data may get into the hands of the news media" and could be "misused for political purposes." And, invariably, there is a "real problem relating to the disclosure of confidential information." Not to be overlooked either was the fact that "industry would have to assume that the data will be used against them and even be used in court." This in-committee haggling over the details of the inventory had one demonstrable policy effect: no inventory was approved.

Outside of the Bureau of the Budget, the role of the industry advisor to the government in environmental investigations shows a remarkably consistent pattern. A House subcommittee has been highly critical of the Pesticides Regulation Division of USDA for the lack of consideration given to conflict of interest problems in the appointment of a Shell Chemical Co. employee to a 1965 task force examining criteria used in determining whether pesticide registration applications should be approved.¹¹ A May 1968 editorial in *Industrial Water Engineering* proclaimed: "The plain fact . . . is that FWPCA (now FWQA) needs industry help. And it is to industry's advantage to give it. Consider, for example, how the Soap and Detergent Industry, helped turn an ill-conceived plan for phosphate substitution into a progressive program for studying eutrophication. More of this type of cooperative action is needed."¹² A year and one-half later Congressman Reuss opened hearings into the role of phosphate-based detergents in the eutrophication of the nation's waters with these scornful observations about "this type of cooperative action": "The principal result of the joint industry-Government task force seems to be an agreement to develop a 'Provisional Algal Assay Procedure' for field testing about two years hence. The mountain has labored and brought forth a mouse."¹³

The National Air Pollution Control Administration (NAPCA) also has its advisory committees. On February 6, 1970, as an attorney representing two citizen clean air groups, I wrote to Mr. Norman Plaks of NAPCA's Division of Process Control Engineering, requesting copies of the minutes of the meetings between NAPCA officials and two exotic groups called the Primary Non-Ferrous Smelting Industry Liaison Committee and the Pulp & Paper Industry Liaison Committee, both established under the Air Quality Act of 1967. These bodies are made up, respectively, of fourteen and thirteen industry members and are assigned vague responsibilities for reviewing industry-wide systems engineering studies which ostensibly are to provide NAPCA with data to make informed judgments about priorities for a federally-sponsored research and development program. The committees meet from time to time during the evolution of the NAPCA studies and the members collect \$100 a day plus expenses to "review" progress reports and supply "data inputs" to agency personnel and its contractors.¹⁴ That the NAPCA studies, which represent pioneering and comprehensive engineering and economic portrayals of the pollution problems of a given industry, also are to be of pivotal influence in determining the direction of air pollution control efforts for the next decade or so should be obvious to any one with a minimal awareness of the politics of pollution.

I have documented elsewhere the particulars of my travail in securing the minutes which were released on June 10, some five months after the original

¹⁰ Minutes of the Panel on Proposed U.S. Public Health Service Survey of Industrial Waste Water Disposal, June 9, 1964, Aug. 13, 1968, in Hearings, *supra* note 8, at 143-47.

¹¹ See House Intergovernmental Relations Subcommittee, *Deficiencies in Administration of Federal Insecticide, Fungicide and Rodenticide Act*, House Rep. No. 91-637, 91st Cong., 1st Sess. 9-10, 16-17 (1969).

¹² p. 7.

¹³ Hearings on Phosphates in Detergents and the Eutrophication of America's Waters Before the House Conservation and Natural Resources Subcommittee, 91st Cong., 1st Sess. 3 (1969).

¹⁴ Second Report of the Secretary of HEW, *Progress in the Prevention and Control of Air Pollution*, S. Doc. No. 91-11, 91st Cong., 1st Sess. 57-58 (1969).

request.¹⁵ As for the substance of these closed-door deliberations, suffice it to say that committee members took full advantage of their inside-track opportunities to discuss in depth, revise—and unquestionably to influence—the basic studies that probed so deeply into sensitive questions of feasible control processes and the economics of control. Dispassionate scientific inquiry does not appear to be the hallmark of behind-the-scenes discussions by industry liaison committee members. Indicative of the constructive inputs of the pulp and paper committee was the suggestion that, wherever possible, the word “emission” be substituted for “pollution” in the final report of the contractor.¹⁶ That pollution may be eliminated so easily by the pulp and paper industry surely gives cause for optimism.

The contributions of the smelting industry disclose unparalleled opportunism. The Committee “made the point,” according to the minutes,¹⁷ “that public opinion will be influenced by the report and that this should be kept in mind when the report is written. Certainly, the report should not present superficial conclusions that control is easy and economical thus endangering the industry.” The response reported in the minutes was that such endangering of the industry is “very unlikely; the Liaison committee was created to help ensure that this does not happen.”

The committee worked hard at its job to ensure that the report did not endanger the industry. NAPCA was given a new federal version of the shopworn “we’ll move out of town” argument: “If it becomes necessary to stop emissions before economical processes are developed, the smelting industry might be forced out of the country . . . The study should be made carefully so that it does not present false information that could be used to force the industry into a dangerous situation.”¹⁸ The spectre of 39 lead, zinc and copper smelters fleeing the United States for a more hospitable environment in Mexico, Japan or Canada indeed introduces an economic note that would make chary the most irresponsible anti-air pollution zealots.

Several techniques were suggested by committee members for rendering the NAPCA report impotent for enforcement purposes. “Is it possible to relate the report to the conservation of a national resource—sulfur from the smelting industry—rather than [the] control of air pollution?”¹⁹ No, apparently it was untenable for NAPCA to adopt a subterfuge that would deny its role as an air pollution agency. “Is it possible to preface the report with the statement that no part of the report can be copied or used against industry?”²⁰ No again, presumably it would be difficult for NAPCA explicitly to accord information about the smelting industry a classified status akin to that accorded to research into, let us say, biological and chemical warfare.

Nonetheless, sufficient steps were taken to undercut the usefulness of the study for enforcement purposes. A code was adopted making it impossible to connect up a particular smelter with the relevant data in a judicial or administrative proceeding.

The results of this industry domination of the process of preparation and perforce the substantive impact of a federal pollution study are a matter of public record. Hearings were held in March of this year by the Puget Sound Air Pollution Control Board on the proposal of American Smelting & Refining Co. (ASARCO) to construct a giant 1100 foot stack for its Tacoma smelter. A key witness for ASARCO was none other than the director of the NAPCA-financed study into smelter-caused pollution. The primary purpose of his testimony was to refute a NAPCA document recommending emission standards for the smelting industry calling for removal of 90% of the sulfur from the flue gases and which had been prepared on the basis of the final systems analysis study in November 1969 by Terry L. Stumph of NAPCA. “McKee Report Mis-Used, Company Representative States” read the ASARCO press release describing this astonishing testimony. Without going into further details, it should suffice to summarize what happened: a federally financed study of smelter-caused pollution produces a document that is demonstrably influenced by the industry through a government-sponsored liaison committee. When a NAPCA representa-

¹⁵ Rodgers, “How to Pollute: Tacoma’s Tall Stack,” *The Nation*, May 11, 1970; Rodgers, “Industry Advisory Panels: Distorting Research by Closing the Doors,” to be published by the Practising Law Institute, New York, N.Y.

¹⁶ NAPCA, Minutes of the Pulp Industry Liaison Committee, July 17–18, 1969, p. 11. (See p. 150 this print.)

¹⁷ NAPCA, Minutes of Primary Smelting Industry Liaison Committee, Oct. 1, 1968, p. 3.

¹⁸ See Minutes, *supra* note 17, at 3.

¹⁹ *Id.* at 4.

²⁰ *Ibid.*

tive nonetheless relies upon the study to recommend emissions control for the industry, he is flatly contradicted by the contractor who is described in a press release as a "company representative." The experience supplies a lesson, I submit, in the manipulation potential of industry advisory committees in environmental inquiries.

Other illustrations deserve mention. Twelve members of NAPCA's Primary Aluminum Industry Liaison Committee met for the first time on March 6 of this year. The minutes show concern, first, about "possible interference" from the Justice Department on anti-trust grounds and, sounding a familiar refrain, that much of the data needed in the study "is proprietary information that gives a company a competitive edge over other producers." True to the tradition followed in the Bureau of the Budget, it was suggested and agreed upon that the committee form a "task force of a few members to review the questionnaire to be sent to the industry with the contractor before the next committee meeting."²¹ At the next meeting the word from the Justice Department was reported to be that "no prior approval or scope of action could be given." This offered a justification for withholding information that could compromise inter-company competition. According to the minutes, "[t]he mechanisms proposed for ensuring against such disclosure [were] reviewed briefly. Raw data received by [the contractor] from individual companies would not be disclosed to others, or to NAPCA. Processed data would be released from [the contractor], or used in reporting, only in such composited form as would preclude identification of originating specific source. . . . If desired, [the contractor] will enter into secrecy agreements with individual companies." A final form for the questionnaire will be "approved by NAPCA and the Bureau of the Budget by the end of June."²² So the story goes.

3. *The problems created by industry advisory committees.*

Experiences such as those described demonstrate, I submit, that the industry advisory committee, within OMB and elsewhere, potentially can serve as a vehicle to obstruct and distort agency inquiries, propagandize the issues, incorporate industry biases into governmental policies and sidetrack investigations that are essential in the public interest. Filtering official policies through an industry advisory committee that may prove to be a functional conspiracy is especially risky on environmental issues. For there can be no question that coming to grips with pollution requires extensive data about manufacturing processes, the type and size of the operations, treatment costs and control technology, the location of water sources and waste discharge points, and the chemical and biological characteristics and quantity of the effluent or emission from a given source, to name but prime examples. Barriers to disclosure hamstringing public and private initiatives to cope with these overwhelming concerns. No allegations of trade secrets, crusading media, meddling academicians or politically motivated enforcement officers can undercut the fundamental need to know. In this light, the role of the Office of Management and Budget as the assassin of legitimate inquiry deserves skeptical scrutiny.

4. *S.3067.*

The reforms embodied in the bill before the committee are easily defended. Subsections (c) and (d), dealing with public inspection of committee records and public notice of committee business, are rather obvious amenities. Undoubtedly, the Freedom of Information Act and Executive Order 11007 already assure public access to committee deliberations although explicit insistence upon the principle can do no harm. It might be advisable, in addition, to require OMB to publish any proposed forms in the Federal Register to solicit comment from interested persons. On August 26 I was informed by the Office of Management and Budget that "we do not have the industrial waste water form to send you" because FWQA was "still considering" the "suggestions for changes" made years earlier.²³ The indisputable point is that the particulars of the form and the breadth and depth of the data sought plainly are of interest to journalists, scholars, enforcement officers and others who do not have the good fortune to participate in the deliberations of the advisory committees.

²¹ NAPCA, Summary Report of the Primary Aluminum Industry Liaison Committee Meeting, March 6, 1970, p. 1. (See p. 144 this print.)

²² NAPCA, Minutes of the Primary Aluminum Industry Liaison Committee Meeting, May 13, 1970.

²³ Letter to William H. Rodgers, Jr., from Roy L. Lowry, OMB, Aug. 26, 1970. (See p. 147 this print.)

The proposal of subsection (b) to open up the committees to consumer, labor and small business interests is a modest reform. Enough has been said to demonstrate that the power to approve forms, develop questionnaires and request documentation in large measure is the power to define the reach of an investigatory initiative into the business community. Recognizing the authority to man the informational sluice gates is to concede the obvious interest an affected business has in maintaining a watchful eye on the efficiency of the supervision. We have seen some of the results of big business domination of these committees. Distributing the power among other interests plainly is defensible; indeed, I understand the former Budget Bureau Director, Robert Mayo, has conceded the point.

5. *Other lines of inquiry.*

In my opinion a harder question for the committee is whether tinkering with the membership of OMB's advisory groups would amount to a mere cosmetic gesture where major surgery is required. I believe that allowing the Director of OMB to decide whether the collection of information is "necessary" for the proper performance of the functions of the requesting agency of "for any other proper purpose" is to give an untrammelled authority to suppress legitimate inquiries that goes far beyond the necessities of coordinating approaches to the business community. The experience with the water pollution inventory alone demonstrates that OMB has a bottle-neck capacity with great counter-productive potential. I am already persuaded that the Director should be stripped of his authority to put his foot in the door to block agency probes into the business world.

Undoubtedly, the committee will take a hard look at other problems with the administration of the Federal Reports Act. To suggest one legislative alternative among many that might emerge, it may prove desirable to reduce OMB to the coordinating role it is supposed to exercise and to allow each agency, after a negotiating period of perhaps 90 days, to initiate inquiries over the relevancy objections of the Director. This or similar relief is especially urgent in the environmental field where governmental data gathering often relies on the informal approach to the exclusion of the formal disclosure techniques of litigation. Under this analysis, limitations on the relevancy and materiality of agency initiatives, as in the case of subpoenas, would be an issue for the courts. It seems to me clearly indicated that the agency with substantive enforcement responsibilities should have the legal and political responsibility to be the initial judge of what data is needed to advance its administrative objectives. If the questions are not asked, the public will know where the responsibility lies; if the questions are asked and the answers are unsatisfactory, the inquiring agency then can resort to sterner measures or go to Congress to ask for the necessary power to demand the relevant information.

Lastly, let me suggest a separate line of inquiry. I believe that the record compiled by some industry advisory committees points up the urgent necessity for congressional investigations into the antitrust implications of meetings between competitors under government sponsorship to exchange ideas and develop policies on pollution issues. It was Adam Smith who observed: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public . . . Though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies, much less to render them necessary."²⁴ Plainly, an agreement among competitors to delay the installation of control technology and to obstruct investigatory efforts to these ends would amount to an illegal conspiracy under the antitrust laws, an issue presently before the nation as a result of the numerous suits that have been filed against the automobile industry. As indicated, NAPCA and the aluminum industry have cited the spectre of the antitrust laws as a justification for withholding individual plant data that would prove very useful in enforcement actions. On April 9 of this year the Assistant Attorney General in charge of the antitrust division informed the Antitrust Section of the American Bar Association that "we urge that members of an industry present their views to government agencies on questions of feasibility and timing on an individual, rather than on a joint basis."²⁵ On the previous July a spokesman for the pulp and paper industry informed NAPCA at

²⁴ In *The Wealth of Nations*, bk. I, c. x (1776).

²⁵ Remarks of Richard M. McLaren, p. 8.

the opening of a liaison committee meeting that "the industry representatives had met prior to the formal meeting and had discussed Volume I of the Milestone Report and were prepared to proceed straight through with Mr. A. as industry spokesman. Mr. A. emphasized that no reference should be made to a particular mill."²⁶ Similar issues are likely to be further refined—or aggravated—as a result of the deliberations of the President's recently appointed National Industrial Pollution Control Council which has been divided into 30 sub-councils to consider the problems of each particular industry. Let me say in conclusion that by mentioning these antitrust issues I make no pretence at suggesting a resolution of some of the knotty questions involved. I do hope to point out that the committee's concern about big business domination of OMB's advisory committees should be extended similarly to other aspects of our national life where industries under government sponsorship may be combining to frustrate the public interest. Thank you very much.

Mr. RODGERS. At the outset let me stress, Mr. Chairman, the fact of the enormous practical importance of the legislation being considered today. It is indisputable that the Director of OMB has what amounts to an unreviewable authority to slam the door on the investigative sorties of the Federal agencies. This veto power to decide whether requests for information voluntarily given are "necessary" or for a "proper purpose" of the inquiring agency should be contrasted with the rules that obtain when an agency seeks the compulsory disclosure of information in an administrative proceeding where subsequent judicial review requires only a showing that the "inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant."

Where administrative investigations are concerned, the Supreme Court has gone so far as to say: "Even if one were to regard the request for information in this case as caused by nothing more than official curiosity, nevertheless law enforcing agencies have a legitimate right to satisfy themselves that corporate behavior is consistent with the law and the public interest." That the Director of OMB has a power of prior restraint over agency initiatives that contrasts sharply with the power of the courts in subpoena cases raises serious questions over how this admitted informational dictatorship is being conducted. Plainly at issue in these hearings is whether the Director's industry advisory committees have influenced how, when, and whether an informational gathering initiative shall be undertaken by a Federal agency.

What I would like to do before getting to the specifics of the bill is to provide some background and to mention briefly some of the broader issues the bill raises.

The recitation of the documented experiences, of a few documented experiences, with industry liaison committees might help. It is unnecessary to dwell at great lengths upon the thoroughly documented politics of procrastination in the Bureau of the Budget Advisory Committees that have held up a Federal industrial waste inventory for several years. By 1968, the patience of the House Natural Resources and Power Subcommittee had worn sufficiently thin to inspire these caustic comments, and I quote:

"It is disgraceful that the national industrial waste inventory proposed by the subcommittee has been delayed and obstructed for over 4 years."

²⁶ NAPCA, Pulp Industry Liaison Committee minutes, July 17-18, 1969, v. 1. (See p. 150 this print.)

This disgrace had become a national scandal when, finally, only last month Commissioner Dominick of FWQA (Federal Water Quality Administration) informed the Reuss subcommittee that the long awaited inventory would be undertaken. It remains to be seen whether the form of the questionnaire and the data it solicits will promote or deter efforts to come to grips with our abysmal ignorance about the debauchery of the Nation's waterways.

Outside of the Bureau of the Budget, the role of the industry adviser to the Government in environmental investigations shows a remarkably consistent pattern. Let me take an illustration from the field of water pollution. A May 1968 editorial in *Industrial Water Engineering* proclaimed, and I quote:

"The plain fact is that FWPCA (now FWQA) needs industry help. And it is to industry's advantage to give it. Consider, for example, how the soap and detergent industry helped turn an ill-conceived plan for phosphate substitution into a progressive program for studying eutrophication. More of this type of cooperative action is needed."

A year and one half later, Congressman Reuss opened hearings into the role of phosphate-based detergents in the eutrophication of the Nation's waters with these scornful observations about "this type of cooperative action," and I quote:

"The principal result of the joint industry-Government task force seems to be an agreement to develop a 'Provisional Algal Assay Procedure' or field testing about 2 years hence. The mountain has labored and brought forth a mouse."

The National Air Pollution Control Administration (NAPCA) also has its advisory committees. On February 6 of this year, as an attorney representing two citizen clean air groups, I wrote to Mr. Norman Plaks of NAPCA's division of process control engineering, requesting copies of the minutes of the meetings between NAPCA officials and two exotic groups called the Primary Non-Ferrous Smelting Industry Liaison Committee and the Pulp and Paper Industry Liaison Committee, both established under the Air Quality Act of 1967. These bodies are made up, respectively, of 14 and 13 industry members and are assigned vague responsibilities for reviewing industrywide systems engineering studies which ostensibly are to provide NAPCA with the data to make informed judgments about priorities for a federally-sponsored research and development program.

The committees meet from time to time during the evolution of the NAPCA studies and the members collect \$100 a day plus expenses to "review" progress reports and supply "data inputs" to agency personnel and its contractors. That the NAPCA studies which represent pioneering and comprehensive engineering and economic portrayals of the pollution problems of a given industry also are to be of pivotal influence in determining the direction of air pollution control efforts for the next decade or so should be obvious to anyone with a minimal awareness of the politics of pollution. I have documented elsewhere the particulars of my travail in my securing the minutes which were released on June 10, some 5 months after the original request. As for the substance of these closed-door deliberations, suffice it to say that committee members took full advantage of their inside track opportunities to discuss in depth, revise—and unquestionably to influence—the basic studies that probed so deeply into sensitive questions of feasible control

processes and the economics of control. Dispassionate scientific inquiry does not appear to be the hallmark of behind-the-scenes discussions by industry liaison committee members. Indicative of the constructive inputs of the pulp and paper committee was the suggestion that, wherever possible, the word "emission" be substituted for "pollution" in the final report of the contractor. That pollution may be eliminated easily by the pulp and paper industry surely gives cause for optimism.

The contributions of the smelting industry disclose unparalleled opportunism. The committee "made the point" according to the minutes—and all of these minutes will be supplied to the committee and if, of course, you wish, they can be reproduced in the record—"that public opinion will be influenced by the report and that this should be kept in mind when the report is written. Certainly, the report should not present superficial conclusions that control is easy and economical thus endangering the industry." The response reported in the minutes was that such endangering of the industry is "very unlikely: the liaison committee was created to help ensure that this does not happen."

Several techniques were suggested by committee members for rendering the NAPCA impotent for enforcement purposes. "Is it possible to relate the report to the conservation of a natural resource—sulfur from the smelting industry—rather than the control of air pollution?" No, apparently it was untenable for NAPCA to adopt a subterfuge that would deny its role as an air pollution agency.

"Is it possible to preface the report with the statement that no part of the report can be copied or used against industry?"

No, again, presumably it would be difficult for NAPCA explicitly to accord information about the smelting industry a classified status akin to that accorded to research into, let us say, biological and chemical warfare. Nonetheless, sufficient steps were taken to undercut the usefulness of the study for enforcement purposes. A code was adopted making it impossible to connect up a particular smelter with the relevant data in a judicial or administrative proceeding.

The results of this industry domination of the process of preparation and perforce the substantive impact of a Federal pollution study are a matter of public record. Hearings were held in March of this year by the Puget Sound Air Pollution Control Board on the proposal of American Smelting & Refining Co. to construct a giant 1,100-foot stack for its Tacoma smelter. A key witness for Asarco was none other than the director of NAPCA-financed study into smelter-caused pollution. The primary purpose of his testimony was to refute a NAPCA document recommending emission standards for the smelting industry calling for removal of 90 percent of the sulfur from the flue gases and which had been prepared on the basis of the final systems analysis study in November 1969 by a NAPCA employee.

"McKee report misused, company representatives state," read the Asarco press release describing this astonishing testimony. Without going into further details, it should suffice to summarize what happened: A federally financed study of smelter-caused pollution produces a document that is demonstrably influenced by the industry through a Government-sponsored liaison committee. When a NAPCA representative nonetheless relies upon the study to recommend emis-

sions control for the industry, he is flatly contradicted by the contractor who is described in a press release as a company representative. The experience supplies a lesson, I submit, in the manipulation potential of industry advisory committees in environmental inquiries.

One other illustration deserves mention. Twelve members of NAPCA's Primary Aluminum Liaison Committee met for the first time on March 6 of this year. The minutes show concern, first, about "possible interference" from the Justice Department on antitrust grounds and, sounding a familiar refrain, that much of the data needed in the study "is proprietary information that gives a company a competitive edge over other producers." True to the traditions followed in the Bureau of the Budget, it was suggested and agreed upon that the committee form a "task force of a few members to review the questionnaire to be sent to the industry with the contractor before the next committee meeting." At the next meeting the word from the Justice Department was reported to be that "no prior approval or scope of action could be given." This offered a justification for withholding information that could compromise intercompany competition. According to the minutes, "the mechanisms proposed for insuring against such disclosure were reviewed briefly. Raw data received by the contractor from individual companies would not be disclosed to others, or to NAPCA. Processed data would be released from the contractor, or used in reporting, only in such composited form as would preclude identification of originating specific sources. * * * If desired, the contractor will enter into secrecy agreements with individual companies."

Now, so the story goes on industry liaison committees.

Experiences such as those described demonstrate, I submit, that the industry advisory committee, within OMB and elsewhere, potentially can serve as a vehicle to obstruct and distort agency inquiries, propagandize the issues, incorporate industry biases into governmental policies, and sidetrack investigations that are essential in the public interest. Filtering official policies through an industry advisory committee that may prove to be a functional conspiracy is especially risky on environmental issues. For there can be no question that coming to grips with pollution requires extensive data about manufacturing processing, the type and size of the operations, treatment costs and control technology, the location of water resources and waste discharge points, and the chemical and biological characteristics and quantity of the effluent or emission from a given source, to name but prime examples. No allegations of trade secrets, crusading media, meddling academicians, or politically motivated enforcement officers can undercut the fundamental need to know. In this light, the role of the Office of Management and Budget as the assassin of legitimate inquiry deserves skeptical scrutiny.

I might say that the reforms embodied in the bill before this committee I think are easily defended and I set forth the reasons in my prepared statement.

In my opinion a harder question for the committee is whether tinkering with the membership of OMB's advisory groups would amount to a mere cosmetic gesture where major surgery is required. I believe that allowing the Director of OMB to decide whether the collection of information is "necessary" for the proper performance of the functions of the requesting agency of "for any other proper pur-

pose" is to give an untrammelled authority to suppress legitimate inquiries that goes far beyond the necessities of coordinating approaches to the business community. The experience with the water pollution inventory alone demonstrates that OMB has a bottleneck capacity with great counter productive potential. I am already persuaded that the Director should be stripped of his authority to put his foot in the door to block agency probes into the business world.

Undoubtedly, the committee will take a hard look at other problems with the administration of the Federal Reports Act. To suggest one legislative alternative among many that might emerge, it may prove desirable to reduce OMB to the coordinating role it is supposed to exercise and to allow each agency, after a negotiating period of perhaps 90 days, to initiate inquiries over the relevancy objections of the Director. This or similar relief is especially urgent in the environmental field where governmental data gathering often relies on the informal approach to the exclusion of the formal disclosure techniques of litigation. Under this analysis, limitations on the relevancy and materiality of agency initiatives, as in the case of subpoenas, would be an issue for the court. It seems to me clearly indicated that the agency with substantive enforcement responsibilities should have the legal and political responsibility to be the initial judge of what data is needed to advance its administrative objectives.

Lastly, let me suggest a separate line of inquiry. And I hope that Congressman Moss, given his interest in antitrust, is concerned about this point. I believe that the record compiled by some industry advisory committees points up the urgent necessity for congressional investigation into the antitrust implications of meetings between competitors under Government sponsorship to exchange ideas and develop policies on pollution issues. It was Adam Smith who observed: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public. . . . Though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies, much less to render them necessary."

Plainly, an agreement among competitors to delay the installation of control technology and to obstruct investigatory efforts to these ends would amount to an illegal conspiracy under the antitrust laws, an issue presently before the Nation as a result of the numerous suits that have been filed against the automobile industry. As indicated, NAPCA and the aluminum industry have cited the spectre of the antitrust laws as a justification for withholding individual plant data that would prove very useful in enforcement actions.

On April 9 of this year the Assistant Attorney General in charge of the antitrust division informed the antitrust section of the American Bar Association that "we urge that members of an industry present their views to Government agencies on questions of feasibility and timing on an individual, rather than on a joint basis."

On the previous July a spokesman for the pulp and paper industry informed NAPCA that the opening of a liaison committee that "the industry representatives had met prior to the formal meeting and had discussed volume I of the Milestone report and were prepared to proceed straight through with Mr. A as industry spokesman. Mr. A emphasized that no reference should be made to a particular mill."

For reasons of personal privacy, the particular names of the individuals involved have been excised from the minutes.

Similar issues are likely to be further refined—or aggravated—as a result of the deliberations of the President's recently appointed National Industrial Pollution Control Council which has been divided into 30 subcouncils to consider the problems of each particular industry. Let me say in conclusion that by mentioning these antitrust issues I make no pretense at suggesting a resolution of some of the knotty questions involved. I do hope to point out that the committee's concern about big business domination of OMB's advisory committees should be extended similarly to other aspects of our national life where industries under Government sponsorship may be combining to frustrate the public interest.

Thank you very much.

Senator METCALF. Thank you very much, Professor Rodgers, for a most helpful introductory statement. I want to compliment you on bringing to the attention of the committee some of these specific examples that will be very helpful. You suggested that you would submit copies of the minutes.

Mr. RODGERS. I will.

Senator METCALF. They will be incorporated in the record at the appropriate place.¹

Mr. RODGERS. I might add I was informed by NAPCA I was the first citizen to request copies of these minutes and that might explain the 5-month delay in the decision that they were available under the Freedom of Information Act.

Senator METCALF. I know that Congressman Moss, also, will be interested and concerned in that, because of his activities in behalf of freedom of information.

Mr. Turner has a question.

Mr. TURNER. There is one point that concerns me. Maybe you have the answer and maybe you do not. After a party to an administrative proceeding or agency regulatory proceeding makes an official request for information to the agency, do you have any knowledge to the effect that that agency goes back and checks with the Bureau while it has such a legal request pending?

Mr. RODGERS. Where the initiative comes from industry; is that the question?

Mr. TURNER. Let us say the initiative comes from a party who is not an industry party in the proceeding, administrative or regulatory proceeding.

Mr. RODGERS. Well, I have no specific knowledge of that. I do know that there are several provisions of law that bear on the Government's decision to make available information that it has collected in various investigative proceedings. There are some provisions dealing with trade secrets.

Now, my feeling is that the industry advisory committees, whether they are working within NAPCA or within the Bureau of the Budget, give expansive interpretations to the restrictions of these legal prohibitions and the interpretations literally are not subject to judicial review. The classic instance is the water pollution inventory. Claims

¹ See p. 144.

were made that this would result in disclosure of trade secrets. The end result was that after many years—no inventory.

Mr. TURNER. My question—and I will pursue it further with you—is after a proceeding has started in a regulatory agency or before an administrative agency, the control of the information should be with the agency. Now, does the same situation of checking with the Bureau hold with respect to information requested by a party in such proceeding?

Mr. RODGERS. That, I think, points up the extraordinary difference between the power available to an agency in an enforcement proceeding where we have this liberal judicial view given to the scope of the inquiry and what amounts to a prior restraint power of OMB with respect to these initial investigatory initiatives. The fact that the OMB can decide an issue of necessity indicates that initial inquiries obviously are subjected to very stringent limitations that are not available once the agency gets into an issue specifically in an enforcement case.

Mr. TURNER. So, in effect, if I were a party to a proceeding and requested information that had been previously determined by the Office of Management and Budget not to be asked, I would be precluded by the agency because the agency would be under the constraint of the OMB?

Mr. RODGERS. Exactly. The agency would never have that information to begin with.

Mr. TURNER. And the agency would be a quasi-judicial agency and an arm of Congress.

Mr. RODGERS. OMB unquestionably has an impact, I would say far beyond the courts when it comes to these initial and very important questions of investigative initiatives.

Mr. TURNER. Thank you.

Senator METCALF. I am very sorry that we cannot further explore some of the interesting material that you have. In these closing days of Congress, before recess, at least, we are forced to change our schedule. We thank you for coming and for participating in the hearing.

Mr. RODGERS. Thank you very much.

Senator METCALF. Dr. David Brown has 7 minutes.

Dr. Brown, we are delighted to have you here. Since you are from George Washington University, perhaps we can have you back at some time and further go into it. But anyway, you can put a part of your statement into the record.

STATEMENT OF DR. DAVID S. BROWN, PROFESSOR OF MANAGEMENT, DEPARTMENT OF PUBLIC ADMINISTRATION, THE GEORGE WASHINGTON UNIVERSITY, WASHINGTON, D.C.

Mr. BROWN. Thank you very much, Senator.

I had prepared a rather extensive statement having to do with some of the aspects of the legislation that is being proposed and I would hope very much that the subcommittee would make it possible to include this within the record.

Senator METCALF. It will be included.

(The statement referred to follows:)

PREPARED STATEMENT OF DR. DAVID S. BROWN

I am very pleased, Mr. Chairman, to be invited to discuss with this subcommittee the very important matter of public advisory committees. As you know, this is a subject in which I have had considerable interest over the years as a researcher, writer, and teacher in the field of public administration and management.

Few institutions, it seems to me, are as little honored, as little understood, and as poorly used as the advisory committee. It suffers, as your own inquiry, Mr. Chairman, has helped to establish, from a variety of difficulties. These may be explained in part, by the variety of functions it is asked to perform, in part by the failure to distinguish between them. Few institutions are asked to take on such a variety of functions and few are as quick to be criticized when they fail to come up to expectations.

I have tried to address this point by suggesting a classification of public advisory committees covering six major areas:

1. Committees of a general advisory nature.
2. Scientific and technical advisory committees.
3. Industry or special clientele advisory committees.
4. Specific task advisory committees.
5. Research and study committees (usually called "commissions").
6. Public conferences.

The point is that a committee pursuing any one of these functions performs in a highly distinctive fashion, and should be used, managed and judged accordingly. Generalizations about advisory committees *as an institution* are little better than generalizations, and of dubious value. I have developed this idea more fully elsewhere (see, for example, the hearings before a Subcommittee of the Committee on Government Operations of the House of Representatives on Presidential Advisory Committees, Part 2, May 26 and 27, 1970) and will not labor it here.

The concern of this subcommittee, as I view it, is basically with two of these six committee types—the industry or special clientele advisory committees, and the scientific and technical advisory committees. Membership in the other four types of committees is usually of a broader scope, often including those specifically designated as representatives of the public at large. Certainly the Advisory Council on Federal Reports is an industry advisory committee. A review of its membership underlines this point.

I should like, accordingly, to make a few observations about both industry and scientific and technical committees.

THE INDUSTRY ADVISORY COMMITTEE

The industry advisory committee is so named because its members are chosen from the ranks of a particular industry or group of industries. The committee is established because government has need of consulting or working *collectively* with such persons. (If a government official wishes to consult individually with any person, he is usually free to do so. He does not need a committee.)

There are many situations in which committee consultation occurs. Government may wish the *support* of an industry in any of a variety of ways, and so it assembles those who have influence within that industry to hear what government has to say. It may wish the *advice* of an industry. Sometimes this advice is of a technical nature, sometimes general. Government may wish an industry to help it with a particular task. During both world wars and the Korean War, industry was asked to serve the war effort by determining how scarce materials might be properly shared. It is important to government that such agreements be realized amicably with a minimum of effort.

Many times committees called together for emergency purposes stay on once the emergency is over. One should not be surprised that this happens. Both officials and industry members have gotten to know and appreciate each other, and there is often a mutual desire that relationships be continued even if not at the same tempo. During times of peace, the role of industry committees largely changes. Relieved of the function of dividing up scarce commodities, they (or their successor committees) are more likely to be involved with the giving of advice or the making of suggestions with respect to the "industry view" on a number of important (to them), if not always obvious (to the public), questions. Sometimes such advice is general in nature, sometimes specific, and often technical.

Whether members of such committees "represent" the industry or are representatives of it is a moot point. They are ordinarily men with a very clear interest in what government decides to do. By their attendance at meetings and other agency relationships, they become privy to the major issues and also to the men who must address them.

This can, and does, result in significant "advantages" to the member of the committee. He, of course, is always hopeful of having influence with the government official. The point he would like to make may not be a large one in the order of national affairs, but that does not make it less meaningful either to his industry, to his company, or to himself. The member hopes also to learn what the government is likely to do. Even when he is not able to influence such action, the mere learning about it—or even *suspecting* what will happen—can be vitally important. Interviews some years ago with staff of the Department of Agriculture concerning the reasons men consented to serve on advisory committees there underlined this point. Committee meetings, however tedious they might otherwise be, were always a possible source of "inside" information useful within the industry.

There is also the matter of the prestige attaching to committee membership. Over the years I have noted how often the naming of a person to a committee, however obscure, invariably rated headlines in the local newspaper: "Local Man Advises Commerce Department" or the like. I have come to realize the importance of such designations both within an industry and within a company. Those who serve such committees, whether they utter a word in Washington or not beyond the social amenities, are thought by their associates to have given advice—and also, perhaps, to have learned what was in prospect.

The need for "controlling" the industry advisory committee by government is a matter that has concerned not only administrators and legislators but political scientists, public administrators, and lawyers as well. There is, in fact, no sure way of limiting its influence or even of assuring that it or its members will perform the tasks asked of them—and these only—and will stay within the bounds of both law and propriety. Executive Order 11007 issued by President Kennedy in 1962 defined the industry committee as an "advisory committee composed predominantly of members or representatives of a single industry or group of related industries, or of any subdivision of a single industry made on geographic, service or product basis." It then laid down specific guidelines with respect to how such members were to be chosen, how the committee was to be serviced, how meeting records were to be kept (a verbatim transcript) and the like. The type and amount of government information to be made available to them was also specified.

Even where such guidelines are scrupulously followed, there is still, as the above will indicate, the opportunity for association between the government and those in the "interested" industry to the exclusion of others. This, in itself, is an advantage. Certainly, those favored feel that way about it. And those excluded *feel* excluded.

Where the guidelines are overlooked or disregarded, the problem is much more serious. As a former bureaucrat, I feel that there is a far greater likelihood of sins of omission than of commission. Most of those in the executive agencies want to do the proper thing and are startled when someone questions either their actions or their motives. This does not mean, however, they are without bias. The official in one of the transportation agencies, for example, is convinced that what is good for aviation is good for the country, and his actions are likely to bear out this conviction. He finds a greater community of interest with those in, say, the aviation industry than he does in those in another department of government. And so it is normative for him to seek out industry advice. One should not be startled to learn of the existence of a "military-industrial" complex, or of a Federal Aviation-aviation industry or an Agriculture Department-farmer alliance. This speaks to a kind of "professional proximity" in addition to client-agency or agency-supplier relationships. The danger here is when such a relationship overlooks or disregards a general *public* interest, as it often does, or when it puts its interest ahead of other interests, that we must concern ourselves with it. It is at this point that we look to methods and procedures for containing as well as restraining it. So much for the industry committee.

SCIENTIFIC AND TECHNICAL COMMITTEES

Far more attention has been given and much more concern expressed for the industry committee than for the scientific and technical committee. This may be

explained, in part at least, by the expectations we have had of the expert. By definition, he is the master of his subject. We have accorded him other attributes as well. Belatedly we are coming to discover that he may or may not possess all of these, and some of them certainly not to the degree we feel he should. We have also come face to face with the fact that experts disagree, and that when they disagree the non-expert may often be called upon to decide.

For these and other reasons, I feel it is high time that we subjected the expert to some of the same scrutiny and held him accountable to some of the same procedural standards and safeguards we have set for others. A word or two about the technical committee.

Advisory committees of experts have, of course, proliferated since World War II. Such committees are used widely by government on all levels. Their influence, one suspects, goes well beyond their numbers. One can only speculate concerning the influence of his scientific advisors on a President.

As Professor Francis E. Rourke points out:

"Outsiders holding advisory positions within bureaucracy have been at the center of some of the most celebrated policy disputes that have arisen within the national government since World War II. The struggle over the question of whether the United States should attempt to develop a hydrogen bomb had its focus in the General Advisory Committee to the Atomic Energy Commission—a committee made up of distinguished scientists from outside the government."¹

Add to this the role of the scientist and professional man on such public policy matters as environmental health, the effects of cigarette smoking, crime, the inner city, automation, and narcotics and drug abuse, and one suddenly becomes aware of his enormous and growing influence.

Scientific and technical committees are asked to perform a variety of tasks. These may include that of giving the President, members of his cabinet, and committees of the Congress advice on a wide variety of subjects important to the nation's well-being. They also may include advice of a highly technical nature having to do with the nuts and bolts of administration. Advisory committees are often called into existence to test the manner in which the scientific community they represent will react to a proposed governmental action. They may, as in the instance of the National Institutes of Health, be asked to make recommendations concerning the allocation of funds for medical research. Such recommendations are usually followed even though the responsibility for the decision rests with the agency. There is an in-grown quality to all of this, no matter the Hippocratic oaths one cites.

An advantage of the professional committee is, of course, that it makes available to government talents which would be unavailable in other way. Men and women whose professional careers are tied to other institutions and who would not be available as either full-time employees or as consultants, can be induced to give several days a year (sometimes more) in pursuit of objectives which they share with government. For their part, there is the satisfaction in being involved in programs of personal interest as well as of national moment.

To conclude, however, that the industry committee is susceptible to bias and the scientific committee is not is to be unrealistic. The bias is merely of a different kind. Not only is the scientist likely to "represent" his profession and sometimes his institution, but he may be expected to have a personal point of view which may or may not be "scientific" in the strictest sense, and which it may or may not be wise for the public to accept. A scientist, for all his dedication to science, is also concerned with such personal matters as prestige, status and influence. He is likely to enjoy his service in Washington, despite its sometimes onerousness, because it makes him better known not only in his own field but also in government circles. And it is possible also that the advice he gives may be influenced by such consideration.

The professional advisory committee, like all groups of mortal men, should be suspected of both parochialism and bias. Its exclusiveness does not, unfortunately, preclude either.

PROTECTING THE PUBLIC INTEREST

I noted earlier the difficulty in policing or controlling the advisory committee. Our government is too large, diverse, and far flung to permit the type of control that we so often seek. Neither the efforts of the Department of Justice with respect to Executive Order 11007, nor other Presidential and Office of Manage-

¹Francis E. Rourke, *Bureaucracy, Politics and Public Policy* (Boston, Mass.: Little, Brown and Co. 1969) p. 100.

ment and Budget (previously Bureau of the Budget) efforts to provide for committee management, have had much success.

Committees can, of course, be abolished when their terms of service are up. Procedures can be established for the reporting of meetings and, in part at least, what takes place at them. Such "minutes" can be made available to the public. There can also be periodic review of budgets, committee membership, achievements, and the like. These are at best trifling. They should certainly be continued but we should not conclude by such that they are effective in achieving what we wish to achieve.

This does not mean, however, that we need be without influence in the management of committees. In fact, as I indicated in my earlier testimony before the House Committee on Government Operations, efforts should clearly be made to make the advisory committee more responsive to the needs of our time than it has hitherto been. I suggested six approaches which I feel would help to serve the purpose. Of these, two are underlined by the recommendations of S. 3067.

The first of these has to do with other-than-industry members of the Advisory Council on Federal Reports. Specifically, it would include those who represent "the economic interests of consumers, labor and small business" on the various panels there.

I would, in fact, go well beyond this. I believe that all industry committees should also include "public" members. I personally prefer the naming of "public" members to that which suggests that there be labor, small business or even consumer "representatives". I feel it is important to think of the member as pursuing a public purpose as against being there as a spokesman for a particular interest group. I regard this as a not-insignificant point.

In fact, the purpose behind the naming of "labor" or "industry" is often foiled by their "getting into bed together". During a period of time in which I was an observer of the policymaking process in the field of trade and tariff, I noted how often pressures were placed by representatives of interested industries on union members to join with them, and how often the spectre of redundancy was raised as a sanction to encourage such a united front.

The appointment of public members, men and women who are specifically designated as public members, to industry committees is long since overdue. This, in my view, would not only work for greater acceptability of the recommendations these committees make but would also be likely to improve the nature of their recommendations.

The knowledge on the part of a member from industry that he must make his case to a public member as well as to a government official is a useful beginning. He must, of course, give added thought to the nature of the recommendations being made. There is the realization by him that a failure to make his case stand up in-house will usually insure its failure outside.

I do not fear that the public member will suffer from his non-expertness. Over the years I have observed public members dealing with difficult and complex problems and have been impressed by their comments and their judgments. In the same manner that a legislator, who is by definition a generalist, must choose among the experts, the public member will be asked to make choices in a technical field. If he has been selected wisely, he will be able to do this with good effect.

I would like to share with this committee my own experience as a public member of a select committee in the Office of Education several years ago. We were dealing with the subject of school guidance and counseling programs about which at that time I had very little specific knowledge. I explained this to those who asked me to serve and was assured that this was one of the reasons for my choice. As the meetings progressed, however, I began to realize that I and the other two "public" members were performing a useful service by focusing upon points on which there was disagreement among the experts, calling attention to the significant public issues involved, and on a number of occasions helping to achieve a consensus by the types of questions we asked and the manner in which we sought to bring the varying views together. I am pleased to report how well I felt about my assignment, and how well I think my associates felt about having me and the other public members there.

Since that time I have attempted to explore the subject more fully. I have observed the manner in which public members generally behave in other such situations, the roles they perform and the manner in which they come to be viewed by those with greater specific expertise. My own experience has been verified in a number of ways. Perhaps I should not have been surprised by this. Even the expert, to say nothing of the businessman, knows that he lives in a world

of non-experts. He must be able to convince other people— in fact, many others— of his viewpoint. Failing to do so, he must be prepared to live with the results.

The expert deals on a daily basis with helpers that are not as well informed as he is, with administrative people, with suppliers, with clients and with members of the public at large. Presumably when he goes home at night he talks over some of the problems of the day with another non-expert, his wife.

Most of us, of course, prefer things the way they are rather than accept changes that will cause us to vary some of the things that we are doing. All other things being equal, we favor continuing to meet with those in our own profession rather than with others whose views are thought to be hostile or at least unknown. You can expect opposition, Mr. Chairman, to any suggestion requiring new membership on well-established panels. This is not an argument, however, against such a proposal.

The businessman, although regarding the industry advisory committee as his own, may even be more amenable than the scientist to admitting the "outsider." His life is one of competitiveness and while he has found a number of ways of controlling it, he is usually not left aghast by it. In fact, he will still be, if as many as a third of the members of the committee are public members, in a clear majority.

The scientist and the technical man, on the other hand, are likely to feel that the presence of non-scientists detracts from the purpose to be addressed. The professional man will often cite the highly technical nature of the problems to be discussed and the difficulties that will be created by an outsider being present. Such arguments should be seen as compelling. In the final analysis, the scientist or businessman member of a committee can elect, if he feels strongly enough about it, not to serve. A few may so declare, but I am of the view that the majority will accept the appointment of public members and will in a few weeks' time feel no more strongly about it than they feel about other procedural changes.

I believe it important that the public members be so designated. While many persons in the ranks of industry, labor, and science think in "public interest" terms, I have found it wise to give those who are appointed as such this kind of a title as well as mission for all to see and take note of. The importance of this was underlined for me when, as Executive Secretary of the Public Advisory Board for Mutual Security a number of years ago, I noted the status which such a designation implied. It carries with it a responsibility which the kind of men and women who are selected for these positions are sure to recognize and honor.

I would also expect that the public members would contribute more than their background and titles would suggest to the technical discussions. The increasingly complex nature of our society argues clearly the case for the professional. But what should not be overlooked is the fact that there is increasing need also for the thoughtful and disciplined man and woman with an appreciation of the problem and also the contributions of many professions to it. Stated another way, the generalist is often someone with a more than passing knowledge of a number of fields and an ability to integrate their varying demands.

The wise administrator will do well to select the public members of his public advisory committees with care, taking into account not only the balanced thinking which will be required but also the time and energy which a prospective member can give to the assignment. Serving on a governmental committee takes time. It should ordinarily not be asked of those who do not have this time to give.

I would particularly recommend women and young people for consideration as public members. It is not that they have more time than others but rather their willingness to use such time as they do have to bridge the sex and generation gaps which, among other things, recommends them. It seems to me also that they are among the most zealous where assignments of this kind are concerned, but perhaps this latter point would not recommend them to governmental administrators.

THE PUBLICATION OF COMMITTEE RECORDS

In my earlier testimony, I recommended the publication of committee reports and research findings as a means of making available to the public the results of advisory committee work. Many of the findings of such committees are lost to the public because there is no single repository to which one may go for information concerning them.

It is important to make such records for another reason. In these days of alienation and mistrust every reasonable effort should be made to avoid

creating a "closed" bureaucracy. That such an inner chamber arrangement may include representatives of the scientific community, industry, agriculture, labor and the general public may not make it any less closed. Nor is the fact that the committee has dealt with little of real importance—members may privately fret that their advice has not even been asked—of any great merit. As far as the average citizen is concerned the closure of records to him or his representatives shows that he has been excluded, and that is what matters.

Government must not only be as open as national security permits, it must also give the appearance of openness. The failure to produce minutes of meetings or some kind of a summary of what took place, along with such reports as the public has a right to know about, for whatever reasons, is obnoxious to the idea of openness. Government can be expected to be attacked for such practices. In fact, it invites attack. As a professor of management, I am well aware of the need for discussion behind closed doors, but this does not mean that *all* discussion need be conducted in this fashion. In fact, far more is done under the stricture of confidentiality than needs to be the case. Much that is currently suspect would, if made available to the public, be seen to be innocuous. Government, by its methods, must see to it that insofar as possible it is, like Caesar's wife, above suspicion.

The addition of public members is a step in this direction. The making available of minutes of meetings is another such step. (I am now talking about all, or nearly all, advisory committees—not just those of an industrial or technical nature.) Administrators, as suggested above, must have the right to talk with whomever they choose, and in private, and for that reason I am not ready to recommend that advisory committee meetings automatically be made open to the public. But I certainly have no reservations with respect to the public availability of reports of such meetings, of studies undertaken, and the like. In fact, I think that there should be a central clearinghouse for maintaining the same in order to convenience scholars and other persons with an interest in such proceedings.

THE ADMINISTRATOR AND THE PUBLIC

The subcommittee should have, as these remarks have tried to indicate, no doubt concerning my views on advisory committees. I am strongly biased in favor of them. This view is based upon the assumption that the committee has a proper role to perform in today's complex society, and that it will be used properly by the administrator to whom it is assigned. Unfortunately, a large number of such committees have neither a clear or useful assignment; and many more are poorly used where used at all. There is also the tendency, as indicated earlier, of administrators to pack them with those known to be supportive. Nevertheless, I am somewhat optimistic concerning the future.

My belief in the usefulness of the advisory committee stems not so much from its own history of success as from the relative lack of institutional arrangements for bringing public and officials closer together. As our society has grown in size, so have our organizations. The large organization is no longer the exception; it is more often the rule. Bigness means many things. It means power, affluence, capability and survival. Bigness has many advantages. Certainly we can no more go back to the day of the small organization than we can return to the day of the horse and buggy, however desirable this might be from an environmental point of view.

But bigness does not equal greatness, nor does it mean that the large organization is either responsive to the needs of those who earlier may have created it, or be responsible to anyone at all. Bigness means specialization, standardization and systemization. It also means impersonality and insensitivity. I regard the public advisory committee, whether used by government, industry or any other institution, as a means of encouraging contact, however modest and however minute, with the citizen or the client system. The advisory committee is a reminder that the organization is not monolithic in nature, surrounded by walls and a moat, but rather a system which must depend ultimately for its success upon the relationships it has with those not officially a part of it.

Because of the complex nature of our society it is hardly possible to make the committee representative. Even though a number of my associates have condemned it because it is not and can never be truly representative. I see this as no real argument against it. A useful public purpose is served in my judgment by including within its membership sufficiently different points of view so that these at least will be heard. If we are unclear what the correct proportions

ought to be, we can take some measure of solace in the fact that we have provided an opportunity for arguments to be heard and ideas advanced which would not otherwise be the case, and can hope that in a number of instances these will produce some of the effects wanted. I have long since given up the notion that we can organize our way to Valhalla. This does not mean that we cannot improve upon the devices and the institutions we already have.

As I have indicated elsewhere, the advisory committee re-enforces the idea of citizen participation in today's government. It suggests the need for an appreciation of the citizen and the client by the official. The requirement that there be public members on all committees, and that the records of advisory committees be available to the public, would strengthen such an objective. I hope that this will be favorably considered by this committee.

Mr. Brown. Senator, I would like to say at the beginning that I approach the subject of advisory committees as a political scientist by training, as a former public administrator, and now as a professor of management. My primary concern is large organizations, which certainly include the bureaus of the Federal Government.

I mention this because I am deeply concerned with the business of getting Government's work done. I am concerned with the basic integrity of Government, with the manner in which it is perceived by the people of the United States and elsewhere. I feel there is a relationship between all of this and the work of advisory committees. My comments are prefaced by the admission that I am strongly biased in favor of the advisory committee as an adjunct to Government. On the whole I believe it to be a very useful one.

Now, this does not mean that I am without reservations as to its application in a number of areas and, specifically, as to the manner in which many administrators have made use of it.

I think Senator, that you as a person, and your subcommittee as an organization, ought to be congratulated for your focus on the very important areas of the industry advisory committee. This, of course, needs all the attention it can get. One of my own contributions, I feel, in the study of advisory committees has been an effort to classify advisory committees so that the judgments we form with respect to one type of advisory committee need not be used with respect to others unless they are clearly applicable. The industry committee has for a long time concerned political scientists, public administrators, management specialists, and also lawyers, because of the manner in which it brings people with a particularized interest into the affairs of Government.

You focus, as I indicated earlier, upon a number of these committees and in particular on the Advisory Council on Federal Reports, is clearly long since overdue.

I make a number of generalizations in my statement with respect not only to the industry advisory committee, but also to another category of committees that thus far has received not nearly enough attention. These are the scientific and technical advisory committees.

My statement points out that some of the problems which you and others have called attention to in case of the industry committees also exists with respect to the scientific committees. There has been a tendency on the part of laymen—and I include myself in this category—to regard the pronouncements of the scientist as pure and holy and above the encompass of mortal men. Nothing, of course, could be further from the truth. However well intentioned many of the members of the scientific and technical advisory committees are—and

I do believe they are well intentioned—there is a public interest that requires us to do more than accept their words as gospel.

Now, because my time is limited this morning and I have already used up most of it, I would like to suggest that your bill does not go far enough. Section (b), for example, which suggests that the Advisory Council on Federal Reports include representatives from small business, from trade unions, and from consumer groups, should provide instead, I believe, for representatives of the public at large. It is my observation and experience over a long period of time that there is too great a tendency of many "representatives" of such groups to think in terms of trade unions or small business only. This produces a kind of parochialism which we protest where large business is involved and which we ought to protest in the case of small business, consumer groups, and trade unions as well. I have developed this point more extensively in my remarks.

I would also like to see public members being named to scientific and technical committees. I address you on this point as a generalist. You and other Members of the Senate of the United States are generalists, except as you happen to be professionally qualified in particular fields. Nevertheless, you are used to sitting in judgement of specialists. At times it is difficult, I am sure, to understand some of the more technical issues propounded by the specialist, but it is a function of the generalist to do this, and, as Members of Congress have demonstrated over the years, it can be done successfully and well. There is nothing un-American or unmanagerial about introducing the generalist, namely, the public member, to either the industry committee or the scientific and technical committee. In fact, there is ample precedent for it.

The second point I would like to urge is that administrators be required to make the reports of all advisory group meetings available to the public. I am reluctant to open meetings to the public because there is much to be gained from frank and open discussions which would not be possible without some restriction on attendance. A positive step which the executive branch might take would be to provide a central clearinghouse for information of this kind, where a citizen or his representative could go to get information on advisory committee activities, their meetings, and their reports.

I think as you can see by the tenor of these remarks that I feel that much more needs to be done, but that this is a worthy beginning.

Senator METCALF. Well, as I told Professor Rodgers, I regret very much, Dr. Brown, that the change in schedule has made it impossible for us to explore some of these things further. Your statement has been placed in the record and will be printed in its entirety.

Would you with Professor Rodgers like to stay and discuss with Mr. Turner and Mr. Reinemer of my staff some of these problems? Perhaps we can develop some questions and some answers that also should go into the record.

Mr. BROWN. I would be very pleased to, Senator.

Senator METCALF. Mr. Rodgers, would that be all right with you?

Mr. RODGERS. Certainly.

Senator METCALF. Well, with that arrangement and apologies to the subcommittee, I will call this in recess and hopefully we will continue

our regular schedule tomorrow on October 7. Hopefully we can get legislative reform through the Senate today.

We will be in recess until tomorrow morning.

(Whereupon, at 10 a.m., the subcommittee recessed.)

(The following letter was received subsequent to the hearing, and is herewith printed as instructed by the chairman on p. 2:)

ADVISORY COUNCIL ON FEDERAL REPORTS,
Washington, D.C., October 22, 1970.

HON. EDMUND S. MUSKIE,

Chairman, Subcommittee on Intergovernmental Relations, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR SENATOR MUSKIE: As indicated in my letter of October 2, we are pleased to have an opportunity to file for the record comments in connection with the hearings of the Senate Subcommittee on Intergovernmental Relations with respect to S. 3067. Since other than Senator Metcalf, members of your Subcommittee were unable to be present for these hearings, we are furnishing a sufficient supply of this presentation to cover all members of the Subcommittee, the full Committee, and staff.

As you know, S. 3067, which goes back to an introduction date of October 23, 1969, is a bill introduced by Senator Metcalf designed to require consumer, labor, and small business representation on Budget Bureau advisory committees on which business representatives serve.

Preliminarily, let me make it perfectly clear that, as this letterhead indicates, these comments and recommendations are offered by me as current Chairman of the Advisory Council on Federal Reports. I speak for the Council simply because under our rotating system of designating chairmen, I happen to be Chairman of the Council at the present time. None of the comments or recommendations which are made in this presentation should be attributed to the organization with which I am associated as President on a full-time basis, namely, the Machinery and Allied Products Institute. This is not to say that there would necessarily be any conflict in viewpoint, but I do want to ensure that there is no misunderstanding as to the organization for which I speak on this occasion. It should also be understood that I cannot speak for the Office of Management and Budget, directly or indirectly. Beyond presenting comments in behalf of the Advisory Council on Federal Reports, at certain points in this statement I have taken the liberty of articulating certain views which I hold as a citizen. I am sure that the Subcommittee would receive such comments sympathetically because as is so frequently pointed out in the record of the current hearings, we are supposed to be talking about the "public interest."

This concept of the "public interest" has always interested me as an individual. I think all too often persons in and out of government try to appropriate to themselves a special and unique ability to define the public interest to the exclusion of other points of view and to identify themselves as being the spokesmen for the public interest. On this point, I have serious difficulty with this Subcommittee's hearing record. I have always been intrigued by the fact that Senator Eugene McCarthy of Minnesota shares my view on the subject of "speaking for the public interest" and I should like to quote certain statements made by Senator McCarthy on the floor of the United States Senate on August 31, 1962, with reference to the Revenue Act of 1962. Senator Gore had taken upon himself to be representative of the public interest in expressing opposition to certain provisions in the bill. Senator McCarthy responded as follows:

"It may well be, but I think it is a fair proposition that we should not be prejudiced by the Senator from Tennessee, who seems to have discovered that he is the voice of the people. He may have a special gift. I do not have this gift. There are some people who seem to have what the Scripture terms the power of discernment of spirits, or the reading of spirits, in that they understand and speak the will of the people. There are Members of the Senate who say they speak for the majority of the people of the country. I do not know how they have discovered that. On the other hand, I think it is best to proceed by examining a problem and by coming to a mastery of the many facts that are available, and on that basis to make a reasonable judgment."

Also by way of preliminary comment, it should be pointed out that certain of the testimony adduced at these hearings relates to advisory committees to government in general, as distinguished from the Advisory Council on Federal Re-

ports specifically and its relationship with the Bureau of the Budget and the new organization, the Office of Management and Budget. We will address ourselves almost exclusively to the Advisory Council on Federal Reports and its relationship with OMB. But a few comments on the broader question of advisory committees to government are in order.

Advisory committees in general

I have considerable sympathy with the proposition that periodically the Executive Branch should take an inventory of advisory committees and determine whether particular committees continue to serve a useful function. This type of critical examination should, of course, also be employed when consideration is given to the appointment of new advisory committees. As a matter of fact, under rules laid down by Executive Order 11007, periodic review of advisory committees is called for. Beyond this fundamental and rather obvious point, the record should be clear that advisory committees in our governmental structure are not limited to the constituencies of business. There are labor advisory committees to government; President Nixon recently appointed a Consumer Advisory Council;¹ there are advisory committees or commissions appointed on an ad hoc basis; and so it goes. Moreover, these advisory committees do not operate without regulation. Executive Order 11007 promulgated by President Kennedy on February 27, 1962, referred to above, lays down certain rules with regard to the operation of advisory committees and similar committees whatever their technical name may be, and this Executive Order has been implemented at the departmental and agency level.

I want to emphasize that the total advisory committee structure is by no means dominated by the business community. Thus, those who are critical of advisory committees *per se* should be careful to recognize that what they have to say in very broad and sometimes careless language may relate to a group of advisory committees in which they have an affirmative interest, as distinguished from those committees which some have charged in these hearings as being dominated by big business. Finally, with regard to advisory committees in general—and I concede that in government or out of government any technique of this type can be overdone—the main reason that advisory committees exist is because government *needs* advice and counsel from the outside and seeks it. They exist at the will of government and they should not be made “whipping boys” for careless commentators who are either uninformed or for some reason have a deliberate desire to assign the blame for a failure of government to execute promptly an idea or program as to which the commentator involved feels strongly. It seems clear that before long, we will have many consumer advisory committees just as we now have labor, industry, and scientific advisory committees to government. In a nutshell, therefore, let us be responsible, more careful, more understanding about the advisory committee process than appears to be typical of loose and careless discussion which at least in part is reflected in these hearings.

The status of and authority for the Advisory Council on Federal Reports

The Advisory Council on Federal Reports was organized in 1942 at the request of the Bureau of Budget after enactment of the Federal Reports Act. It was organized for the express purpose of furnishing advice from the business community to the Bureau of Budget when BOB² felt that on questionnaires or other forms intended for general circulation it needed the comments and recommendations of business from a *respondent* point of view. There was no contemplation originally, nor has there ever been since, that the Advisory Council on Federal Reports would purport to or be authorized to speak for all segments of the economy; rather it was limited to the role of expressing recommendations and views from business, as respondents to a proposed form or questionnaire. This is not to say that OMB does not or should not seek the advice of other segments of the economy, a point which we shall develop in more detail later.

The Advisory Council has no decision-making authority whatsoever. Nor does it engage in any activities which are inconsistent with or inappropriate to its advisory function. The operations of the Advisory Council, in the sense of meet-

¹ Relevant to certain points made later, it should be noted that there are no business representatives on this Consumer Advisory Council.

² For convenience, hereafter, we shall refer at most points to the Office of Management and Budget (OMB) which is the successor and enlarged organization, even though from a time standpoint the more accurate reference would be to BOB.

ings of the Council itself and its standing committees and ad hoc panels which are convened at the request of OMB, are governed by OMB procedures in conformance with the Executive Order controlling the activities of advisory committees. There is absolutely nothing in the makeup of the Council, in the conduct of its affairs, and in its relations with OMB and with other government departments or agencies which participate in panel sessions that is conspiratorial in character. All of the statements or inferences in the record which suggest, imply, or assert such a relationship with OMB or any other department or agency of the U.S. Government are wholly inaccurate and, in some instances, appear to be deliberately misleading.

Should the Advisory Council appear in congressional public hearings?

To the best of my knowledge during my experience with the Advisory Council which goes back to 1961, it has never been invited by a congressional committee to appear in a public hearing until the recent invitation from a Subcommittee of the House Committee on Government Operations and the current invitation issued by this Subcommittee of the Senate Government Operations Committee which has held hearings on advisory committees with special emphasis on the Advisory Council on Federal Reports and its relationship with OMB. We took the position with the House Subcommittee that, in our opinion, it was inappropriate for the Advisory Council to appear formally in a congressional public hearing. As already explained, the Council sits at the pleasure of OMB. It was organized and continues to operate at the request of OMB. OMB is a part of the Executive Branch of the government and, in view of that fact, coupled with the advisory function to which activities of the Advisory Council are limited, at the minimum we hold strong reservations as to the propriety of our participating formally in congressional public hearings. As a matter of courtesy, we did file with the House Subcommittee informal comments in writing. We would confine this statement to similar and limited informal comments if it were not for one fact. The record as developed thus far is wholly unbalanced. It is inaccurate in many important respects. Allegations have been made which are in error and in some degree mischievous, and we feel an obligation to the Subcommittee, to the full Committee, as well as to the Advisory Council and to our relationship with OMB to try to clear up at least some of the errors, misstatements, or misunderstandings held either by the Subcommittee and its staff or by the witnesses who appeared before it in these hearings. That is the objective of this presentation and, under the circumstances, we are obliged to be candid and quite direct.

The character of the record which has been developed thus far

Without wishing to be disrespectful, since personally and in behalf of the Advisory Council I have the highest respect for the United States Senate and its distinguished committees, I feel obliged to observe that this hearing appears to have been launched in an atmosphere of prejudice. For example, certain statements in the press release of October 1 which were attributed to Senator Metcalf, in my judgment, are inaccurate or, at the minimum, misleading. I refer to the following language:

"Advisory committees have had a substantial influence on public policy during the past quarter of a century. They have held up for seven years a critical inventory of our nation's industrial water waste. They have thwarted a Federal Trade Commission investigation of ownership and interlocks among the country's leading corporations. They have delayed a national air pollution survey, resulting in a promise that whatever information was supplied would not be made public. And they have succeeded in obtaining modifications of Federal Power Commission regulations requiring more definite reporting of utility contributions and expenditures for lobbying, advertising and public relations."

Let us examine this series of statements sentence by sentence:

1. It must be assumed from S. 3067 itself and from the context of the press release that the "advisory committees" used in the first sentence refers to the Advisory Council on Federal Reports, its standing committees, and ad hoc panels. The conclusion that these committees or panels have had a substantial influence on public policy is unsupported; indeed, it is fantasy.

2. The second assertion that the Advisory Council or any of its committees "have held up for seven years" a critical inventory of our nation's industrial water waste could not possibly be true. The Advisory Council and its committees have no authority to "hold up" any proposed form or survey. To be sure, Advisory Council comments were solicited by OMB, legitimate questions were raised, but the survey or inventory was not approved by OMB until very recently simply

because of the apparent lethargy or lack of proper follow-through of the sponsoring department.

3. Next is the charge that the Advisory Council's committees have thwarted an FTC investigation of corporate ownership and interlocks. The fact is that the survey in question was approved by BOB but the House Appropriations Committee refused to approve funds for the project. Although Senator Metcalf may have disagreed with this result, he cannot dispute the authority of the body which took the action. Further, we understand that FTC did not press in the Senate for a reversal of the decision. (See Daily Report for Executives, No. 195, October 7, 1963, Bureau of National Affairs.)

4. The reference to delay in a national air pollution survey also is in error. According to our files, only one survey relating solely to air pollution has been the subject of an Advisory Council meeting. In March of 1968 our Committees on Public Utilities met twice to comment on the joint FPC and HEW "Air Pollution Quality Control Questionnaire—Electric Power Plants" proposed under the Air Quality Control Act of 1967. Minutes of these meetings reflect a high degree of industry assistance in sharpening the survey form and keying questions and instructions to industry practices and plant techniques. As a further evidence of its desire to lend full cooperation, our Committees and the Edison Electric Institute contacted the questionnaire respondents to assure their reporting, in the interest of industry-government cooperation.

Incidentally, no promise was made that the information supplied would not be made public. On the contrary, it was clearly understood that the results would be available to the public.

5. Now we turn to the final assertion, relating to the Federal Power Commission. On November 7, 1968, ACFR Committees met at BOB to discuss a proposal submitted to BOB by FPC that its 1958 order establishing a \$25,000 cut-off for Class A and Class B companies on reporting of "Charges for Outside Professional and Other Consultative Services" be revised to set up a \$5,000 cut-off for detailed listing with all payments under that amount to be grouped by category. Industry opinion at that meeting strongly urged that the long-established \$25,000 cut-off be maintained on the grounds that reduction would be an onerous burden and that FPC audit procedures should be used to obviate this burden.

At a second meeting on December 19, 1968, the FPC reiterated its proposed \$5,000 cut-off for detailed reporting and added a requirement that reports of payments in excess of \$600 be made in less detailed form. This adjustment, minutes of the meeting state, was made in response to the BOB request that FPC carefully reassess needs against burden. Again, industry representatives stressed the cost burden and suggested alternative cut-off figures.

As finally approved by the Bureau and subsequently the Commission itself, detailed reports for such services are required from Class A companies for payments of \$10,000 or more and from Class B companies of \$5,000 or more. Simplified reporting is required from both classes of companies on payments for such services in excess of \$600 but below the other cut-off figures.

It should be noted, however, that detailed reporting calls for name and address of the recipient, description of services received, the project or case to which they relate, total for the year and the account to which they are charged; so-called simplified reporting requires name and address of the payee, predominant nature of service rendered, and the amount.

To sum up, the "modifications" referred to were made by the FPC in its reassessment of need versus burden, were approved by OMB, and the Commission itself, and in effect resulted in lowering the reporting cut-off of \$25,000 for "Charges for Outside Professional and Other Consultative Services" to a reporting cut-off figure of \$600.

In short, the modifications referred to by Senator Metcalf were quite minor from the standpoint of information sought by FPC.

Beyond this press release which served as a kind of foundation for the hearings, with a few exceptions including the invitation to the Office of Management and Budget and to the Advisory Council on Federal Reports, the witness list was obviously unbalanced.

What is the role of the Advisory Council?

We have already discussed the status of, authority for, and mandate under which the Advisory Council operates. In this connection, it should be made clear that contrary to impressions created by the Subcommittee's press release and the

record, Section 3(d) of the Federal Reports Act of 1942 provides ample authority for the Director of the Bureau of the Budget to create and continue in effect the Advisory Council on Federal Reports as a principal mechanism for obtaining comments and advice outside government. No more definitive authority is needed. Indeed, even without the pertinent portion of Section 3(d) of the Act, reasonable administrative action by the Director of BOB to carry out his broad responsibilities under the law would be appropriate.

I should like to turn now to more detail on the manner in which standing committees or panels of the Advisory Council address matters placed before them by OMB. An issue may be placed before a standing committee which is already organized. The panels are ad hoc in character, dealing with a particular subject not within the scope of a standing committee. When these committees or panels meet, they sit together with representatives of the sponsoring department or agency. The meeting is chaired by the designated OMB official. In advance of the meeting, the committee or panel usually has had an opportunity to review the basic papers. At the meeting or panel session, it is customary for the OMB official to call upon the sponsoring department or agency representative to open the discussion with a restatement or amplification of the justification for the proposed questionnaire or form. Under the chairmanship of the OMB official, the discussion may cover viewpoints which affect the entire proposed questionnaire. If there do not appear to be any such general points deserving of discussion, the questionnaire is examined in detail, point by point or line by line. It is considered quite appropriate for the discussion to engage such question as: (1) What is the basic authority for the questionnaire? (2) Assuming full authority for the department or the agency to collect information of the type proposed, is the questionnaire necessary in terms of whether the information is available from other sources in a form that will meet the need of the department or agency? (3) Is the questionnaire drawn in such a manner that it will produce the results desired? (This, of course, leads to detailed discussions on individual questions, the manner in which they are drafted, whether they are ambiguous, how they can be improved, etc.) (4) Are some of the questions duplicative within the context of the questionnaire? (5) Is the information being sought on a mandatory or voluntary basis? (6) In certain cases, it is appropriate to inquire: Is confidentiality assured to the individual response? (7) With respect to any individual question or with regard to the questionnaire as a whole, will the responses furnish the government meaningful information or will the information be too limited, misleading, or otherwise not useful? (8) Is the questionnaire drafted in such a way that it will cause undue burden in reporting and, if so, can it be redrafted to minimize the burden and cost not alone to industry respondents but also to the government in tabulating, analyzing, and drawing conclusions from the information? (9) Is the government in tabulating, analyzing, and drawing conclusions from the information?

Development and discussion of such questions may lead the committee or panel to one of several alternative conclusions. The net of the recommendation from the industry representatives may be that the questionnaire is unnecessary for any of the reasons suggested above and that it should not be issued. The net of the industry view may be that there is no question about the justification for the inquiry but that the questionnaire itself can be substantially improved along the lines of certain points just enumerated. Finally, there is the alternative that the industry comments will be very minor in character and in general the tone of the reaction may be one of full endorsement with only minor modifications.

During the course of such discussion, the government sponsoring agency has full opportunity to respond to any questions or criticisms or to reserve the right to look into any such questions or criticisms. The OMB itself through its representative frequently participates and asks questions or offers suggestions. Once the detailed discussion has been concluded and any general committee or panel recommendations offered, the matter is then in the hands of the OMB for decision, usually in the light of further consultation with the sponsoring department or agency. The industry committee or panel having had its opportunity to present its comments has completed its assigned task. It does not collaborate with OMB in developing the final decision on the question. It has no decision-making authority whatsoever.

With respect to certain points made during the course of the hearings, it should be borne in mind that the department or agency which is sponsoring the questionnaire in a sense represents the general public whether it be labor, business, the consumer, or any combination of these constituencies. Moreover, as already

pointed out, under current practice, the meetings of committees and panels of the Advisory Council are open meetings.

In general, therefore, there is either a complete misunderstanding on the part of most of the witnesses as to the manner in which these panels and committees operate and as to the limitations on the function of the Advisory Council or, conceivably, in some cases there may have been a deliberate desire to mislead. We grant the benefit of the doubt and are prepared to conclude that the errors which are so replete in the testimony of most of the witnesses are attributable to misunderstanding and a lack of information.

Why the Advisory Council Should Be Only a Business Council

As reflected in the hearings, both in testimony and questions and answers, and as is implicit in Senator Metcalf's bill, emphasis is given to the assertion that the Advisory Council on Federal Reports does not include representation of small business, the consumer, and labor. Senator Metcalf's bill attempts to correct what he considers to be a serious defect in the Advisory Council setup by prescribing that these other elements in our society should be represented on the Advisory Council and more particularly that one-third of every business advisory committee or panel consist of consumer representation.

Let us address directly the S. 3067 proposal requiring that the Advisory Council on Federal Reports become a tripartite or quadripartite body.³ This would make no sense whatsoever. It would not aid government in a meaningful fashion and it would water down what OMB wishes to obtain, namely, the advice of business as respondents on a particular questionnaire. Such Council sessions would become debating societies and candor on the part of business would be restrained. What OMB wants under these circumstances is a completely frank expression of the business point of view, which point of view is then rejected or accepted in whole or in part and the decision made finally by OMB. OMB has made it clear that it welcomes advice and consultation from interests other than business, but it does not follow at all that this should be accomplished via the Business Advisory Council meetings.

Referring to the representation of small business, the Advisory Council on Federal Reports has recently been privileged to have the National Small Business Association become one of its sponsors. This raises the level of participation by small business which through this association had long been represented on the Council. We believe that more can and should be done to obtain and benefit from the views of small business, and the Council is now reviewing its standing committees⁴ with this in mind. Small business representation in panel sessions will also be reexamined. Further, an additional representative of small business is being added to the Advisory Council itself. Finally, having in mind the scope of the committee coverage shown in the footnote below, if the National Federation of Independent Business, which participated in these hearings, has suggestions as to committee membership, we would be pleased to consider them.

This expression of concurrence in and appreciation for the suggestion made during the course of the hearings and previously by Senator Metcalf is the only point as to the Business Advisory Council structure with which we can express agreement. However, we would like to make the following suggestions regarding ways in which input might be obtained effectively for the benefit of OMB from other constituencies in our society beyond business. We will proceed at this point on the assumption that Senator Metcalf and those witnesses who support his position are interested in ensuring that the views of the consumer, labor, and the general public should be available to OMB but that they are open-minded with respect to the mechanism for achieving this result. We have already stated our unequivocal position that the Advisory Council on Federal Reports, which should more properly be named the Business Advisory Council on Federal Reports,⁵

³ The pertinent portion of S. 3067 reads as follows:

(b) No advisory committee which includes among its members individuals who represent the interests of business or commercial enterprises may be used by the Director to assist or advise him in or with respect to the administration of this Act unless that advisory committee includes among its members one or more individuals who are chosen from private life to represent the economic interests of consumers, labor, and small business within the United States. Not less than one-third of the membership of any such advisory committee which is composed of three or more members shall be individuals so chosen to represent the economic interests of consumers.

⁴ Standing Committees of the Advisory Council on Federal Reports to OMB: Air Transportation, Banking, Chemicals, Equal Employment Opportunity Surveys, Fats and Oils, Industrial Classification, Meat Packing, Natural Gas Pipelines, Petroleum and Natural Gas, Public Utilities Coordinating Committee, Public Utilities—Financial Reports, Public Utilities—Operating Reports, Communications Industry, Railroads, Retail Trades, Scientific and Research Activities, and Wholesale Trades.

⁵ Action to this effect is in the process of being taken by the Advisory Council.

should not be reconstituted in the manner in which the bill before this Subcommittee provides. On the other hand, there is already in existence in the OMB a labor advisory committee.⁶ We understand the committee has not been particularly active but there is no reason why it cannot become more active and participate more frequently in consultations with OMB. In addition, without wishing to presume, we suggest that the OMB give consideration to extending an invitation to established and reputable consumer interest groups to form a consumer advisory council to function in their areas of interest and know-how.

Further, we acknowledge that with respect to a limited number of issues, as contrasted with the very large number of questionnaires on which the Business Advisory Council on Federal Reports meets and makes recommendations, there are broad socioeconomic implications. If OMB in its discretion feels that it would be desirable, it might hold special ad hoc meetings on this type of questionnaire such as those relating to pollution and product safety, where all of the constituencies in our society would have an opportunity to appear and offer their views. This would bring together representatives of business, labor, the consumer, and interested government departments, agencies, or commissions. It should be made crystal clear, however, that this suggestion is not intended to exclude or be a substitute for activities of the Business Advisory Council or other special OMB councils which would be consulted separately and before any such general session. We repeat that we object strongly to any effort to convert the Business Advisory Council on Federal Reports in the manner suggested by the bill or by the witnesses.

The suggestion we have made is not original. There are a number of departments in the government, for example the Labor Department, which have chosen this course. In that Department, in the statistical area there are separate labor and business advisory committees.

In reference to these suggestions, it should be emphasized that the great majority of matters which go before the Business Advisory Council will be of little or no interest to these other constituencies including the consumer and labor. There is only a narrow band of what we have previously referred to as socioeconomic questions with public policy implications that would warrant meetings of a labor advisory council or a consumer council or, in addition, one of the special ad hoc overall meetings which we have attempted to describe.

The special expertise required to assist the OMB in its review of forms

It is our firm conviction that Senator Metcalf and almost all of the witnesses appearing in the current hearings have premised their opinions on the fundamental misunderstanding that the meetings of the Advisory Council on Federal Reports involve largely a discussion of policy, as distinguished from an attempt to evaluate a questionnaire as to content, draftsmanship, and meaningfulness of the data that might be obtained.

The development of a questionnaire is a definite art in the sense that inexperienced personnel in or out of government do not know how to draft questions properly, are unable to appreciate problems of interpretation and burden upon the respondent, and have difficulty relating the questionnaire as drafted to the substantive area to which it is addressed. To the benefit of the BOB and the sponsoring agencies, the special expertise provided by the Business Advisory Council helps tailor questions to the area covered, tests overlapping questions to avoid duplication, and assists in ensuring meaningfulness of the information to be furnished. And, to be entirely candid, raising responsible questions as to need for the form is also a service to government.

It is our understanding that Senator Metcalf hopes to continue the hearings after the congressional recess and that the further hearings will include testimony from interested departments and agencies which are affected by the review process in OMB. If the Subcommittee selects a truly representative group of such departments or agencies, as distinguished from a few individual dissidents who may have had a pet project challenged or modified by OMB, we are confident that it will find that the OMB and the sponsoring departments or agencies are keenly aware of the assistance which they need and which has been rendered by the Business Advisory Council in its day-to-day activities.

The bottleneck syndrome

A number of the witnesses, in particular Mr. Nader, have castigated OMB and the Business Advisory Council on Federal Reports as a bottleneck or "Khyber

⁶ Officially called the Labor Advisory Committee on Statistics, Chairman, Mr. Rudolph A. Oswald, AFL-CIO.

Pass." This is pure rhetoric, colorful as it may be, and misleading as it unfortunately is. But let's accept the word bottleneck for the moment, and for argument's sake take off from that point. In so doing, we ask the question, "Is the bottleneck concept wrong?" We must respond, no. It is in the public interest. If every form which is proposed by every government department or agency is launched throughout the United States without some overall review procedure, without some checkmate, industry would be overwhelmed and other parts of our society to which such forms might be addressed in a particular case would be in a similar "snowed" position. Both corporations and private individuals would be subject to what Senator Ervin is currently stressing—invasion of privacy. In this connection, it should not be overlooked that corporations have some rights as well as individuals.

There must be a review procedure at the federal level to deal with the proliferation and quality of questionnaires and forms.⁷ This is necessary from a number of standpoints. It is necessary to control burden. It is necessary to avoid overlapping. It is necessary to avoid "fishing expeditions" which are totally unfair to that portion of society to which they are addressed and, in some respects, may be contrary to our system of due process. It is necessary to ensure that whatever questionnaires are released will produce results that are as meaningful as possible. So I accept the word bottleneck for purposes of argument and say God bless it. We need it and we will continue to need it particularly as government grows further and as complex issues that come before government multiply and, as a corollary, the search for meaningful information increases and expands.

To refer to an analogy, why does the House of Representatives have a Rules Committee? Why does the Congress have a committee structure at all? The answer is simple. If we did not have a Rules Committee in the House, there would be little or no control on the quality of legislation which reaches the floor for action as distinguished from token introduction of bills. There would be endless debate with little or no accomplishment by the House. On the Senate side where there is no Rules Committee, procedures are developed which many Senators feel are bottlenecks but some sort of a bottleneck is quite necessary to bring order to the legislative process. *A review procedure becomes a bottleneck in the mind of the person who is pushing a particular viewpoint or document or inquiry that may or may not be in the public interest.* In the same sense, our Constitution provides for checks and balances between the Executive, the Legislative, and the Judicial Branches. The checks and balances system is a bottleneck in one sense of the word. It, in fact, does slow down in certain cases final action on some proposals but if you will name an orderly and effective process of doing business in industry or in government, or in any section of our society, I can point to what might be called "bottlenecks" which are wholly necessary to ensuring a reasonably high level of performance.

*Comments on certain testimony of individual witnesses**

Congressman John E. Moss of California.—Congressman Moss stated that the vast majority of industry advisory groups and agency committees, etc., could be abolished without any appreciable setback to the conduct of the government's business. We disagree 100 percent although we agree that the committee structure needs to be monitored and periodically reviewed with care. Congressman Moss stated that Executive Branch advisory groups far too often seize the role of governing without assuming the attendant responsibilities. This proposition is ridiculous, at least so far as the Advisory Council on Federal Reports is concerned. Further, it is my judgment that the charge is equally unfounded as a general proposition.

Professor William L. Rogers, Jr., University of Washington.—The Professor states that OMB has what amounts to an unreviewable authority to slam the door on the investigative sorties of the federal agencies. This is an overstatement, and we recommend that Professor Rogers reexamine the relations between the regulatory agencies and OMB. The Professor refers to the politics of procrastination in the OMB advisory committees with respect to a federal industrial water wastes inventory. As we have previously pointed out, the Advisory Council

⁷ The Subcommittee and its staff are referred to House Report No. 52, 89th Congress, 1st Session, entitled "The Federal Paperwork Jungle—A Report on the Paperwork Requirements Placed Upon Business, Industry, and the Public by the Federal Departments and Agencies." Note particularly page 103 of this Report which strongly recommends: "Increased utilization and effectiveness of the Advisory Council on Federal Reports."

*NOTE.—Witnesses referred to are those who testified before this subcommittee on Oct. 6, 7, 8, and 9, 1970, and whose testimony appear in parts 1 and 2 of these hearings.

on Federal Reports has no such authority. In deference to OMB, the Department of the Interior allowed the question of a federal industrial water wastes inventory to remain dormant for a long period of time when it could have energetically pushed for its approval with certain technical modifications that the OMB had brought to the Department's attention. It is wholly inaccurate to place the blame for this delay on the OMB. Professor Rogers at another point in his statement questions the desirability of continuing the authority of OMB under the Federal Reports Act and concludes that the OMB, in his words, has a bottleneck capacity with great counter-productive potential. We have already dealt with this point, and we feel very strongly that whether the authority resides in the OMB or elsewhere at a top level in government, this type of review is absolutely essential to orderly government.

Professor David S. Brown, George Washington University.—Dr. Brown's statement is a carefully written, thoughtfully worded presentation. We do not agree, however, with every part of it, particularly his comments on membership of advisory committees which we have discussed elsewhere insofar as the Business Advisory Council on Federal Reports is concerned. On the other hand, I call the Subcommittee's attention to the following statement of Dr. David Brown which is by way of conclusion: "The Subcommittee should have, as these remarks have tried to indicate, no doubt concerning my views on advisory committees. I am strongly biased in favor of them."

Thomas L. Kimball, Executive Director of the National Wildlife Federation.—Mr. Kimball, as have other witnesses, makes the statement that the committees which operate as a part of the Advisory Council on Federal Reports have no basis in law. We have refuted this argument earlier in the statement.

I call the Subcommittee's attention particularly to the statement by Mr. Kimball that the sheer numbers of meetings of industry advisory committees—he was referring to the Advisory Council on Federal Reports—prevent private organizations such as his from participating to the extent that industry and government can with the extensive personnel resources at their disposal. As I read this statement, Mr. Kimball is saying in effect that whatever the opportunity his organization may have, it is not organized, does not have the time, and does not have the personnel resources to make a significant contribution to form review. That this applies to other organizations would seem to be borne out by the experience of the OMB in recent months when it broadened its notice procedure and declared Advisory Council committee and panel meetings "open" sessions.

Ed Wimmer, Vice President, National Federation of Independent Business.—It seems an extraordinary omission on the part of Mr. Wimmer for him not to acknowledge in his principal statement the fact that the Advisory Council for many years has included among its membership representatives of the National Small Business Association. More recently, that organization has become a sponsor of the Advisory Council on Federal Reports. We have already agreed that the participation of small businesses should be enlarged. In view of the long-established connection of a major national small business association in Council activities and our plans for expanding small business participation, I have some difficulty finding Mr. Wimmer's testimony particularly persuasive.

Maurice Mann, Assistant Director, Office of Management and Budget.—On the first page of Mr. Mann's statement, he calls to the Subcommittee's attention the Bureau of the Budget letter to Senator McClellan, Chairman of the Committee on Government Operations, dated January 23, 1970. In order to ensure that the contents of that letter are given full consideration both by the Subcommittee and by those who read the record, we suggest that the Subcommittee include as a part of the record and as an appendix to Mr. Mann's statement the January 23, 1970, document.

Dr. Spencer M. Smith, Secretary, Citizens Committee on Natural Resources.—Dr. Smith's statements were primarily addressed to advisory council committees in general and it is, therefore, inappropriate for me to comment in any detail. At the minimum, however, it should be stated strongly that the proposition which he advanced that advisory committees have simply become an extension of very highly skilled, self-serving lobbying interests is just plain hokum. The wide-sweeping unsubstantiated charges typified in Dr. Smith's statement should be tested as careless, opinion testimony without documentation.

Benny Kass, Washington Counsel for National Consumer Law Center and National Legal Aid and Defender Association.—Mr. Kass qualifies himself in an almost unique fashion as a witness on the examination of the Advisory Council on Federal Reports when he indicates that he doesn't know exactly what the Advisory Council is and that he doesn't know who is on the Advisory

Council except that its former Executive Secretary is deceased. My business office is in Washington, D.C., as is the office of the Advisory Council on Federal Reports which is staffed temporarily by an interim counsel, Mr. Thomas M. Brennan, subject to a permanent replacement for Mr. Schneider, and by one secretary. All Mr. Kass had to do to answer his question was to telephone me or the Advisory Council office or inquire at OMB.

Mr. Kass' comments with respect to the authority of the Advisory Council on Federal Reports, at least insofar as they indicate decision-making authority on the part of the Council, are in error. His acknowledgment that he did not comprehend all of the fine points about the technical matters under discussion at a particular meeting sponsored by the Advisory Council is understandable. This is one of the reasons why OMB needs the advice of carefully selected panels and committees of businessmen who are thoroughly familiar with a particular subject to which a questionnaire or form is related. During Mr. Kass' statement, Senator Metcalf at one point referred to his understanding that a particular committee of the Advisory Council on Federal Reports "killed a proposed questionnaire." As we have repeatedly pointed out, no panel or committee of the Advisory Council on Federal Reports has such authority and it is neither factual nor responsible to attribute to the Advisory Council or any of its panels or committees such decision-making authority.

Mrs. Erma Angevine, Consumer Federation of America.—Mrs. Angevine charged that the Budget Bureau operates at the direction of their committees of vested interests. This is the same old tired and irresponsible charge which appears frequently in the record and has been disposed of in this statement previously. She refers to the Budget Bureau staff examiner "clearing" the finalized rule with the chairman of the industry advisory committee, implying that the ultimate decision rests with business. This also is completely erroneous and is a case of a distortion of the difference between *informing* an advisory committee or its chairman of final action and *clearing* a tentative decision. We have repeatedly underlined the fact that the industry advisory committees have no decision-making authority.

Ralph Nader.—Mr. Nader makes the scare charge with respect to the secrecy which he alleges characterizes the relationship between OMB and the Advisory Council on Federal Reports.⁸ He relies at length on the point that the Bureau of the Budget is a bottleneck or the Khyber Pass. In brief, as we have pointed out, we need in government precisely the kind of authority which the OMB has with appropriate exceptions. Without it, there would be chaos in proliferation of questionnaires and forms and, in all probability, a very low quality in questionnaire techniques and quality of information obtained. Mr. Nader charges an incredible delegation of authority to advisory committees, asserting that these advisory committees have decision-making authority. This phony charge has already been refuted. Equally inaccurate is the proposition that there is an "adversary role" between OMB and the regulatory agencies.

Mr. Nader refers to the fact that the Advisory Council on Federal Reports is the only advisory committee to the Executive Branch that he knows of which is privately funded by industry and which conducts an effort to get continuing financial support. The annual budget of the Advisory Council on Federal Reports whose staff consists of one man and one secretary is \$60,000. This is obviously a very modest sum.

Mr. Nader's recommendation that the Federal Reports Act be repealed, I am sure, will receive no sympathy in the United States Senate. If that law should be repealed, we will merely have to search for a substitute measure.

Finally, during the course of the exchange with Mr. Nader, according to notes taken by an observer in behalf of the Advisory Council on Federal Reports, Mr. Turner, General Counsel of the Subcommittee, indicated that he had not heard any witnesses state that there can be any appeal from a decision of the OMB. Without wishing to be discourteous, I suggest that there is an element of naivete in this observation. OMB is a part of the Executive Branch, as a matter of fact,

⁸ The Subcommittee's attention is called to House Hearings Before a Subcommittee of the Committee on Government Operations, March 12, 17, and 19, 1970, p. 180, where the following statement by William D. Carey, Senior Consultant, Arthur D. Little Inc., and formerly Assistant Director, Bureau of the Budget, is reported: " * * * I don't really feel that the dark and conspiratorial implications of the statement [by Senator Metcalf] that was submitted to you this morning are any more justified than other of the dark and conspiratorial statements about the Budget Bureau which I heard for 25 years.

of the Executive Office of the President. All forms or questionnaires which come before OMB, and in turn the Advisory Council on Federal Reports, are generated by specific statute or by programs of individual departments which have general statutory authority. Where the Secretary of a department or the head of an agency proposes a form which in his judgment is vital to the execution of his duties and the OMB raises serious question about whether the form should issue and there continues to be an irreconcilable difference of opinion, I have no doubt that any vigorous departmental executive would take the matter to the White House. Moreover, on some occasions forms come to OMB with an indication from the Secretary of a department that the matter has already been given Presidential okay or that, indeed, this is a program which the President wants and the questionnaire is an inseparable part of the program.

Conclusion

In the preceding discussion of certain comments made by individual witnesses, we have not attempted to offer a complete and definitive rebuttal which could be thoroughly documented, given the time. We have simply pointed out examples of inaccuracies, misunderstandings, careless and misleading statements, and emphasized through these illustrations the fact that this record is unbalanced, not properly documented *and does not provide solid information upon which any congressional committee or the Congress at large should take legislative action.* In conclusion, may we emphasize the following points:

"1. The Advisory Council on Federal Reports was organized at the request of the Bureau of the Budget and now sits at the pleasure of OMB. It is purely advisory and has absolutely no decision-making authority.

"2. It is the responsibility of the Business Advisory Council, on request by OMB, to advise, comment, and recommend with respect to proposed forms and questionnaires, as to their content, as to the professional quality of the makeup of the form, and as to the meaningfulness of information which would be adduced by the form. Additional issues within the Advisory Council's province for advice include the problem of overlapping of government inquiry, cost and burden both to government and to industry, etc. These elements are addressed by standing committees or panels made up of personnel from industry who, as typical respondents, bring to the meeting expertise relating to the subject matter of the form.

"3. The Business Advisory Council takes no exception to the objective that as to those forms or questionnaires which relate to consumer, labor, or general public groups, the OMB should provide a mechanism for a full hearing of these constituencies' views and recommendations. The labor group is already organized as we have pointed out. The OMB may within its discretion wish to consider a similar group for the consumer interests. There is no need to deal separately with small business since the role of small business has been recognized by the Business Advisory Council for many years, has been enlarged recently, and will continue to be expanded particularly with reference to panels and committees.

"4. Under no circumstances should the proposed legislation—S. 3067—be enacted. The reconstitution of the Business Advisory Council which would be compelled by this bill would serve neither the public nor the private interest for the reasons we have spelled out.

"5. Beyond the development of additional advisory groups representing interests other than business as referred to above, we have suggested that the OMB, in its discretion, might wish to consider in certain sensitive socioeconomic areas such as pollution, safety, etc., holding an ad hoc meeting on a proposed questionnaire or form which would be attended by representatives of business, labor, consumer, and the general public. Such meetings, in our judgment, would not occur frequently because instances of such broad interest in a questionnaire or form would be relatively few. Moreover, it should be made clear that any such ad hoc session should in no way preempt the continuing and separate role of the Business Advisory Council or other special councils of OMB.

"6. Although we do not believe that they are primary issues before this Subcommittee, since certain witnesses raised the question as to whether advisory committees should be abolished across-the-board in government and proposed repeal of the Federal Reports Act, *we register our strong negative view on both points.*

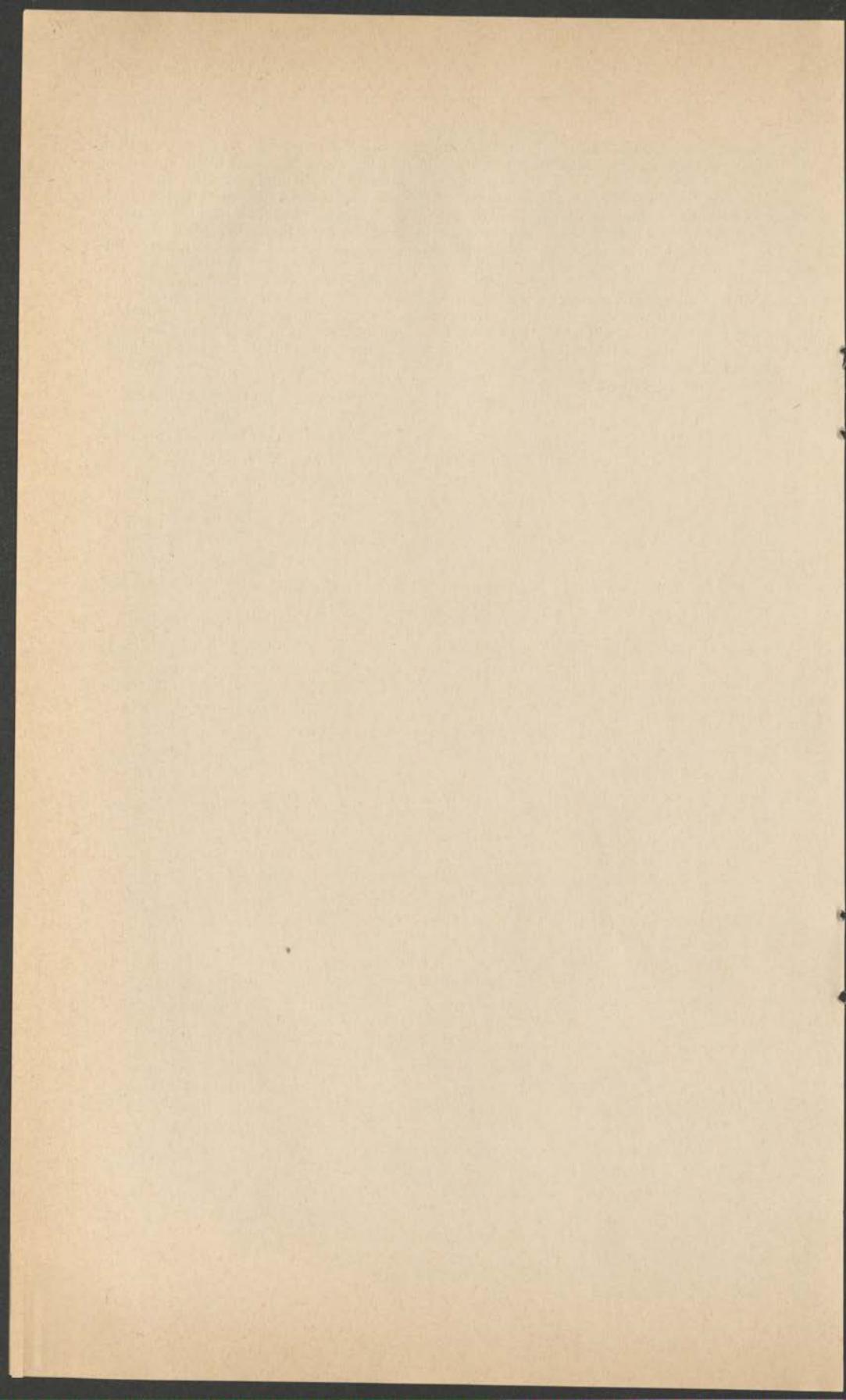
"7. It is curious, indeed a paradox, that individuals who assert bias, conspiracy, and improper conduct on the part of advisory committees in general or the Business Advisory Council in particular should present their views in such an incomplete, careless, and uninformed fashion. Due process is due process whether the concept is espoused by a spokesman for the consumer interests or for the

business interest. Many of the statements which have been presented to this Subcommittee are undocumented, are slanted, at certain points even approach the malicious. This is a personal view but I hold it strongly and I trust that in any further hearings, the Subcommittee or the full Committee on Intergovernmental Relations of the Senate will seek a higher standard of presentation than has characterized the hearings as we have observed them thus far."

Having expressed these strong criticisms, I would be less than courteous and fair if I did not acknowledge both personally and in behalf of the Business Advisory Council on Federal Reports that your Subcommittee was most courteous to the Advisory Council on Federal Reports in extending it an opportunity to be heard or to present written testimony. Moreover, the General Counsel of the Subcommittee, Mr. Turner, has been most considerate in arranging for the Advisory Council to submit what we trust will be useful and "balancing" comments and suggestions.

Respectfully,

CHARLES STEWART, *Chairman.*



ADVISORY COMMITTEES

WEDNESDAY, OCTOBER 7, 1970

U.S. SENATE,
SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:12 a.m., in room 3302, New Senate Office Building, Senator Lee Metcalf presiding.

Present: Senator Metcalf.

Also present: Edwin W. Webber, staff director; E. Winslow Turner, general counsel; Irish McRae, minority counsel; and Mrs. Lucinda Dennis, administrative secretary.

Senator METCALF. The subcommittee will be in order. This is a continuation of the hearing on advisory committees on S. 3067, but we hope that the witnesses will not confine their remarks to the bill in question, but will discuss the whole broad subject of advisory committees.

Our first witness this morning is one of our long-time friends who has testified many times before other committees in which I have participated and we are delighted to have you here, Mr. Kimball.

Mr. Thomas L. Kimball, executive director of the National Wildlife Federation.

STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR, NATIONAL WILDLIFE FEDERATION, WASHINGTON, D.C.

Mr. KIMBALL. It is a pleasure to be here, Mr. Chairman.

I am Thomas L. Kimball, executive director of the National Wildlife Federation which has its national headquarters at 1412 16th Street NW., here in Washington, D.C.

Ours is a private organization which seeks to attain conservation goals through educational means. The National Wildlife Federation has affiliates in all 50 States and the Virgin Islands. These affiliates, in turn, are made up of local groups and individuals who, when combined with associate members, and other supporters of the National Wildlife Federation, number an estimated 2½ million persons.

We welcome the invitation to comment about public advisory boards and commissions and interagency groups. While those of us at the federation do not consider ourselves experienced in this field, we do have enough familiarity with some of these groups to make several comments we hope are pertinent to this subcommittee.

Senator METCALF. Mr. Kimball, may I interrupt? Hardly anybody is experienced in the field, because there has been testimony here and in the House that this advisory committee is such a little coterie, a

closed group, that experience is only gained by a very few people. The only experience you have is trying to get heard.

Mr. KIMBALL. First, it might be well to point out that we sometimes are baffled by the proliferation of advisory boards, groups, commissions, and interagency task forces. At one time, we were told that there were 134 groups which require Presidential appointments and, if accurate, this certainly is an imposing number for the executive branch to consider. By now, there may be even more.

In the past we have dealt with the so-called ad hoc committees named by Secretaries of Departments or Administrators of Bureaus for the purpose of determining public reaction in one specific area.

In fact, it was my pleasure and privilege to serve on a special wildlife advisory committee to Secretary of the Interior when Stuart L. Udall was serving in that capacity.

We were asked to develop information and recommendations on two specific areas:

1. Control of predators and rodents; and
2. The management of wildlife in units of the national parks system.

We completed these tasks and some of our recommendations were incorporated into new policies of this Department, and we felt that we had made a meaningful contribution. I also, at one time, served on a special advisory committee to the Secretary of Agriculture with relation to the management of farm game on lands taken out of agricultural production.

We also have some familiarity with advisory boards or commissions to the various Secretaries and with interagency committees or task forces.

Most of these are set up by law. It is our hope that the subcommittee can look into the composition of some of these boards and commissions because we contend that they frequently are not truly representative of all interests involved with a particular Federal problem.

To illustrate, the President recently named five new members to the Air Quality Advisory Board, which is to advise and consult with the Secretary of Health, Education, and Welfare on policies and programs under the Clean Air Act of 1967. The Executive Secretary of this group says that the board also can make recommendations to the President because they are one of his advisory boards.

In a letter of May 18, 1970, to a Special Counsel to the President, I expressed my concern over the recent appointees of five members for 3-year terms. Of the five new members three represent industries.

In reviewing the composition of the full 15-member board, it would appear that six represent industries and a seventh represents the banking business which is closely associated therewith.

The balance is made up of a general type of representation: Civic group, two; city and State medical people, three; labor, one; State government, one; and the educational community, one.

In my letter I pointed out that the American public generally has a feeling that our environmental problems in America are a result of general indifference by the business and industry community to pollution abatement efforts, if not downright opposition.

The present composition of the Air Quality Advisory Board certainly would lend credence to the view that the President is really not serious about taking the actions necessary to give America clean air

since it appears that at least half of the members could be expected to have a built-in bias in favor of doing little or nothing to control air pollution. Some persons would liken this to the old expression of appointing the fox to guard the henhouse.

Most certainly, the industrial and business communities should be represented on such a board but not to the point of domination, and I told the adviser that we certainly hope that he will advise the President to take a different tack in charting his course for this type of appointment in the future.

I might add here, Mr. Chairman, that they accepted my recommendation, because I understand that I am to be appointed to that Board in the very near future. So I am hopeful to make the kind of input that would help give us clean air in the future and do credit to the administration in this regard.

(Mr. Kimball's appointment subsequently was announced by the White House.)

Senator METCALF. You are in the position of the man who complained about the food in the Army and they made him mess officer.

Mr. KIMBALL. That is right.

What we really need on the Air Quality Advisory Board are individuals who are not apologists for the shortcomings of polluters. And I hope I can place myself in that category.

The Water Pollution Advisory Board, consisting of nine members, is directed by law to advise, consult with, and make recommendations to the Secretary on matters of policy relating to the activities and functions of the Secretary under this act, the Federal Water Pollution Control Act.

The appointed members of this board—and this is quoting from the law:

* * * shall be selected from among representatives of various state, interstate and local governmental agencies, of public or private interests contributing to, effected by, or concerned with water pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of water pollution prevention and control, as well as other individuals who are expert in this field.

The Board is more truly representative of the broad area of concern. However, with relation to the Water Pollution Control Advisory Board, the Secretary named the Assistant Secretary for Water Quality and Research as Chairman. The Secretary himself has not met with this Board nor even acknowledged personally the communications it directed to him. As a consequence, some members of the Board have questioned its value.

They have not been consulted in advance of policy questions before decisions are made. It sometimes appears then that the principal function of the Board is to go into a restricted number of problem areas and view situations with alarm, hopefully with a viewpoint toward gaining enough publicity to call attention to the water pollution difficulties. Is this the function anticipated by the Congress when the Board was established by law?

It is our opinion that the subcommittee can make a real contribution by asking the Library of Congress or the subcommittee staff to research out the legislative history of the establishment of both the Water Pollution Control Advisory Board and the Air Quality Advisory Board to determine what the Congress intended when these

Boards were established. Are these boards to be purely advisers to the Secretaries involved or did the Congress intend that they perform something of a "watchdog" function on behalf of the various interests involved?

Should conclusions of these Boards be announced to the Congress, for example, as well as the educational branch?

A curious situation also exists with respect to other areas with which we have some familiarity. On April 9, 1970, the White House issued a statement by the President establishing the National Industrial Pollution Control Council which will "allow businessmen to communicate regularly with the President, the Council on Environmental Quality and other Government officials and private organizations which are working to improve the quality of the environment."

This new Council is composed of 63 members representing industry such as the U.S. Chamber of Commerce, National Association of Manufacturers, and the National Industrial Forces Board.

The Council has 30 subcommittees which include 136 other industrial leaders. In short, this new Council is composed of the executives of industries which contribute most to the environmental pollution problem.

So long as it is recognized that these groups express a biased or prejudiced opinion, this may well serve a useful function.

However, to the best of our knowledge, there is no comparable council composed of environmentalists, conservationists, educators, or others who are usually on the other side of the fence when controversial battles are fought over contamination of the environment.

One simply must question whether or not a group such as the National Industrial Pollution Control Council constitutes anything more than a pressure group which has been given an aura of a high-level authority.

We also have had some exposure to influential committees which are associated with the Advisory Council on Federal Reports. Even though these committees have no basis in law, it advises the Bureau of the Budget in fields such as utilities, trade, communications, transportation, banking, and equal opportunity.

These committees, we are told, have existed for nearly 30 years and are composed of representatives of big industry. These committees meet with officials of the Bureau of the Budget and the Federal agencies with which they deal.

Acting on the advice of the Chairman, himself, here, who has been intensely concerned with this problem, we sent a staff member to one of these meetings relating to a form to obtain steam-electric generating plant data. The staff member, a young attorney, at first endeavored to secure an invitation without success. He went to the meeting and was rebuffed by a Bureau of the Budget staff member who told him that there was no room available. Finally, upon his persistence and insistence, he was allowed to stand in the room while the seated industrial representatives discussed problems relating to forms and other business.

There seemed to be a marked attitude of coolness toward him as an interloper and it was evident that he restricted a formerly free type of discussion.

Since that time, we have been placed on the mailing list for requests for approval, issued almost daily, and for announcements of frequent public meetings of industry advisory committees.

To a considerable extent, of course, this is "window dressing." The sheer numbers of these meetings prevent private organizations such as our own from participating to the extent that industry and Government can with the extensive personnel resources at their disposal.

We also note with considerable interest the appointment of a new Commission on Federal Statistics, announced by the President on August 14 (dated August 11), 1970. We certainly hope this Commission can bring order out of chaos and that facts can be used by the Office of Management and Budget rather than pressures from a multiplicity of industries. Certainly, the public must be given an opportunity to participate in a more meaningful way in decisions on statistics as well as decisions on items in the Federal budget.

I might point out here, Mr. Chairman, that it has been our unhappy experience to note the development of a general attitude on the part of the Office of Management and Budget to give fiscal emphasis to those functions which make money, either for segments of industry or for Government, but to be extremely stingy for those which do not have a direct monetary return, such as appropriation for esthetics or recreational values.

For example, during the period 1954 to 1970, the Forest Service requested wildlife habitat management fund increases totaling \$16,505,000. The Department allowed \$6,854,000, or 43 percent.

However, this was trimmed additionally by the Bureau of the Budget to \$2,145,000, or only 13 percent. By comparison, the Forest Service was allowed 66 percent of the \$40,595,000 increase requested for timber sales and management.

It would be our recommendation that the subcommittee investigate, for the purpose of determining how much recommendations of these budget advisory committees have influenced the various proposals which have been the subject of consideration. We think it also would be useful if this subcommittee would ascertain from the various agencies how often advisory committees of this sort meet, and the composition of such committees. We are told that independent agencies, such as the Federal Power Commission, have advisory groups, and industrial "inputs" are made in many fields.

Finally, Mr. Chairman, we would like to make a few observations about the work of the National Water Commission and the Water Resources Council. These agencies are established by law, have staffs, and can exercise enormous influence on Federal policy.

First, we would hope that the subcommittee can investigate the functions of the Water Resources Council and the National Water Commission in considering functions whereby potential Federal projects are evaluated.

This is in respect to the so-called benefit-cost ratio. The Water Resources Council only recently concluded a series of public hearings for which all persons concerned were invited to comment. However, we have been concerned over what might be called growthmanship in the area of water developments similar to those of military and highway establishments whereby investments in public works must continue and expand year by year regardless of the condition of the overall economy.

In testifying before the Water Resources Council last year, we pointed out that the public was being invited to comment upon proposed revisions developed by a special task force on procedures for evaluation of water and related land resource projects.

This report, with one exception, was the work of representatives of Federal water power agencies in promoting water development projects and, as we pointed out, to put it most charitably, there is a natural inclination by an outsider to think that some bias well might be "cranked into" the benefits portion of the ratio making more marginal projects feasible. We asked that the report be shelved until another could be completed by disinterested specialists—or perhaps a better term would be a more objective specialist—in the field.

In the same area, it is our belief that the economic evaluation process should not be the only criterion for decisionmaking. We believe that projects often reach the point where unmarked esthetic values cannot be quantified or valued in an economic, monetary sense.

A particular stream may be the only unimpeded or natural flowing river in an entire State or region and its values for retention in this condition must be given sincere consideration—probably greater consideration than for a comparable stream in an area where wild or natural rivers abound.

In specifics, it is difficult, if not impossible, to place a dollar sign on the value of pure water, unpolluted air, or the beauty of a stream, yet these essentials of life often must take precedence over purely monetary, economic considerations. Something should be done in the overall planning process to insure that consideration be given to alternatives for water resource structures, including the alternative of no dams.

To be specific, as an example, how can interested and concerned citizens insure that serious consideration is given to the alternative of zoning people away from flood plains rather than bearing the costs of expensive measures to prevent flooding of these areas?

Then, to, channelization for flood water disposal invites drainage of wetlands as private efforts of farmers in the area. This, in turn, results in losses of wildlife habitat which cannot be computed in any benefit-cost ratio figure and no mitigation of losses is possible.

Finally, Mr. Chairman, it was suggested that we comment about efforts of the National Academy of Science and the Science Advisory Council. We have had relatively little exposure with these groups.

However, we sometimes have wondered about the overall function of the National Academy of Science when on occasion it sponsors symposia on controversial issues such as the effects of pesticides when, again, most of the input is made by representatives or spokesmen of industries and the output is what we consider to be biased in favor of chemical pesticide programs.

In summary, we are terribly concerned about the increasing influence which industry is having within the executive branch and a copy of an article on that topic as appearing in the latest issue of our Conservation News is attached.

Thank you very much, Mr. Chairman.

Senator METCALF. Do you want the letter and article to which you referred to appear as part of the record?

Mr. KIMBALL. Yes.

Senator METCALF. So ordered.

(The letter and article referred to follow:)

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., May 18, 1970.

HON. CHARLES W. COLSON,
Special Counsel to the President,
Executive Office Building, Washington, D.C.

DEAR CHUCK: I should like to express my concern over the recent announcement of the appointment by the President of five members to the Air Quality Advisory Board. Of the five members for the 3-year terms, three represent industries. In reviewing the composition of the full 15-member board, it would seem that six represent industries and a seventh, the banking business, which is closely associated therewith. The balance is made up of a general type of representation, civil groups, 2; city and State medical people, 3; labor, 1; State government, 1; the educational community, 1.

I think in our earlier discussions I pointed out that the American public generally has a feeling that our environmental problems in America are a result of business and industry's indifference to pollution abatement efforts. The present composition of the Air Quality Advisory Board certainly would lend credence to the view that the President is really not serious about taking the actions necessary to give America clean air since it appears that at least half of the members could be expected to have a built-in bias in favor of doing little or nothing to control air pollution. Some persons would liken this to the old expression of appointing the fox to guard the henhouse.

Most certainly, the industrial and business communities should be represented on such a board but not to the point of domination and we certainly hope that you will advise the President to take a different tack in charting his course for this type of appointment in the future. What we really need on the Air Quality Advisory Board are individuals who are not apologists for the shortcomings of polluters.

While I am making suggestions, has the President considered asking the Congress for emission control standards? Most knowledgeable scientists will agree we will not make much progress toward cleaner air until the individual polluter can be forced to apply the most up-to-date emission control techniques.

Sincerely,

THOMAS L. KIMBALL, *Executive Director.*

[From Conservation News, Oct. 1, 1970]

ARE INDUSTRIES TO PLAY THE DOMINANT ROLE IN ADMINISTRATION POLICIES?

In its first Annual Report, the new Council on Environmental Quality said that "historians may one day call 1970 the year of the environment."

Few persons would quarrel with that evaluation because, with the "Earth Day" observance and the enactment of significant new legislation, 1970 has been memorable. The Congress has adopted landmark legislation such as the National Environmental Policy Act and the Water Quality Improvement Act, improved environmental considerations in the Airport and Airway Development Act, and soon may approve of strengthening changes to existing laws on air pollution control and solid waste disposal. A historic court decision, in the so-called Boca Ciega case, said the Army Corps of Engineers has the authority to deny permits to dredge and fill on grounds of environmental damage. And, the President this year himself exerted significant leadership in a special message on the environment to the Congress, recommending a 37-point program. He also ordered Federal agencies to clean up their pollution, took important steps to prevent oil pollution and clean up any which occurs, and proposed taxes on leaded gasoline to reduce air pollution. Truly, 1970 has been the "Year of the Environment."

Despite all of these developments, however, there is a growing suspicion among conservationists and environmentalists that industries may be gaining a dominance where they can play a leading role in the formulation and implementation of Administration policies. Here are the reasons why 1970 may also become known as the "Year of the Industrialists":

Item: On January 28, the Administration announced a delay in imposition of the grazing fee increase planned for 1970. While this "moratorium" was imposed for at least one year ostensibly to allow the Secretaries of Agriculture and the Interior to study recommendations of the Public Land Law Review Commission, pressures from western livestock interests were instrumental in the decision. Actually, the practice of grazing of privately-owned livestock on Federal

ranges has been "studied to death" and, before the moratorium, the fees were found to be so low as to constitute a subsidy for a tiny segment of the livestock industry. The grazing fee increases were programmed to reach full market value in ten years. Now, the livestock interests are working either to get the moratorium extended or the fee increases reduced. Due to these pressures over many years, public lands have been badly damaged through overgrazing.

Item: On April 9, 1970, the President announced the establishment, by Executive Order, of a National Industrial Pollution Control Council composed of 63 officials of major industries, including several polluters. Bert S. Cross, of Minnesota Mining and Manufacturing Company, was named as chairman. The 3-M Company manufactures a product widely used by its subsidiary, National Advertising Company, which is generally credited with being the biggest opponent to the removal of billboards in the highway beautification plan supported by the Department of Transportation. Others included in the star-studded lineup are executives of many of the Nation's largest lumbering, mining, oil, and manufacturing companies, some of which have been under close Federal scrutiny for polluting water and air resources. Then, the Administration sought \$475,000 for operations of this well-heeled group, or nearly one-third of the amount it requested for activities of the Council on Environmental Quality which is responsible for riding herd on all Federal activities, including those which supervise industries. How well will the Administrator of the new Environmental Protection Agency be able to crack down on polluting industries when they are represented in the Cabinet by the Secretary of Commerce and he is not?

Item: On June 19, 1970, the President ordered Federal agencies to formulate plans to permit increased production of timber, probably to the detriment of other valid uses of Federal forests. Even a Republican leader in the Congress, such as Mr. John P. Saylor (Pa.), described this as a successful end run by the timber industry to gain by Executive fiat the special advantages they could not achieve by legislation. Mr. Saylor credited the White House and said: "... conservation, environment, ecology, that is, the public's concerns, are to be subservient to the pressures and profits of the logging and lumber industry."

Item: In July, 1970, full impact of the insidious poisoning of lakes and streams by mercury wastes was sweeping across America, with evidence of the dangerous element found in waterfowl and fish and other creatures. The Secretary of the Interior said he was moving against ten industrial plants and "we are developing hard evidence against a number of other companies." He said these discharges "represent an intolerable threat to the health and safety of Americans." Then, in August, Alabama officials reportedly were ready to move to shut down industries discharging mercury into public waters. Yet, the Federal Government baffled Alabamans by pulling the rug out from under the State officials by establishing something of a temporary accommodation tolerance up to a half-pound per day for mercury dischargers, giving them time to install clean-up equipment. Mercury can be kept out of public waters entirely through recycling.

Item: On September 9, a writer for the New York Times authored an article attributed to White House sources which alleged that Carl L. Klein, Assistant Secretary of the Interior for Water Quality and Research, was a principal obstacle to the enforcement of anti-pollution laws. The article hinted that Klein was too soft. In truth, Klein probably was too brash and tough. The condition of Puget Sound in Washington is an example. A conference, first step in complicated Federal law enforcement procedures, was held in 1962 to initiate a badly-needed cleanup process. The second session of this conference was held in 1967, when the polluting municipalities and industries agreed to a cleanup compliance schedule. However, some of the polluters are not progressing as rapidly as many people think they can and should. The largest plant involved, the Scott Paper Company, has been given until 1978 by the State as a deadline to clean up part of its wastes—16 years after the initial conference had decided what should be done. Klein wanted to call a public hearing, second stage in the law enforcement process, for the purpose of bringing facts out on the table and to try for an earlier compliance deadline. However, orders "from upstairs" came to cancel the hearing and any pulloff had to originate either with the Secretary or at 1600 Pennsylvania Avenue. Klein resigned September 17.

Item: An almost-forgotten section called the Refuse Act in the 1899 Rivers and Harbors Act prohibits the discharge of "refuse matter of any kind or description whatever" into any interstate or intrastate navigable water of the U.S. except under a permit from the Army Corps of Engineers. While municipal sewage is exempted, almost all other pollutants supposedly are covered, including discharges

of oil, chemicals, garbage from ships, and even heat. The Corps of Engineers has issued relatively few permits over the years and obvious violations of the Act are widespread. However, the Corps of Engineers and the Justice Department are bending over backward to not conflict with water pollution abatement efforts of the FWQA—or to prosecute violators. Curiously enough, Seattle attorney Marvin Durning in April asked the U.S. Attorney to prosecute and fine under provisions of the Refuse Act the industries which are dumping refuse into Puget Sound. When no action was forthcoming on July 9, he went to court against ITT Rayonier, Inc., charging the firm with dumping pulp wastes into the Sound. Thus far, there is little evidence that the Administration wants to develop a coordinated crack-down on industrial polluters, using either new or newly-rediscovered laws, or even to ask for additional funds to employ more people for increased surveillance.

Item: For years, industrial and business groups opposed a strong Federal water pollution control program, including grants to cities for the construction of waste treatment plants. This attitude stemmed from the realization that, once the cities cleaned up, the public finger would be pointed at industrial polluters. In 1969, the Administration proposed that only \$214 million be appropriated (as had the Johnson Administration) for fiscal 1970.

The Congress, however, responding to widespread public demands, appropriated \$800 million. Then, the Administration obligated only \$360 million, leaving a \$440 million "carryover." Much of this slowdown was due to a shortage of manpower to process applications from the States and cities. Of 150 positions authorized, the FWQA was allowed only 90 and some of these were not filled.

Federal agencies now are busy drafting their proposed budget for fiscal 1972. After a thorough going over, this Budget will be sent to the Congress in January. Earlier this year, Thomas L. Kimball, Executive Director of the National Wildlife Federation, directed an open letter to the President. He asked: "Are you spending enough to repair the damage done to the environment—to safeguard our natural resources," pointing out that natural resources ranked 13th or dead last among the priorities in the 1971 budget request. How much money is allocated for wise management of natural resources, for water and air pollution control, and for effective protective law enforcement will be an index toward how much influence industrial interests have gained within the Administration in this "Year of the Environment."

LOUIS S. CLAPPER.

Senator METCALF. Mr. Turner is going to ask some questions in a moment.

You say at the bottom of page 3 of your statement:

Are these boards to be purely advisers to the Secretaries involved, or did the Congress intend that they perform something of a "watchdog" sanction on behalf of the various interests involved?

And "should conclusions of these boards be announced to the Congress?" These are, of course, principal questions. I think you make a very strong point there.

Even biased boards, when we recognize they are biased and not objective, make a contribution. But if they are going to be nonobjective and are going to be biased in favor of industry, let us have some other boards, as you suggest, that are on the side of conservationists or environmentalists. If you are going to have people that are biased in favor of development of smelters or something of that sort, then let us have somebody that believes in preservation of the trees and the water around them.

A witness yesterday suggested that we have so-called laymen, even on advisory boards of the National Academy of Science and the Science Advisory Council. Most of those advisory boards consist of professionals, of the scientists themselves. What would you think of that?

Mr. KIMBALL. Well, I think that perhaps it would be better to keep them separated. If there is any value in a scientific report—I mean it is supposed to be based on facts developed by science.

The policymakers and decisionmakers and the judgments that are made from day to day in Government, it is my view that we should not mix the two.

On the other hand, I think that if we are trying to feel the pulse of the public and the reaction to some of our critical environmental issues, that most certainly we should have laymen representing a broad segment of the public to give the kind of reaction and input that I think Government should have before a decision is made; because really we can accomplish nothing in America unless we have the support of the people.

This involves the expenditure of funds for improving the environment. Because in the final analysis, it is the individual citizen that is going to pay the bill. So he ought to have some input into advisory boards if we are going to have them. And whether they are a broadly based type of advisory board, if that is the consensus of Congress that it should represent everybody, including industry, then we ought to have a broadly based advisory board.

If we are going to have an industry advisory board, that is fine, too. It should be recognized that that represents one segment of the opinion of the American society.

But on the other hand, we also should have then an advisory board composed of, let us say, environmentalists and conservationalists, who perhaps are biased in favor, if you could call it that, of an absolutely clean environment. Their sole purpose would be to take whatever actions and generate whatever public support we can to give us as clean an environment as we can.

Maybe that is their biased and prejudiced viewpoint. But Congress, I think, should make the determinations and very clearly spell them out when they set up advisory boards and commissions, whether they be to a secretary or to the President, or however they are set up.

Senator METCALF. That is very helpful.

Mr. Turner has developed some questions, and I have to make a telephone call. If you will excuse me a minute, he will have the questions and I will be right back.

Mr. TURNER. Mr. Kimball, you comment on the composition of the membership of advisory committees with respect to air and water programs, and particularly to the National Industrial Pollution Control Council? What the staff, and the chairman, are trying to understand is why in these key areas there have not been up to this moment any representation from environmental interests.

Now, we looked at those boards and I think you have already referred to them. I am talking about environmental and conservation interests. Here we have some key committees advising the Federal Government on areas affecting the environment. Why have we not had any environmental representatives on these committees? Why have they all been industrial representatives?

Mr. KIMBALL. I think perhaps there may be two answers to that. One is perhaps the Congress was not specific in delineating the kinds of persons they wanted appointed to that type of advisory board.

I think perhaps the committee should take a look at that language. If you want this type of broad representation, then it should be very specifically spelled out as the type of representation you want.

The second question, I assume the appointing authorities do not

want that kind of representation. That is the second conclusion you could come to.

Mr. TURNER. Well, again, the question is: The present administration and other administrations, have talked very strongly about environment. What is going on now to try to solve this imbalance between the representation of the environment on these committees and that of industry?

Mr. KIMBALL. Well, we have—by “we” I am stating citizen conservation groups generally—have called upon executives, Cabinet officers in the executive branch of the Government and advisers to the President. We even met with the President himself, at his request, one time to discuss environmental problems in America.

We were able to make an input there, at least present our viewpoints and our schedule of values, and what we think should be done in some of these areas. I am hopeful that that type of communication can continue.

But the Congress, I think, can help by again more clearly defining the role of these advisory groups and giving more attention to delineating the type of representation they would like to have.

And I think more importantly to define whether or not this is intended to be advisory solely to the executive branch or whether Congress would like to have the report back with the committees that have jurisdiction over any particular subject, to review what this advisory committee recommends, as well as the executive branch.

Mr. TURNER. Have you had any occasion to request or to see relevant reports of interest to your organization which have come from advisory committees? Would you know how to get them?

Mr. KIMBALL. Oh, yes; I think that they are available. In most instances—at least this has been our experience—you have to know the report is out and have an interest in it and write for it and sometimes wait for periods of time. Maybe this is because of the printing problem or availability problem or the cost of making these things available. But generally speaking, at least in my view, it has not had the widespread type of distribution that would tend to make this type of information available or promote it.

Mr. TURNER. Do you have any central place where you would go and find the names of all of the advisory committees at the Federal level, the membership, and the reports which they have issued, such as a library or central bibliography to assist you in developing your policies?

Mr. KIMBALL. No, I know of no such place. That is why I suggested maybe the Library of Congress or someone—

Mr. TURNER. Would this be a function of the Bureau of the Budget to have this information? Under the Federal Reports Act, it has apparently assumed quite a degree of power concerning informational reports and questionnaires.

Mr. KIMBALL. That would be the proper place to have it. They certainly should have that type of information available at their fingertips.

Mr. TURNER. But you do see a way in which advisory committees can be helpful?

Mr. KIMBALL. Yes, I think they could be helpful. Again, if their objectives are clearly defined and they are broadly enough based to repre-

sent a cross section of American thinking, or if we are going to have special types of advisory boards representing segments of society, then we ought to have several of those representing a cross section. If you do not want to put them all in one advisory board, then let us have several. Let us make sure that a cross section of America's thinking is represented.

Mr. TURNER. Now, in the course of our preliminary inquiry in order to develop these hearings, I was told that there is a continuing liaison between Budget personnel and the staffs of the various advisory committees on Federal reports. Do you have such a contact with the Bureau of the Budget, such a continuing liaison?

Mr. KIMBALL. No, we have attempted to develop that, and as I stated in my report, we have certainly if not been rebutted, been discouraged in trying to make our input into Bureau of the Budget deliberations.

Mr. TURNER. I do not know whether you referred to this in your statement or not. The letter from Louis Clapper to Robert Mayo, dated December 3, 1969; is that to be included as an exhibit to your statement?

Mr. KIMBALL. Yes.

(The letter referred to follows:)

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., December 3, 1969.

Mr. ROBERT P. MAYO,
Director, Bureau of the Budget,
Executive Office Building,
Washington, D.C.

DEAR MR. MAYO: We have become quite concerned over the total lack of representatives other than of industry on the 16 committees of the Advisory Council on Federal Reports. Because these reports involve the development of natural resources, conservation organizations should be given a voice on these committees.

We previously expressed our concern and asked representation on these committees in a letter to your predecessor, Charles J. Zwick, dated January 28, 1969. In response, your office advised us on February 6, 1969, that you "would be pleased to hear views of your organization" and would place us on your mailing list for the "Daily List of Reporting Forms and Plans Received for Approval." We have not yet received this daily list insofar as we can determine and have been unable to keep abreast of committee meetings on reports of concern to us.

We learned of a meeting of the Committees on Public Utilities scheduled for November 19, 1969. To be discussed was the proposed revision of FPC Form 67 (BOB 54-R0085) relating to information for steam-electric generating plant pollution control data. Since the power industry is one of the major sources of pollutants, we were most interested in what form these reports might take. This Form 67, as we understand, will aid the Departments of the Interior and Health, Education and Welfare in establishing sound criteria of abatement and control of air and water pollution from steam-electric and nuclear generating plants.

To intelligently assess these forms and what the power industry can supply on these forms, we felt it was necessary that a representative of the National Wildlife Federation "sit in" at this meeting. Moreover, such personal participation would convey to you, quoting from your office's letter dated February 6, 1969, "directly rather than through membership on business advisory committees' our views on this form.

However, on November 18, 1969, a member of our staff, Gerald W. Winegrad, an attorney, was told by Mr. Harry B. Sheftel of your office that he would have to clear attendance at this Public Utilities Committee meeting with a Mr. Dana Barbour, Acting Director for Clearance Operations of the Bureau of the Budget.

Mr. Winegrad on calling Mr. Barbour was advised that "we just can't have any more people," that there was no more seating room. Mr. Winegrad advised him

that he would stand during the meeting but was still told he could not attend. Mr. Barbour advised Mr. Winegrad that he would send him a copy of FPC Form 67 in lieu of his attending the meeting. At the meeting, which Mr. Winegrad did attend, there were no less than 14 empty chairs in the room at all times.

Mr. Sheftel made a point of stressing to Mr. Winegrad on the phone that "no policy was being considered" and asked: "what is your interest?" and "how did you know of the meeting?" Mr. Sheftel, I am told, was quite surprised to see Mr. Winegrad at the meeting. This is not what we would consider as a "cordial reception."

If this is typical of the rapport the Bureau of the Budget and its Advisory Council on Federal Reports is going to establish between groups *other* than industrial concerns on these committees, perhaps Senator Metcalf's S. 3067 does not go far enough in restructuring these committees.

We would hope that pursuant to Mr. Sheftel's promise that the Bureau of the Budget was "looking into" a better procedure so that "outside interests could be heard," a more cooperative program could be formulated.

Sincerely,

LOUIS S. CLAPPER,
Conservation Director.

Mr. TURNER. Now, as I recall, in the letter Mr. Winegrad made a request to appear at a meeting on November 18, 1969, and was told by a Mr. Barbour "We just can't have any more people." That there was no more seating room.

Then Mr. Winegrad entered the meeting, found 14 empty chairs and as indicated in this letter, at least, from Mr. Clapper, made a point of stressing that Mr. Sheftel, who had opened the meeting, made a point of stressing that no policy was being considered.

Well, we read your letter and I went down to the Bureau of the Budget and got a copy of the minutes dated Wednesday, November 19, 1969,¹ of the ACFR Utilities Committee on Federal Power Commission—Department of Health, Education, and Welfare—Department of the Interior form, Steam-electric Generating Plant Pollution Control Data.

Is that the meeting at which Mr. Winegrad attended?

Mr. KIMBALL. Yes.

Mr. TURNER. And I am quoting from the minutes. I notice Gerald W. Winegrad, National Wildlife Federation, is listed as an observer, as also is Mr. Edward Berlin, Consumers Federation of America. Mr. Berlin is in the room, too. He may want to elaborate on it.

It starts:

Mr. Sheftel in opening the meeting welcomed representatives of industry and of the Government agencies involved on behalf of the Bureau of the Budget. He explained that the form was for the use of three agencies and was combined to avoid any need for three forms.

Then he goes on:

It was also clear since representatives of Consumer interest were present as observers—

And these are Mr. Sheftel's words, not Mr. Winegrad's—

That the discussion did not involve policy matters as to whether there should be an anti-pollution program and the extent of that program.

Now, Mr. Winegrad is not here and he cannot speak to that. But did you have conversations with Mr. Winegrad and did you in your own mind come to any conclusion as to what was meant by this reluctance to get into policy matters?

¹ See pt. 2, p. 392.

Mr. KIMBALL. Well, yes; I discussed this in detail with Mr. Winegrad since he was our representative, or my representative, to the meeting. The first obvious conclusion that he reached and relayed on to me, that we were really not welcome at a meeting of this type.

Mr. TURNER. By whom were you not welcome? By the Bureau of the Budget or by the advisory committee, or by whom?

Mr. KIMBALL. I think both.

Mr. TURNER. What were they afraid of?

Mr. KIMBALL. Well, I really do not know, since we were there only as observers. But I would assume from the comment that you just read and from Mr. Winegrad's comments to us, that they would certainly delay or postpone or disavow any discussion of policy on this particular matter of the pollution problems involving electric-generating plants.

Mr. TURNER. When you mention "policy," you concern me, because I did have a chance to look through the legislative history of the Federal Reports Act. The act is rather clear that the intent of Congress was to reduce the burden upon business enterprises in the providing of information, paperwork, that type of thing.

Mr. KIMBALL. Reporting.

Mr. TURNER. Reporting. And I am trying to find out where the distinction is between talking about individual reporting functions, and policy.

Mr. KIMBALL. Well, when we discussed this—if that is true, and I am sure it is—why was it necessary to make a statement that we would not discuss any policy in connection with this meeting? It led me to believe that maybe at some other meetings that we would not be in attendance, they might talk about policy. If the intent of the original law was to reduce the paperwork and not to unduly burden an industry in making reports to the Government, that is fine. But if they are talking about policies and making input on the policies as adopted by the Bureau of the Budget, then certainly organizations such as ours, who have an interest in particular subject matter, should be included in the discussion of those policies.

Mr. TURNER. We have the minutes of the industrial waste survey. Discussions started in 1964 and went on through to 1968. I believe subsequently, as a result of any investigation and report of the House Committee on Government Operations, such an inventory has now come into being. Is that correct?

Mr. KIMBALL. Yes.

Mr. TURNER. I am going to ask the chairman if these minutes may be placed in the record, and I think then we may be able to glean from them and other minutes what the definition is of this word "policy." I do not think we know the distinction between policy discussion, and the procedural aspects of reporting. I think that should be clarified, don't you?

Senator METCALF. Without objection, the minutes will be placed in the record following Mr. Kimball's testimony.

Mr. KIMBALL. Could I make a comment in relation to this? One of the difficulties that we have experienced in attempting to determine the deliberations of the Bureau of the Budget and how they arrive at making the recommendations that they do to the Congress for appropriations, we wondered again—and I mentioned this in my report—why the criteria seems to be the generation of revenue for the Federal

Treasury or expenditures in the Federal system that would improve the gross national product. And I think this is all fine, to a degree. But where we have experienced difficulty, as I mentioned, is when we seek appropriations for the noneconomic public uses such as the esthetics and recreation and wildlife and these types of expenditures.

At least this has been our observation, that whenever the Budget Bureau cuts or reduces requests from the executive agencies that come over, that this is the area where the greatest percentage is cut. So that if there is going to be any discussion of policy in this relation, that organizations like mine and perhaps the consumers, if they are going to talk about the policies of determining how these cuts should be made, should also be in a position to advise the Bureau of the Budget.

Now, if it's Congress intent that the Bureau of the Budget do this all on its own, without any advice and so on, then it should be made clear that these other types of boards who may be used as an excuse to make this kind of an input should be eliminated.

But again, one way or the other, we are going to have this type of advice, then let us make it a broad spectrum advice so that the Bureau of the Budget can have the advice of these other interests in budgetary matters as well as industry or any other segment of society.

Mr. TURNER. Getting back to the policy point, and this will be my last question: I now have before me the minutes of the Panel on the Survey of Industrial Waste, dated August 13, 1968.

I notice a number of representatives from large corporations and associations, such as the American Petroleum Institute, and also members from Government. But I do not notice any representation from any conservation groups or consumer groups or any public groups at this meeting.

With reference to policy, it may be interesting, Mr. Chairman, if I read this from the minutes.

Here it is, at page 4 of the minutes:

Industry does not like to report effluents without some indication of the effect they will have because the location of the discharge could make a difference. There is always pressure from the public to release the Federal data and the companies are afraid that the data may get into the hands of the news media.

Now, he is referring back to industry. They feel industry would have to assume the data would be used against them and even used in court.

This would force industry to refuse to cooperate. Reference was made to the procedures used by the Public Health Service in collecting air pollution data. It pledges confidentiality.

Then it goes on to state that in 1966 amendments to the Federal Water Pollution Control Act require that upon approval of the majority of the State and Federal conferees at enforcement conferences, data must be supplied for this purpose. Companies need not report any trade secrets. Water quality is not something that is easily hidden and if necessary FWPCA could check on the discharges, themselves.

It seems to me here we are talking about something more than just reporting. We are talking about policy. Is that not correct?

Mr. KIMBALL. I would judge that; yes.

Mr. TURNER. I have no further questions.

Senator METCALF. In summary, Mr. Kimball, do you feel that advisory commissions and various other advisory agencies perform a useful function, but they should either be of a broad base and have a

whole spectrum or if admittedly biased and not objective, they should be separate advisory commissions to present both sides?

Mr. KIMBALL. That is right. I think they serve a useful function, but I would like to see all segments of society equally represented and be permitted to make their input. Let us not have any one-sided input.

Senator METCALF. Thank you very much for your usual articulate and very important testimony.

Mr. KIMBALL. Thank you, Mr. Chairman.

(The minutes referred to follow:)

ADVISORY COUNCIL ON FEDERAL REPORTS

MINUTES

Meeting: Panel on Proposed U. S. Public Health Service Survey of Industrial Waste Water Disposal

Date and time: Tuesday, June 9, 1964, 9:30 A.M.

Place: Room 444, Executive Office Building, Washington, D. C.

Presiding officer: Alexander Gall, Bureau of the Budget

Present from industry: George Apfel, Pfadler-Permutit Inc. (MAP); A. R. Balden, AMA—Chrysler; George E. Best, Manufacturing Chemists Assn.; C. A. Bishop, U. S. Steel Corp.; W. A. Burhouse, American Petroleum Institute; L. C. Burroughs, American Petroleum Institute, N.Y.; Daniel W. Cannon, National Assn. of Mfrs.; William J. Conner, Manufacturing Chemists Assn.; A. Edward Dembitz, Consulting Engineer; Nelson J. Ehlers, M.C.A. (Pittsburgh Plate Glass Co.); G. H. Gaynor, U. S. Steel Corp.; Frederic L. Grayson, American Paper & Pulp Assn.; H. V. Hadley, Automobile Manufacturers Assn.

Ernst P. Hall, Consolidation Coal Co. (NCA); William J. Harnisch, Youngstown Sheet and Tube; Philip H. Hershey, P. H. Glatfelter Co. (Paper); Charles E. Humphry, Inst. of Industrial Launderers; Lloyd T. Jensen, U. S. Beet Sugar Assn.; John E. Kinney, Consultant for Republic Steel Corp.; Donald S. MacKenzie, American Meat Institute; G. H. McDaniel, EEI & Adv. Coun. on Pub. Util. (from Am. Elec./Pr. Serv. Corp.); Frank J. McKee, Dairy Industry Committee; Austin T. Rhoads, National Cannery Assn.; Douglas Trussell, Nat'l Assn. of Mfrs., Washington, D.C.; A.B. van der Voort, MAPI; D.H. Williams, Dairy Industry Committee, Washington, D. C.

Government: Public Health Service: John T. Barnhill, R. S. Green, Robert W. Haywood, Jr., Norman A. Hilmar, Peter G. Kule, Tom Pomers, Paul W. Reed, Richard C. Simonson, Murray Stein.

U. S. House of Representatives: Phineas Indritz.

Bureau of the Census: William R. Gray.

Bureau of Mines: William H. Kerns.

Bureau of the Budget: David E. Cohn, Alexander Gall, Benjamin T. Teeter.

Advisory council staff: Russell Schneider.

General statements on the scope and purpose of the survey were made by the Public Health Service staff. These statements indicate that information on municipal waste disposal has been available for years, but that the information on industrial waste disposal is poor. The purpose of this survey is to make available information on industrial waste disposal, which together with other related information would be useful in several ways. The information can be used to answer Congressional and other inquiries. The information will be used in planning for future water use by the Corps of Engineers, the Bureau of Reclamation and others. The information will be useful when more intensive studies are made within areas where there are specific problems of pollution and enforcement. Certain advantages were pointed out to industry. Industry has become the whipping-boy in water pollution. Industry users of water will benefit directly by having available cleaner water for industrial use. Industry will be less burdened by surveys generated by special programs if basic data are available from this survey. The industry users of water will be able to show progress in control of water pollution.

The PHS staff indicated that this survey proposal has been generated after much discussion with the State agencies and representatives of industry. Three areas are excluded from the survey coverage. Plants connected with municipal systems need not report. Acid mine drainage points and brines from oil fields are

excluded from the survey. The Public Health Service will operate through State water pollution control agencies. The State agencies will either fill in the information where available or mail the form to industrial plants discharging wastes to surface waters. The plant would be requested to complete the form and mail it back to the State agency. The State agency would forward the forms to the Public Health Service for processing. Some State mail surveys will be supplemented by contact with plants. The Public Health Service will help some of the States where feasible.

At this point three specific questions were raised. Is there a clearout distinction where Federal authority ends and State authority begins? Is the form mandatory or voluntary? Can States make the form mandatory?

The PHS staff indicated that when States move into the area of water pollution control the Federal Government turns the activity over to the State agency. Primary responsibility rests with the States although Public Law 660 is directive legislation. The PHS is directed to develop comprehensive water pollution programs, to provide technical assistance, and to initiate regulatory action under certain conditions. The form isn't mandatory. It was indicated that some 6 to 12 States have mandatory authority. It didn't appear clear whether States with authority would use that authority for compliance.

General industry comments on the survey requirements are grouped and summarized by the general areas covered.

1. The information to be collected is incomplete and will be misused. Objection was made to telling only a part of the story on stream pollution. Data are needed on waste discharge but also data on the waste load. This information can be misused for political purposes. Effects on aquatic life and odor are missing. By the time the data are used they will be inaccurate because improvements would have been made since the data were collected. A company may be in full compliance with State requirements and yet newspaper stories would indicate abuse. The PHS staff indicated that stream flow data are available and that comprehensive studies after the data are collected will require water quality information. The PHS staff believe that the data will remain useful because stream conditions do not change rapidly.

2. States have primary responsibility for doing the job as well as the confidence of industry. States are working on this problem from day to day and have the information that they are concerned about. States have developed the confidence of the business concerned, and are concerned that this confidence will be compromised. The PHS staff indicated that many States know absolutely nothing about what is going into streams. Some States are understaffed and won't have one person to put on this project. This project has been discussed with State agencies and changes made to conform with State agency suggestions.

3. A proper approach is by river basin. The data being developed by the PHS staff does not represent the condition on any stream. The approach should determine the extent of pollution of the stream. When there is a pollution problem, a complicated program can't be worked out through the use of a form. To work out a solution there must be constant programming all of the time. PHS staff indicated that before going to the river basin approach they want comprehensive information on the situation they are dealing with. It is better to have the individual plant data before going into an area than to start bothering the plants during the study.

4. The State agencies believe that the PHS form is inadequate. While many States want to cooperate they express their private feelings that the survey is inadequate. Some State people feel that the form was issued by the Jones Committee. The PHS staff noted that 41 State agencies have offered to cooperate in the survey. In addition to a large number of comments on changes in the form States have wanted to be able to say whether plants are in compliance with State law.

5. The industry has been working 3 to 4 years in developing data through the NTTCIW industry survey. The survey covers 36 industries. The National Association of Manufacturers is preparing a summary of this data. Point-by-point data are not shown but summarized by geographic chunks. The individual names of respondents will not be shown. Even under these conditions there was non-response to the industry survey. It was suggested that the PHS survey would have even higher nonresponse. Some industry representatives suggested reluctance to participating in a second survey. The PHS staff said that two of the inadequacies of the industry survey from the PHS viewpoint were the non-response and the absence of point-by-point information.

6. Some misgiving on the part of industry representatives was expressed concerning the possibility of excessive mail-out and excessive burden on industry. PHS staff said that if the States can fill out the forms the industrial plant will not be bothered. An industry member of the panel indicated that if a State filled out information on a plant, that plant should be given an opportunity to review the report. There was a question raised as to whether a cut-off would be used. Indications were that a cut-off would not be used since a small plant could have a significant effect on a stream. Only the wastewater discharge industries will be covered.

7. There is a real problem relating to the disclosure of confidential data. Some information will involve trade secrets. It was pointed out that analysis of waste water discharge could reveal information on types of processes, yields, and new products or processes. In some cases State agencies may be reluctant to turn over information to the Public Health Service since the companies might feel that a confidence had been compromised. It was noted that Federal agencies are interested in capital expenditure information.

The PHS staff said that they could see no point in publishing an inventory of point-by-point information. It was also noted that Congress is interested in specifics.

Representatives of the electric utility industry and the dairy industry questioned whether they should be covered in the survey. The electric industry uses water for cooling and much information has already been reported on this. The Public Health Service wants information on thermal pollution but it wasn't clear whether the electric utility industry will be covered by this survey. The dairy industry also has developed information on water pollution and reported that the information is still useful. The PHS staff noted that it may not be necessary for each individual plant to repeat the tests but that the quantities of water will vary with plants.

Industry representatives reported that it was their understanding that the questionnaire under review is currently being tried in two States. The State of Alabama is using the form with the State being identified in the form title. The PHS staff indicated that they are not aware of the current use of the form.

The discussion was directed by the chairman to the specific items on the form. It was made clear that discussion of individual items did not mean general agreement with the objectives of the survey. Comments are summarized by items.

Items

1-4. There is some question as to whether the company or the plant should receive the questionnaire. The industry representatives pointed out that even if it were mailed to the plant, it would in many cases be cleared at the company level.

5. It was noted that the industry survey provides information on the amount of waste discharge going into municipal sewers.

6. PHS staff indicated that this question will be changed. Some help will be given to the States on SIC codes.

7. Industry representatives commented that 1963 may not be a "normal" year. There may not be a seasonal pattern in which the plant ceases to operate but it may operate at less than full capacity.

11. and 13. The recommendation was made that items 11 and 13 be dropped since they may not give meaningful information. In some cases the water may not require treatment and will be reported as zero treatment. In other cases the water may be only partially treated as skimming the oil and it would be reported as treated. Water may be reported as 100% treated and item IV may be blank. The PHS staff indicated that they will have the States add information to make the replies meaningful. Industry representatives point out that the survey will be getting only a part of the effort being made to reduce waste disposal. A plant may recycle the water and reduce waste. This would show up as a negative report.

17. Industry representatives point out that no one runs tests on sewage. PHS staff agreed to eliminate this item.

18. Industry may not know all of these laboratory determinations since they are not appropriate. PHS staff said that the instructions will be changed to make it clear that item 18 refers to meaningful tests and that these tests will vary from industry to industry.

19. Lines between cooling and processing water may be connected. Cooling water may be mixed with process water to dilute the process water. If ground

and surface disposal water are combined to give an average the average will not be meaningful.

20. There was some discussion as to whether the survey shouldn't ask for the pounds of waste discharge per day since PHS will try to estimate this. It was pointed out that information on pollution of the water supply to the plant is missing. This information is generally known by the plants.

21. Capital expenditures for water pollution control cannot always be easily identifiable, especially expenditures going into the original investment. Capital expenditures information may not give a good indication of the total expenditures on water pollution control. For example one plant may spend \$5,000,000 on a treatment plant and another plant spends \$5,000,000 in tightening up the load. The first expenditure will be reported but the second one will not. The term pollution as used in this survey refers to pollution going out while industry believes that it should refer to a condition of the river. A compulsory survey may be the only way to get information which can be used as an indictment of an industry. The complete story is not being told by this survey and the information may be used out of context. The survey would be more successful if names were held confidential and trade secrets were protected.

Mr. Indritz, a member of the staff of the Subcommittee on Natural Resources and Power, House Committee on Government Operations, stated that the subcommittee has been active in the area of water pollution of streams and has tried to find out what has been done, what still needs to be done, and how to do it. There is a lack of information in this area and the Basin Studies will not be concluded until 1971. The Federal installation inventory has been useful and the purpose of the Subcommittee is to help industry. Industry representatives have assured the Subcommittee that they will cooperate in solving the water pollution problems. The Subcommittee didn't make-up the form, but believes that the more specific the information the more progress will be made. The full story should be told.

Some of the industry representatives indicated that written statements will be forthcoming.

The meeting adjourned at 4:45 P.M.

Certification: I certify that these Minutes are correct:

BENJAMIN T. TEETER,
Office of Statistical Standards, Bureau of the Budget.

ADVISORY COUNCIL ON FEDERAL REPORTS

MINUTES

Meeting: Panel on Proposed Survey of Industrial Waste Water Disposal.

Date and time: Tuesday, August 13, 1968, 9:30 A.M.

Place: Conference Rm. 10211, New Executive Office Bldg., 17th Street bet. Pennsylvania Ave. & H St., N.W., Washington, D.C.

Presiding officers: Edward T. Crowder, Harold T. Lingard.

Present from industry: A. R. Balden, Chrysler Corporation; Robert R. Balmer, E. I. du Pont de Nemours & Co.; George E. Best, Manufacturing Chemists' Assn.; A. Dewey Bond, American Meat Institute; S. O. Brady, American Petroleum Institute; Everett R. Call, Natl. Paint, Varnish & Lacquer Assn.; Daniel W. Cannon, National Assn. of Manufacturers; James Clabault, American Paper Institute; Jules A. Coelos, Jr., United States Steel Corp.; Jack Coffee, Chamber of Commerce of the United States; Wm. G. DeWitt, Corn Refiners Assn.; H. J. Dunsmore, United States Steel Corp.; Floyd O. Flom, American Paper Institute; P. N. Gammelgard, American Petroleum Institute; W. H. Garman, National Plant Food Institute; Fred J. Greiner, Milk Industry Foundation; Harry E. Korab, National Soft Drink Assn.

Fred Mewhinney, Miller's National Foundation; Stephen Palmer, National Assn. Frozen Food Packers; Austin Rhoads, National Canners Association; Harry E. Robbins, Manufacturing Chemists' Assn.; J. H. Rook, Manufacturing Chemists' Assn.; Robert H. Shields, U.S. Beet Sugar Assn.; Robert W. Smith, Ford Motor Company; G. Don Sullivan, American Mining Congress; DeYarman Wallace, The Youngstown Sheet & Tube Co.; Charles E. Welch, Manufacturing Chemists' Assn.

Present from Government: A. L. Alm, Bureau of the Budget; E. T. Crowder, Bureau of the Budget; H. T. Lingard, Bureau of the Budget; J. I. Bregman, De-

partment of the Interior; Peter G. Kuh, Department of the Interior; W. A. Smith, Department of the Interior; James H. McDermott, FWPC, Dept. of the Interior; Joe G. Moore, Jr., FWPC, Dept. of the Interior; Jesse L. Lewis, FWPC, Dept. of the Interior; Jodie Scheiber, House Natural Resources & Power Subcommittee; K. L. Kollar, BDSA, Department of Commerce; L. J. Owen, Bureau of Census, Dept. of Commerce; O. C. Gretton, Bureau of Census, Dept. of Commerce.

Mr. Crowder as Chairman introduced officials present from the Government agencies and then asked others present to introduce themselves. He also briefly explained the functions of the Advisory Council on Federal Reports which sponsored the meeting and the procedures to be followed. Mr. Bregman, Deputy Assistant Secretary for Water Pollution Control, Department of the Interior, opened the discussion with a brief statement on the results of a meeting of representatives of interested Government agencies held in late July. He then turned the discussion over to Mr. McDermott, a member of the Federal Water Pollution Control Administration staff.

Mr. McDermott reviewed the history of the proposed survey back to 1964 when an early version of it was first submitted to the Bureau of the Budget for approval which highlighted data needs associated with basin planning. He emphasized the needs of both the Federal and State governments for the data. He pointed out that, in addition to basin planning, subsequent Federal legislation with respect to water quality standards re-emphasizes the need for specific point-by-point data covering industrial waste water disposal practices and costs. Several recent reports required by Congress have also served to identify areas where data are lacking. The form, he said, has been discussed with other Federal agencies and State governments. Based on these discussions it has been simplified. The form requests the kind of data needed by both Federal and State governments, and it also makes it possible for industry to report what it has done to control pollution.

Mr. Moore, Commissioner of the Federal Water Pollution Control Administration, stated that the need for adequate and accurate data is becoming more and more acute. There is a need to know what the cost of pollution control is going to be in order to permit intelligent planning. Industry already is probably spending more than is known. Mr. Moore noted a preference for a cooperative approach rather than a mandatory legislative approach in order both to identify industrial pollution control progress and to satisfy the data needs of State and Federal water pollution control agencies.

Preliminary to any technical discussion of the form, panel members were invited to raise any major issues affecting the survey. Discussion at this point centered largely around: the need of the Federal government for the data; the procedure for conducting the survey; and the issue of confidentiality.

Panel members questioned the proposed use of the data, stating that the Federal Water Pollution Control Act grants authority to the Federal government to establish water quality standards only if the States fail to act. They also made the point that, for establishing water quality standards, information on actual discharges and waste loads is not necessary. On the other hand, if the Federal government needed to act, a more comprehensive survey than the one proposed would be necessary.

Some industry representatives had misgivings about the need for the data in view of the cost of providing them. One suggestion was that the FWPCA report "Cost of Clean Water" be brought up to date. This report was based on profile studies prepared by contract consultants knowledgeable about pollution control efforts in specific industries. It was also suggested that there be a cut-off of some type so as to relieve some plants of reporting.

As to the proposed method of conducting the survey, it was argued that, since the FWPC Act is quite specific in defining the role of the States in water pollution control, FWPCA should seek the data it needs from State agencies first. In States where the data are not available, the proposed survey could be made to obtain them. A number of industry representatives felt that this was the more logical way to proceed. Many are already reporting to the States, and the Federal survey would in many instances result in duplicate reporting. It was suggested that this procedure also would be helpful to FWPCA when judging State standards and to the States in developing their capabilities. Also, it was said that some States have indicated that the data to be collected in the Federal survey wouldn't be of much use to them.

Mr. Moore said that he has met with 35 or 40 of the State agencies and found a wide variation in their statutes, procedures, and capabilities. In view of this situation, there is a real question whether or not the States can develop a uniform reporting base. Many States are collecting data, but because of differences in what is happening in each State, there is a wide variation in the type of data available. Adequate and accurate data are vital to the development of standards, and in some cases State data have been questioned as to accuracy. Also, some of the larger companies would have to make separate reports to many States in lieu of one report to FWPCA from the central office. For this reason, States may find it difficult to manage the survey. However, FWPCA said that they have not done all they can to make full use of the State agencies, and they plan to work closer with the States and use their capabilities wherever feasible, working through FWPCA regional offices.

Representatives of several industries stated that their trade associations have made or are making similar surveys. Generally, these organizations got good cooperation because they pledged confidentiality. For this reason, they would not be able to turn company data over to FWPCA, but they would be willing to discuss with them their procedures and the problems encountered. They are afraid that response to the proposed form will not be adequate to summarize. FWPCA said that they had looked into the possibility of using trade association data, but found that they lacked adequate comparability.

A major topic of discussion was the matter of confidentiality. As now proposed, response to the survey is voluntary, but there is no promise that the data will be treated as confidential. Under these circumstances, industry believes that response will be limited and the data therefore misleading. It is their opinion that there is little need for disclosure of data except between the FWPCA and State water pollution control agencies. Furthermore, data supplied on a voluntary basis should not serve as a basis for legal action against any plant.

Industry does not like to report effluents without some indication of the effect they will have, because the location of the discharge can make a difference. There is always pressure from the public to release Federal data, and the companies are afraid that the data may get into the hands of news media. They feel that industry would have to assume that the data will be used against them and even be used in court. This would force industry to refuse to cooperate. Reference was made to the procedures used by the Public Health Service when collecting air pollution data. It pledges confidentiality except under certain circumstances. FWPCA might follow a similar procedure.

Spokesmen for FWPCA said that they understood industry's concern about confidentiality. It is not intended that the data be used for enforcement against individual companies. However, the data are needed for the official records of enforcement conferences if the actions of the conferences are to be legally sustainable. In 1966 amendments to the FWPCA Act require that upon approval of a majority of State and Federal conferees at an enforcement conference, data must be supplied for this purpose. Companies need not report any trade secrets. Water quality is not something that is easily hidden, and if necessary FWPCA could check on the discharges themselves. They agreed to reconsider the confidentiality aspects of the survey.

A representative of the Bureau of the Census briefly described plans for a 1968 survey of water use in manufacturing and mineral industries which will request some information in addition to that obtained in previous surveys of the same type. The Census data will be in broader aggregates than in the proposed FWPCA survey and not too relevant to it.

The waste water disposal form was reviewed item by item. FWPCA said that they had tried to make the form as consistent with Census concepts as possible. The form calls only for data that may be available and does not require any special studies to provide them. It is their belief that the data are available, although the accuracy may vary from company to company. If a plant is discharging into a sewer, it is not necessary to report the information in Sections III and IV unless the company prefers to do so.

Questions were raised as to the need for data on number of employees and production. Industry generally considers such information confidential, particularly if it is to be requested for more than one year. Also, they claim it is hard to interpret because of variations in operations between companies and plants. These data are used to project the magnitude of pollution based on the relationship of pollution to employment and output. It was recommended that check boxes be provided for various ranges of number of employees.

In connection with Item 9a of Section II, it was pointed out that there may be charges other than service charges. For item 10 it was suggested that temperatures be obtained both upstream and downstream to adequately judge the effect of the discharge. Some reference to BTU's might be helpful. Also there is need for some indication of the time period to which the data relate.

A number of questions were raised about Section III. FWPCA explained that Item II requests data back to 1948 because this period generally covers the life of a plant and because that was the year of the first Federal pollution control law. One industry representative said that he doubted whether this section would be completed by many companies. For his industry, however, this information can be obtained from a trade association. Some felt that answers to Item 12 would not be very meaningful because of the variations between industries and even between plants. Furthermore, book accounts usually do not record this information separately. Consequently, there is need for better instructions. It was suggested that FWPCA check with individual industries about this item. Some were critical of Item 13 for covering too long a period. FWPCA pointed out that the law calls for data for this period. One suggestion was that the data be requested for five years but not by years. FWPCA again said that companies need report only data that are available.

At the end of the meeting panel members on invitation summarized their views and spokesmen for Interior indicated their desire to review their plans carefully in the light of the discussions.

The meeting adjourned at 1:35 P.M.

Certification: I certify that these Minutes are correct.

EDWARD T. CROWDER,
Office of Statistical Standards, Bureau of the Budget.

Senator METCALF. The next witness is Mrs. Erma Angevine, another old friend of this committee. Mrs. Angevine is executive director of the Consumers Federation of America.

We are delighted to have you before the committee, Mrs. Angevine. I notice that you have a prepared statement, so you go right ahead and read it, or summarize it, or proceed in your own fashion.

STATEMENT OF ERMA ANGEVINE, EXECUTIVE DIRECTOR, CONSUMERS FEDERATION OF AMERICA, WASHINGTON, D.C.; ACCOMPANIED BY EDWARD BERLIN, GENERAL COUNSEL

Mrs. ANGEVINE. Thank you, Mr. Chairman. I also have with me Edward Berlin, our general counsel, and I would like to have him participate, after I have made our formal statement.

Senator METCALF. We are pleased to have him with us.

Mrs. ANGEVINE. Mr. Chairman, I am most pleased to appear this morning to express the unqualified support of the Consumer Federation of America for your endeavor to reform the Budget Bureau Advisory Committees on Federal Reports.

Delegates from CFA's 184-member groups noted at our annual meeting August 29, 1970, that:

While massive consultation goes on with industrial and business groups and much data is openly or secretly passed on to these organizations, the consumer ordinarily is left unconsulted and uninformed.

Thanks to your efforts, the American public has now been made aware of the awesome power of these committees, a power which makes a mockery of administrative due process and places those who regulate at the mercy of those to be regulated.

In view of the cloak of secrecy which has in the past surrounded the activities of these industry-dominated committees, it is apparent that we are guilty to but a minor part of the full story.

But the little that we do know is frightening enough. For example, we know that the Budget Bureau, operating at the direction of their committees of vested interests, has frustrated completely the efforts first of HEW and more recently of Interior to obtain an inventory of industrial wastes. We know that a coalition of the National Association of Manufacturers, the chamber of commerce, and individual industrial polluters, has straitjacketed the efforts of NAPCA to obtain useful air pollution emissions information.

We know that utility-dominated committees have watered down the attempts of the Federal Power Commission to secure meaningful statistical and environmental information. And we know that requests by the Federal Trade Commission that it be permitted to collect necessary stockholder information have met their demise upon being transmitted to the Budget Bureau and their industry advisers.

The results of the activities of these committees are shocking enough; the procedure by which they operate is nothing short of scandalous.

We pride ourselves as being an open, democratic society, one in which all voices are welcome. The BOB-Advisory Committees procedures makes a mockery of that premise.

The only voices welcome on the various advisory committees are those of the very industries whose interests are diametrically opposed—or so they view it—to the dissemination and collection of information.

We are led to believe that when an agency is contemplating the promulgation of an information request, it simply publishes a proposed notice and invites all interested persons to comment.

What few realize is that those who will be called upon to furnish the desired information, should the proposal be finalized, must even give their permission to the publication of the proposal.

Thus, the so-called initial proposal has already been worked over by industry and reformed to its liking.

Most outrageous, however, is the fact that after the public comments have been received and the agency has formulated its final rule, it is customary practice for it to be submitted to the Budget Bureau.

There is no requirement in the law that this be so, but agencies apparently feel more comfortable being overly cautious. After all, they may desire additional information in the future and cannot afford to antagonize either the Bureau or industry.

We understand that it is also customary for the Budget Bureau staff examiner to clear the finalized rule at least with the chairman of the industry advisory committee and, in the case of particularly sensitive rules, no doubt with the committee itself.

This means that industry has three cracks at the apple. First, in assisting the agency to prepare the proposal which it will notice; second, in commenting on the notice; and third, in approving the finalized rule. The first and third opportunities are entirely behind closed doors and yet either can result in the complete frustration of agency action—a nonappealable frustration, I might add.

CFA became concerned about this procedure. We became concerned about the fact that notwithstanding the quasi-governmental

nature of the advisory committees, the interests which they represent are monolithic.

We became concerned because we are convinced that the effectiveness of Government is inextricably dependent upon the completeness and integrity of the information available to administrators and regulators.

Accordingly, in December 1968, we wrote to the then Director of the Budget Bureau requesting representation on three of the 16 advisory committees.¹

Our request was denied. We were told that if we desired to comment on any information requests we could contact the Bureau "and make arrangements to do so." The Bureau did "not believe, however, that it would be desirable to extend the membership of business advisory committees, which are consulted as representatives of respondents, to include nonbusiness interests."

I might add that my correspondence goes on. After President Nixon named a new Commission on Federal Statistics, I wrote to the chairman of this new commission reflecting our attitudes about the Budget Bureau committees and asked him to evaluate putting some other people on besides business representatives and asking that the whole structure be examined.

We had an acknowledgment of the letter, but that is all at this point.

Mr. Chairman, President Kennedy recognized that consumers, that citizens, have the inalienable right to be heard by their Government. We are confident that he had reference to a meaningful right to be heard.

That is the thrust of S. 3067 and that is why we are here to endorse it with but one reservation. We question whether it would not be more in keeping with principles of participatory democracy simply to abolish the committees and require that all interested parties participate on an equal basis in the public rulemaking forum.

But we are pragmatic. We recognize that before these longstanding committees are abolished, further study may be desired. Consumer participation, however, should not be delayed any longer.

To defer enactment of S. 3067 would be to give credence to the growing public skepticism about the way in which governmental decisions are reached.

Thank you.

Senator METCALF. Thank you very much for your appearance and your usual articulate testimony. Are you going to put that letter to which you referred in the record?

Mrs. ANGEVINE. I would be glad to put it in the record.

Senator METCALF. Without objection, it will be incorporated in the record.

(The material supplied follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 3, 1970.

Mrs. ERMA ANGEVINE,
Executive Director, Consumer Federation of America,
Washington, D.C.

DEAR MRS. ANGEVINE: This is in response to your letter of January 22, 1970. I am sorry not to have replied sooner but we have been plagued with illness and injury to some of our key personnel.

¹ See p. 120.

Mr. Raymond T. Bowman, to whom you addressed your letter, retired from Federal services last summer. Since becoming the head of this office (now the Office of Statistical Policy) I have introduced several changes. One is opening up the meetings of committees and panels of the Advisory Council on Federal Reports to representatives of consumer and other interested organizations—at least on an experimental basis. We have also made arrangements with Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, for members of her staff to participate in committee and panel meetings where consumer interests are involved.

We will notify you of the ACFR committee or panel meetings and you are most welcome to attend yourself or send a representative. Your representative may not only observe, but participate in the discussion. Mr. Harry Sheftel tells me that at a recent ACFR Utilities Committee Meeting on Air and Water Pollution, Mr. Edward Berlin from your staff did attend. Mr. Sheftel reports that this meeting was a fruitful one.

We have added your name to the mailing list to receive the "Daily List of Forms and Reporting Plans Received for Budget Bureau Review". This list shows, by agency, the title of the form or reporting requirement, the agency form number, if any, the frequency of use (single time, on occasion, or at periodic intervals such as monthly or annual) and the staff member or members to whom the review is assigned. In the case of new forms, there is also a very brief description of the respondents. If you have any inquiries about any forms listed, I suggest you call the staff member on the Daily List. There is enclosed the list of reviewers together with their extension numbers. To make calls, dial 395, then these extension numbers.

I appreciate your interest in consumer protection, with which I also am very much concerned, and hope that we shall have fruitful working relations. Please drop in to say, "hello," when you are here.

Sincerely yours,

JULIUS SHISKIN,
Assistant Director for Statistical Policy.

Enclosure.

Barbour, Dana M.	3793
Bloomberg, Lawrence N.	3890
Brown, Thomas D.	3858
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Lingard, Harold T.	4911
Lowry, Roye L.	3756
Martin, Margaret E.	3814
Moss, Milton	4730
Nash, Charles E.	(on military leave)
Nelson, Karen F.	3443
Roy, Beth D.	3898
Sheftel, Harry B.	4868
Sunderhauf, Milo B.	4664
Wann, Marie D.	3880
White, Emily T.	3710

Senator METCALF. On what advisory commissions, if you know, is there consumer representation?

Mrs. ANGEVINE. To the best of my knowledge there are none. We are now on the list to receive the yellow sheets announcing what rule-making is going to be considered. We also now get announcements of actual rulemaking meetings. We do not get much advance notice and, with a small staff, we are not always able to attend. But we have had people attending two or three of them.

Senator METCALF. But you get announcements now?

Mrs. ANGEVINE. Right, now.

Senator METCALF. And you have an opportunity to attend. Are you permitted to participate?

Mrs. ANGEVINE. We have not been, although I did receive a letter quite recently in which I was assured—this was after Mr. Berlin had attended—I was assured that we were welcome to send a representative and that instead of just observing, he could participate in the discussion. This was quite a change in attitude.

Senator METCALF. That is progress, but pretty slowly.

Mrs. ANGEVINE. Right. We are moving.

Senator METCALF. Well, do you agree with the previous witness that advisory committees perform a worthwhile service?

Mrs. ANGEVINE. I think they could perform a worthwhile service. I think that structured as they are now, we are only making the rule the way they want it, the way they started out. It is very difficult to tell if there is any actual input of controversy. It is all sort of settled.

Senator METCALF. The gist of your testimony regards what you call the cloak of secrecy. Would not a lot of problems we have with advisory commissions be eliminated if we had greater dissemination of information about both their conferences and discussions and the records that they make?

Mrs. ANGEVINE. This is certainly our opinion. If all of the meetings were held publicly and with full participation, then people would feel they had their say. If a decision is openly arrived at, you know why it was arrived at. You may not agree with it, but at least you know it is an open book for you to look at and understand the procedure.

Senator METCALF. Mr. Turner, do you have some questions?

Mr. TURNER. Well, Mrs. Angevine, after you wrote your letter to the Director of the Bureau of the Budget, it was incorporated in the appendix to the minutes of the Advisory Committee on Federal Reports at a meeting—I believe it was January of 1969—which we have.

On page 6 of the minutes it states, and I quote, “there were other expressions of approval of the Bureau’s position to the effect that both consumer and business interests should have access to the Bureau of the Budget on statistical and reporting matters, but through separate forums.”

Now, I wonder if you might comment on the advisability or inadvisability of having separate forums for making your presentations.

Mrs. ANGEVINE. I think it is totally inadvisable. It is very difficult for you to believe you are getting the whole story if you are getting a story one way and business is getting a story through another source.

If we get the same story at the same time, then we can do our own interpreting.

Mr. TURNER. Maybe you would like to comment a little further on the type of input, and the kind of position that you really are seeking here, with respect to the advisory committees. What kind of contribution could you make in the light of what you already know goes on in the discussions of these advisory committees.

Mrs. ANGEVINE. I think I would like to have Mr. Berlin answer this, if he would, please.

Mr. BERLIN. Mr. Chairman—

Mr. TURNER. Before you do that, I might ask you to identify yourself and your background very briefly, and your relationship to the Bureau of the Budget and advisory committee meetings.

Mr. BERLIN. Mr. Chairman, my name is Edward Berlin, a member of the law firm of Berlin, Roisman & Kessler. Prior to joining that firm I served as Assistant General Counsel of the Federal Power Commission. Part of my responsibility included the promulgation of rules and regulations, including rules calling for the solicitation of information from industry.

In that connection I did have occasion to deal with the Budget Bureau and with industry advisory committees.

If I may give you some indication of the democratic nature of CFA, I would like to briefly dissent from my Executive Director with respect to just a couple of her comments, the comments about whether or not the advisory committees perform a worthwhile function and whether or not removal of the cloak of secrecy would be sufficient curative action. I think not, and I think not principally because of my experience at the Federal Power Commission and my dealings with the advisory committee BOB had at that time, essentially the same advisory committees they have now.

It was very clear to me, after my first experience, that the name of the game, if I was to perform my job—and my job was to get forms through the advisory committee, through the BOB—was principally to placate the chairman of the advisory committee at that time, Mr. Quig and Mr. Hasenberg.

Mr. TURNER. Was this the Committee on Utilities?

Mr. BERLIN. These were the three committees.

Mr. TURNER. Relative to utilities?

Mr. BERLIN. Yes, gas and electric.

Mr. TURNER. That time would be approximately when, what year?

Mr. BERLIN. Well, I am thinking principally in terms of the effort to obtain information on utility expenditures for outside consultative services.

We had received requests from Senator Metcalf that we obtain information on expenditures for outside consultative services. There was no question but what if the FPC was going to have the ability to collect information along those lines, we were going to have to have a form acceptable to Mr. Quig and Mr. Hasenberg and their associates on this the respective committees.

Mr. TURNER. Were you present when that assertion was made by those members? In substance, is that what they said?

Mr. BERLIN. No, it need not have been said in that fashion. Anyone who attends a meeting of an industry advisory committee recognizes full well that they are not advisory committees, notwithstanding the fact the Executive order promulgated by President Kennedy makes it very clear that they are to be truly advisory in nature.

These committees do not advise the Budget Bureau; rather they determine what the Budget Bureau will accept or reject as far as FPC and other agencies are concerned.

That is why it will not be sufficient merely to strip off the cloak of secrecy that surrounds these committees or to modify their procedures in some fashion. I suspect that the people over at BOB have now reached the conclusion that it is the advisory committee that calls the

shots and I doubt whether they will change their thinking to any extent.

I certainly felt that I would be shirking my responsibilities to the Federal Power Commission were I not able to negotiate with the industry representatives and come up with something that they would agree to let us have. That was the nature of the ball game.

This was all before the public had any opportunity to participate or even know what was going on. We negotiated—as the chairman well knows—for about a year and a half before we were able to come up with something that they would even let us publish as a proposed initial rulemaking.

Senator METCALF. I think the key thing in your testimony, then, Mr. Berlin, is what they would let you have; that the policy and the whole policymaking process was over in the advisory commission and not in the Federal agency designed to make policy and to make decisions.

Mr. BERLIN. That is right. And as you know, Mr. Chairman, in the Executive order issued by President Kennedy governing the operation of advisory committees, he specifically emphasized, and did so in the preamble, that these committees are to function at all times in consonance with the laws on conflict of interest.

Well, here we have the very people who had direct conflicts of interest telling the FPC what information it could or could not have when that information, if collected, might very well be relevant in ratemaking proceedings, if nothing else, from the standpoint of the propriety of the expenditures being made. So we have a direct and flagrant conflict of interest involved and to my way of thinking, convening an advisory committee to pass on a request for that type of information is directly in violation of the Executive order promulgated by President Kennedy.

Mr. TURNER. Well, may we go into a field where you have some knowledge and it has to do with the problem of gas reserves, gas supply: You testified, I believe, at hearings before the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs of the Senate, November 13, 1969, and you stated on page 193:

Is there really a shortage? How do we know that there is? On what is all of this shortage hysteria based? It is based presumably on the considered judgment of two agencies * * * the Federal Power Commission and the Department of the Interior. But have they made studies? No. Have they undertaken any hard probing? No. They have simply announced that there is a shortage.

Then further in your testimony, page 201 of the hearings, you state:

I suggest to the Chairman of the Federal Power Commission that this Commission does not have the kind of reserve information which warrants his confidence, and in making this suggestion I have excellent company in the person of former Chairman White. He has made it quite clear at least until the industry is willing to come forth with the reserve data that it guards so closely, he could not put any stock in their claims of shortage.

Now, may I ask you, sir, in your experience with the Federal Power Commission, does the Commission have any powers of making a survey to find out the truth about the gas shortage? Does the Federal Power Commission have such power?

Mr. BERLIN. Should the Budget Bureau and Messrs. Quig and Hasenbergl decide that the Federal Power Commission has legitimate interest in obtaining the information, then the FPC would; but absent that, no.

Mr. TURNER. Do you know whether the FPC, or any staff of FPC, have had any discussion with the Budget Bureau about it?

Mr. BERLIN. To the best of my knowledge, they had not during my tenure with the FPC but that was during the period of time when Congress had denied the FPC funds for the initiation of a natural gas survey. I do not know whether any overtures have been made to the Budget Bureau since that time. I think there would be good reason not to. I think it would be a futile act.

Don't forget the FPC has been trying to get the information from the same representatives for quite some period of time and they have been trying to get it in the context of formal proceedings.

When the industry comes in it is coming in and saying, "We need additional revenues in order to supply the additional reserves, to have sufficient incentive to explore for additional reserves."

And even in the context of industry-initiated requests for price increases that must necessarily be predicated on reserve information, the FPC is unable to obtain that kind of information from industry. So I think it would be foolhardy of the FPC to assume that having been denied the information in that context, they would have any likelihood of obtaining it from the BOB procedures.

Mr. TURNER. Now, section 6 of the Federal Trade Commission Act provides for obtaining information and surveys of the factual interest that you are referring to here in terms of a gas survey. Is it a fact that under that informational section, section 6(b) of the Federal Trade Commission Act, the FTC would have to go first to the Bureau of the Budget for the same kind of clearance, as for any surveys or requests made from the Federal Power Commission?

Mr. BERLIN. As you know, the Consumer Federation of America has recently, and very vigorously, endorsed the suggestion of Senator Hart that the FTC undertake this kind of independent evaluation in view of FPC's reluctance to bother itself with details. I suspect that when this question gets over to the Budget Bureau, should the Federal Trade Commission be persuaded to undertake a study, and I hope that it will be, that the Bureau of the Budget and its advisory committee will take the position under section 3(d) of the Federal Reports Act that this would constitute an improper collection of information by the FPC in view of the fact that the agency with principal responsibility for the collection of gas reserve information, namely, the FPC, has publicly taken the position that it has all of the information, all of the data, it feels it needs.

So I think we are really caught on the horns of a dilemma. One of the Budget Bureau's responsibilities under the Federal Reports Act is to make sure that the collection of information, where there is more than one agency involved, is channeled through a single agency. I think the FPC, if it follows its public utterances to date, will take the position that it is doing an adequate job of data collection and that will weigh very heavily in the minds of the Budget Bureau—not to mention the influence brought to bear by its industry advisory committees.

Senator METCALF. I understand the SEC takes a position that it does not have to obtain Budget Bureau approval of some of its questionnaires. It simply advises the Bureau of the Budget of the contents of questionnaires as a matter of courtesy. They rely on statutory authority.

Do you know, could the FPC take a similar position if it chose to, as an independent regulatory agency? The FPC, as we both know, does not have much statutory authority on collection of information but it does have authority regarding electric utilities in the 1935 act. Could this be extended, do you think, to the gas companies?

Mr. BERLIN. Well, I had not known of the SEC's position. I am delighted to hear of it. I am not that familiar with the SEC's mandate, but I cannot recall anything in it that would be very unlike what is in the 1935 Federal Power Act.

As you know, Mr. Chairman, the 1935 Federal Power Act was enacted by the Congress as part of the Public Utility Holding Company Act of that year. So the legislation which governs the FPC and the SEC is part and parcel of the same congressional action. I think in view of that, certainly the spirit of the legislation probably could be read in a similar fashion.

I assume that the SEC takes the position that it has to have the ability to go directly to companies if it is to be able to discharge its responsibilities to stockholders, investors, and the public at large, that is, to protect them from possible violations of law by the companies subject to its regulation. If that be the logic of its decision not to feel compelled to go through the mechanisms of the Federal Reports Act, I think it would be wholly applicable to the FPC. But I am also confident that we will not see that kind of initiative taken by the FPC, at least not for the next couple of years, absent some rather strong suggestion by the Congress that this is the appropriate way of proceeding.

Therefore, I would not view it as a substitute to S. 3067 by any means.

Senator METCALF. But these issues of collection, release of information, and investigation, the whole issue of relevance and the burden, it should be on the regulatory agency, whether it is FPC or SEC or whether it is, rather than on the Advisory Commission, the decision should be at the regulatory commission level rather than at the advisory level.

Mr. BERLIN. Obviously so, Mr. Chairman, and that is one of the reasons why I would not be overly happy with the establishment of a separate forum within the Budget Bureau for consumer-environmental representatives. When the FPC promulgates a proposed rule or regulation or form which it proposes to use for the collection of data, all interested persons have the ability to appear and participate on an equal basis—and, by the way, although the Federal Reports Act makes clear that BOB is to consult with all interested persons, its industry advisory committees are not even representative of industry, since they do not have representatives from any consumer-owned systems, either rural electric cooperatives or municipally owned. In any event, an FPC determination at the culmination of a public rulemaking proceeding can be challenged, based upon the record compiled before that agency.

It must reflect, in fact, the substantial weight of the evidence presented or else be vulnerable to attack through judicial review.

The real difficulty with the Budget Bureau proceeding is that it is a court of last resort. The public is not invited to participate; indeed, the public has no reason to know it should be participating as long as the Budget Bureau remains silent.

And, of course, silence is equivalent to a denial. So really the big distinction, and the reason why these decisions should reside with each of the agencies, is that at least that gives you a mechanism for participation and the means by which to challenge an agency decision at the end of the rulemaking process.

With respect to the Budget Bureau decision, there is absolutely no ability to at any time call that determination into question.

Mr. TURNER. Let us suppose that I participated in the investigatory reporting function that was the subject of meetings at the Budget Bureau and at the Advisory Committee and that my request as a representative of the public were denied by the Budget Bureau as being not the kind of information they wished to have made public or to get. And then an adjudicatory proceeding started in the Federal Power Commission and I raised the same request for economic or other type of investigative survey to be made before the Commission as it proceeded with consideration of this matter in the official forum.

Would there then be contact between the Commission and the Budget Bureau on the basis of their previous position?

Mr. BERLIN. I am sorry, I do not quite understand.

Mr. TURNER. Would the Budget Bureau still be involved in the matter?

Mr. BERLIN. When the rulemaking proceeding is culminated before the Federal Power Commission, the Federal Power Commission comes up with its final rule, it still is under an obligation, certainly if the final rule at all departs from the rule as originally promulgated, to resubmit it to the Budget Bureau. This has been the consistent practice followed by the FPC and I am sure of other agencies, as well.

So, notwithstanding the results of the public proceeding, the issue is always going to be decided behind closed doors in the Executive Office Building.

Mr. TURNER. But as a party in interest in a quasi-judicial proceeding before an arm of the Congress, a regulatory agency, I would expect my request to be taken under consideration by the Commission on its merits and on the argument that I present to it and the arguments presented by other parties, not by some ex parte negotiation outside the room.

Mr. BERLIN. I would expect that also, Mr. Chairman. That is why I feel so strongly that S. 3067 should be enacted.

But I think if I were the Commission staff counsel defending your action against the Commission's rulemaking provision as finally promulgated, I would have little difficulty and I probably would be convinced about the propriety of my position, in suggesting to the court that your trouble, your point of controversy, is not with the FPC at all, it is with an agency which is not subject to being challenged in the court because it is not the agency that has promulgated the rule. So we are on the horns of a real dilemma. We have to proceed against the agency that really does not have final authority and we cannot proceed against the agency that in fact does have the real say.

Mr. TURNER. I would like to get back, if I may, to the subject of the gas survey. I take it in your statement before the Interior Committee you felt such a survey was very important. We have seen in the newspapers and some people have stated that until we get the truth of the available gas resources in the country, we really would not be able to know whether any price increases would be justified.

Mr. BERLIN. This has been the position of CFA for quite some period of time. In a recent local news story a present member of the Federal Power Commission was quoted as stating that the Government now has detailed reserve information and based upon that he stated, "I am now convinced there is a real gas shortage."

I wrote a letter to the Chairman of the Commission saying that I was delighted to hear that the Government had reserve information and wondered if he would share it with us publicly so that we could make our own determination as to whether or not there was a shortage. It turned out when the reporter writing the story inquired of the Commissioner who had made these observations as to what he based it upon, he in fact had based it upon a trade association sterilized submission to the Federal Power Commission that was really nothing more than the information they had all along slightly recast, perhaps on different colored paper and different size columns.

Mr. TURNER. This is my point, because people all over the country are concerned when they read in the newspapers that there is going to be a gas shortage next winter. From what I have been able to gather from your testimony, and from what I have been able to judge in discussion with the Bureau of the Budget, there is no real survey of the potential reserves in existence, reserves of gas for the American people to look at, at this point.

Mr. BERLIN. I am sure you are correct.

Mr. TURNER. Yet we do find in 44 United States Code 3503,¹ the duties of the Director of the Bureau of the Budget with a view to carrying out the policy of this chapter from time to time shall (1) investigate the needs of the various agencies for information from business enterprises, from other persons, and from other Federal agencies.

Now, I may be wrong, and you can correct me on this, in my interpretation. This would appear to me from the legislative history to be a positive mandate to the Bureau to make sure that certain information is obtained as needed by agencies.

Mr. BERLIN. I think you are obviously right. This was intended to be a two-way street. The Bureau was not only to pass upon requests initiated by agencies, but was also to make sure agencies were in fact initiating the requests that should be initiated and where there was a void, the Budget Bureau was to fill that breach.

To the best of my knowledge there has been no movement by any of the agencies involved, BOB or its successor, the Department of the Interior, which has a direct interest here, or the Federal Power Commission, to fill this very, very essential breach.

Mr. TURNER. Would you have any knowledge as to whether if the Antitrust Division of the Department of Justice wished to make a civil demand upon the oil and gas companies of this country to find

¹ See p. 4.

out the exact reserves and exact supplies that they had, that they would have to contact the Bureau of the Budget?

Mr. BERLIN. I should think not. I should think the Department of Justice would then be doing it in the context of litigation or at least discovery leading up to possible litigation and that would not be covered, I do not believe, by the mandate of the Federal Reports Act.

I might point out, however, that we are not very hopeful about things happening along those lines. Representatives of consumer groups, electric and gas companies, labor unions, met with the appropriate officials of the Department of Justice 6 or 8 weeks ago and made a very, very urgent plea that this kind of activity be initiated by the Department. It was made very clear to us that that was not in the cards.

Mr. TURNER. It was made clear it was not in the cards that such an investigation would be initiated by the Department; is that what you said?

Mr. BERLIN. Yes.

Mr. TURNER. Would you see any difference, really, in the Federal Trade Commission seeking this information with respect to gas reserves as a part of an overall investigation to determine whether these reserves figures were being withheld in some form, in order to obtain a rate increase, meaning that it had some implications of trade abuse or antitrust implications, that kind of thing? Is there any difference between the Federal Trade Commission trying to get the information and the Department of Justice?

Mr. BERLIN. I must confess I have not reflected on that prior to this; but I should think it would be well within the competence of the Federal Trade Commission to initiate something analogous to a grand jury proceeding to inquire into whether or not there has been antitrust violations with respect to gas reserves.

Mr. TURNER. Before they do that, sir; I suggest they perhaps would need to make a survey, find the facts.

Mr. BERLIN. I think undoubtedly that will be the position of the FTC.

Mr. TURNER. And they would have to go to the Bureau of the Budget and they would have to go to an advisory committee, which we have been talking about, but have not referred to. The Committee on Petroleum and Natural Gas, whose chairman is Robert H. Stewart, manager, economics and planning, Gulf Oil Corp.

And all other members of such an advisory committee are employees of some eight or nine major oil companies in the United States—and gas companies. That advisory committee is the one that would be advising the Bureau of the Budget on any request made by the Federal Trade Commission in search of the truth of the gas shortage. Am I correct?

Mr. BERLIN. That is correct.

Mr. TURNER. I request the list be made a part of the record, Mr. Chairman.²

Senator METCALF. So ordered.

Mr. TURNER. But the Department of Justice, with its powers of civil demand or powers to either seek civil suit or go to the grand

² See p. 130.

jury, would not have to check with the Bureau of the Budget on the same essential issue to which the Federal Trade Commission would have to check. Conceivably, the civil demand could obtain the same information and be subject to court determination.

Mr. BERLIN. That is rather curious in view of the fact that the exposure of the company is so much more onerous in the Justice Department proceeding. One would think that if they are exposed in the context of that kind of proceeding, a fortiori their exposure to the FTC, which has basic responsibility for the collection and dissemination of basic economic data, should be no less, but that is the dilemma we are under.

And in view of the fact that the Department of Justice has not shown any great desire to concern itself with the very critical gas supply shortage that we are facing right now, the dilemma is a very pressing one.

Mr. TURNER. I go back to that again. You state in the hearings before the Interior Committee, you asked the question: "Is there really a shortage?" I think that is the point. I think that is what people would like to know. That will be what many consumer groups and various other people, many, many people in the country would like to know, is there really a shortage and how serious is it.

So all I am inquiring on here is the means of obtaining information about it. There is no allegation here that someone is hiding it. We just want to know how does the Federal Government go about getting the factual information.

Mr. BERLIN. The only way the Federal Government can go about getting that factual information would be to ask Messrs. Quig and Hasenberg if they could have it, and I think we know what the answer to that would be. We have seen the answer in the past and have no reason to expect it will be different in the future.

The industries that are the repositories of that information have repeatedly told the FPC in litigated proceedings that they will not divulge that information. I cannot believe that they will be any more agreeable and helpful now.

The problem is an acute one because as you know, we are dealing with an industry request for an increase, which will, if granted, be somewhere between one and perhaps two and a half billion dollars a year. The industry initially requested a 5-cent increase in the cost of natural gas at the wellhead across the board.

Now, in view of the FPC's public utterances which suggests a prejudgment that a 5-cent increase is wanted, I understand that industry is now asking for between 8 and 15 cents. The 5-cent projection alone would result in a cost to the consumer of an additional \$1 billion a year.

We are not talking about an insignificant void in our information processes; we are talking about a rather critical one which is going to hit each and every consumer in his pocketbook and, of course, it is going to hit those who can least afford to bear the additional cost the hardest.

Mr. TURNER. Are you a party to the rate increase proceeding?

Mr. BERLIN. CFA is a party to the rulemaking proceeding which the FPC initiated sometime ago. I believe it is docket 389 and 389-A, which interestingly enough is a rulemaking proceeding and is based upon a

Commission-announced predicate that it is convinced that because of a natural gas shortage—although concededly it does not have reserve information—the industry needs at least a 3- to 5-cent increase in the cost of natural gas.

So here we have the agency responsible for the protection of the consumer, and for the regulation of wholesale rates, accepting blindly industry's assertion of a shortage without reserve information and based upon that blind assumption, that industry generalization, has agreed that a 3- to 5-cent increase in current cost, or really a 25-percent increase in the cost of gas, is warranted.

Yes, CFA is a party to that proceeding and we are concerned about it, very much so.

Mr. TURNER. Do you have any knowledge as to the percent of gas production in reserves that are controlled by the Nation's leading oil companies?

Mr. BERLIN. You are now getting to a subject that concerns us very, very much. It is the question of concentration of control. I am not sure that we have precise figures on the amount of natural gas production that is controlled by oil companies, but we do know that it is a very significant amount. This was to be expected because, as you know, natural gas production was originally found as a byproduct, a waste product, of oil operations. So, arguably, that concentration was unavoidable.

What was avoidable was the other element of concentration which has developed to our great concern in the last couple of years. I am thinking of the fact that the major oil companies, who are the major gas companies, now also control something like 25 percent of our coal production. This 25 percent is in point of fact even larger than that when we think of the impact on the consumer. Because of the remaining 75 percent or so, a certain not insignificant portion of that is owned by companies that utilize the coal reserves for their own industrial purposes, such as copper companies and aluminum companies. Their coal reserves are not available to compete with the oil and gas in the retail market.

I believe that eight of the 10 largest coal companies are now owned by oil companies. In addition, some 45 percent of our uranium reserves are controlled by these same companies and I cannot recall the precise amount, but there is also a very significant share of our shale reserves that are controlled by these companies.

We are fortunate in this country to have no less than at least four competing basic fuels—coal, oil, gas, and uranium. One would conclude that we have the ideal setting for the operation of the free enterprise system until one looks behind and sees that competition just does not have a chance, not when the same people control each of these four basic fuel resources and really a handful of people, at that.

Senator METCALF. Of course, you have pointed out a very serious situation. Banks are included in that because they are behind the scenes in every one of these areas. This is the reason that I have introduced a resolution to try to find out who owns what in America, and especially the resources of America.

In the Interior Committee, every time we have a hearing on resources, up pops some oil company that owns more and more resources. We were out in Wyoming just to determine some problems with the

homestead law and up came the major oil companies who had located all of the uranium in Wyoming. And wherever you go these allegedly and supposedly competing sources of power and resources of energy are all owned by the same people.

When you get back to it, they are all owned by the same banks.

It would seem as if we had established agencies that would collect this information, but it is powerless to collect it through the Bureau of the Budget or the inventories because it is controlled by advisory commissions, even questionnaires.

Mr. BERLIN. We are not unmindful, and indeed very grateful, for the efforts that you have extended in spreading across the Congressional Record the problem of concentration of control, both in the fuel industry and with respect to the interlocks between the utilities and the banks and financial houses. The problem is underscored and dramatized by the efforts of the FTC to obtain information through the mechanism of the BOB advisory committee on who, in fact, are the leading stockholders of some of our major enterprises.

Mr. TURNER. The final question, I do want to get back to this one point. In the course of this hearing on the increase of gas prices in the Federal Power Commission, if a party were to raise the request for a gas survey of resources, potential resources and supplies available, would this be something of concern to the Bureau of the Budget in terms of the Federal Reports Act?

Mr. BERLIN. Absolutely. CFA did make that request. We did ask the FPC to avoid proceedings at least until such time as it had the ability to collect the necessary information which has got to be the predicate for any kind of proceeding of that nature.

Mr. TURNER. What legal position would a party be in if he made that request and at the same time be subject to determination by the executive branch of the Government? What legal right would he have to go into court on a cause of action to force that kind of survey to be made?

Mr. BERLIN. I think you would be in a very difficult position because you would not know who to sue. You would have a great deal of difficulty finding a defendant or respondent. I think if you brought the action against the FPC, unless the General Counsel of the FPC was misguided he would no doubt march into court and perhaps even agree with you 100 percent but bemoan the fact that the Commission has been trying to get the information for years and years and its request is now over at the Budget Bureau, as required by the act, and until the Budget Bureau speaks its mind the FTC's hands are tied. Therefore, there is no point in the court entertaining the litigation since it could not fashion any remedy that would give the relief desired.

The court cannot instruct the FPC to collect that information since it is not the FPC that has the ability, in view of the Federal Reports Act, to make that information request of industry.

As you know, as a general rule we cannot sue the Budget Bureau because the Budget Bureau is operated as an arm of the President and there is the whole problem of executive immunity.

Mr. TURNER. So the only responsibility and final responsibility for obtaining the truth about gas reserves in the country rests with the Executive Office; is that correct?

Mr. BERLIN. I would amend that slightly. I would say rests with industry, because from my experience with the operation of the Budget

Bureau and its advisory committees, it has operated as a complete rubberstamp of the industry advisory committees.

I cannot, in my own mind assume a situation where the Budget Bureau would sanction the collection of information that had not been approved by the appropriate industry advisory committee.

Mr. TURNER. I have no further questions, Mr. Chairman.

Senator METCALF. I want to congratulate you both on very important and significant testimony.

Quite apart from the testimony today, Mrs. Angevine, I want to commend you for being a pioneer in the consumer field when it did not have much popular support. And even today, which is the so-called consumer era, you are an outstanding and significant figure. So we have been proud to have you before this committee.

Mrs. ANGEVINE. Thank you very much, sir. I appreciate that.

Senator METCALF. The next witness is one who has been before our committees many times, Mr. Ed Wimmer, vice president of the National Federation of Independent Business.

Mr. Wimmer, we are delighted and privileged to have you again before the committee.

STATEMENT OF ED WIMMER, VICE PRESIDENT AND PUBLIC RELATIONS DIRECTOR, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, INC., COVINGTON, KY.

Mr. WIMMER. It is a real privilege for me to be here, and I appreciate the cooperation of your staff members very much.

Senator METCALF. You have a prepared statement?

Mr. WIMMER. I want to submit that for the record.

Senator METCALF. Without objection, it will be so submitted and printed in the record as if read.

(The statement follows:)

PREPARED STATEMENT OF ED WIMMER

Senator Metcalf and other distinguished members of the Subcommittee on Intergovernmental Relations, Committee on Government Operations, United States Senate, my name is Ed Wimmer, and I am Vice President and Public Relations Director of the National Federation of Independent Business, Inc., a non-profit organization representing more than 285,000 individual business, farmer, banker, and professional men and women members from almost every sector of our free enterprise system, who are located in almost every town and city in the 50 states.

Public Relations offices are located in Covington, Kentucky. National offices, San Mateo, California. Washington office is under the direction of Mr. Jerome Gulan, a post previously held by Mr. George J. Burger, Sr., Vice President, NFIB.

We are deeply grateful for this opportunity to appear before the Hearings on Senator Lee Metcalf's proposal, S. 3067, to amend the Federal Reports Act of 1942, to provide consumer, small business, and labor representation on Budget Bureau Advisory Committees.

In my appearance here I believe it might be helpful in weighing whatever testimony I might give if it is made clear that membership in NFIB is not contingent on size and assets, but rather an a determination that the enterprise being contacted falls under the heading of a proprietorship where one may find those who make the decisions as to what legislation they may initiate, support or oppose. Most fall into the category of "small", and majority opinion controls NFIB legislative policy.

Principal objective of the Federation is preservation of all forms of independent enterprise as the survival center of democratic capitalism under our representative form of government, an objective which seems to appear in

neither structuring nor membership of the council and committee system as now constituted under the Federal Reports Act of 1942.

I believe these Hearings will reveal that few if any persons in positions of authority, or the consuming public, labor representatives, and particularly the small business community, have any conception of what the Federal Reports Act of 1942 was intended to achieve, or what has since been going on under its administration.

There has been concerned curiosity going on, however, within our Federation's official family since Senator Metcalf, and others raised questions with regard to an apparent absence of consumer, labor and small business representatives on the various committees and councils created by the Federal Reports Act of 1942, which we hope will be fully satisfied before these Hearings are completed.

It will be my purpose to refrain from repeating recommendations made by other witnesses appearing in behalf of S. 3067, but may I observe that too much emphasis cannot be placed on the urgent need of strengthening the voice and position of independent business in the affairs of this nation, or the need of reviewing the present clamor for consumer and labor representation on such committees and councils as those created under the Federal Reports Act.

It should be noted that no subterfuge or gobbledegook is contained in S. 3067. It is concise. It is direct in that it simply asks that:

"No advisory committee which includes among its members individuals who represent the interests of business or commercial enterprises may be used by the Director of the Budget to advise or assist him in or with respect to the administration of this Act unless that advisory committee includes among its members one or more individuals who are chosen from private life to represent the economic interests of consumers, labor and small business, within the United States."

That, furthermore:

"In addition to publication in the Federal Register, the Director shall establish procedures for giving timely, conspicuous public notice, by such means as he deems appropriate, to persons interested in the conduct of the business of advisory committees appointed under this chapter."

Any reading of these proposed amendments to the Federal Reports Act, accompanied by an examination of the list of giant companies and the organizations they allegedly control, who make up the committees advising the Bureau of the Budget, might cause interested observers to wonder if the present plight of the smalls, the raging controversy going on between business and consumer groups, and the widening breach between labor and business, hasn't in some part, been a result of these and similar committees and councils, so often unrepresentative of the millions of small businesses, consumers and, I suggest, the lower rung representatives of the American labor movement.

To appreciate the meaning behind this statement one might explore the Committee on Retail Trade, for example, a committee that advises the Bureau of the Budget on federal reporting and record keeping requirements, plus advice on such related problems as co-ordination and planning of statistical and reporting problems covering the retail trade.

Here we find one or more members who are affiliated with organizations allegedly dominated by their chain members, and on down the list are officers of Sears Roebuck, National Association of Food Chains, Lerner Stores, Melville Shoe Corporation, R. H. Macy, Woolworth, Federated Department Stores, and the chairman and secretary of the Committee on Retail Trades are top officers of the American Retail Federation—a longtime proven voice of the giant chains.

Where in this committee structure is a known reputable voice for the small business community for which the Federal Reports Act was largely adopted, to rescue it from a blizzard of reports, questionnaires, forms and demands such as those dumped on this country by the Office of Price Administration at the beginning of World War II?

Haven't most of these giants whose officials are serving on this committee (as others in equal positions of power serve on the other 15 committees) virtually swamped American small business, and in some areas in almost total control of the economic lifelines of agriculture, industry, finance and even government?

Isn't this the real issue at stake in determining the need of amending the Federal Reports Act as proposed in S. 3067? . . . Aren't all businesses, farms, big and little, and the entire population—all of us as consumers—in danger today of being bureau-ized and monopolized by forces from within and from without government, about which little or nothing is actually known?

These United States are the last stronghold of the idea that the littlest enterpriser in any field, the most helpless among the people generally, must be the first consideration of society, and at all levels of democratic government.

The animals of the jungle live by this rule. The tiny humming bird flies in the face of an eagle to protect its eggs. . . . Mothers rush into burning buildings to save their babies. The three-year-old in the human family watches out for the two-year-old, and on up through our lives we protest injuries of the weak and small by the big and strong—even going to war to prevent one nation from over-running a weaker nation's borders.

By keeping such noble intents in mind, it is not pertinent to the subject at hand to ask how many officials of huge corporations who serve on the committees or Council of Advisers to the Budget Bureau, are cognizant of America's goals; and, who are the real decision makers? Does anyone really know where responsibility really lies when a representative of a conglomerate comprising up to 300 subsidiaries, or an official of a chain with up to 5,000 stores, is asked for an opinion?

Is it possible for the executives of giant corporations to weigh any decision with the smallest enterprise in mind, or the least represented groups among farmers, workers, and the general public?

Jan Nugent's 1968 article in the *Journal of Commerce* started off with a statement that "the little known industry committees which advise the Bureau of the Budget on the makup of questionnaires and reports that are sent out by any federal agency to more than 10 persons, swarm (and I am still quoting) with government policy-makers and attendant journalists. . . . Since legislation and future regulatory decisions are often based on such economic data, when, how and whether it is collected helps mold government policy." Miss Nugent adds:

"There is general agreement that this Budget Bureau-business co-operation has provided sound technical advice to simplify and improve government data-gathering efforts, but corporate and Congressional committees criticize the Budget Bureau (which our NFIB has done continuously and with marked success) for not doing more to defoliate the federal paper-work jungle."

No one can deny the importance of this area of the problem at hand, but does it even approach the importance of charges by Federal Trade Commissioner Everette MacIntyre, that "power exists in the Bureau of the Budget to forbid collection of all or part of any information sought by a federal agency, if a proposed questionnaire is mailed to more than 10 persons"?

The very fact that the FTC continues to investigate the efforts and abuse of power of huge corporations (many of whose executives comprise the majority membership of several of the Budget Bureau advisory committees) weighs heavily in favor of the amendment proposed by Senator Metcalf. . . . It is simply human nature to be prejudiced by one's background and affiliations, a risk we dare not take when dealing in public matters.

Much has been said and written on the power companies and their influence, and if we look back on the old Public Utility Holding Company days we can find evidence that warrants any suspicions one might raise, especially since recent trends indicate a return to the old holding company system.

Since 1945 the number of privately owned utility systems has dropped from 1,000 to 300, and the 10 largest account for 35% of total assets of more than \$100 billion. Ninety-seven of the 212 dominant companies are subsidiaries of 28 holding companies, the biggest of which is American Electric Power Company, Inc., with over \$2 billion in assets. Donald Cook, President of American, whose giant holding company made a spectacular attempt to wrap up a whole "package" of independent utilities, one of which was Cincinnati Gas & Electric, has predicted "ultimate control of all generating, transmission and distribution of power by 12 to 15 integrated companies."

Such private power concentration would force nationalization of the entire power industry, which causes me to ask those concerned with the conduct of the Committee on Public Utilities, just what may be expected of American Electric Power Company officials in matters affecting the family farmer, small business man or the general public; which causes me to ask again:

Where does the seat of responsibility rest in all this maze of corporate power?

Over the years I have noted an abundance of evidence that supports the public service record and the concern shown for small business by the independent Cincinnati Gas & Electric Company, Dayton Power & Light, Indianapolis Power, and other private and municipal-owned utility companies where decision making is localized.

For example, the Cincinnati company is spending \$20 million in water cooling equipment to prevent pollution of the Ohio River when its nuclear power plant is in operation, an action taken without public clamor or an appeal to some distant holding company.

Peter McCollough, President, Xerox Corporation, said "the danger in the large corporations is the possibility of people becoming faceless, and too removed to react and too isolated to understand. A community in a crisis needs quick decisions, not dogma. . . . Commitments, not clearances."

Irwin Miller, Cummins Engine Company, doesn't believe the new generation "wants all this organization, and the fitting that goes with it." No one will find Charles Lazarus, Federated Department Store executive, advising the Budget Bureau to send out a questionnaire on mergers, but he has told several audiences that "mergers and acquisitions have created the most severe domestic crisis since the Civil War."

Says Dr. Irving Beller, AFL-CIO Economist:

"The billion dollar sums of corporate giants are being used to shape political, social and cultural standards, as well as the nation's economy."

Senate Bill 3067 is a simple proposal to give representatives of small business, labor and the consumer one more chance to be a party to shaping their own destiny, and that of all other Americans destined to be affected by the actions of committees so close to the center of government.

At this point I am wondering what we can do for agriculture? For Rural America? Headlines tell us the "family farm is gone". . . . "Farming, 1970: Fat of Land Goes to Ever Fewer", and in a speech on the floor, Congressman Don Clausen (California) reminds us that "half the poor people and half the inadequate housing in America is found in non-metropolitan areas."

The records show the American farmer has suffered his worst 9 years in agricultural history, with over 100,000 families leaving the farm every year.

A question I would put to the Subcommittee on Intergovernmental Relations at this time: Why not include a family farm representative in the proposed amendment to the Federal Reports Act, to represent Rural America? Doesn't agriculture provide us with 70% of all our raw materials?

Isn't the farmer directly affected by the decisions of the Budget Director and the advice he heeds? Could there be a greater threat to our nation than the poor conditions, import problems, debts and diminishing returns that are striking down hundreds of thousands of farm families?

Thomas Jefferson warned future generations to resist all trends of to "control by the few." Madison urged a clinging to all programs, "both rational and moral, that have as their central goal a constant diffusion of power;" so what happens to us if we do not heed our forefathers? To whom shall we turn when faced with the need of making great decisions affecting our Heritage, if not to the greatest minds ever assembled at one time?

In my testimony I have refrained from any open attack upon the officials of giant corporations whose names and affiliations make up the rosters of the 16 councils and committees upon which the Director of the Bureau of the Budget may call for advice. The uneasiness I feel and the uneasiness that would be felt by our Federation members if they were aware of the tremendous potential for abuse of power existing under the Federal Reporting Act as now constituted, however, is more than justified, and we dare not let such power prevail.

So I repeat, with Thomas Jefferson, that "power in the hands of political puppets of an economic autocracy" is evident here, and its danger is strikingly revealed in the words of Governor Franklin D. Roosevelt (1930) when he declared:

"Were it possible to find master minds, so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost godlike in their ability to hold the scales of justice with an even hand, such a government might be to the interest of the governed. But there are none such on our political horizon and we cannot expect complete reversal of all the teachings of liberty."

Only four years later, Herbert Hoover was to say:

"We have builded up an economic autocracy upon which a political autocracy will rise."

I say to Senator Muskie, Senator Metcalf, Senators Goldwater and Proxmire, and all the others both in and out of Congress who have expressed fear for this country because of the power issue in America, that no step which reduces a possible or probable abuse of power, is too small to take no matter how small it may appear to some people.

Concluding this testimony without a comment on the extent of the danger in the eleven words under "Committee on Banking" that read: "to improve statistical and other information to be collected by federal agencies," would indeed be out of character because I have been in every fight to curb expansion of branch banking and bank holding companies since the early 1930's when the threat of such power posed to financial democracy was at its height of alarm.

Could anyone believe, for example, that if the chairman of the House Banking and Currency Committee requested the Budget Bureau to approve appropriations for a questionnaire that would be almost certain to result in overwhelming support for breaking up the colossal concentration of economic power now centered in the big banks, it would receive unbiased advice from the Committee on Banking?

Chairman of the Committee on Banking is an executive vice president of the Chase Manhattan Bank. On down the list is Bank of America, Morgan Guaranty Trust, Irving Trust, Chemical Bank & Trust, Wachovia Bank & Trust (moving all over North Carolina), Security First National (Los Angeles), and Manufacturers Hanover Trust.

It is true that a representative of American Bankers Association and one or two other names are on the Committee who might be listed as "friends of the independent bank," but why not a man like Paul Jones, President, Glenview State Bank, Glenview, Illinois, who told Congress that "America is dying from the disease of Megalomania," and no other banker in America has stood up and fought so hard for an end to bank holding companies.

Our National Federation of Independent Business has polled its membership over and over on bills designed to halt the monopolistic expansion of the great financial institutions moving into one field after another, but Congress at this date has failed to meet the issue head-on. (Every Federation poll favored preservation of the independent bank.)

Giant one-bank holding companies, such as those I have named, jumped their bank deposits from 4½% to 43% of national bank deposits in less than 5 years; up from \$11 billion to \$43 billion. So, I ask again, what kind of counsel could the Director of the Budget expect if Senator Proxmire, Congressman Patman, the Federal Trade Commission or the Department of Justice should request appropriations for an investigation of banker members of the Committee, or for circulation of a penetrating questionnaire?

Is there a strong possibility that the 13,000 independent banks have no genuine representation on the Committee on Banking?

What better conclusion to any defense of economic and political liberty than to ask "Where To, America, In 1976?" What will the 200th Birthday Anniversary of the greatest document ever struck off by the hand of man, be telling the world on that date?

An answer may be in Lincoln's words: "Soberly, it is no child's play to save the principles of Thomas Jefferson from total overthrow in this nation."

I believe the opportunity to return to the Jeffersonian ideal has never been so clear. Never desired by so many people, especially the young. Without actually knowing it, they are dreaming the Jeffersonian dream all over again.

This committee should take *one* advantage of this opportunity by approving unanimously the inclusion of a consumer, labor, small business, and farmer representative on the committees created under the Federal Reports Act as proposed in Senate Bill 3067.

Certainly there are few privileges greater today than speaking for equality of opportunity for all our citizens. I thank this committee for the honor of sharing this privilege.

COMMENT

(It may be assumed, and ought to be assumed, by all, that the Director of the Bureau of the Budget, or any person acting in any capacity within the Budget Bureau, or as a member of any council or committee serving in the role of counselor, will act in full accordance with what appears to be in the public interest.

(What appears as being in the public interest in one mind, however, could appear entirely different in another, leaving Congress no choice but total representation "of the people, for the people, and by the people," wherever government invades the privacy or in any way enters the life of the citizen.)

Mr. WIMMER. I have been vice president of the National Federation of Independent Business for 23 years, and I have been at this work for 38 years. In 1942, I came to Washington with trainloads of people to

do something about the paperwork caused mostly by OPA regulations, and, of course, we have been working on the paperwork problem ever since, as you well know.

I think the House and Senate have done an amazing job in the last few years, especially in reducing the paperwork of small businessmen.

We have 284,000 members, and 3,000 in the State of Montana, which I think is pretty good for the population of that State.

Senator METCALF. Certainly your organization is one of the most respected organizations in the State of Montana and except for two or three very large influential corporations, we are a State of small and independent businessmen.

Mr. WIMMER. I personally am very happy about our situation in Montana. I try to visit your State as often as possible. We have been concerned about the number of ranchers being knocked out in Montana, and what is happening to the family farm and small businesses even in the out-of-the-way areas.

You know, the small businessman is not in what you would call a healthy condition today.

The principle of our organization lies in our effort to support no legislation that is not good for the whole country.

We see in organizations too large, in labor and everything, too much interest in what is going to affect organizations they represent when they come before Congress.

We do not believe in the statement made by Mr. Charles Wilson, former president of General Motors, that "what is good for General Motors is good for America." Our motto is what is good for America is good for small business, big business—everybody.

In my opinion you have opened up something here that is going to be much bigger than is now suspected. I think you are going to learn a great deal about a situation little known to Congress or business generally, and without questioning the integrity of the people on the committees created under the Federal Reports Act. We should, however, question their philosophies and their prejudices.

The thing that worries me more than anything else on these committees is where does the seat of responsibility lie? When we are talking about Sears Roebuck and the American Retail Federation, for example, and Federated Department Stores, and when you go back to this enormous concentration of power and discover there is a linking of all three with the First National Bank of Chicago, for example, who is making what decision?

If someone is sitting on this committee, this retail committee, is he making decisions or is somebody making the decision in a bank on the board of the American Retail Federation?

Another thing, when the preparation of a questionnaire comes up affecting the railroads (passenger trains, for example) on whether they should be discontinued or modernized, is a Penn Central or Penn Transportation Co. official going to be there to influence the makeup of the questionnaire? Or, is it somebody from the Railroad Passenger Association who is going to be there to argue the case. I do not see anyone on that committee representing passengers.

I am sure that being from the country where there are Indians, Senator Metcalf, you have heard the Indian girl singer, Buffy Saint Marie, sing a song she calls "The Little Wheels Spin and Spin, and the

Big Wheels Go Round and Round and Round." When I read S. 3067 it came to me that what you are trying to do is put some gravel under wheels that have been spinning, and that maybe it will keep some people on these committees from going round and round. Too, we may get better questionnaires from the Budget Bureau and Federal Trade Commission that will tell us a lot more than we have been told in the past.

The tremendous concentration of power that has built up in our Nation today is seen in all these committees advising the Budget Bureau, but the thing that impressed me in coming up here, I was all over the Hill yesterday, talking to Members of Congress and the Senate, and I could find no one who really understood what S. 3067 is all about. In fact, many did not even know the committees created under the old Federal Reports Act were still in existence.

This is a terrible situation when the people in Government are not sure what is going on behind the scenes in a matter of such grave importance.

Federal Trade Commissioner Everette MacIntyre, as you know, made a statement before the American Bar Association in which he called attention to the fact that FTC wanted to make a study of the thousand largest corporations, which called for an OK on a questionnaire submitted to the Budget Bureau. They could not get it. I think that if we looked into the work of FTC we might not blame them so often for not doing a better job. One thing is certain, we should learn if there is a private influence holding up needed investigations, which may be learned during these hearings.

Our federation has pizza pie shops as members, and we go all the way up to companies the size of American Motors. Our men make about 3,000 contacts a day, and know where the trouble lies in textiles. We know where the trouble lies in the shoe industry. We know when an area has been burned out or blown out by a hurricane. We know what is happening in Nebraska to the ranchers. We know there are 5,000 fewer family farms in South Dakota over the past 5 years, and that for every farm that goes out there is a small businessman who loses a customer. The church loses a family, and the community, State and Federal Government lose a taxpayer.

I want to suggest that a farmer be included on the committees we are looking into, and maybe this will tell us a little more than we are finding out from the Department of Agriculture and agricultural committees in the House and Senate.

I think the House and Senate are considering a bill, or passed a bill, to put more money in primary and secondary roads which probably came before the Transportation Committee advising the Budget Bureau.

There is a lot of talk today about decentralization, about stopping the migration from the lands and getting companies to go out into the smaller areas and open up subsidiaries or open up new plants, but who are we going to get to go to Montana, with transportation and shipping what it is, and open up a factory—even with a tax subsidy?

If you gave a tax discount or tax subsidy, what about the men who are already there making chairs? Are we going to give a tax subsidy to some fellow who is willing to go out and open up in Montana, and then let the presently operating company sit there and compete with somebody who has a tax subsidy?

Do these questions, somehow or other, pass through some mysterious committee in our Capital? I say if this committee succeeds in getting to the bottom of this question, it may perform a tremendous service to our country. It has been a long time since I had the privilege to appear before any committee with a more important mission.

Another point I would like to forward is the possibility of including a homemaker on some of these Budget Bureau advisory committees, and why not have some young people in the committee structure of government?

I address and talk to students all over the United States. A little 17-year-old, miniskirted student in Alabama came up to me and said, "You know, Mr. Wimmer, you adults have made a terrible mess of things."

I said, "Honey, we sure have, but there are more good things for you kids to hang onto and more things for you to do than any other generation that was ever born, and you are going to find most of your opportunities with Members of your House and Senate. If you will sit down and talk with them in the right way and realize that older heads and younger heads will have to get together in every single thing that is going on in our country today, we will begin to get somewhere."

And so, I would suggest that if we are going to go ahead with government advisory committee reforms, we definitely think about young people on these committees.

Congressman John Moss made a fine statement, and he asked if an information blackout existed. This is the question, believe me, and he has made it so clear where he says, for instance, we must lay down statutory guidelines to steer these special functionaries away from temptation of self-service into channels of public interest.

To me this is the heart of your amendment S. 3067: To find out where this self-interest may exist, and how you can make it the interest of all the people in this Nation.

When Everette MacIntyre wanted to do the study of the thousand corporations, and, I believe, Senator Metcalf, you are planning a hearing covering the power they possess and you will be able to do what you want to do, but when the Federal Trade Commission asked for permission, the answer was "No." I could hardly believe Mr. MacIntyre stuck his neck out as far as he did before the American Bar Association in saying the Budget Bureau would not give them permission to go ahead with this investigation.

Mr. Caspar Weinberger, when he was in the Federal Trade Commission, got more things underway than probably we have seen for a long time. Now that he is an official of the Budget Bureau, his sentiments may be entirely different from what others before him have held. We do not know for sure, but I would not be surprised if there is more cooperation from the Bureau.

A committee was recently formed by the White House; a small business committee on which two of our officers have been appointed. It is strictly a small business committee, and Dr. Paul McCracken is going to be the Chairman. Here is another forum, another committee setup, and even though we know it is going to be dominated by small business, I think the domination of that committee by small business is not good, even though two of our officers and three other small business associations are members.

A student representing young people ought to be included on the committee because small business makes more opportunities than any other segment of our society when it comes down to decisionmaking and a striking-out-on-your-own sort of thing. This is what they want. They feel they are being frozen in, fitted into giant business, giant labor, and giant government and it seems to me the committees we are studying here are a part of that giantism which is smothering our country.

As I said before, I would not want to accuse the man with Federated Department Stores, for example, of preventing something from going on a questionnaire to protect Federated Department Stores. Yet, Mr. Charles Lazarus, vice president of Federated, made a speech to students in Miami where he said America is facing the worst crisis since the Civil War because of mergers and absentee ownership.

Suppose a questionnaire were submitted to the Retail Committee calling for a study on how much absentee ownership there is in the retail field, and what its consequences are to the States, and how many opportunities it has destroyed, I wonder if Mr. Lazarus, a Federated official, were sitting on the committee, would he say yes, let us go ahead? Mr. Lazarus may think the merger trend is dangerous, as well as absentee ownership, but I do not believe such a conviction would go up to the level of that committee. It would be wonderful to think it would.

Our problem, I believe, is the purpose of this committee: to decentralize decisionmaking; to equalize the impact.

Congressman Lester Wolff presented a bill to equalize bumper impact by keeping all automobile bumpers at the same level, and, I repeat, this is what the advisory committees need: Equalization of impact.

Mr. E. Winslow Turner, general counsel for the subcommittee, asked some very penetrating questions this morning, which brought out a lot of things I would like to discuss; however, I think I would be taking your time by going over what has already been said.

I have a few things in my testimony I could touch on but it is up to you. If I submit the testimony, I think that would be just as well probably as for me to talk about it here.

Senator METCALF. Your testimony is in the record. We are especially glad to have you here because, as you mentioned, you were on the trains representing small business and coming back here in the war years, or prewar years, and saying, "Look, we are just overwhelmed with the reports."

Mr. WIMMER. Buried.

Senator METCALF. And, of course, my distinguished predecessor, Senator James E. Murray, was head of the Small Business Committee at that time, before whom you probably appeared. Wasn't that the origin of some of these things?

Mr. WIMMER. Yes; and Senator Murray, of course, as you know, was always trying to find out what has happening to the little guy, and where he would be a hundred years from now. He looked into the total future to determine if we were headed for more economic democracy or an economic autocracy, as Herbert Hoover saw building up in America.

Franklin D. Roosevelt said at the particular time we were creating these committees, that no person had ever been found with God-like

views whom you could trust with God-like powers. He called for a balance on all committees created by the Government.

I believe we all know much of what is going on in the Senate of the United States, and our young people are becoming more and more aware of its deliberations, but when you have a sort of invisible committee structure advising elected and appointed public officials, aren't we creating an invisible government not accountable to the public? For instance, the tariffs and things of that nature. Who is making the decisions? Is the President actually making a decision on tariffs and the protection problem we have today, or is the State Department making the decision, or some committee like those advising the Budget Bureau?

Senator METCALF. Now, back in those days when you were accompanying trainloads of small businessmen, and the Federal Reports Act of 1942 was originally written, it was written to assist small businessmen; was that not true?

Mr. WIMMER. The whole purpose of the act as we understood it at that time was for no other purpose but to reduce paperwork. That is why I have forgotten, and why everybody else has forgotten, the old Reports Act, because I do not believe anyone suspected all of these committee structures would be built up to advise the Budget Bureau on other than paperwork matters.

Senator METCALF. And it just expanded into what you called an invisible government?

Mr. WIMMER. Something that was never intended.

Senator METCALF. And very few people know about this so-called invisible government and know of the functions and the importance and the power of these advisory commissions.

Mr. WIMMER. When you first asked me to come and testify, I said, well, I had forgotten there was such a thing as a 1942 Reports Act, and I think I said something about the fact that I am no expert; that I felt like a drip under pressure, or something of that kind. But when I got to studying the concentration of power that exists in these committees, it certainly was a surprise and a revelation.

As you know, I have been interested in nuclear power building up across the country. In Kentucky we have Kentucky Utilities planning a nuclear plant, and officials are resisting antipollution demands that include water cooling equipment. In Cincinnati, however, they avoided public clamor by installation of a water-cooling system at a cost of \$20 million. Here is the difference between public spirit, I think, and public utility spirit, which certainly proves the two will blend. Look at what happened in Michigan: a whole string of nuclear installations inoperative due to public clamor.

Senator METCALF. You know, in Montana, consultants of the Montana Power Co. said it would not make much difference to the fishermen whether we cool water or not, he would not be able to catch trout, but he would be able to catch other fish. That was about the poorest public relations for our famed trout streams I can imagine.

Mr. WIMMER. I have been in public relations for 38 years. I have been watching what business does in this field. The supermarket convention, for example, in New York had Bess Myerson for their speaker, and a big horseshoe on the wall behind the podium. Bess' head was framed in the horseshoe that read: "Working Together for Profits." Miss Myerson was there to speak on "Working Together for People."

How much better it would have been if that sign had read "Working Together for People."

Public power, the insurance industry, nearly all businesses, have had terrible public relations programs, and furthermore, I would hate to have a questionnaire turned over to people with Metropolitan Life or New York Life serving on an insurance committee to determine whether they had done the right thing by canceling out the insurance of thousands of small businessmen after the riots.

In other words, if a questionnaire were requested by an agency seeking an investigation of the insurance industry, would a committee dominated by big insurance company executives advise on its contents?

Senator METCALF. Here we have this huge organization that has grown, proliferated as a result of the activities in which you participated on behalf of small businessmen back in 1942. How many small businessmen are represented on these commissions? What percentage would you say?

Mr. WIMMER. Well, who knows today? Take, for instance, the National Association of Retail Grocers. Swift buys their convention breakfast. Armour buys the lunch. Standard Brands pays for a banquet. General Foods takes the girls out for a bus trip. Is the little retailer actually represented under such circumstances if a real fight came up for the small, independent retailer that is being knocked out by the hundreds of thousands? Gillette Razor Co., built their business on the little fellow, but what did they do? They said, "We cannot afford to serve him anymore. He is too small."

Senator METCALF. What did they do?

Mr. WIMMER. Just quit delivering to them because it was too costly. All the way down the line we have this going on today. Too costly to serve smaller businesses. It's a tragedy.

Now, suppose this condition is brought before a committee dominated by big meat packers, and someone said you must deliver to the little guys. We cannot let them die. After all, isn't the purpose of a democracy to look after the small? Looking after the small is life. In the human family and the animal kingdom, so if there isn't a small businessman on a committee determining his fate, plus the fate of the consumer—the farmer—what is a committee dominated by the big going to recommend?

You asked me about small business representation on an advisory committee. The Congress of Petroleum Retailers have been pretty active, as you know, but you do not see them anywhere in this committee picture. You do not find the leaders very prominent of even the National Small Business Association even though they are represented on one committee. Does anyone receive any bulletins on committee happenings? These are questions which are just purely questions, not accusations.

Senator METCALF. We have seen an act, Federal Reports Act, that was passed for the benefit of small business completely turned around and inside out, and now it is dominated by big business and huge corporations, with very inadequate representation of small business in all these areas in which we have advisory commissions.

Mr. WIMMER. This hearing ought to lead to another hearing at which time Congress could hear from the men who have been making decisions on these and other committees. They should be asked what kind of decisions and what kind of recommendations they have made

which the Budget Bureau accepted. The reasons behind this hearing is to find out what is in the background of this thing. How else will we know, and it does not have to be an attack on the petroleum industry, or on any industry, or on the Budget Bureau.

It is finding out what they could be doing to even harm themselves later on, because whatever harms the little guy eventually harms the big fellow, and Government itself.

You have a long life ahead of you, Senator Metcalf, but I am trying to live until July 4, 1976, so that I can be in on a celebration of the 200th birthday anniversary of this Republic. If we can turn present trends around. Solve our problems by going back to the philosophy of the Founding Fathers, we'll have a celebration. If we don't we won't.

I believe the Founding Fathers' philosophy is a stake in these Senate committee hearings, for in my opinion, we have little time between now and 1976 to put our house in order.

Senator METCALF. Well, I certainly concur with you, the reason we are holding the hearing is for informational purposes. As I talked to my colleagues, I had the same experience that you had yesterday on the Hill. I find that very few of us know anything about the activities and the power and authority of these advisory commissions. And I agree, we are not critical of the Bureau of the Budget, we are not critical of the advisory commissions, we just want to find out what goes on. It is almost impossible to find out what goes on.

Not only is there invisible government after questionnaires are circulated and decisions are made, but there is secret control so that a whole lot of things are just not done.

Mr. WIMMER. Take the Bank Holding Company Act, Senator, as another example of what we might get from Chase National Bank and Bank of America, and people like that in control of a committee advising on a bank holding company act questionnaire. It is ridiculous when you stop to think about it. Here is the National Independent Bankers Association that led the fight to do something about concentration of power and they are nowhere represented in this setup.

And the National Association of Retail Druggists, you know what kind of fight they have made for the little retailer. They are nowhere in this picture.

I would wager that if I sat down with the Board of Directors of the National Association of Retail Druggists and the Bankers Association, and asked what is this 1942 act we passed when we went to Washington? Do any of you remember what happened to it, I doubt if a single man on the board would be able to say, "I know what you are talking about." And we have been affected by this thing all these years since 1942. It doesn't seem possible.

I live in horse country, in Kentucky. There are three tracks within 30 minutes of my home. I study small business problems all the time. In California, where I made a talk recently, there was a woman in the audience and she said, "I am a horse trainer. I train two horses. The small trainer isn't making it, and when the small trainer and the \$2 bettor goes, racing and breeding of fine horses will go, too."

The thought had never entered my mind. I was living in horse country, raised on a ranch. It never entered my mind there was a small business problem in the racing industry to keep those wonderful

animals alive and keep them going. It is like our ignorance regarding these committees on the Hill, and I think we better learn just how ignorant we have been about their activities.

Senator METCALF. I think the most significant thing in your testimony is that you come before us as one of the pioneers advocating the Federal Reports Act, and you had no idea at that time nor can you find out now, what the spread and the ultimate impact has been except it has been adverse to the thing you were planning when it was originally passed.

Mr. WIMMER. We thought it was to get rid of OPA and OPS overwork and reports.

Senator METCALF. There is another thing I want to compliment you on. We had not thought of this participation of young people in the various commissions. They would bring a fresh approach and new perspective and a breath of new air into the commissions. We tend to think we should just have professional people, people of interest, people of actual concern. But especially in the small business area, that is the area where the young person has his first opportunity, first independent opportunity, perhaps, if he does not go to work for a huge corporation. There should be some policy guidance and some ideas for them. I congratulate you on making that suggestion.

Mr. WIMMER. When I talk to students, I say how many of you want to go to work for a big business? Hands seem to raise rather reluctantly. If I am in a labor area, a lot of hands go up, but you would be amazed how many respond to the question, "How many of you would like to pursue a Government career?"

But when I ask how many would like to strike out on their own in any field, I get a laugh. This is their feeling. Their opinion of the future of small business. The family farm. When the kids were here in Washington to march in a parade, I would say that 99 percent of them were good kids. They came here to demonstrate their feelings. I saw two girls on the steps of this building. They looked disillusioned. I asked, "How are things going, kids?" One answered, "Not so good." Then in response to my "what do you mean?" she said: "Every place we have been to see the Members of the House and Senate, we got a lecture."

And I said, "What was your question? I'll bet your question in every one of those offices was 'are you going to vote for the McGovern amendment?'"

And they said "Yes."

I said, "If you would have just walked in and said, 'Senator, we know you are awfully busy and we would just like to have you think about the amendment,' you would not have been lectured."

We've got to bring these kids closer to Government. Let them learn something about our system. Sit in on these committees and hearings which I say are inspiring and productive. There are issues Ralph Nader is for and against, that I think I could probably have quite a debate with him, but at the same time he has performed a tremendous service in calling attention to abuses in our society. Nader is reaching the young people, and he is getting to the consumer as we are.

If you look back, Senator. If we go back to the days of Senator Joseph O'Mahoney, and his TNEC investigation. If we even go back to the Kefauver-Celler hearings of 1949, what do we find? We find

nearly all of the principal evils in the entire field of production and manufacturing coming out of too much bigness.

How could Safeway or A. & P. officers sit in New York or some place far removed, and keep their fingers on 5,000 stores? When the manager gets caught lifting something or short-weighting different things, instead of getting fired he gets moved to another store. The little guy gets caught and the whole neighborhood finds out. There is pressure there to keep him honest if he isn't to begin with. Most people running small farms and businesses want to raise their kids in the right atmosphere, and they dream of putting their offspring through college. They would like a little security left over for themselves. Their selfish needs are limited. They do not dream of taking over all the retail business, wholesale or other businesses through merger or conglomeration.

Imagine if some of these committees would be given a chance to guide an investigation of conglomerates today. What do you think would be on their questionnaires? It would be pitiful.

Senator, it has been wonderful being here.

Senator METCALF. Do you have some questions, Mr. Turner?

Mr. TURNER. On that note, speaking of the conglomerates and the concentration of economic power, I thought it might be of interest to you, Mr. Chairman, if you placed in the record an article from the Wall Street Journal dated January 16, 1963.

Senator METCALF. It will be incorporated.

(The article follows:)

[From the Wall Street Journal, Jan. 16, 1963]

FIRMS PROTEST AS FTC GOES AFTER NEW DATA FOR ANTITRUST USE
QUESTIONNAIRE WILL DRAW FIRE AT A MEETING TODAY; LEAKS OF MARKET SECRETS
FEARED

(By William Beecher, Staff Reporter)

WASHINGTON.—At 9:30 this morning in the Executive Office Building next door to the White House an unadvertised meeting whose outcome may be of profound importance to the American business community will take place.

Twenty-five leaders of big business will meet with officials of the Federal Trade Commission and the Budget Bureau. The businessmen will voice their protests over the form and perhaps the substance of a probing economic questionnaire which the FTC plans to send to the nation's 1,000 largest corporations. The session seems sure to be lively. Predicts one executive: "It'll be a real stinkeroo."

For the Trade Commission is determined to put together a detailed portrait of corporate interrelationships. The idea is to form a stronger basis for antitrust enforcement and to provide the agency with a pool of reliable data for use in advising other Government agencies and Congress on power concentration in key industries.

With this goal, the FTC has drawn up a list of 20 questions seeking to plumb the extent of interlocking financial arrangements between the top 1,000 companies in the U.S. and many thousands of domestic and foreign concerns in which they have a stock interest of 5% or more.

MARKET SECRETS WANTED

One of the controversial facts FTC intends to seek is a breakdown of gross receipts for each of the 10 principal products made by each corporation in 1962. Such breakdowns are among industry's most closely guarded secrets. A company making several products naturally doesn't want its chief competitors to know its exact share of the market for each one. Nor is it anxious for antitrust investigators to have this information. For if one company making widgets de-

cided to acquire another, it would be simple for the antitrust officials to add up their 1962 shares of the widget market and use this as a key element in an anti-merger prosecution.

This marks the first time in its 49-year history that FTC is attempting such a sweeping economic study. One official compares it in potential importance to the commission's public utilities study of the early 1930's which contributed to creation of both the Securities and Exchange Commission and the Federal Power Commission, and to the agency's 1934 chain store study which led to the Robinson-Patman Act, barring price discrimination.

There seems little question that the Trade Commission has power to conduct such a probe. The agency is authorized by law to direct corporations engaged in interstate commerce to furnish information on "the organization, business, conduct, practices, management, and relation to other corporations, partnerships and individuals." Failure to answer can subject a company to fines of \$100 a day until complete replies are made; false statements are punishable by fines up to \$5,000 and 10 years in jail for corporate officers responsible.

BUDGET BUREAU CLEARANCE

But under a 1942 law, agencies such as the FTC must get Budget Bureau clearance before issuing broad questionnaires to business. The aim is to prevent businessmen from being deluged with time-consuming, overlapping and needless queries from a host of Federal agencies.

The Budget Bureau regularly seeks opinions from business on projected studies, working through a group called the Advisory Council on Federal Reports. Before Christmas the council sent copies of the proposed FTC survey to a number of companies and trade associations in the aerospace, aluminum, automobile, chemical, copper and brass, electronics, food, glass, lumber, machinery, paper, petroleum, photographic, retail merchandising, rubber, ship-building, steel, textile and tobacco industries. The council invited spokesmen for these industries to today's meeting.

One major industry objection to the projected probe is that it will take considerable manpower and money to gather certain information on which most corporations do not now keep detailed records. But there is also resistance to disclosure of corporate secrets and some apprehension that the study amounts to a "fishing expedition" which may well result in numerous antitrust suits and possibly Congressional hearings.

A high Budget Bureau official insists, however, that the bureau will rule out of order complaints challenging FTC's policy reasons for pursuing the study. The stress at today's meeting will be on weighing the commission's need for the information against business complaints of burdensomeness, he says. The expectation in Government is that to win clearance the FTC will need, at most, only to modify and perhaps clarify certain queries.

Negotiations over modifications may take a few days or several months, judging the past experience, says one Federal official. The FTC expects to send out its questionnaire within a month after obtaining clearance and to require full responses within 60 days thereafter.

In part, the queries as now drafted seek to determine:

Total gross receipts and assets for each company and its wholly owned subsidiaries for the years 1950 through 1962:

An up-to-date listing of all shareholders having 5% or more of the stock in the company, to include individuals, pension funds, mutual funds and foundations:

Three separate lists giving the name, address and primary business activity of each wholly owned domestic and foreign subsidiary, each company in which the reporting corporation owns 50% or more of voting stock, and each concern in which it owns 5% to 50% of voting stock.

A separate group of questions, relating to all companies in which the reporting corporation has a 5% or more voting stock, and each concern interest, asks:

The cost of the investment at the time it was made and its value as of Dec. 31, 1962:

A breakdown between common and preferred stock owned and between voting and non-voting stock held;

The total amounts of all purchases from and sales to these companies last year;

A listing of all products produced by both the reporting corporation and each firm in which it has a 5% or bigger stock interest;

Total gross receipts and assets of each of these "5% companies" in 1962, plus a breakdown for each of their 10 principal products;

And, hard to compile though it might be, a list of all other corporations which last year owned more than 5% of stock interest in these same concerns and the percentage for each.

WEALTH OF USEFUL INFORMATION

"With this information in our files," asserts an FTC official, "we will be in a position to plan a more intelligent program of law enforcement. If we spot a practice which we consider anti-competitive, we can seek to correct it with prosecution, publicity or new legislation. And if we're considering a case involving one or more of the 1,000 corporations, we'll have a wealth of useful information immediately at hand."

An example of how this material might be useful to the antitrusters: Last spring FTC Chairman Rand Dixon caused some what of a furor when he suggested that some joint ventures by giant competitors, in which two may share 50-50 the costs and profits of a third concern that develops a new product, market or source of raw material, might be just as unlawful in antitrust terms as actual mergers. He complained that the Government doesn't have an accurate picture of the extent of joint-venture relationships. The projected study would fill this gap and might provide antitrusters with a rich new vein of potential prosecutions.

Not surprisingly, FTC officials pooh-poo the notion that the questionnaires will impose a difficult burden on business. Contents one: "Any well-run organization will have such information readily at hand."

LOUD INDUSTRY PROTESTS

But loud disagreement come from industry. One executive insists no corporation tabulates separately its annual purchases from and sales to each company in which it owns a stock interest of 5% or more. To answer this question, he suggests, a corporation might have to wade through hundreds of thousands of 1962 invoices. And since data processing systems are not keyed to such information, he maintains, the work would have to be done painstakingly by hand.

Another businessman emphasizes that when the Census Bureau asks for sales figures for various product categories, it's willing to accept estimates if a company does not break down its figures the same way. "But will the FTC be willing to accept estimates?" he asks.

Some businessmen worry, too, whether FTC will treat as confidential all company data which it receives. They fear leaks to competitors or to Congress. But a top commission officer insists such information would be locked in FTC files, available to other agencies only after a majority vote by the five-man commission. Economic reports to be based on the study, he declares, will not disclose company secrets.

Senator METCALF. It has been a real pleasure to have you here today. you have made a unique contribution. Senator Murray is no longer with us but here you are, one of the men who came up to influence the Senator and influence Congress to get rid of all of this cumbersome paperwork on behalf of small business. And you have seen this thing grow and expand and when you tell us, as a pioneer and expert, that you do not know what goes on, you can see how bewildered the rest of us are in trying to find out the wheels within the wheels that you talk about, of this very complex and complicated but tremendously powerful and influential group.

Mr. WIMMER. Yes; the Senator had one of the best economic minds we ever had in Government. And so did Senator Joseph O'Mahoney who called me 3 days before he died. His last words to me were: "We've got to bring the Jeffersonian philosophy back or we are not going to have a country." He said, "I'm so tired, I cannot do this work any more."

Colonel March, former chairman of FTC, said the same thing only hours before he passed away.

I feel this simple bill designed to amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes, is a request that could lead to a Pandora's box of information of inestimable value.

Senator METCALF. I suppose we should mention that Senator Estes Kefauver was interested and concerned and just about ready to go into this business before he died, unfortunately, prematurely.

Mr. WIMMER. I think it was a tragedy to our country when Senator Kefauver passed on. He was so deeply involved in the power issue. I recall when I testified on the Celler-Kefauver bill, 1949, amending the Clayton Act, I had a set of charts showing all of the conglomerates like General Foods and Standard Brands, and Estes was walking around behind all of the committee members, and when I would get to General Foods, he would pass out the General Foods charts, and when I got to General Mills, he passed out the General Mills charts. This great big fellow passing out these charts showed his enthusiasm for America.

Thank you, Senator, very much. I assure you our organization will cooperate with your committee to the utmost.

Senator METCALF. This closes the hearing for today. We will be in recess until tomorrow when we have Mr. Ralph Nader; a representative from the Office of Management and Budget; and Dr. Spencer Smith, secretary of the citizens committee on natural resources.

If there is nothing further to come before the committee, we stand in recess until 9:30 tomorrow morning.

(Whereupon, at 11:30 a.m., the hearing recessed, to reconvene Thursday, October 8, 1970, at 9:30 a.m.)

APPENDIX

[From the Congressional Record, Oct. 23, 1969]

S. 3067—INTRODUCTION OF A BILL TO PROVIDE FOR CONSUMER, SMALL BUSINESS, AND LABOR REPRESENTATION ON BUDGET BUREAU ADVISORY COMMITTEES

Mr. METCALF. Mr. President, I introduce, for appropriate reference, a bill to amend the Federal Reports Act of 1942 so as to provide for consumer, small business, and labor representation on Budget Bureau advisory committees.

These advisory committees are presently coordinated through the Advisory Council on Federal Reports, which refers to itself as "the official business consultant" to the Bureau of the Budget. This Council, in the words of Robert H. North, chairman of the private Fund Q Committee, through which this advice to the Government is funded, "is wholly business oriented, being sponsored and financed by associations through the American Society of Association Executives and other respected business organizations."

The Council has arranged appointment of the following 16 advisory committees:

Air Transportation, Banking, Chemicals, Equal Employment Opportunity Surveys, Fats and Oils, Meat Packing, Natural Gas Pipelines, Petroleum and Natural Gas, Public Utilities—Coordinating Committee, Public Utilities—Financial Reports, Public Utilities—Operating Reports, Radio and Television Broadcasting, Railroad Reports to Federal Agencies, Retail Trades, Scientific and Research Activities, and Wholesale Trades.

Mr. President, so often in Government-business relationships, the original and laudable purpose of legislation is altered drastically through the years. That is true in this case. I know of no statutory basis for the claim of the Fund Q Committee that the Advisory Council on Federal Reports is the "official business consultant to the Federal Bureau of the Budget."

The legislation upon which the Council bases its advisory role—Public Law 77-831, second session—does not create such an advisory council. That law, the Federal Reports Act of 1942, was designed to cut down on unnecessary paperwork and questionnaires, especially those affecting small businesses, and maximize the usefulness of information collected by one agency to other Federal agencies and the public.

The Bureau of the Budget, which administers the act, says it seeks "the benefit of advice by interested parties outside the Government—those interested either as consumers of data or as respondents to the inquiry." Yet, you will find neither small businessmen nor consumer representatives on the committees which advise the Budget Bureau.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, the name, affiliation, and title of each member of 15 Budget Bureau advisory committees, as of September 23, 1969. The membership of the 16th committee, on air transportation, is being revised, the Budget Bureau tells me, and is not presently available. I invite all readers to try to find one real, live small businessman or labor or consumer representative on any of these 15 committees, from the Banking Committee's Chairman Charles Agemian, executive vice president of Chase Manhattan Bank, to the Wholesale Trade Committee's Harold O. Smith, Jr., executive vice president of the U.S. Wholesale Grocers Association.

There being no objection, the list was ordered to be printed in the Record, as follows:

ADVISORY COUNCIL ON FEDERAL REPORTS

(Roster for 1969, updated as of Sept. 23, 1969)¹

Chairman: Charles W. Stewart.
 Vice Chairman: Leo V. Bodine, Carl H. Madden, Robert H. North.
 Treasurer: G. H. Gaynor.
 Executive Secretary: Russell Schneider.

AMERICAN RETAIL FEDERATION

A. Arthur Charous, Manager, Division of Economic Research, Sears, Roebuck and Company, Chicago, Ill.
 Eugene A. Keeney, Executive Vice President, American Retail Federation, Washington, D.C.
 Herbert S. Landsman, Executive Vice President, Federated Department Stores, Inc., Cincinnati, Ohio.

AMERICAN SOCIETY OF ASSOCIATION EXECUTIVES

William E. Dunn, Executive Director, Associated General Contractors of America, Washington, D.C.
 James G. Ellis, Washington Office, Automobile Manufacturers Assn., Washington, D.C.
 Robert H. North, Executive Vice President, International Association of Ice Cream Manufacturers, Washington, D.C.

CHAMBER OF COMMERCE OF THE UNITED STATES

G. H. Gaynor, Executive Assistant, United States Steel Corporation, Pittsburgh, Pennsylvania.
 Carl H. Madden, Chief Economist, Chamber of Commerce of the U.S., Washington, D.C.
 Albert G. Matamoros, Chief Economist, Armstrong Cork Company, Lancaster, Pennsylvania.

FINANCIAL EXECUTIVE INSTITUTE

Carl M. Blumenschein, Senior Vice President, Finance, Container Corporation of America, Chicago, Illinois.
 Daniel W. Potter, Treasurer & Secretary, Raymond Engineering, Inc., Middletown, Connecticut.
 James J. Rutherford, Managing Director, Financial Executives Institute, New York, New York.

NATIONAL ASSOCIATION OF MANUFACTURERS

Leo V. Bodine, Executive Vice President, National Association of Manufacturers, Washington, D.C.
 Wayne E. Kuhn, Omark Industries, Inc., Portland, Oregon.
 Robert H. Stewart, Jr., Manager, General Economics, Planning & Economics Department, Gulf Oil Corporation, Pittsburgh, Pennsylvania.

Members-at-large

Burton N. Behling, Vice President, Association of American Railroads, Washington, D.C.
 William H. Finigan, Director, Marketing Research, The National Cash Register company, Dayton, Ohio.
 E. W. Gaynor, Comptroller, Parts Division, Chrysler Corporation, P.O. Box 1718, Detroit, Michigan.
 Robert S. Quig, Vice President, Ebasco Services Incorporated, Two Rector Street, New York, New York.
 Charles W. Stewart, President, Machinery & Allied Products Institute, Washington, D.C.
 Vincent T. Wasilewski, President, National Association of Broadcasters, Washington, D.C.
 N. R. Wenrich, Manager, Business Research, Merck & Company, Inc., Rahway, New Jersey.

¹ See 1970 roster, p. 125.

Active past chairmen

- T. M. Brennan (1962-1965), 47 Dogwood Lane, Rockville Centre, New York.
 Jos. F. Miller (1965-1968) Executive vice President, National Electrical Manufacturers Association, New York, New York.
 T. G. Redman (1959-1961), Vice President, Swift and Company, Chicago, Illinois.
 T. E. Veltfort (1950-1952), Managing Director, Copper & Brass Fabricators Council, Inc., New York, New York.
 Merrill A. Watson (1956-1958), President, National Footwear Manufacturers Association, New York, New York.

COMMITTEE ON AIR TRANSPORTATION

Scope: To advise the Bureau of the Budget with regard to opportunities for paperwork reduction in reporting and record keeping requirements of Federal agencies and on any opportunities to effect improvements in the accuracy and usefulness of Federal statistics.

Budget Bureau Staff Assigned: Harry B. Sheftel.
 Membership being revised.

COMMITTEE ON BANKING

Scope: To advise the Bureau of the Budget on Federal reporting and record retention requirements for the purpose of reducing the burden imposed upon the banking industry and to improve statistical and other information to be collected by Federal agencies.

Budget Bureau Staff Assigned: Edward T. Crowder.

Chairman

Charles A. Agemian, Executive Vice President, The Chase Manhattan Bank, New York, N.Y.

Secretary

Franklin A. Gibbons, Jr., Vice President and Comptroller, The Riggs National Bank, Washington, D.C.

Members

- Thomas R. Atkinson, Deputy Manager, The American Bankers Association, New York, N.Y.
 C. H. Baumhefner, Executive Vice President, Bank of America, NT&SA, San Francisco, Calif.
 Frank Forester, Jr., Vice President and Comptroller, Morgan Guaranty Trust Company, New York, N.Y.
 Denton A. Fuller, President, Liberty Trust Company, Cumberland, Md.
 Saul B. Klamman, Director of Research, National Association of Mutual Savings Banks, New York, N.Y.
 Wesley Lindow, Executive Vice President and Secretary, Irving Trust Company, New York, N.Y.
 Arthur Ringler, Executive Vice President, Chemical Bank New York Trust Co., New York, N.Y.
 Edward T. Shipley, Comptroller, Wachovia Bank & Trust Company, Winston-Salem, N.C.
 Mr. Paul L. Smith, Senior Vice President, Security First National Bank, Los Angeles, Calif.
 Walter F. Thomas, Executive Vice President, Manufacturers Hanover Trust Company, New York, N.Y.
 Wm. T. Heffelfinger, American Bankers Association, Washington.

COMMITTEE ON CHEMICALS

Scope: To advise the Bureau of the Budget in regard to opportunities to reduce the paperwork burden on industry resulting from the reporting and record-keeping requirements of the Federal agencies and to make recommendations to improve the accuracy and usefulness of Federal statistics.

Budget Bureau Staff Assigned: Harold T. Lingard.

Chairman

N. R. Wenrich, Manager of Business Research, Merck & Company, Inc., Rahway, New Jersey.

Secretary

Marjorie V. Campbell (Miss), Director, Information Service, Manufacturing Chemists' Association, Washington, D.C.

Members

Crayton K. Black, Manager.—Trade Relations, Dyes & Chemical Division, Organic Chemicals Department, E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.

Morse G. Dial, Jr., Regional Vice President, Union Carbide Corporation, Washington, D.C.

Dr. Jack D. Early, Monsanto Company, Washington, D.C.

Dr. Aimison Jonnard, Manager—Long Range Planning, Esso Chemical Co., Inc., New York, New York.

W. D. Kavanaugh, Manager, Washington Office, American Cyanamid Company, Washington, D.C.

Lewis E. Lloyd, Economist, The Dow Chemical Company, Midland, Michigan.

John J. O'Donnell, Tax Attorney, Allied Chemical Corporation, New York, New York.

COMMITTEE ON EQUAL EMPLOYMENT OPPORTUNITY SURVEYS

Scope: To advise the Bureau of the Budget on problems which will arise in connection with equal employment opportunity reporting and record keeping requirements and special surveys, and to make recommendations as to ways of avoiding or minimizing such problems.

Budget Bureau Staff Assigned: Karen Nelson.

Chairman

G. H. Gaynor, retired, not replaced.

Members

W. L. Barnes, Assistant Director, Personnel Services, North American Aviation, Inc., El Segundo, California.

Joseph E. Baudino, Vice President, Westinghouse Broadcasting Company, Washington, D.C.

Harry S. Benjamin, Jr., Director, Legal Staff, General Motors Corporation, Detroit, Michigan.

Charles G. Caffrey, Washington Representative, American Textile Manufacturers Institute, Washington, D.C.

David D. Doughty, Counsel, Personnel Relations Conference, Air Transport Association, Washington, D.C.

Paul M. Hawkins, Counsel, Health Insurance Association of America, Washington, D.C.

Arthur F. Hintze, Director, Government Labor Relations Service, Associated General Contractors, Washington, D.C.

Alfred E. Langenbach, Vice President, First National Bank, Chicago, Illinois.

W. R. Hill, Jr., Manager, Payroll Administration, Public Service Electric & Gas Co., Newark, New Jersey.

S. W. Mahon, Westinghouse Electric Corporation, 3 Gateway Center, Pittsburgh, Pa.

Donn R. Marston, Machinery & Allied Products Institute, Washington, D.C.

Lambert H. Miller, General Counsel, National Association of Manufacturers, Washington, D.C.

Charles F. Mulligan, Senior Statistician, Eastman Kodak Company, Rochester, New York.

Eugene F. Rowan, Director, Personnel Relations, J. C. Penney Company, Inc., New York, N.Y.

Melvin Sandler, Director, Employee Relations, American Hotel & Motel Association, New York, N.Y.

S. W. Seeman, Assistant Vice President, Personnel Administration, Penn Central Company, Philadelphia, Pa.

Mrs. Jean Sisco, Divisional Vice President, Personnel & Industrial Relations, Woodward & Lothrop, Washington, D.C.

Robert H. Stewart, Jr., Manager, General Economics Planning & Economics Department, Gulf Oil Corporation, Pittsburgh, Pa.

N. R. Wenrich, Manager, Business Research, Merck & Company, Inc., Rahway, New Jersey.

Don White, Employee Relations Counsel, American Retail Federation, Washington, D.C.

COMMITTEE ON FATS AND OILS

Scope: To advise the Bureau of the Budget concerning opportunities to reduce the paperwork burden imposed upon establishments engaged in the production, processing and consumption of oils, and to advise the Bureau on ways to improve Federal statistical programs to better serve the needs of government and industry users of Federal statistics.

Budget Bureau Staff Assigned: Harold T. Lingard.

Chairman

T. J. Totushek, Cargill, Incorporated, Minneapolis, Minnesota.

Members

Charles R. Bergstrom, Anderson, Clayton & Co., Inc., Houston, Texas.

Arval L. Erickson, Economic Advisor, Oscar Mayer & Company, Madison, Wisconsin.

Herbert Harris, Treasurer-Controller, National By-Products, Inc., Des Moines, Iowa.

Martin Hilby, Vice President, Riverside Industries, Marks, Miss.

C. H. Keirstead, The Glidden Company, Cleveland, Ohio.

Malcolm R. Stephens, President, Institute of Shortening & Edible Oils, Inc., Washington, D.C.

Harold V. Knight, Lever Brothers Company, New York, N.Y.

Harry H. Kriegel, J. Howard Smith, Inc., Port Monmouth, New Jersey.

R. E. Miller, Buying Dept., Procter and Gamble Company, Cincinnati, Ohio.

J. W. Moore, Vice President, A. E. Staley Manufacturing Co., Decatur, Illinois.

Boardman Veazie, Commercial Research Dept., Swift and Company, Chicago, Illinois.

Donald B. Walker, Ralston-Purina, St. Louis, Missouri.

COMMITTEE ON MEAT PACKING

Scope: To advise the Bureau of the Budget on reporting, statistical, and record keeping problems arising from the requirements which Federal agencies propose for issuance to the meat packing industry, and to assist the Bureau of the Budget in developing needed statistical programs relating to the meat packing industry.

Budget Bureau Staff Assigned: Harold T. Lingard.

Chairman

T. G. Redman, retired, not replaced.

Secretary

J. Russell Ives, Director, Department of Marketing, American Meat Institute, Chicago, Illinois.

Members

A. C. Bruner, Treasurer, East Tennessee Packing Company, Knoxville, Tennessee.

Howard Dexter, Controller, The Rath Packing Company, Waterloo, Iowa.

Earl R. Frank, Comptroller, The E. Kahn's Sons Company, Cincinnati, Ohio.

J. W. Kelly, Office of Controller, Armour Foods, Armour and Company, Chicago, Illinois.

E. A. Holloway, Controller, Cudahy Company, Phoenix, Arizona.

Robert B. Hunter, Vice President & Treasurer, Tobin Packing Company, Inc., Rochester, N.Y.

J. B. Kilgore, Controller, Wilson & Company, Inc., Chicago Illinois.
 John Killick, Exec. Secretary, The National Independent Meat Packers Association, Washington, D.C.

L. J. Kurkowski, Controller, John Morrell & Company, Chicago, Illinois.

L. Blaine Liljenquist, President and General Manager, Western States Meat Packers Association, Washington, D.C.

Leonard H. Pedersen, Assistant Controller, Oscar Mayer & Co., Inc., Madison, Wisconsin.

Robert F. Potach, Controller, George A. Hormel & Co., Austin, Minn.

James W. Seifert, Controller, The Wm. Schluderberg-T. J. Kurdle Co., Baltimore, Maryland.

Jack B. Sullivan, Comptroller, Stark Wetzel & Company, Inc., Indianapolis, Indiana.

Wm. G. Torrace, V. P. & Controller, Hygrade Food Products Corp., Detroit, Michigan.

COMMITTEE ON NATURAL GAS PIPELINES

Scope: To advise the Bureau of the Budget on report forms and related record-keeping requirements issued by federal agencies to companies in the natural gas pipeline field in order to improve such forms and to make recommendations to simplify reporting requirements and reduce the burden of reporting.

Budget Bureau Staff Assigned: Harry B. Sheftel.

Chairman

E. H. Hasenberg, Natural Gas Pipeline Company of America, Chicago, Illinois.

Members

W. Page Anderson, Director, Rates and Certificates, Panhandle Eastern Pipe Line Co., Kansas City, Mo.

Daniel L. Bell, Jr., Columbia Gas System Service Corp., New York, N.Y.

I. D. Bufkin, Texas Eastern Transmission Corp., Houston, Texas.

William F. Cummer, United Gas Pipe Line Company, Shreveport, Louisiana.
 Alternate: J. D. McCarty, United Gas Pipe Line Co.

Robert L. Cramer, Florida Gas Transmission Co., Winter Park, Fla.

Theodore I. Gradin, American Gas Association, New York, New York.

B. K. Hoeldtke, El Paso Natural Gas Company, El Paso, Texas.

Harry A. Ofutt, Treasurer, Consolidated Gas Supply Corp., Clarksburg, West Virginia.

C. W. Radda, Northern Natural Gas Company, Omaha, Nebraska.

Walter E. Rogers, Executive Director, Independent Natural Gas Association of America, Washington, D.C.

Robert H. Stewart, Jr., Manager, General Economics Gulf Oil Corporation, Pittsburgh, Pa.

COMMITTEE ON PETROLEUM AND NATURAL GAS

Scope: To advise the Bureau of the Budget on report forms relating to the petroleum and natural gas producing and processing industries; to reduce the burden imposed upon these industries as a result of Federal reporting and record-keeping requirements; and to advise the Bureau in connection with opportunities to improve Federal statistical programs to serve the needs of both government and industry.

Budget Bureau Staff Assigned: Harold T. Lingard.

Chairman

Robert H. Stewart, Jr., Manager, General Economics, Planning & Economics Department, Gulf Oil Corporation, Pittsburgh, Pa.

Members

E. W. Brindle, Standard Oil Company (Indiana), Chicago, Illinois.

C. J. Carlton, Economics Department, Standard Oil Co. of California, San Francisco, Calif.

James S. Cross, Manager, Economics Department, Sun Oil Company, Philadelphia, Pa.

Theodore I. Gradin, Director, Bureau of Statistics, American Gas Association, New York, New York.

E. H. Hasenberg, Co-ordinator of Certificates, Natural Gas Pipeline Company of America, Chicago, Illinois.

Edward R. Heydinger, Manager, Economics & Statistics Dept., Marathon Oil Company, Findlay, Ohio.

John E. Hodges, Director, Department of Statistics, American Petroleum Institute, Washington, D.C.

Melvin L. Mesnard, Economic Analyst, Independent Petroleum Association of America, Washington, D.C.

B. L. Jones, Mobil Oil Corporation, New York, New York.

Carl E. Richard, Controller's Department, Humble Oil and Refining Co., Houston, Texas.

A. J. Bradford, Comptroller's Department, Texaco, Inc., New York, New York.

Frank Young, Continental Oil Company, New York, New York.

PUBLIC UTILITIES COORDINATING COMMITTEE

Scope: To advise the Bureau of the Budget and to coordinate, as may be desirable, the work of the Committees on Financial Reports and Operating Reports to better serve the purposes of the Advisory Council on Federal Reports and the needs of the Bureau of the Budget and the gas and electric utilities industries; also to assist in the selection of special advisory panels qualified to advise the Bureau of the Budget on any reporting forms and plans concerning which the two Committees would not be adequately qualified to advise the Bureau.

Budget Bureau Staff Assigned: Mr. Harry B. Sheftel.

Chairman

Robert S. Quig, Vice President, Ebasco Services Incorporated, New York, N.Y.

Members

Miles J. Doan, Vice President, The Cincinnati Gas & Electric Co., Cincinnati 1, Ohio.

Theodore I. Gradin, Director, Bureau of Statistics, American Gas Association, New York, N.Y.

G. H. McDaniel, Head, System Operations, American Electric Power Service Corp., New York, N.Y.

John Thornborrow, Assistant Managing Director, Edison Electric Institute, New York, N.Y.

COMMITTEE ON UTILITIES—FINANCIAL REPORTS

Scope: To advise the Bureau of the Budget on financial reporting forms and related requirements issued by federal agencies to companies in gas and electric utilities field in order to improve such reporting forms and plans and where possible to simplify them and reduce the burden of reporting.

Budget Bureau Staff Assigned: Mr. Harry B. Sheftel.

Chairman

Robert S. Quig, Vice President, Ebasco Services Incorporated, New York, N.Y.

Vice Chairman

Miles J. Doan, Vice President, The Cincinnati Gas & Electric Co., Cincinnati 1, Ohio.

Secretary

Theodore I. Gradin, Director Bureau of Statistics, American Gas Association, New York, N.Y.

Members

Robert R. Fortune, Vice President, Pennsylvania Power & Light Co., Allentown, Pennsylvania.

Arthur E. Gartner, Controller, Consolidated Natural Gas Co., New York, New York.

John Geiger, Head, Financial & Statistical Section, Pacific Power & Light Company, Portland, Oregon.

Robert A. Jeremiah, Controller, Long Island Lighting Company, Mineola, New York.

J. C. Johnson, Assistant Comptroller, Southern Services, Inc., Atlanta, Georgia.

Albert J. Klemmer, Auditor, Rochester Gas & Electric Company, Rochester, New York.

Frank H. Roberts, Controller, Northern Natural Gas Company, Omaha, Nebraska.

Mr. C. M. Allen, Vice President and Treasurer, Panhandle Eastern Pipe Line Company, Kansas City, Missouri.

William E. Sauer, Superintendent, Regulatory & Statistical Accounting Department, Peoples Gas Light & Coke Co., Chicago, Illinois.

Robert C. Sloan, Assistant Treasurer, Columbia Gas System, Inc., New York, New York.

Alfred E. Softy, Accounting Director, Edison Electric Institute, New York, New York.

William T. Sperry, Assistant to Comptroller, Public Service Gas & Electric Co., Newark, New Jersey.

Douglas M. Tonge, Asst. Secretary & Asst. Treasurer, American Electric Power Service Corp., New York, New York.

COMMITTEE ON PUBLIC UTILITIES—OPERATING REPORTS

Scope: To advise the Bureau of the Budget on utilities operating reporting forms and related requirements issued by federal agencies to companies in gas and electric utilities field in order to improve such reporting forms and plans and where possible to simplify them and reduce the burden of reporting.

Budget Bureau Staff Assigned: Harry B. Sheftel.

Chairman

Robert S. Quig, Vice President, Ebasco Services Incorporated, New York, New York.

Vice chairman

G. H. McDaniel, Head, System Operations, American Electric Power Service Corp., New York, N.Y.

Secretary

John Thornborrow, Assistant Managing Director, Edison Electric Institute, New York, N.Y.

Members

Fred W. Braga, Assistant Comptroller & Statistician, The Detroit Edison Company, Detroit, Mich.

Donald E. Rose, Assistant Treasurer, New England Power Service Company, Boston, Mass.

Theodore I. Gradin, Director, Bureau of Statistics, American Gas Association, New York, N.Y.

James I. Poole, Jr., Vice President-Sales & Rates, Natural Gas Pipeline Co., of America, Chicago, Ill.

Francis Quinn, Budget & Statistics Department, Transcontinental Gas Pipe Line Corp. Houston, Tex.

E. A. Willson, Vice President, Northern States Power Company, Minneapolis, Minn.

R. C. Wilson, Manager, Rate Department, Washington Gas Light Company, Washington, D.C.

COMMITTEE ON RADIO AND TELEVISION BROADCASTING

Scope: To advise the Bureau of the Budget on reporting procedures, mainly Federal Communications Commission questionnaires, issued to radio and television stations and to make recommendations toward the simplification, consolidation and improvement of such reporting.

Budget Bureau Staff Assigned: Harry B. Sheftel.

Chairman

Joseph E. Baudino, Vice President, Westinghouse Broadcasting Company, Washington, D.C.

Members

Douglas A. Anello, General Counsel, National Association of Broadcasters, Washington, D.C.

Arthur W. Arundel, President, WAVA, Arlington, Virginia.

Alfred Beckman, Vice President, American Broadcasting Company, Washington, D.C.

Robert Cochran, Assistant General Manager WMAR-TV, Baltimore, Maryland.

Joseph DeFranco, Attorney, Columbia Broadcasting System, Washington, D.C.

George J. Gray, Vice President, AVCO Broadcasting Corporation, Washington, D.C.

Howard Monderer, Assistant General Attorney, National Broadcasting Company, Washington, D.C.

Roger Newhoff, President, Eastern Broadcasting Corporation, Washington, D.C.

Roger B. Read, Vice President, Taft Broadcasting Company, Cincinnati, Ohio.

Robert L. Heald, President, Federal Communications Bar Association, Washington, D.C.

Daniel W. Shields, Executive Assistant to the President, Steinman Stations, Lancaster, Pennsylvania.

COMMITTEE ON RAILROADS

Scope: To advise the Bureau of the Budget with respect to federal reporting and record keeping requirements applicable to railroads and subject to review by the Bureau of the Budget under the Federal Reports Act, and to such related problems of coordination and planning of statistical and reporting programs covering railroads as the Bureau may refer to the Committee.

Budget Bureau Staff Assigned: Harry B. Sheftel.

Chairman

Burton N. Behling, Vice President, Association of American Railroads, Washington, D.C.

Members

L. W. Adkins, Vice President, Accounting & Taxation, Louisville & Nashville Railroad, Louisville, Kentucky.

P. L. Conway, Jr., Assistant Vice President, Economics & Finance Department, Association of American Railroads, Washington, D.C.

W. R. Divine, Vice President and Comptroller, Southern Railway System, Washington, D.C.

W. N. Erzen, Vice President and Comptroller, Chicago, Burlington & Quincy Railroad, Chicago, Illinois.

J. T. Ford, Jr., Assistant Vice President & Comptroller, Chesapeake & Ohio/Baltimore & Ohio Railroads, Baltimore, Maryland.

C. E. Fuller, Comptroller and Traffic Manager, Genesee & Wyoming Railroad Company, Reston, New York.

Charles S. Hill, Comptroller, Penn Central Company, Philadelphia, Pa.

H. A. Nelson, Vice President & General Auditor, Southern Pacific Company, San Francisco, Calif.

COMMITTEE ON RETAIL TRADES

Scope: To advise the Bureau of the Budget with respect to federal reporting and record keeping requirements applicable to the retail trades and subject to review by the Bureau of the Budget under the Federal Reports Act, and to such related problems of coordination and planning of statistical and reporting programs covering the trades as the Bureau may refer to the Committee.

Budget Bureau Staff Assigned: Paul F. Krueger.

Chairman

Eugene A. Keeney, Executive Vice President, American Retail Federation, Washington, D.C.

Secretary

Arthur Sturgis, Jr., Director Research & Taxation, American Retail Federation, Washington, D.C.

Members

A. Arthur Charous, Manager, Division of Economic Research, Sears, Roebuck and Company, Chicago, Illinois.

S. Kent Chrisensen Vice President Natl. Assn. of Food Chains, Washington, D.C.

Don J. Debolt, Executive Director, Menswear Retailers of America, Washington, D.C.

Nathan B. Epstein, Vice President, Lerner Stores Corporation, New York, New York.

William Girdner, Melville Shoe Corporation, New York, New York.

Elias S. Gottlieb, Corporate Research Director, R. H. Macy & Co., Inc. New York, New York.

Robert C. Heller, Asst. Secretary & Treasurer, F. W. Woolworth Company, New York, New York.

Alfred E. Kuerst, Vice President, L. S. Ayres & Company, Indianapolis, Indiana.

Thomas H. Jenkins, Research Director, National Retail Hardware Association, Indianapolis, Indiana.

Herbert S. Landsman, Executive Vice President, Federated Department Stores, Inc. Cincinnati, Ohio.

Eleanor G. May, Research Director, Woodward and Lothrop, Washington, D.C.

Irving Phillip, Controllers Congress, National Retail Merchants Association, New York, New York.

COMMITTEE ON SCIENTIFIC AND RESEARCH ACTIVITIES

Scope: To advise the Bureau of the Budget on the improvement and simplification of Federal government reporting forms and related procedures concerned with scientific and technical personnel and research and development expenditures in industry, and to advise the Bureau of the Budget as to statistical programming in these fields, with particular reference to industry needs for statistical information.

Budget Bureau Staff Assigned: Margaret E. Martin, Harry B. Sheftel.

Chairman

John W. Reynard, Assistant Manager, Personnel Division, Employee Relations Department, E. I. du Pont de Nemours & Company, Inc., Wilmington, Delaware.

Members

H. Dwight Blondefield, Executive Assistant, Advanced Programs and Marketing, Autonetics Division, North American Rockwell Corporation, Anaheim California.

C. A. Church, Manager, Educational Relations & Recruiting, General Electric Company, New York, New York.

R. C. Cunningham, Director, Staff Programs, Engineering, Westinghouse Electric Corporation, Pittsburgh, Pa.

Virginia A. Dwyer, Economist and Actuary, Finance Division, Western Electric Company, New York, New York.

N. O. Heyer, Manager, Manpower Planning, International Business Machines Corporation, Corporate Headquarters, Armonk, New York.

B. F. Holcomb, Executive Assistant, United States Steel Corporation, Pittsburgh, Pa.

Wayne E. Kuhn, Omark Industries, Inc., Portland, Oregon.

George E. Norman, Jr., Vice President, Burlington Industries, Inc., Greensboro North Carolina.

David Novick, Cost Analysis Department, The Rand Corporation, Santa Monica, California. Alternate: Milton Margolis.

J. H. Pond, Personnel Manager, Employment & Personnel Department, The Martin Company, Denver, Colorado.

Victor Schneider, General Motors Corporation, Detroit, Michigan.

Robert H. Sommer, Managing Director, National Association of Accountants, New York, New York.

N. R. Wenrich, Manager, Business Research, Merck & Company, Inc., Rahway, New Jersey.

C. C. Coyne, Director, Financial & Service Department, Gulf Research & Development Corp., Pittsburgh, Pa.

COMMITTEE ON WHOLESALE TRADES

Scope: To advise the Bureau of the Budget on reporting, record keeping and statistical problems arising from the activities and recommendations of Federal agencies relating to wholesale industries, to reduce upon the wholesale industries by these requirements, and to make recommendations for the improvement of Federal statistics needed by Government and industry.

Chairman

James E. Allen, President, the Henry B. Gilpin Co., Oxon Hill, Maryland.

Secretary

Paul L. Courtney, Executive Vice President, National Association of Wholesalers, Washington, D.C.

Members

Gilbert Campbell, Albemarle Motor Company, Charlottesville, Virginia.

W. D. Jenkins, President, Radio Supply Company, Richmond, Virginia.

Frank J. Mulvey, National Auto Service Co., Inc., Washington, D.C.

Hugh N. Phillips, President, Frank Parsons Paper Company, Washington, D.C.

Harold O. Smith, Jr., Executive Vice President, U.S. Wholesale Grocers Association, Washington, D.C.

Mr. METCALF. Mr. President, I know something of the background of the legislation from which these advisory committees grew. It was laudable legislation, developed in hearings by my predecessor, Senator James E. Murray, who then chaired the Small Business Committee. The early days of World War II brought with them all sorts of Federal forms and questionnaires related to rationing and the war effort. This worked a special hardship on small businessmen. They went to Senator Murray. The Federal Reports Act of 1942 was the consequence. It makes sense to keep down duplicative paperwork and I am in full accord with the goals of that statute.

What I do question is the one-sided information which the Budget Bureau receives, through its arrangement with the advisory committees from big businesses. I criticize and seek to halt the use of these committees to withhold from the public information which it has the right to know and should be able to obtain readily.

In elaboration of this point, I ask unanimous consent to have printed in the RECORD an article, "Unheralded Committees Molding Statistics Via the Budget Bureau," by Miss Jan Nugent, which appeared in the November 26, 1968, issue of the Journal of Commerce.

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

UNHERALDED COMMITTEES MOLDING STATISTICS

(By Jan Nugent)

WASHINGTON, November 25.—Probably the best-known sounding board through which government hears the advice and opinions of the corporate community is the Business Council, whose regular meetings swarm with government policy-makers and attendant journalists.

However, there is another device through which business groups influence the federal establishment's less glamorous daily contacts with the business world. This is by participation in little-known industry committees which advise the Bureau of the Budget on its duties as supervisor of government statistic collection.

Statistics are not the most dramatic of the federal establishment's efforts, even though they are an essential one. But the clash between the government's right to know and a corporation's right to privacy is a daily one in many industries.

STATISTICS GUIDE POLICY

And since legislation and future regulatory decisions are often based on such economic data, how, when and whether it is collected helps mold government policy.

The Budget Bureau acts as traffic cop for all Federal Government statistics-gathering. Under the Federal Reports Act, it must approve any questionnaire sent by a federal agency to more than 10 persons.

For advice on how to improve data-gathering efforts and minimize reporting burdens, the Budget Bureau calls on committees set up by the Advisory Council on Federal Reports. ACFR has 20 standing committees in various sectors, such as banking, equal employment opportunity, radio and TV broadcasting, and sets up special panels to deal with government surveys in other areas.

"We are not in the policy area," explained ACFR Executive Secretary Russell Schneider. "The Business Council is in the area of policy problems . . . we are in procedure and how you do it."

"It is hard to separate policy and procedure, but we try hard to do that," he continued.

There is general agreement that this Budget Bureau-business cooperation has provided sound technical advice to simplify and improve government data-gathering efforts.

But it has not been immune from criticism. Corporate executives and Congressional committees have criticized the Budget Bureau for not doing more to defoliate "the federal paperwork jungle."

Other government agencies complain that at times this overview procedure cramps their style, interferes with policy decisions and squelches studies necessary to their work.

WHERE'S THE LINE?

Their objections, generally, arise over where the narrow line between procedure and policy is drawn.

Disgruntled FTC staffers cite the fate of an FTC proposal to study the 1,000 largest corporations about five years ago. The Budget Bureau okayed the project after a stormy meeting where some of the business representatives allegedly objected to its purpose. Later, several sources contend, other company officials made their objections known on Capitol Hill. When FTC's budget came up, Congress not only refused to appropriate money for the work, but for the next three years specifically forbade any such survey.

Budget officials who participated point out that the final survey was much improved because of advice given by the Business Advisory Committee. They also point out that the project was cleared by Budget, which has the final responsibility of weighing all the arguments and making the final decision.

An FTC official conceded that anyone has a right to take his complaints to Congress. "My criticism is that they (business) use this (advisory committee procedure) as a vantage point to see what is coming their way," he said.

Ranking officials of USDA and the Budget Bureau have also clashed when some proposed USDA studies were scuttled at Budget.

Only recently, a meeting was convened at Budget Bureau which illustrates the kind of problems business advisory committees deal with.

On Nov. 7, the Advisory Committee on Public Utilities objected strongly to Federal Power Commission proposals to require separate reporting of all professional relations, legal services, etc. Previously, large utility companies were required to report individually to FPC only annual retainers which exceeded \$25,000.

The meeting was closed, and Budget officials said the minutes were not available. However, sources who attended report that the utility company spokesmen repeatedly asked FPC why it needed this type of detailed information. They contended that providing the data would be burdensome and expensive and wanted to know why it was necessary.

The public utilities segment of the power industry has supported FPC's proposal, contending it is possible under present rules to write off as legal and public relations expenses what are really political and lobbying activities.

FPC's final ruling, which waits at least partially on Budget Bureau clearance, has not yet been announced.

Mr. METCALF. Mr. President, Miss Nugent referred to the fate of a Federal Trade Commission proposal to study the 1,000 largest corporations, after one of the Budget Bureau advisory committees objected. One of the most experienced members of the FTC, Commissioner Everett MacIntyre, commented earlier this year on the extraordinary control which the Bureau of the Budget—and, I would add, its industry advisory committees—has over the regulatory agencies through the Federal Reports Act of 1942. The distinguished senior Senator from North Carolina (Mr. Ervin) inserted the full text of Mr. MacIntyre's remarks in the Congressional Record of January 27, 1969, and they appear on page S908 of the Record. I ask unanimous consent to have printed at this point in the Record that portion of Commissioner MacIntyre's remarks which deals with the Federal Reports Act of 1942.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

4. The Federal Reports Act of 1942

Passage of the Federal Reports Act of 1942 accorded to the Bureau of the Budget another important right to review and control over the activities of regulatory agencies. Curiously enough, as is often the case, the Act was passed under circumstances and for reasons considerably different from those in which it would be used.

It will be recalled that passage of the Federal Reports Act was occasioned by the proliferation of governmental questionnaires and requests for information and other forms which were the direct result of the activities of the Office of Price Administration. The nation was literally engulfed in a blizzard of paperwork concerning rationing output, prices, and any other conceivable type of information, both private and public.

E.g., for the purpose of ensuring successful prosecution of the war, the OPA required literally hundreds of thousands of questionnaires be filled out by farmers and housekeepers who needed a few gallons of oil for lighting and for other purposes around their homes. For this purpose, however, it proved not only unnecessary but was much resented by the many citizens who were required to wait their places in long lines at various post offices throughout the country for a determination whether the questionnaires were properly filled out and their requests indeed necessary.

The Act provides that requests for information originating with any governmental agency and directed to more than nine respondents must receive clearance by the Bureau of the Budget. Requests for such clearance must be accompanied by a detailed explanation of the questionnaire, such as technicalities of implementation, manner of selecting the respondents, whether the information is to be collected by mail or personal interview, etc., etc. In addition, the request must be justified in depth. This would include a statement why the information is sought and how it will be used; why the particular number of respondents and not less has been selected; how much time it will take a respondent to answer the questionnaire, etc., etc. In ruling upon such requests the Bureau of the Budget must also be satisfied that this is the only practical method of getting the necessary information and that it is not available through some other governmental or more readily accessible private source.

The power of review within the Bureau of the Budget extends so far as to permit forbidding collection of all or a part of the information sought. In case of the traditionally used questionnaire, for example, the Bureau of the Budget may withhold clearance for its issuance altogether or it may strike certain questions—a matter entirely within its discretion.

Congress, in its haste to pass this bill, however, did not heed the warning of those questioning its extent, although this point was the subject of considerable debate. Specifically, some members of Congress felt that while the bill was ostensibly aimed at the elimination of unnecessary and presumably duplicate reports the way it was phrased gave the Director of the Bureau of the Budget a good deal more control over the collection of information than was necessary under the circumstances and perhaps even intended by Congress had it considered all the ramifications of the bill. As it turned out, the Act permits the Bureau of the Budget to exercise a good deal of control over the investigative functions of the independent agencies. With respect to the Federal Trade Commission this represents a drastic departure from the theory of its creation. One of the Commission's most important functions arises out of the mandate to investigate and publicize

business conditions harmful to the continued good health of the economy and to do so independently and outside of the control of the executive. Any control over its ability to investigate or a substantive review of the information it seeks will naturally adversely affect the independence of the Commission.

There is no doubt that the purpose for which the Act was conceived—to cut costs to the government and to avoid unnecessary harassment of citizens and business—has considerable merit. If, however, it becomes an instrument of control over some types of investigations, specifically those of independent regulatory agencies—and this in fact has occurred—it would appear that the authority the Act vests in the Bureau of the Budget needs to be reexamined.

Mr. METCALF. Mr. President, my experience indicates that in some instances the advisory committees frustrate the collection and publication of information which the public is entitled to have. I first became aware of this several years ago in endeavoring to track down the donations made by various electric utilities. I found that a number of rightwing extremist organizations were receiving regular contributions from power companies. These companies however, usually did not report the contributions to the Federal Power Commission. When I asked the FPC to request the utilities to itemize expenditures in certain accounts we would find a whole flock of extremist organizations such as the Southern States Industrial Council. That is the pompous group, some Members may recall, which thinks the kiddies who collect for UNICEF are aiding and abetting a Communist front, and which held that the Civil Rights Act of 1964 was "clearly of Communist origin." This fall, SSIC has been complaining to Congress about the Equal Employment Opportunity Commission, an agency with severely limited powers, which has, nevertheless, revealed the fact that the electric utility industry discriminates against Negroes and Spanish-surnamed persons more than any other industry.

Power company contributions to such organizations are often tucked into operating expense accounts, so that the cost is borne by the utility customers, rather than by the stockholders, as should be the case with such political expenditures. I asked the FPC whether it could simply ask each major utility whether it contributed to certain organizations, and, if so, determine how the utilities accounted for the donations in their books. The FPC said that would not be possible, because of the requirement in the Federal Reports Act of 1942 that "no Federal agency shall conduct or sponsor the collection of information, upon identical items, from 10 or more persons" unless certain conditions had been met. Among those conditions was and is the approval of the Budget Bureau Director. He, in keeping with custom if not the law, refers such queries to one of his utility advisory committees, some of whose members represent companies practicing the shoddy bookkeeping to which I object, and none of whose members represent the customers who are required to pay for this dubious charity on the part of the utilities.

Another example involves the reporting of professional fees by electric utilities. Two years ago the Federal Power Commission recommended reporting all such fees—which include fees for attorneys, public relations, and advertising, among other things—rather than just those payments exceeding, in the case of the large utilities, \$25,000 a year. The FPC docket of comment on the proposed revision was preponderantly favorable, including supporting letters from a number of power company employees. The American Public Power Association, representing municipally owned electric utilities, excellently stated the case for the FPC's "right to know" regulation in this statement:

COMMENTS OF THE AMERICAN PUBLIC POWER ASSOCIATION

(Proposal of FPC To Revise Schedule for Reporting Charges for Professional and Other Consultative Services, Docket No. R-332)

The American Public Power Association, representing more than 1,400 local publicly owned electric utilities in 46 States, Puerto Rico, and the Virgin Islands, submits this statement in support of the Federal Power Commission's proposed amendment of the FPC schedule "Charges for Professional Services" of FPC Form No. 1 and FPC Form No. 2.

APPA has a direct interest in the suggested change because nearly 1,000 publicly-owned power systems purchase electricity at wholesale from private power companies subject to the jurisdiction of the Commission.

At the present time, the Federal Power Commission requires electric utilities to report specified information on outside professional services for which payment is made in the amount of (1) \$5,000 by a Class B utility, (2) \$10,000 by a

Class A utility having operating revenues under \$25,000,000, and (3) \$25,000 by Class A utilities having operating revenues of \$25,000,000 or more. The proposed revision would require reporting on all outside professional and other consultative services.

IMPORTANCE OF REGULATION

Present FPC requirements in this schedule are clearly insufficient. Electric utilities, normally monopolistic within a specific area, and recipients of certain governmental powers, require effective regulation in order to protect the public against abuses. Effective regulation is impossible without public disclosure of all relevant facts, and present regulations provide large loopholes which encourage secrecy by private power companies.

Freedom of information is, in itself, a worthwhile goal. In signing the 1966 Freedom of Information bill, President Johnson said that "freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted." This particular legislation was directed toward disclosure to individuals by Government agencies; however, a similar principle applies to private utility disclosures.

Just as the individual citizen must be protected from governmental abuses, the individual consumer must be protected from abuses by a seller. In the general marketplace, the consumer is protected by direct competition between sellers. In the electric industry, there is no direct competition, so the consumer must be protected by indirect competition and by effective regulation.

Public policy dictates that utilities, which supply an essential public service, operate in a "fishbowl". Both electric consumers and regulatory agencies must have access to full knowledge of a particular utility and its expenditures. Since 1948, FPC regulations have required less than full disclosure of professional fees paid by private power companies.

PAST ABUSES

Information that would cast an unfavorable public light upon private power companies has been withheld in the past. Some of this information has been disclosed through public hearings. Undoubtedly, much has never been disclosed. Some examples of situations indicating the need for systematic, industry-wide, full disclosure include the following:

1. In 1953 and 1954, hearings held by the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee disclosed that Arkansas Power and Light retained certain State legislators as well as various lawyers throughout the State for political action purposes.

2. At the same hearings, it was disclosed that Mississippi Power and Light secretly retained counsel in the North Central Mississippi Electric Power Association area for political activities to defeat the formation of a public utility district.

3. In 1941, the Federal Power Commission investigated expenditures by five Northwest private power companies which totalled over one million dollars, half of which was charged to operating expenses. These expenditures included the following:

a. Contributions to various "front" organizations for partisan political purposes;

b. Repayment of a loan made by utility employees for political activities;

c. Payments to former opponents of the utilities;

d. Payments to prominent citizens;

e. Extensive advertising by the utilities during political campaigns; and

f. Expenditures in contesting a public utility district condemnation suit.

4. In 1963, private power companies began an extensive propaganda campaign called "Project Action," geared to encourage consumers to support private power and oppose public power. It is undeterminable how much money was spent on this program, as the 1963 reports of private power companies to the FPC do not mention the campaign.

5. In 1964, Senator Lee Metcalf and Vic Reinemer, authors of "Overcharge," wrote to 103 private power companies in response to an advertisement which stated that these companies would "answer any question you may have quickly, without making a federal case of it." They asked the companies what attorneys and legal firms were retained by their respective companies in 1963, and what was the compensation for each. Of the 103 companies, only 20 responded accurately to the question, four of which retained no attorneys.

6. One of the major lobbying efforts against the Dickey-Lincoln School Project was by the Electric Coordinating Council of New England. Yet, only the Fall

River Electric Light Company reported to the FPC a "Proportionate share of expense of participation in Electric Coordinating Council of New England—\$99.09", under Account 426.4, which should show "all expenditures incurred by the respondent during the year for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation or ordinances."

A public hearing should not be required in order to expose the ways in which private power companies spend their consumers' dollars. Present regulations allow some private power companies to hide any expenses totalling less than \$25,000. This type of regulation can only encourage secrecy. Proposed regulations would tend to discourage such secrecy and prevent the abuses illustrated by the above examples.

VALUE OF DISCLOSURE

Proper disclosure of professional fees will benefit consumers, State commissions, wholesale customers, and the Federal Power Commission:

1. Consumers have a right to know what is included in their electric bills. They have a right to know if they are paying for the molding of public opinion, for the promotion of a political candidate, or for the takeover of a municipal electric system. And they have a right to protest if they feel they are being charged unfairly for these activities. Without access to the facts, a consumer is unable to protect himself.

2. State commissions were designed to protect consumers from possible monopolistic abuses by private power companies. They have sole jurisdiction over retail rates. A recent report by the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations indicated that most State commissions have such a small staff and low budget that they are unable to perform adequately their regulatory functions. Access to detailed information regarding professional fees paid by private power companies will greatly enhance the ability of the commissions to determine proper retail rates by ascertaining what should be included in operating expenses.

3. Private power companies charge their wholesale customers on the basis of the companies' costs. If information regarding professional fees is available to wholesale customers, they can more accurately determine the fairness and validity of the rates they are charged.

4. The Federal Power Commission has jurisdiction over wholesale rates of most private power companies. Full knowledge of professional fees will aid the FPC in determining the propriety of a specific wholesale rate schedule.

The American Public Power Association urges the FPC to amend the schedule "Charges for Professional Services" as proposed.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and other matters referred to by the Senator from Montana (Mr. Metcalf) will be printed in the RECORD.

The bill (S. 3067) to amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes, introduced by Mr. Metcalf, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 3067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3506 of title 44 of the United States Code is amended by inserting "(a)" before the word "Upon" and by adding at the end thereof the following new subsections:

"(b) No advisory committee which includes among its members individuals who represent the interests of business or commercial enterprises may be used by the Director to assist or advise him in or with respect to the administration of this Act unless that advisory committee includes among its members one or more individuals who are chosen from private life to represent the economic interests of consumers, labor and small business within the United States. Not less than one-third of the membership of any such advisory committee which is composed of three or more members shall be individuals so chosen to represent the economic interests of consumers.

"(c) All records, minutes and other information of any advisory committee appointed to carry out the provisions of this chapter shall be available for public inspection and copying in accordance with regulations established by the Director.

"(d) In addition to publication in the Federal Register, the Director shall

establish procedures for giving timely, conspicuous, public notice, by such means as he deems appropriate, to persons interested in the conduct of the business of advisory committees appointed under this chapter."

SEC. 2. The amendment made by this Act shall take effect on the first day of the second month beginning after the date of enactment of this Act.

Mr. METCALF. Mr. President, the Budget Bureau deliberated about the proposed regulation revision for months, then last November—2 days after the election—Robert S. Quig, vice president of EBASCO and Chairman of the Council's Public Utility Coordinating Committee, came to Washington and informed Budget Bureau officials of his desire to cut down on the voluminous amount of information flowing into the FPC. This matter of reporting detail on professional fees was discussed at length as a case in point. At that meeting and another a few weeks later, the leaders of the Nation's largest industry soberly told the Budget Bureau people that their fancy, third-generation computers simply could not bank and retrieve, say, the names of local attorneys retained and the annual pay of each, without a great deal of expense and bother.

Had the Budget Bureau accepted the suggestion which I have made to it from time to time during the past 4 years, and broadened the membership of its advisory committees, it would have quickly learned what experienced accountants for large municipal utilities have advised me. It is easy to report, in detail and at no extra cost, expenditures made for professional services and other items pertinent to regulators and the public. Or, the Budget Bureau people could have noted the point well taken by the Senate committee which considered this legislation almost 30 years ago, and pointed out that "major utilities have their own accountants and lawyers, not to mention computers, that can furnish this information without any problem." But the intent and use of the Federal Reports Act of 1942 have diverged further and further apart, my advice regarding broadening advisory committees has not been taken, and the Budget Bureau did not adopt the sound "right to know" recommendations of the FPC, although calling for more disclosure than had been required in the past.

In this connection, a special word is in order regarding the aforementioned gentleman who heads three of these 15 Budget Bureau advisory committees, the three that have to do with utilities. He is Mr. Robert S. Quig, vice president of EBASCO, a well-known utility service corporation. He is Chairman of the Budget Bureau's Public Utilities Coordinating Committee, the Committee on Public Utilities—Financial Reports, and the Committee on Public Utilities—Operating Reports.

Recently the Subcommittee on Intergovernmental Relations, in connection with hearings on S. 607, the Utility Consumers' Counsel Act, inquired of industry witnesses regarding the number and amount of utility rate increases pending before State commissions. My old friend Edwin Vennard, formerly managing director of Edison Electric Institute, the power company trade association, and others suggested that Mr. Quig was the man to go to for such information. So we went to Mr. Quig. He said he did not have the information. So the subcommittee had to go to each of the State utility commissions to get it. Mr. Quig makes speeches about the need for "more sophisticated forms of communications" between utilities and the public. But he, as the utility's chief information man, could not provide the public and a Senate subcommittee with the most important information which the public wants and needs—information on what the utilities are planning to do to the customers' pocketbook.

Last year Mr. Quig reacted adversely to the publication of information supplied to the subcommittee by State utility commissions. This information, published as Senate Document 56 in the 90th Congress, dealt with commission organization, staff, budget and jurisdiction. It was a straightforward factual account. Yet Mr. Quig, in an article in the March 14, 1968, issue of *Public Utilities Fortnightly*, said this publication "puts into the hands of all people a document which I fear will be used as a source book."

Mr. President, is it not strange that the chief information man of our Nation's largest industry is fearful of providing factual material to the public? Mrs. Virginia Knauer, the President's consumer adviser, has not been fearful of providing the public with information from Senate Document 56. And is it not strange that this same fearful man happens to be the Budget Bureau's principal industry adviser regarding utility information?

On December 20, 1968, Executive Director Erma Angevine of the Consumer Federation of America specifically requested representation of CFA on three of the Budget Bureau advisory committees. On January 21, 1969, the request was denied by the Budget Bureau. The Budget Bureau said it would be pleased

to consult and notify. But the Bureau refused to open up the advisory committee to representatives of the consuming public, this despite the Budget Bureau's statement in its own house organ—Statistical Report, July 1968—that a prime objective of the Federal Reports Act of 1942 is the insurance that "the informational needs of the Government, and through it, of the public, are adequately met in the most efficient manner," and despite the statement in the same article that the Budget Bureau should receive "the benefit of advice by interested parties outside the Government—those interested either as consumers of data or as respondents to the inquiry."

Mr. President, the leadership of the Senate has wisely pointed out that this is a good time for the Congress to exercise legislative oversight, to review the mass of legislation that has been passed by preceding Congresses and see what refinement and updating is needed. My proposal fits into this category.

Some provision should be made to give adequate voice to the small businessmen whose plight the original legislation sought to ameliorate. On committees such as the one on equal employment opportunity surveys, representatives of employees and minority groups should certainly be accorded equality with representatives of employers. The officials at the Budget Bureau exercise awesome power over the regulatory process in their approval, disapproval, or modification of governmental requests for information. It is past time when these officials should be exposed to the give-and-take of colloquy between the producers and consumers of our Nation's basic goods and services.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the exchange of correspondence between the Consumers Federation of America and the Budget Bureau,² the text of the Federal Reports Act of 1942, and the article, "ACFR Simplifies Reports Procedures," by Robert H. North, chairman of the Fund Q Committee, which appeared in the July 1968 issue of Association Management, and a copy of the bill.

The material presented by Mr. Metcalf is as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., December 20, 1968.

Mr. CHARLES J. ZWICK,
Director, Bureau of the Budget,
Washington, D.C.

DEAR MR. ZWICK: On behalf of Consumer Federation of America, I wish to request representation on the following three committees established to advise the Bureau of the Budget on Federal reports: (1) Public Utilities—Coordinating Committee; (2) Committee on Public Utilities—Financial Reports; and (3) Committee on Public Utilities—Operating Reports.

We understand that the current membership of these committees, with the exception of a single member of the staff of the Bureau who serves as "meeting chairman," is composed entirely of representatives of privately owned utilities. CFA believes that as currently constituted these committees are grossly inadequate to advise the Bureau regarding the desirability of Federal reports affecting the public interest.

Membership of these committees presently includes personnel from companies and trade associations which have resisted Federal regulation of their activities, actively advocated weakening of Federal regulatory agencies, and strenuously fought to cripple or kill competitive consumer-owned systems. In addition to persons employed by individual companies, the committees' membership in each case includes a representative of the Edison Electric Institute and the American Gas Association—organizations devoted to advancing the interests of participating companies. No one represents consumers.

While some may argue that the influence of the committees is diluted by the Bureau's access to information and arguments provided by Federal agencies involved in the proposed reporting requirements under review, we must observe that there is no guarantee that these agencies adequately guard the interests of consumers when faced with the concerted force of industry opposition.

In any event, the Federal Reports Act and Bureau policy indicate the desirability of a direct consumer role in reporting reviews. Under the Act, the Bureau may give "interested persons an adequate opportunity to be heard or to submit

² See statement of Mrs. Erma Angevine, executive director, Consumer Federation of America, p. 72.

statements in writing." One of the most useful methods of implementing this provision would be to provide consumer representation on advisory committees. A number of Federal departments and agencies now have consumer representatives on similar committees.

Statements of Bureau policy indicate support for such consumer consultation: The *Statistical Reporter* (July, 1968) contains a statement prepared by the Office of Statistical Standards which discusses the role of the advisory committees and declares that ". . . an important part of many reviews is consultation with others who are concerned with and knowledgeable about the subject matter of the inquiry." In addition to government sources, the article notes: "An equally important consultation procedure is designed to give the Office the benefit of advice by interested parties outside the Government—those interested either as consumers of data or as respondents to the inquiry." We believe to fulfill this responsibility the Bureau will wish to consider the viewpoints of both users and utilities simultaneously.

Those who pay electric and gas bills—which too frequently encompass documented overcharges—have a clear interest in regulatory reporting requirements that is equal to or greater than that of those who send out the bills. Failure to take fully into account the consumers' point of view can only distort any Bureau decision. We believe give-and-take debate in open committee sessions would help rectify the present procedural deficiency. We do not believe reliance on secret or semi-secret sessions with self-described business-oriented industry executives serves the public interest.

I look forward to hearing from you regarding my request.

Sincerely,

Mrs. ERMA ANGEVINE,
Executive Director.

BUREAU OF THE BUDGET,
Washington, D.C., January 21, 1969.

Mrs. ERMA ANGEVINE,
Executive Director, Consumer Federation of America,
Washington, D.C.

DEAR MRS. ANGEVINE: The Director has asked me to reply to your letter of December 20 proposing that your Federation be represented on three industry committees of the Advisory Council on Federal Reports which are advisory to the Bureau of the Budget on Federal reports requested of business, and subject to review under the Federal Reports Act. The committees are: the Committee on Public Utilities—Coordinating Committee; the Committee on Public Utilities—Financial Reports; and the Committee on Public Utilities—Operating Reports.

Pursuant to our general policy of welcoming the counsel of any parties interested in matters subject to our review under the Federal Reports Act, we would be pleased to hear views of your organization on any of the matters on which we consult the committees you mention. Whenever we consult these committees we will notify your organization so that arrangements can be made to secure your views on the matters under review. If you desire, we would also be glad to place your organization on our mailing list for the "Daily List of Reporting Forms and Plans Received for Approval" (specimen copy attached), so that if you wish to make your views known on any of these proposed reports under review by us, you can contact us and make arrangements to do so. We do not believe, however, that it would be desirable to extend the membership of business advisory committees, which are consulted as representatives of respondents, to include non-business interests.

Normally we look to the sponsoring agencies to justify their proposals to collect information from the public as both necessary and sufficient to serve the purpose for which they are intended. Although we will be glad to consult with you when these proposals come to us for review, to facilitate orderly and expeditious procedures and handling, I trust that you will continue to represent your interests in these programs before agencies which administer them.

Please feel free to contact Mr. Edward T. Crowder (395-3772), Assistant Director for Clearance Operations of this Office, on any questions arising out of your interest in our review program.

We appreciate very much your interest in this important matter.

Sincerely yours,

RAYMOND T. BOWMAN,
Assistant Director for
Statistical Standards.

[Federal Reports Act of 1942]

AN ACT To coordinate Federal reporting services, to eliminate duplication and reduce the cost of such services, and to minimize the burdens of furnishing information to Federal agencies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reports Act of 1942".

SEC. 2. It is hereby declared to be the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government, that all unnecessary duplication of efforts in obtaining such information through the use of reports, questionnaires, and other such methods should be eliminated as rapidly as practicable; and that information collected and tabulated by any Federal agency should insofar as is expedient be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

SEC. 3. (a) With a view to carrying out the policy of this Act, the Director of the Bureau of the Budget (hereinafter referred to as the "Director") is directed from time to time (1) to investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies; (2) to investigate the methods used by such agencies in obtaining such information; and (3) to coordinate as rapidly as possible the information-collecting services of all such agencies with a view to reducing the cost to the Government of obtaining such information and minimizing the burden upon business enterprises and other persons, and utilizing, as far as practicable, the continuing organization, files of information and existing facilities of the established Federal departments and independent agencies.

(b) If, after any such investigation, the Director is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and any other interested persons shall have an opportunity to present their views. After such hearing, the Director may issue an order designating a collecting agency to obtain such information for any two or more of the agencies concerned, and prescribing (with reference to the collection of such information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. Any such order may be modified from time to time by the Director as circumstances may require, but no such modification shall be made except after investigation and hearing as hereinbefore provided.

(c) While any such order or modified order is in effect, no Federal agency covered by such order shall obtain for itself any information which it is the duty of the collecting agency designated by such order to obtain.

(d) Upon the request of any party having a substantial interest, or upon his own motion, the Director is authorized within his discretion to make a determination as to whether or not the collection of any information by any Federal agency is necessary for the proper performance of the functions of such agency or for any other proper purpose. Before making any such determination, the Director may, within his discretion, give to such agency and to other interested persons an adequate opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines the collection of such information by such agency is unnecessary, either because it is not needed for the proper performance of the functions of such agency or because it can be obtained from another Federal agency or for any other reason, such agency shall not thereafter engage in the collection of such information.

(e) For the purposes of this Act, the Director is authorized to require any Federal agency to make available to any other Federal agency any information which it has obtained from any person after the date of enactment of this Act, and all such agencies are directed to cooperate to the fullest practicable extent at all times in making such information available to other such agencies: *Provided*, That the provisions of this Act shall not apply to the obtaining or releasing of information by the Bureau of Internal Revenue, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department: *Provided further*, That the pro-

visions of this Act shall not apply to the obtaining by any Federal bank supervisory agency of reports and information from banks as provided or authorized by law and in the proper performance of such agency's functions in its supervisory capacity.

SEC. 4. (a) In the event that any information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law (including penalties) which relate to the unlawful disclosure of any such information shall apply to the officers and employees of the agency to which such information is released to the same extent and in the same manner as such provisions apply to the officers and employees of the agency which originally obtained such information; and the officers and employees of the agency to which the information is released shall in addition be subject to the same provisions of law (including penalties) relating to the unlawful disclosure of such information as if the information had been collected directly by such agency.

(b) Information obtained by a Federal agency from any person or persons may, pursuant to this Act, be released to any other Federal agency only if (1) the information shall be released in the form of statistical totals or summaries; or (2) the information as supplied by persons to a Federal agency shall not, at the time of collection, have been declared by that agency or by any superior authority to be confidential; or (3) the persons supplying the information shall consent to the release of it to a second agency by the agency to which the information was originally supplied; or (4) the Federal agency to which another Federal agency shall release the information has authority to collect the information itself and such authority is supported by legal provision for criminal penalties against persons failing to supply such information.

SEC. 5. No Federal agency shall conduct or sponsor the collection of information, upon identical items, from ten to more persons (other than Federal employees considered as such) unless, in advance of adoption or revision of any plans or forms to be used in such collection,

(a) The agency shall have submitted to the Director such plans or forms, together with copies of such pertinent regulations and other related materials as the Director shall specify; and

(b) The Director shall have stated that he does not disapprove the proposed collection of information.

SEC. 6. The Director is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 7. As used in this Act—

(a) The term "Federal agency" means any executive department, commission, independent establishment, corporation, owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but such terms shall not include the General Accounting Office nor the governments of the District of Columbia and of the Territories and possessions of the United States, and the various subdivisions of such governments.

(b) The term "person" means any individual, partnership, association, corporation, business trust, or legal representative, any organized group of persons, any State or Territorial government or branch thereof, or any political subdivision of any State or Territory or any branch of any such political subdivision.

(c) The term "information" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either (1) for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or (2) for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

SEC. 8. Any person failing to furnish information required by any such agency shall be subject to such penalties as are specifically prescribed by law, and no other penalty shall be imposed either by way of fine or imprisonment or by the withdrawal or denial of any right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity, is legally conditioned on facts which would be revealed by the information requested.

SEC. 9. There are hereby authorized to be appropriated annually out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

Approved, December 24, 1942.

[From : Association Management, July 1968]

ACFR SIMPLIFIES REPORTS PROCEDURES

(By Robert H. North, CAE Chairman, Fund Q Committee)

Few association executives and businessmen are aware of the valuable services performed by the Advisory Council on Federal Reports, official business consultant to the federal Bureau of the Budget. It is a resource available to association executives and their members concerned with government questionnaires, statistical programs and recordkeeping requirements. ASAE supports the Council through its "Fund Q" solicitation.

Federal departments and agencies are constantly intruding on business activities, frequently through requests for information on a widening area of business concern. To help association executives advise their members of the Council's services and benefits, the committee has prepared the following article which can be reprinted in their own association publications:

"Your association is repeatedly asked for guidance on answering government questionnaires, particularly whether or not an employer must complete and return a particular form. Federal demands for information are delving into ever-widening areas of business life.

"Fortunately, there is a business-run organization in Washington, D.C. established for the purpose of helping businessmen by providing available guidance and especially by advising the powerful Bureau of the Budget on ways to cut down on the reporting burdens of business. It is the Advisory Council on Federal Reports, 1001 Connecticut Ave., NW., Washington, D.C. 20036, which is officially connected with the Bureau of the Budget. For 25 years this Council has been attacking the paperwork problems of business through panels of businessmen selected by their qualifications to find the faults in government forms and recommend ways to correct them. The Council is wholly business-oriented, being sponsored and financed by associations through the American Society of Association Executives and other respected business organizations.

"The Council gives this advice to businessmen:

1. Requests for information from the federal government, regardless of how made, are subject to the Federal Reports Act and Bureau of the Budget approval if issued to more than 9 persons. Such governmental gathering of information may be by letter, telegram, questionnaire, reporting form, application or personal interview, and may be on any subject. Excluded by the Act are the income tax forms and a few others. Copies of the Act are available from the Advisory Council on Federal Reports.

2. If Budget Bureau approval is not evident (approval is usually indicated in the upper right-hand corner of the fact sheet accompanied by an expiration date), response should be delayed long enough to make inquiry regarding the legal status of the request. This may be done, in confidence, through the Advisory Council on Federal Reports.

3. Do *not* discard unapproved requests for information. Such unauthorized questionnaires or requests should be sent or reported to the Advisory Council for investigation in order that they may be killed by the Budget Bureau, or having merit, may be reviewed and formally approved.

4. Response to federal questionnaires and other kinds of requests for information can be voluntary or compulsory. If a request is compulsory, the form or instructions should clearly cite statutory authority. If response is voluntary, this fact will *not* be indicated, in accordance with Budget Bureau policy.

5. Businessmen having problems with government questionnaires may ask the Council for clarification which will be obtained as soon as possible and in confidence.

6. Address your questions to the Council through your association headquarters office and we will immediately contact its staff."

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

UTILIZATION OF ADVISORY COMMITTEES FISCAL YEAR 1970¹

Executive Order No. 11007, section 10(a), provides that "each department and agency utilizing advisory committees shall publish in its annual report, or otherwise publish annually, a list of such committees, including the names and affiliations of their members, a description of the function of each committee and a statement of the dates of its meetings." The Office of Management and Budget does not publish an annual report, and the following information is provided relating to the utilization of advisory committees in lieu thereof. The period covered is July 1, 1969, to June 30, 1970.

COMMITTEES AND SUBCOMMITTEES

Name of committee or subcommittee.—American Statistical Association Advisory Committee on Statistical Policy.

NAMES AND AFFILIATIONS OF MEMBERS

Ralph J. Watkins, Surveys and Research Corporation (Chairman).
Leonall C. Anderson, Federal Reserve Bank of St. Louis.
T. A. Bancroft, Iowa State University.
Daniel H. Brill, Commercial Credit Corporation.
Jerome Cornfield, Federation of American Societies for Experimental Biology.
John K. Folger, Tennessee Commission on Higher Education.
Martin R. Gainsburgh, National Industrial Conference Board.
Douglas Greenwald, McGraw-Hill Publications.
Morris H. Hansen, Westat Research, Incorporated.
Philip M. Hauser, University of Chicago.
Isador Lubin, Twentieth Century Fund.
Almarin Phillips, University of Pennsylvania.
Richard Ruggles, Yale University.
Eleanor B. Sheldon, Russell Sage Foundation.
Willard L. Thorp, Amherst College.

Function.—To advise the Office of Management and Budget, and through it the Federal statistical system, on broad matters of public policy in the statistical area.

Dates of meetings.—October 1969.

Name of committee or subcommittee.—Labor Advisory Committee on Statistics.

NAMES AND AFFILIATIONS OF MEMBERS

Mr. Rudolph A. Oswald, AFL-CIO (Chairman).
Mr. Otis Brubaker, United Steelworkers of America.
Mr. George Cucich, Railway Employees' Department, AFL-CIO.
Mr. Donald D. Danielson, United Brotherhood of Carpenters and Joiners of America.
Mr. Ronny G. Fisher, United Rubber, Cork, Linoleum and Plastic Workers of America.
Mr. Walter O. Froh, United Federation of Postal Clerks.
Mr. Nat Goldfinger, AFL-CIO.
Mr. Reese Hammond, International Union of Operating Engineers.
Mr. Thomas Hannigan, International Brotherhood of Electrical Workers.

¹ Editor's Note: See list showing members listed in 1969 but not in 1970 and members added since 1969 list, p. 134.

- Mr. Vernon Jirikowic, International Association of Machinists.
 Mr. Lawrence Kenney, Washington State Labor Council.
 Mr. Stephen Koczak, American Federation of Government Employees.
 Mr. William O. Kuhl, International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers.
 Mr. Joseph Madison, Transport Workers Union of America.
 Miss Vera Miller, Amalgamated Clothing Workers of America.
 Mr. Abraham Morganstern, International Union of Electrical, Radio and Machine Workers.
 Mr. George Perkel, Textile Workers Union of America.
 Mr. Ralph D. Scott, International Printing Pressmen and Assistants' Union of North America.
 Mr. Boris Shishkin, AFL-CIO Housing Committee.
 Mr. Eugene Spector, National Maritime Union of America.
 Mr. Chic St. Croix, Oil, Chemical and Atomic Workers International Union.
 Mr. Lazare Teper, International Ladies' Garment Workers' Union.
 Mr. Donald S. Wasserman, American Federation of State, County and Municipal Employees.

Function.—To advise the Office of Management and Budget on the Federal statistical program by appraising the collection and analysis of statistical data by governmental agencies and identifying deficiencies in the statistical program.
Dates of meetings.—May 1970.

Name of committee or subcommittee.—Advisory Council on Federal Reports.

NAMES AND AFFILIATIONS OF MEMBERS

- Charles W. Stewart, Machinery & Allied Products Institute (Chairman).
 Leo V. Bodine, National Association of Manufacturers.
 T. M. Brennan, Brennan & Vallone.
 Burton N. Behling, Association of American Railroads.
 A. Arthur Charous, Sears, Roebuck and Company.
 Walter Couper, Federated Department Stores, Inc.
 William E. Dunn, Associated General Contractors of America.
 James G. Ellis, Automobile Manufacturers Association.
 William H. Finigan, the National Cash Register Co.
 E. W. Gaynor, Chrysler Corporation.
 Benjamin F. Holcomb, United States Steel Corporation.
 Wayne E. Kuhn, Omark Industries, Inc.
 John E. Lewis, National Small Business Association.
 Carl H. Madden, Chamber of Commerce of the United States.
 Joseph F. Miller, National Electrical Manufacturers Association.
 Robert H. North, International Association of Ice Cream Manufacturers.
 Daniel W. Potter, Raymond Engineering, Inc.
 Robert S. Quig, Ebasco Services Inc.
 James J. Rutherford, Giffen Industries, Inc.
 William H. Shaw, E. I. du Pont de Nemours and Company, Inc.
 James W. Shields, Judd and Detweiler, Inc.
 Robert H. Stewart, Jr., Gulf Oil Corporation.
 T. E. Veltfort, Copper & Brass Fabricators Council, Inc.
 Vincent T. Wasilewski, National Association of Broadcasters.
 N. R. Wenrich, Merck & Company, Inc.
 Donald F. White, American Retail Federation.

Function.—To advise the Office of Management and Budget on simplifying and improving Federal questionnaires, reporting, recordkeeping requirements and statistical programs; and to organize committees and panels for utilization by the Office as may be requested.

Dates of meetings.—October 22, 1969; May 14, 1970.

Name of committee or subcommittee.—Committee on Air Transportation.

NAMES AND AFFILIATIONS OF MEMBERS

John A. Paine, Pan American World Airways, Inc. (Chairman).
 G. R. Harms, United Air Lines, Inc.
 George James, Air Transport Association of America.
 Walter F. Johnston, Airport Mail Facility.
 Lionel M. Rogers, American Airlines, Inc.
 Walter J. Short, Allegheny Airlines, Inc.
 Harry B. Sheffel, Office of Management and Budget.

Function.—To advise the Office of Management and Budget with regard to opportunities for paperwork reduction in reporting and record-keeping requirements of Federal agencies and on any opportunities to effect improvements in the accuracy and usefulness of Federal statistics.

Dates of meetings.—No meetings were held in fiscal year 1970.

Name of committee or subcommittee.—Committee on Banking.

NAMES AND AFFILIATIONS OF MEMBERS

Thomas R. Atkinson, The American Bankers Association.
 C. H. Baumhelfner, Bank of America.
 Frank Forester, Jr., Morgan Guaranty Trust Co.
 Denton A. Fuller, Liberty Trust Co.
 Franklin A. Gibbons, Jr., The Riggs National Bank.
 William T. Heffelfinger, American Bankers Association.
 David T. Hulett, Office of Management and Budget.
 Saul B. Klamman, National Association of Mutual Savings Banks.
 Wesley Lindow, Irving Trust Co.
 Arthur Ringler, Chemical Bank New York Trust Co.
 Edward T. Shipley, Wachovia Bank & Trust Co.
 Paul L. Smith, Security First National Bank.
 Walter F. Thomas, Manufacturers Hanover Trust Co.

Function.—To advise the Office of Management and Budget on federal reporting and record retention requirements for the purpose of reducing the burden imposed upon the banking industry and to improve statistical and other information to be collected by federal agencies.

Dates of meetings.—October 9, 1969.

Name of committee or subcommittee.—Committee on Chemicals.

NAMES AND AFFILIATIONS OF MEMBERS

N. R. Wenrich, Merck & Company, Inc. (Chairman).
 Majorie V. Campbell, Manufacturing Chemists' Association.
 Dr. Jack D. Early, Monsanto Company.
 George K. Graeber, Union Carbide Corporation.
 Dr. Aimison Jonnard, Esso Chemical Company, Inc.
 Harold T. Lingard, Office of Management and Budget.
 Lewis E. Lloyd, The Dow Chemical Company.
 John J. O'Donnell, Allied Chemical Corporation.
 H. W. Powers, American Cyanamid Company.
 Dr. S. C. Turnbull, Jr., E. I. du Pont de Nemours & Co., Inc.
 Edgar H. Vant, Jr., Celanese Chemical Company

Function.—To advise the Office of Management and Budget in regard to opportunities to reduce the paperwork burden on industry resulting from the reporting and record-keeping requirements of the Federal agencies, and to make recommendations to improve the accuracy and usefulness of Federal statistics.

Dates of meetings.—April 20, 1970.

Name of committee or subcommittee.—Committee on Communications Industry.

NAMES AND AFFILIATIONS OF MEMBERS

Frank U. Fletcher, Fletcher, Heald, Rowell, Kenehan & Hildreth (Chairman).
 Arthur W. Arundel, WAVA.
 Joseph E. Baudino, Westinghouse Broadcasting Co., Inc.
 Alfred Beckman, American Broadcasting Co.
 Wally Briscoe, National Cable Television Association, Inc.
 Robert Cochrane, TV Station WMAR-TV.
 Harold J. Cohen, American Telephone & Telegraph Co.
 Joseph DeFranco, Columbia Broadcasting System.
 George J. Gray, AVCO Broadcasting Corporation.
 Bruce E. Lovett, American Television & Communications Corporation.
 Howard Monderer, National Broadcasting Company.
 Roger Neuhoff, Eastern Broadcasting Corporation.
 Roger B. Read, Taft Broadcasting Company.
 Harry B. Sheftel, Office of Management and Budget.
 John Summers, National Association of Broadcasters.

Function.—To advise the Office of Management and Budget on reporting procedures, mainly Federal Communications Commission questionnaires, directed to the communications industry including radio and television stations and cable television companies, and to make recommendations towards the simplification, consolidation and improvement of such reporting.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Equal Employment Opportunity Surveys.

NAMES AND AFFILIATIONS OF MEMBERS

W. L. Barnes, North American Aviation, Inc.
 Joseph E. Baudino, Westinghouse Broadcasting Company.
 Harry S. Benjamin, Jr., General Motors Corporation.
 Charles G. Caffrey, American Textile Manufacturers Inst.
 David D. Doughty, Air Transport Association.
 Paul M. Hawkins, Health Insurance Association of America.
 W. R. Hill, Jr., Public Service Electric & Gas Co.
 Arthur F. Hintze, Associated General Contractors.
 Alfred E. Langenbach, First National Bank of Chicago.
 Roye L. Lowry, Office of Management and Budget.
 S. W. Mahon, Westinghouse Electric Corporation.
 Donn R. Marston, Machinery & Allied Products Inst.
 Lambert H. Miller, National Association of Manufacturers.
 Charles F. Mulligan, Eastman Kodak Company.
 Eugene F. Rowan, J. C. Penney Company, Inc.
 Melvin Sandler, American Hotel & Motel Association.
 S. W. Seeman, Penn Central Company.
 Mrs. Jean Sisco, Woodward & Lothrop.
 Robert H. Stewart, Jr., Gulf Oil Corporation.
 N. R. Wenrich, Merck & Company, Inc.
 Don White, American Retail Federation.

Function.—To advise the Office of Management and Budget on problems which will arise in connection with equal employment opportunity reporting and record-keeping requirements and special surveys, and to make recommendations as to ways of avoiding or minimizing such problems.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Fats and Oils.

NAMES AND AFFILIATIONS OF MEMBERS

T. J. Totushek, Cargill, Inc. (Chairman).
 Charles R. Bergstrom, Anderson, Clayton & Co., Inc.
 Arval L. Erikson, Oscar Mayer & Company.
 Herbert Harris, National By-Products, Inc.
 Martin Hilby, Riverside Industries.
 C. H. Keirstead, The Glidden Company.
 Harold V. Knight, Lever Brothers Company.
 Harry H. Kriegel, J. Howard Smith, Inc.
 Harold T. Lingard, Office of Management and Budget.
 R. E. Miller, Procter and Gamble Company.
 J. W. Moore, A. E. Staley Manufacturing Co.
 Malcolm R. Stephens, Institute of Shortening & Edible Oils, Inc.
 Boardman Veazie, Swift and Company.
 Donald B. Walker, Ralston-Purina.

Function.—To advise the Office of Management and Budget concerning opportunities to reduce the paperwork burden imposed upon establishments engaged in the production, processing and consumption of oils; and To advise the Office on ways to improve Federal statistical programs to better serve the needs of Government and industry users of Federal statistics.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Industrial Classification.

NAMES AND AFFILIATIONS OF MEMBERS

Richard R. MacNabb, Machinery and Allied Products Institute (Chairman).
 John Aiken, Federal Statistics Users' Conference.
 Burton N. Behling, Association of American Railroads.
 Edward Bloom, Sun Oil Company.
 A. Arthur Charous, Sears, Roebuck and Company.
 Robert T. DeVany, National Industrial Council.
 Robert Eggert, RCA Corporation.
 William H. Finigan, The National Cash Register Company.
 Martin Gainsbrugh, National Industrial Conference Board.
 B. F. Holcomb, United States Steel Corporation.
 Paul F. Krueger, Office of Management and Budget.
 Carl H. Madden, Chamber of Commerce of the United States.
 Albert G. Matamoros, Armstrong Cork Company.
 A. J. Nesti, National Electrical Manufacturers Association.
 Milo O. Peterson, Office of Management and Budget.
 Arthur Schmuhl, Associated General Contractors of America.

Function.—To advise the Office of Management and Budget and the Technical Committee on Industrial Classification on matters relating to the review of the Standard Industrial Classification.

Dates of meetings.—June 9, 1970.

Name of committee or subcommittee.—Committee on Meat Packing.

NAMES AND AFFILIATIONS OF MEMBERS

A. C. Bruner, East Tennessee Packing Company.
 Howard Dexter, The Rath Packing Company.
 Earl R. Frank, The E. Kahn's Sons Company.
 E. A. Holloway, Cudahy Company.
 Robert B. Hunter, Tobin Packing Company, Inc.
 J. Russell Ives, American Meat Institute.
 J. W. Kelly, Armour and Company.
 J. B. Kilgore, Wilson & Company, Inc.
 L. J. Kurkowski, John Morrell & Company.
 L. Blaine Liljenquist, Western States Meat Packers Assn.
 Harold T. Lingard, Office of Management and Budget.
 John Mohay, The National Independent Meat Packers Association.
 Leonard H. Pedersen, Oscar Mayer & Co., Inc.
 Robert F. Potach, George A. Hormel & Co.
 James W. Seifert, The Wm. Schludenberg-T. J. Kurlde Co.
 Jack B. Sullivan, Stark Wetzel & Company, Inc.
 W. G. Torrace, Hygrade Food Products Corp.

Function.—To advise the Office of Management and Budget on reporting, statistical, and record-keeping problems arising from the requirements which Federal agencies propose for issuance to the meat packing industry, and to assist the Office in developing needed statistical programs relating to the industry.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Natural Gas Pipelines.

NAMES AND AFFILIATIONS OF MEMBERS

E. H. Hasenberg, Natural Gas Pipeline Company of America (Chairman).
 W. Page Anderson, Panhandle Eastern Pipe Line Co.
 Daniel L. Bell, Jr., Columbia Gas System Service Corporation.
 I. D. Bufkin, Texas Eastern Transmission Corp.
 Robert L. Cramer, Florida Gas Transmission Co.
 J. D. McCarty, United Gas Pipeline Co.
 Harry A. Offutt, Consolidated Gas Supply Corp.
 C. W. Radda, Northern Natural Gas Company.
 Walter E. Rogers, Independent Natural Gas Assn. of America.
 Harry B. Sheftel, Office of Management and Budget.
 Robert H. Stewart, Jr., Gulf Oil Corp.
 Lloyd M. Varenkamp, El Paso Natural Gas Company.

Function.—To advise the Office of Management and Budget on report forms and related record-keeping requirements issued by Federal agencies to companies in the natural gas pipeline field in order to improve such forms and to make recommendations to simplify reporting requirements and reduce the burden of reporting.

Dates of meetings.—December 4, 1969; December 18, 1969; January 6, 1970; February 2, 1970; February 14, 1970.

Name of committee or subcommittee.—Committee on Petroleum and Natural Gas.

NAMES AND AFFILIATIONS OF MEMBERS

Robert H. Stewart, Jr., Gulf Oil Corporation (Chairman).
 A. P. Bradford, Texaco, Inc.
 C. J. Carlton, Standard Oil Co. of California.
 James S. Cross, Sun Oil Company.
 E. Wilson Fry, Atlantic Richfield.
 E. H. Hanenberg, Natural Gas Pipeline Company of America.
 Edward R. Heydiner, Marathon Oil Company.
 John E. Hodges, American Petroleum Institute.
 G. B. McGillibray, Mobil Oil Corporation.
 Harold T. Lingard, Office of Management and Budget.
 Melvin L. Mesnard, Independent Petroleum Assn. of America.
 Carl E. Richard, Humble Oil and Refining Co.
 Frank Young, Continental Oil Company.

Function.—To advise the Office of Management and Budget on report forms relating to the petroleum and natural gas producing and processing industries; to reduce the burden imposed upon these industries as a result of Federal reporting and record-keeping requirements; and to advise the Office of Management and Budget in connection with opportunities to improve Federal statistical programs to serve the needs of both government and industry.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Public Utilities—Coordinating Committee.

NAMES AND AFFILIATIONS OF MEMBERS

Robert S. Quig, Ebasco Services Incorporated (Chairman).
 Miles J. Doan, The Cincinnati Gas & Electric Co.
 G. H. McDaniel, American Electric Power Service Corp.
 Harry B. Sheftel, Office of Management and Budget.
 John Thornborrow, Edison Electric Institute.

Function.—To advise the Office of Management and Budget and to coordinate, as may be desirable, the work of the Committees on Financial Reports and Operating Reports to better serve the purposes of the Advisory Council on Federal Reports and the needs of the Office and the gas and electric utilities industries; also to assist in the selection of special advisory panels qualified to advise the Office on any reporting forms and plans concerning which the two Committees would not be adequately qualified to advise the Office.

Dates of meetings.—November 19, 1969; December 5, 1969.

Name of committee or subcommittee.—Committee on Public Utilities—Financial Reports.

NAMES AND AFFILIATIONS OF MEMBERS

Robert S. Quig, Ebasco Services Incorporated (Chairman).
 C. M. Allen, Panhandle Eastern Pipe Line Co.
 A. J. Brodtman, New Orleans Public Service Company.
 Miles J. Doan, The Cincinnati Gas & Electric Co.
 Robert R. Fortune, Pennsylvania Power & Light Co.
 Arthur E. Gartner, Consolidated Natural Gas Co.
 John Geiger, Pacific Power & Light Company.
 John S. Graves, Columbia Gas System, Inc.
 Robert A. Jeremiah, Long Island Lighting Company.
 J. C. Johnson, Southern Services, Inc.
 Albert J. Klemmer, Rochester Gas & Electric Company.
 Frank H. Roberts, Northern Natural Gas Company.
 William E. Sauer, Peoples Gas Light & Coke Co.
 Harry B. Sheftel, Office of Management and Budget.
 Alfred E. Softy, Edison Electric Institute.
 William T. Sperry, Public Service Gas & Electric Co.
 Douglas M. Tonge, American Electric Power Service Corp.

Function.—To advise the Office of Management and Budget on financial reporting forms and related requirements issued by Federal agencies to companies in gas and electric utilities field in order to improve such reporting forms and plans and where possible to simplify them and reduce the burden of reporting.

Dates of meetings.—November 19, 1969; December 5, 1969.

Name of committee or subcommittee.—Committee on Public Utilities—Operating Reports.

NAMES AND AFFILIATIONS OF MEMBERS

Robert S. Quig, Ebasco Services Incorporated (Chairman).
 Fred W. Braga, The Detroit Edison Company.
 Theodore I. Gradin, American Gas Association.
 G. H. McDaniel, American Electric Power Service Corp.
 James I. Poole, Jr., Natural Gas Pipeline Co. of America.
 Francis Quinn, Transcontinental Gas Pipe Line Corp.
 Donald E. Rose, New England Power Service Co.
 Harry B. Sheftel, Office of Management and Budget.
 John Thornborrow, Edison Electric Institute.
 E. A. Willson, Northern States Power Company.
 R. C. Wilson, Washington Gas Light Company.

Function.—To advise the Office of Management and Budget on utilities operating reporting forms and related requirements issued by Federal agencies to companies in gas and electric utilities field in order to improve such reporting forms and plans and where possible to simplify them and reduce the burden of reporting.

Dates of meetings.—November 19, 1969; December 5, 1969.

Name of committee or subcommittee.—Committee on Railroads.

NAMES AND AFFILIATIONS OF MEMBERS

Burton N. Belling, Association of American Railroads (Chairman).
 L. W. Adkins, Louisville & Nashville Railroad.
 P. L. Conway, Jr., Association of American Railroads.
 W. R. Devine, Southern Railway System.
 W. N. Ernzen, Chicago, Burlington & Quincy Railroad.
 J. T. Ford, Jr., Chesapeake & Ohio/Baltimore & Ohio Railroads.
 C. E. Fuller, Genesee & Wyoming Railroad Company.
 Charles S. Hill, Penn Central Company.
 H. A. Nelson, Southern Pacific Company.
 Harry B. Sheftel, Office of Management and Budget.

Function.—To advise the Office of Management and Budget with respect to federal reporting and record-keeping requirements applicable to railroads and subject to review by the Office under the Federal Reports Act, and to such related problems of coordination and planning of statistical and reporting programs covering railroads as the Office may refer to the Committee.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Retail Trade.

NAMES AND AFFILIATIONS OF MEMBERS

Eugene A. Keeney, American Retail Federation (Chairman).
 A. Arthur Charous, Sears, Roebuck and Company.
 S. Kent Christensen, Nat'l. Assn. of Food Chains.
 Don J. Debolt, Menswear Retailers of America.
 Nathan B. Epstein, Lerner Stores Corporation.
 William Girdner, Melville Shoe Corporation.
 Elias S. Gottlieb, R. H. Macy & Co., Inc.
 Robert C. Heller, F. W. Woolworth Company.
 Thomas H. Jenkins, National Retail Hardware Association.
 Paul F. Krueger, Office of Management and Budget.
 Alfred E. Kuerst, L. S. Ayres & Company.
 Herbert S. Landsman, Federated Department Stores, Inc.
 Eleanor G. May, Woodward and Lothrop.
 Irving Phillip, National Retail Merchants Association.

Function.—To advise the Office of Management and Budget with respect to federal reporting and record-keeping requirements applicable to the retail trades and subject to review by the Office under the Federal Reports Act, and to such related problems of coordination and planning of statistical and reporting programs covering the trades as the Office may refer to the Committee.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Scientific and Research Activities.

NAMES AND AFFILIATIONS OF MEMBERS

John W. Reynard, E. I. du Pont de Nemours & Company, Inc. (Chairman).
 C. A. Church, General Electric Company.
 C. C. Coyne, Gulf Research & Development Corp.
 R. C. Cunningham, Westinghouse Electric Corporation.
 Virginia A. Dwyer, Western Electric Company.
 N. O. Heyer, International Business Machines Corp.
 B. F. Holcomb, United States Steel Corporation.
 Wayne E. Kuhn, Omark Industries, Inc.
 Margaret E. Martin, Office of Management and Budget.
 George E. Norman, Jr., Burlington Industries, Inc.
 David Novick, The Rand Corporation.
 John H. Pond, Martin Marietta Corporation.
 Harry B. Sheftel, Office of Management and Budget.
 Robert M. Smith, General Motors Corporation.
 Robert H. Sommer, National Assn. of Accountants.
 G. N. Virgil, North American Rockwell Corp.
 N. R. Wenrich, Merck & Company, Inc.

Function.—To advise the Office of Management and Budget on the improvement and simplification of Federal government reporting forms and related procedures concerned with scientific and technical personnel and research and development expenditures in industry, and to advise the Office as to statistical programming in these fields, with particular reference to industry needs for statistical information.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—Committee on Wholesale Trades.

NAMES AND AFFILIATIONS OF MEMBERS

James E. Allen, The Henry B. Gilpin Co. (Chairman).
 Gilbert Campbell, Albemarle Motor Co.
 Paul L. Courtney, National Assn. of Wholesalers.
 W. D. Jenkins, Radio Supply Co.
 Frank J. Mulvey, National Auto Service Co., Inc.
 Hugh N. Phillips, Frank Parsons Paper Co.
 Harold O. Smith, Jr., U.S. Wholesale Grocers Association.

Function.—To advise the Office of Management and Budget on reporting, record keeping and statistical problems arising from the activities and recommendations of Federal agencies relating to wholesale industries, to reduce the burden of paperwork imposed upon the wholesale industries by these requirements, and to make recommendations for the improvement of federal statistics needed by government and industry.

Dates of meetings.—None in fiscal year 1970.

Name of committee or subcommittee.—President's Advisory Council on Management Improvement.

NAMES AND AFFILIATIONS OF MEMBERS

General Bernard A. Schriever, USAF (Ret), Schriever & McKee Associates, Inc.
 Dwayne O. Andreas, First Interoceanic Corp.
 Wayne M. Hoffman, The Flying Tiger Line, Inc.
 Gail M. Melick, Continental Illinois National Bank.
 Allen W. Merrell, Fort Motor Co.
 Rufus E. Miles, Jr., Population Reference Bureau.
 John W. Rollins, Sr., Rollins International, Inc.
 Thomas A. Staudt, General Motors Corp.
 Wayne E. Thompson, Dayton-Hudson Corp.
 Charles J. Wyly, Jr., University Computing Co.

Function.—To advise the Office of Management and Budget on ways in which to improve management and efficiency in Government and to provide for an interchange of ideas with private industry on applying effective management techniques to Government operations.

Dates of meetings.—March 13–14, 1970; May 8–9, 1970.

OFFICE OF MANAGEMENT AND BUDGET (ADVISORY COMMITTEES)

NOTE.—The left-hand column shows advisory committee members listed by the Budget Bureau in 1969 but not in 1970. The right-hand column shows members added to the advisory committees since 1969. (List was issued by the OMB).

ADVISORY COUNCIL ON FEDERAL REPORTS

1969—NO LONGER A MEMBER

G. H. Gaynor, Exec. Ass't., U.S. Steel.
Eugene A. Keeney, Exec. Vice Pres., American Retail Federation.
Herbert S. Landsman, Exec. Vice Pres., Federated Dept. Stores, Inc. Cincinnati, Ohio.
Albert G. Matamoros, Chief, Economist, Armstrong Cork Co., Lancaster, Pennsylvania.
Carl M. Blumenschein, Sr. Vice Pres. Finance, Container Corp. of America, Chicago, Ill.
T. G. Redman, Vice Pres., Swift & Co., Chicago, Ill. (Past Chairman, National Association of Manufacturers).
Merrill A. Watson, Pres., National Footwear Manufacturers Assoc., New York, N.Y. (Past chairman, National Association of Manufacturers).
Russell Schneider, Exec. Sec., (Past Chrm., Advisory Council on Federal Reports).

1970—NEW MEMBERS

Walter Couper, Federated Dept. Stores, Inc.
Benjamin F. Holcomb, U.S. Steel Corp.
John E. Lewis, Nat'l. Small Bus. Assoc.
William H. Shaw, E. I. duPont de Nemours and Company, Inc.
James W. Shields, Judd and Detweiler, Inc.
Donald F. White, American Retail Federation.

COMMITTEE ON AIR TRANSPORTATION

Members being revised in 1969

Harry B. Sheftel, Office of Mgmt. and Budget
John A. Paine, Pan. Am. World Airways, Inc. (Chairman)
G. R. Harms, United Air Lines, Inc.
George James, Air Transport Assoc. of America

Walter F. Johnston, Airport Mail Facility
Lionel M. Rogers, American Airlines, Inc.
Walter J. Short, Allegheny Airlines, Inc.

COMMITTEE ON BANKING

Edward T. Crowder, Office of Management and Budget
Charles A. Agemian, Exec. Vice Pres., The Chase Manhattan Bank

David T. Hulett, Office of Management and Budget

COMMITTEE ON CHEMICALS

- | | |
|---|---|
| Crayton K. Black, Manager—Trade Relations, Dyes & Chemical Div., Organic Chemical Dept., E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware | George K. Graeber, Union Carbide Corp. |
| Morse G. Dial, Jr., Regional Vice Pres., Union Carbide Corp., Washington, D.C. | H. W. Powers, American Cynamid Company |
| W. D. Kavanaugh, Manager, Wash. Ofc., American Cyanamid Company Washington, D.C. | Dr. S. C. Turnbull, Jr., E. I. du Pont de Nemours & Co., Inc. |
| | Edgar H. Vant, Jr., Celanese Chemicals Co. |

COMMITTEE ON EQUAL EMPLOYMENT OPPORTUNITY

- | | |
|---|---|
| Karen Nelson, Office of Management and Budget | Roye Lowry, Office of Management and Budget |
|---|---|

COMMITTEE ON FATS AND OILS

No change

COMMITTEE ON MEAT PACKING

- | | |
|--|---|
| John Killick, Exec. Sec., The Nat'l. Independent Meat Packers Assn., Wash., D.C. | John Mohay, the National Meat Packers Assn. |
|--|---|

COMMITTEE ON NATURAL GAS PIPELINES

- | | |
|--|---|
| William F. Cummer, United Gas Pipeline Co. | Lloyd M. Varenkamp, El Paso Natural Gas Co. |
| Theodore I. Gradin, Am. Gas Assn. | |
| B. K. Hoeldtke, El Paso Natural Gas Co. | |

COMMITTEE ON PETROLEUM & NATURAL GAS

- | | |
|---|---|
| E. W. Brindle, Standard Oil Co. (Ind.) | E. Wilson Fry, Atlantic Richfield Company |
| Theodore I. Gradin, Dir., Bureau of Statistics, Am. Gas Assn. | G. B. McGillibray, Mobil Oil Corporation |
| B. L. Jones, Mobil Oil Corp. | |

PUBLIC UTILITIES COORDINATING COMMITTEE

- | | |
|---|--------------|
| Theodore I. Gradin, Dir., Bureau of Statistics, Am. Gas Assn. | No additions |
|---|--------------|

COMMITTEE ON PUBLIC UTILITIES—FINANCIAL REPORTS

- | | |
|---|---|
| Theodore I. Gradin | A. J. Brodtman, New Orleans Public Service Commission |
| Robert C. Sloan, Asst. Treas. Columbia Gas System, Inc. | John S. Graves, Columbia Gas System, Inc. |

COMMITTEE ON PUBLIC UTILITIES—OPERATING REPORTS

No change

COMMITTEE ON COMMUNICATIONS INDUSTRY

Douglas A. Anello, Gen. Counsel, Nat'l Assn. of Broadcasters, Washington, D.C.	Frank U. Fletcher, Fletcher, Heald, Rowell, Kenehan & Hildreth (Chairman)
Robert L. Heald, Pres., Federal Communications Bar Assoc., Washington, D.C.	Wally Briscoe, Nat'l Cable Television Assoc., Inc.
Daniel W. Shield, Exec. Ass't to Pres., Steinman Stations, Lancaster, Penn.	Harold J. Cohen, Am. Tel. & Tele. Co. Bruce E. Lovett, Am. Tel. & Com. Corp. John Summers, Nat'l Assoc. of Broadcasters.

COMMITTEE ON RAILROADS

No change

COMMITTEE ON RETAIL TRADE

No change

COMMITTEE ON SCIENTIFIC AND RESEARCH ACTIVITIES

H. Dwight Blondefield, Exec. Asst., Advanced Programs & Marketing Auto-netics Div., North Am. Rockwell Corp.	Robert M. Smith, General Motors Corp. G. N. Virgil, North Am., Rockwell Corp. Robert H. Sommer, Nat'l. Assoc. of Accountants
Victor Schenider, Gen. Motors Corps.	

COMMITTEE ON WHOLESALE TRADES

No change

AGENCY REPORTS

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 2, 1970.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for our views regarding S. 3067, a bill to amend Title 44, U.S. Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal reporting services.

The proposed legislation is of primary concern to the Bureau of the Budget, which makes use of a number of industry advisory committees and ad hoc panels under the auspices of the Advisory Council on Federal Reports. The Bureau solicits views of industry representatives who, as potential respondents to specific Federal agency requests for information, are concerned with reporting burden on their firms. It is our understanding that the Bureau of the Budget, in organizing these committees and panels, undertakes to include representation from all sizes of business firms.

The Department of Agriculture defers to the views of the Bureau of the Budget as to the appropriateness of consumer and labor representation on the advisory committees.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., January 23, 1970.

HON. JOHN L. McCLELLAN,

Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 3067, a bill "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The bill would require that no advisory committee that includes representatives of business or commercial enterprises may be used by the Director of the Bureau of the Budget to advise him in administering the Federal Reports Act of 1942, unless that advisory committee includes individuals chosen from private life to represent the economic interests of consumers, labor, and small business. It would also require that not less than one-third of the membership of any such advisory committee composed of three or more members be chosen to represent consumers.

Other provisions of the bill would require that minutes and other records of advisory committees be made public, and that timely conspicuous public notice be given of the meetings of such advisory committees.

The Bureau of the Budget is sympathetic with the objectives of S. 3067. Some of those objectives are already provided for under current practices. We have recently instituted procedures to carry out some of the other objectives, and we are actively seeking the most effective means of achieving the remaining ones. We believe, however, that we will be better able to accommodate to changing needs through *administrative actions* like those described below, rather than through less flexible statutory requirements such as those proposed in the bill.

A brief review of the purposes of the Federal Reports Act may be helpful. Section 2 of that Act declares it to be "the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government," that unnecessary duplication should be eliminated, and that information should be tabulated in a manner to maximize its usefulness to other Federal agencies and the public. Subsections 3(a) and 3(d) of the Act set out as a key purpose and responsibility under the Act the investigation and determination by the Director of the need for the information being sought by Federal agencies.

In 1942, the Advisory Council on Federal Reports (ACFR) was established by five sponsoring business organizations at the request of the Director of the Bureau of the Budget, to assist him in his review of forms and reporting requirements under the Federal Reports Act. As you know, many of the responses sought are voluntary and rely on the understanding and cooperation of the respondents. The Advisory Council conducts most of its work through 17 standing committees and *ad hoc* panels composed of potential respondents or their representatives who are familiar with business records and reporting problems. Over the years, the advice of the Council has resulted in substantial savings to both the Federal Government and business respondents.

Minutes of the meetings of Council committees and panels have for some time been available to anyone requesting a copy. Thus, the objective of section 1(c) of the bill has already been accomplished.

We recognize the need for broadening our consultation with user groups beyond the agency proposing the report, as well as with respondent groups, in our review of forms and reporting requirements. This is the apparent purpose of section 1(b) of the bill. To this end, the Budget Bureau's Office of Statistical Policy, which administers the Federal Reports Act for the Director, has recently introduced some changes in the forms clearance procedure.

For example, we have made arrangements with Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, for members of her staff to participate in committee and panel meetings where consumer interests are involved. We are in the process of making similar arrangements with the Small

Business Administration, which will also aid us in placing suitable small business representatives on the ACFR committees and panels. We are revising our Standard Form 83, which is used by Government agencies to request Budget Bureau approval of report forms, to put greater emphasis on the need for agency consultations with user and other interested groups prior to submittal of their requests to the Bureau.

We are still considering the most effective method of affording public notice of Advisory Council business, the objective of section 1(d) of the bill. As an interim measure, we have recently made publicly available, through regular mailings on request and through general distribution to the media, the daily list of forms and reporting plans received for Budget Bureau review. In addition, we have opened the meetings of Advisory Council committees and panels to any who find the subjects of concern to them. Announcements of meetings on any topic are available upon request.

We think that these arrangements should be tried for a period of perhaps six months, before they are made a permanent fixture of our advisory program. We see some important advantages in our new arrangements for open meetings. On the other hand, we want to guard against the possibility that meetings held to consider principally the availability of data and the technique of collection could become a forum for discussion of policy and program issues on which relevant data are being sought. Moreover, if all of the large number organizations interested in such areas as consumer affairs and environmental protection should wish to participate, the meetings could become so large as to diminish substantially their advisory value.

There are at least two alternatives to our current arrangements for meetings that we shall also consider. One is to set up a separate committee broadly representative of data users and consumer, labor, small business, and other interests. Another is to place upon the agencies submitting forms and reporting requirements for approval more responsibility for consultations with interested organizations. These agencies have the primary responsibility for determining the policies and programs and the related need for information to be gathered by the forms and reporting requirements that we review.

In view of the administrative actions already being taken, the Bureau of the Budget recommends that S. 3067 not be favorably considered at this time. Although we agree with the purposes of the bill, we believe that, through continued experimentation, we can carry out those purposes in fairness to all interested groups, in consonance with our obligations under the Federal Reports Act as it presently is written.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., March 3, 1970.

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 3067, a bill "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The bill would require any advisory committee appointed by the Director of the Bureau of the Budget to advise him in administering the Federal Reports Act of 1942 to include individuals chosen from private life to represent the economic interests of consumers, labor and small business if it includes any representatives of business or commercial enterprise. At least 1/3 of the membership of any such advisory committee having three or more members would be required to be chosen to represent consumers.

This legislation is directly concerned with matters administered by the Director of the Bureau of the Budget. Accordingly, we would defer to the views of that agency as to the need for and desirability of enactment of S. 3067.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

JAMES T. LYNN,
General Counsel.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,

March 3, 1970.

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of October 28, 1969, for a report on S. 3067, a bill "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

Under the Federal Reports Act of 1942, proposals to collect information from the public—with few exceptions—must be submitted to the Budget Bureau. The Bureau is assisted in its review by the Advisory Council on Federal Reports. That Council in turn is aided by a number of advisory committees. This bill would amend the Federal Reports Act of 1942 so as to provide for expanded representation on those committees.

We operate under the provisions of the Federal Reports Act of 1942 and, as such, act under the policies set by the Director of the Bureau of the Budget, who has been charged by law, to carry out this Act. We do not take part in the formation of the Advisory Committees but do provide advice and assistance to the Director when the need arises.

For the reasons stated in the Bureau of the Budget's report of January 23, 1970, to you, we concur in that Bureau's recommendation against favorable consideration of the bill at this time.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT H. FINCH, *Secretary.*

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,

Washington, D.C., February 4, 1970.

Subject: S. 3067, 91st Congress (Metcalf)

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on S. 3067, a bill which would provide for consumer, labor and small business representation on Budget Bureau advisory committees.

This Department defers to the Bureau of the Budget as to the desirability of requiring consumer, small business, and labor representation on the committees which advise that agency.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE ROMNEY.

U.S. DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

Washington, D.C., February 11, 1970.

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 3067, a bill "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

S. 3067 provides that any advisory committee established by the Director of the Bureau of the Budget to advise him on the gathering of information from the public, which includes members representing business, shall have not less than one-third of its members "chosen to represent the economic interests of the consumer" (consumers, labor, and small business).

We defer to the views of the Bureau of the Budget as to the advisability of and need for this legislation.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 25, 1969.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN McCLELLAN: This is in reply to your letter of November 14, 1969, requesting the Commission's views on S. 3067, a bill, "To amend title 44, United States Code, to provide for consumer labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The provisions of S. 3067 do not affect or involve any function of the Commission. Therefore, we have no comment to offer on this bill.

Sincerely,

VIRGINIA MAE BROWN, *Chairman.*

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., February 4, 1970.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 3067 (91st Cong., 1st Sess.)—To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes.

The bill would require that no advisory committee that includes representatives of business or commercial enterprises may be used by the Director of the Bureau of the Budget to advise him in administering the Federal Reports Act of 1942, unless that advisory committee includes individuals chosen from private life to represent the economic interests of consumers, labor, and small business. It would also require that not less than one-third of the membership of any such advisory committee composed of three or more members be chosen to represent consumers.

Other provisions of the bill would require that minutes and other records of advisory committees be made public, and that timely conspicuous public notice be given of the meetings of such advisory committees.

Whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Bureau of the Budget.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., February 3, 1970.

HON. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This replies further to your request for the views of the National Aeronautics and Space Administration on the bill S. 3067, "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The Federal Reports Act of 1942, 44 U.S.C. 3501-3511 (Supp. IV, 1965-1968), provides, in part, that Federal agencies may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless the agency submits the plans or forms to the Director of the Bureau of the Budget and the Director does not disapprove the proposed collection of information.

S. 3067 would amend the Federal Reports Act of 1942 by requiring that, where the Director of the Bureau of the Budget uses advisory committees to assist or advise him with respect to the administration of the Act, and where such advisory committees include among its members representatives of business or commercial enterprises, then such committees shall include among its members a proportion of individuals, chosen from private life, to represent the economic interests of consumers, labor, and small business.

Subsection (b) of the bill appears to be ambiguous in stating precisely how the membership of an advisory committee is to be constituted, in order that the economic interests of consumers, labor and small business may be represented. This is especially true when the two sentences of subsection (b) are read together. It is also noted that the first sentence of subsection (b) may be interpreted to read that *one* person could represent the economic interests of consumers, labor, and small business, which does not seem to be realistic. It is recommended that the provisions of subsection (b) be redrafted to set forth in more explicit terms how the membership of an advisory committee should be constituted in order to represent such interests.

Subsection (c) provides that all records, minutes, and other information of any advisory committee shall be available for public inspection and copying. Presumably, this would include agency records. To protect such records, subsection (c) should be redrafted to provide that records and other information submitted by an agency to the Director of the Bureau of the Budget shall be exempted from the provisions of this subsection if such information is "exempted information" under the "Freedom of Information Act", 5 U.S.C. 552 (b) (Supp. IV, 1965-1968).

Inasmuch as the Director of the Bureau of the Budget is responsible for administering the Federal Reports Act of 1942, the National Aeronautics and Space Administration would defer to the Director for a determination as to the need for legislation on this matter.

The Bureau of the Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

ROBERT F. ALLNUTT,
Assistant Administrator for Legislative Affairs.

OFFICE OF ECONOMIC OPPORTUNITY,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., February 18, 1970.

HON. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for giving us the opportunity to express our views regarding S. 3067, a bill "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees

under the coordination of Federal Recording Services, and for other purposes". In our opinion, the result sought to be achieved by this bill is commendable. However, we do not recommend that it be favorably considered at this time. We feel that the administrative action of the Bureau of the Budget as described in its report dated January 23, 1970, to your Committee on S. 3067 obviates the need for such legislation.

The Bureau of the Budget advises that there is no objection to the presentation of this report to the Congress from the standpoint of the President's program.

Sincerely,

RONALD RUMSFIELD, *Director.*

THE GENERAL COUNSEL,
POST OFFICE DEPARTMENT,
Washington, D.C., February 4, 1970.

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 3067, a bill to amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes.

Under the Federal Reports Act (44 USC 3501 et seq.) the Bureau of the Budget controls the gathering of information and statistics from business by federal agencies. Industrial advisory committees, coordinated through the Advisory Council on Federal Reports, advise the Bureau of the Budget when federal agencies seek data from represented industry. The proposed legislation would require that membership on such committees include representation for consumers, labor, and small business.

S. 3067 would not directly affect postal operations. The Department therefore does not have any recommendations to make respecting the proposed legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Administration's program.

Sincerely yours,

DAVID A. NELSON.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C. November 21, 1969.

HON. JOHN L. McCLELLAN,
*Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In the absence of Chairman Budge, I am replying to your request of October 28, 1969 for the Commission's views on S. 3067. The Commission has carefully examined the bill which would amend 44 U.S.C. 3506 to provide for consumer, labor and small business representation on advisory committees appointed to assist or advise the Director of the Budget with respect to coordination of Federal Recording Services.

The bill would not appear to affect the Commission's administration of the federal securities laws. Accordingly, we have no comment with respect to S. 3067.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the program of the Administration.

Sincerely,

HUGH F. OWENS, *Commissioner.*

SMALL BUSINESS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., February 26, 1970.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of October 28, 1969, requesting the views of the Small Business Administration on S. 3067, a bill to amend the Federal Reports Act of 1942.

Under the terms of the Act, requests for information originating with any Government agency and directed to more than nine persons must be cleared in advance with the Bureau of the Budget. One of the primary purposes of the statute, of course, is to save business concerns from reporting requirements and related paperwork which are unduly burdensome.

To assist it in the administration of the Act, the Bureau has established the Advisory Council on Federal Reports. The Council, in turn, has created a number of advisory committees and panels composed of persons drawn from various fields of industrial activity—banking, chemicals, retail trades, etc. The knowledge and experience of the committee and panel members are utilized in evaluating questionnaires and forms devised by Government agencies to elicit information from the public.

In substance, S. 3067 calls upon the Bureau to include among the committee and panel members one or more individuals to represent the economic interests of consumers, labor, and small business. The author of this proposal, Senator Metcalf, is of the opinion that these three segments of the economy are not properly represented at the present time.

We have discussed with the Bureau the adequacy of small business representation. As a result, arrangements are being made for the participation of SBA staff members in committee and panel meetings where small business interests are involved. In addition, SBA will assist the Bureau in placing suitable small business representatives on the committees and panels.

There is good reason to believe that these administrative measures will ensure proper administration of the Federal Reports Act from the small business standpoint. Thus remedial legislation for this purpose, such as that included in S. 3067, is not necessary.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

HILARY SANDOVAL, Jr.,
Administrator.

DEPARTMENT OF STATE,
Washington, D.C., January 26, 1970.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your letter of October 28 requesting the Secretary's views on S. 3067, "a bill to amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The Department of State has examined the proposed legislation from the standpoint of foreign economic policy and suggests that the words "of the kind and size being investigated", be inserted immediately after the word "enterprises" in subsection (b) of section 3506. The insertion of this additional provision would make more certain that the views of businesses being investigated, many of which may have far-flung and complex international interests and operations, will also be considered. The Department, however, defers to the views of the Bureau of the Budget on the merits of S. 3067.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

H. G. TORBERT, Jr.,
Acting Assistant Secretary
for Congressional Relations.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., November 26, 1969.

Hon. JOHN L. McMILLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN. Reference is made to your request for the views of this Department on S. 3067, "To amend title 44, United States Code, to provide for consumer, labor, and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

The proposed legislation would amend the Federal Reports Act of 1942 (44 U.S.C. 3501-3511) to provide for consumer, small business, and labor representation on advisory committees established by the Bureau of the Budget under the provisions of the Act.

Since the proposed legislation relates to matter not primarily within the jurisdiction of this Department, the Treasury has no comment to make on the bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

PAUL W. EGGERS.

MATERIAL SUPPLIED BY WILLIAM H. RODGERS, JR.,* UNIVERSITY
OF WASHINGTON SCHOOL OF LAW

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
PUBLIC HEALTH SERVICE,
ENVIRONMENTAL HEALTH SERVICE,
Cincinnati, Ohio, July 29, 1970.

MR. WILLIAM H. RODGERS, JR.
School of Law, University of Washington,
Seattle, Wash.

DEAR MR. RODGERS: Per your request of July 23, I have attached copies of the minutes for two meetings of the Primary Aluminum Industry Liaison Committee. The third meeting of the committees will probably be in the Fall.

The study of the aluminum industry (CPA 70-21: contractor—Singmaster & Broyer, New York) is similar to our studies of the smelting and pulp and paper industries. The study was initiated in March 1970 and will be completed by June 1971. The contractor is presently gathering data on which to perform an engineering analysis, so there is no concrete output to date.

Sincerely,

NORMAN PLAKS,
Division of Process Control Engineer.

SUMMARY REPORT—PRIMARY ALUMINUM INDUSTRY LIAISON COMMITTEE MEETING
NEW YORK, N.Y., MARCH 6, 1970

1. The first meeting of the committee was attended by twelve of the thirteen members; Mr. G. E. Zinniger of Revere Copper and Brass were represented by an alternate, Mr. Bill Silverman. Attached is a list of attendees.

2. Following a brief welcome and introduction of attendees, presentations were made on the respective functions of DPCE and DEER and their objectives in the aluminum study. Mr. J. C. Russell of Singmaster & Breyer introduced his company to the group and made a brief presentation of the project plan of the study as per S.&B.'s technical proposal. Emphasis in his presentation was on the data gathering effort and the importance of industry cooperation in this effort.

3. * * * representing * * * on the committee, expressed a concern by the industry about possible interference from the Justice Department for participating as a committee. The aluminum people are very wary of participating with other producers in any cooperative effort which may be construed as decreasing competition. This feeling is brought about by the constant interest of the Department of Justice in fostering competition in the aluminum industry and by the past legal difficulties because of monopolization. We stated that every attempt will be made to resolve this point before the next industry committee meeting; we do not anticipate much difficulty with this.

*See statement, p. 15.

4. The industry also expressed a concern over the type of information that will be needed in the study, stating that much of it is proprietary information that gives a company a competitive edge over other producers. The contractor stated that only information essential to the study will be asked for; procedures for soliciting information from the industry will be carefully constructed to avoid requesting proprietary data that are not essential to the study. In this light * * * suggested that the committee form a task force of a few members to review the questionnaire to be sent to the industry with the contractor before the next committee meeting. It was agreed by everyone that this would be beneficial; a short meeting of the committee members was called subsequent to the regular committee meeting in order to select a task force for this purpose.

5. In general, we were encouraged by the participation and interest of the committee members in the meeting. Indications are that this committee will be a very active one. Private talks with several of the committee members indicated that if the Justice Department question is settled much of the industry cooperation needed in the study would be forthcoming as long as such cooperation does not jeopardize the competitive positions of the individual companies.

6. The date for the next meeting was tentatively set for April 17 in New York to coincide with an industry meeting in New York on April 16.

LIST OF ATTENDEES—PRIMARY ALUMINUM INDUSTRY LIAISON COMMITTEE MEETING,
NEW YORK, N.Y., MARCH 6, 1970

Industry

Dr. Lester V. Cralley—Alcoa
R. B. Steinmetz—Anaconda Aluminum
William F. Boyer—Consolidated Aluminum
A. R. Carter—Ormet Corp.
Bill Silvermen—Revere Copper & Brass
R. A. Gustafson—Intalco Aluminum
J. C. Schwegman—Kaiser Aluminum
John S. Kinzey—Reynolds Metals
Erving Lipkowitz—Reynolds Metals
D. C. Winson—The Aluminum Association
Joseph L. Byrne—Harvey Aluminum
Fred E. Tucker—National Steel
John G. Strinich—Norando Aluminum
J. C. Dale—The Aluminum Association (not a committee member)

Contractor

J. C. Russell—Singmaster & Breyer
Elliot Goldberg—Singmaster & Breyer
Bob Harvey—Singmaster & Breyer
Dumont Rush—Singmaster & Breyer

NAPCA

Norman Plaks—DPCE
R. V. Hendriks—DPCE
John O'Connor—DEER
E. N. Smith—DEER
Keith Bakke—DQUED

SINGMASTER & BREYER,
May 18, 1970.

Memorandum.

To: PAILC File—PS-214.

Subject: Minutes of PAILC Meeting, May 13, 1970.

The second meeting of the Primary Aluminum Industry Liaison Committee was convened at 9:30 a.m. on Wednesday, May 13, 1970, at the offices of the Aluminum Association, 750 Third Avenue, New York, N.Y. Those attending are listed on an attached sheet.

1. Mr. Hendriks of NAPCA opened the meeting with a report of the results of contacts with the Department of Justice regarding the position of PAILC and the exposure of its members to attention by the antitrust division in connection with PAILC. Copies of response from the Justice Department were given to the members, the gist of which was that the onus for compliances with the law

rested on the participants and that no prior approval of action or scope of action could be given. Possible disclosure of information which might be interpreted as compromising inter-company competition was cited as subject to scrutiny, and advice of counsel was suggested as a guide to actions.

The mechanisms proposed for ensuring against such disclosure was reviewed briefly. Raw data received by Singmaster & Breyer from individual companies would not be disclosed to others, or to NAPCA. Processed data would be released from S&B, or used in reporting, only in such composited form as would preclude identification of originating specific source.

NAPCA will incorporate amending clauses to this effect in the study contract with Singmaster & Breyer (CPA No. 70-21) and will supply copies to each PAILC member. If desired, S&B will enter into secrecy agreements with individual companies.

The individual members of the committee will refer this situation to their legal counsels for guidance, but for the time being it was agreed that the work of the committee could continue.

2. The major point on the agenda was discussion concerning the data acquisition questionnaire of which a first draft had been sent to the members after the previous meeting, and on which some comments had been fed back through the Task Force.

Mr. Russell (S&B) described the modifications and simplifications which are being incorporated in a second draft, and distributed examples of Part I and of Sec. 2.10, Part II to illustrate. The basic changes are to delete data requests for information which is not directly relevant to the installed emission control systems, simplification of the reference coding, and expansion in the areas of cost information.

Discussion in committee included inquiry into validity of material breakdown requested, and of effectiveness of attempting to obtain meaningful material balances, particularly with respect to fluorine. It was also brought out in discussion that it was not the intention to request respondents to make special data determinations if information requested was not normally available.

PAILC request was made and noted that preliminary issues for comment be clearly so indicated.

The question of delineation of scope of the study was brought up and discussed, in particular with reference to cast house operations. The PAILC requested NAPCA to exclude alloying operations, and some members felt that the study scope should terminate at the entrance to the cast houses. No firm resolution was made of this question, it being the feeling of the contractor and NAPCA that casting operations, exclusive of alloying in the cast houses, are an integral part of the primary aluminum reduction operations.

3. The PAILC was advised that the present work schedule anticipates a comment issue of the revised questionnaire to be issued during the week of May 18, working toward a final form approved by NAPCA and the Bureau of the Budget by the end of June.

SUMMARY

1. NAPCA will amend the contract to cover confidentiality and will send copies to the PAILC members.
2. S&B will issue a revised preliminary questionnaire for PAILC comment and BOB approval.
3. BOB approval is hoped for about July 1, 1970.
4. Next PAILC meeting may be called during the data gathering activities but probably not before mid-summer. We will have an interim report prior to that meeting.
5. Minutes of the May 13 meeting will go to the PAILC.
6. Next meeting may be held at another city. San Francisco and Denver were suggested.
7. NAPCA will resolve the question as to whether or not cast house operations must be included in the study.
8. NAPCA attorneys will contact their industry counterparts prior to amending the contract on confidentiality.

DUMONT RUSH.

Enclosure.

PAILC meeting, May 13, 1970, attended by the following :

R. V. Hendriks, NAPCA
 Newman Smith, NAPCA
 Walter Gilbert, NAPCA
 John G. Strinich, Noranda Aluminum, Inc.
 Lester V. Cralley, Aluminum Company of America
 Richard E. Cole, Reynolds Metals Company
 W. A. Wright, Reynolds Metals Company
 William Silverstein, Revere Copper & Brass, Inc.
 William F. Boyer, Jr., Gulf Coast Aluminum Corporation
 Frederick E. Tucker, National Steel Corp.-Aluminum
 William Eastman, Kaiser Aluminum
 James McKissick, Intalco Aluminum Corp.
 Joseph L. Byrne, Harvey Aluminum, Inc.
 Arthur R. Carter, Olin Corporation (ORMET)
 B. M. Kostelnik, The Anaconda Aluminum Company
 J. C. Dale, Aluminum Association
 John C. Russell, Singmaster & Breyer
 Edward J. O'Reilly, Singmaster & Breyer
 Dumant Rush, Singmaster & Breyer

EXECUTIVE OFFICE OF THE PRESIDENT,
 OFFICE OF MANAGEMENT AND BUDGET,
 Washington, D.C., August 26, 1970.

Mr. WILLIAM H. RODGERS, Jr.,
 Associate Professor of Law, School of Law, Condon Hall, University of Wash-
 ington, Seattle, Wash.

DEAR MR. RODGERS: I am replying to your letter of August 20 in which you re-
 quested a copy of a form proposed by the Federal Water Quality Administration
 for use in taking an inventory of industrial waste water.

I regret that we do not have such a form to send you. The Federal Water
 Quality Administration did present a draft form for our consideration some time
 ago. During the course of discussion of the draft, a number of suggestions for
 changes were made. The FWQA is still considering these suggestions and other
 possible changes. When a revised draft is received, a copy will be sent to you.

The original draft of the form was designed to obtain information on (1)
 type and size of operation, (2) water sources and waste discharge points, (3)
 industrial waste treatment costs, and (4) water analyses. The latter would
 obtain considerable detailed information about each separate waste discharge
 from a plant. We would expect a revised draft to cover these same areas of
 interest.

If I can be of any further help to you in this matter, please let me know.

Sincerely,

ROYE L. LOWRY,
 Clearance Officer.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION,
 PULP INDUSTRY LIAISON COMMITTEE,
 Cincinnati, Ohio, March 12, 1969.

MINUTES OF MEETING

The Pulp Industry Liaison Committee was convened for its first meeting at
 9:00 A.M. on March 12, 1969. Mr. D. R. Monti, Chief, Office of Engineering
 Analysis, Division of Process Control Engineering, NAPCA, presided as chair-
 man. See attached list for attendees.

After introductions, Mr. Monti made a welcoming address with comments on
 the functions of NAPCA's industry liaison committees. He also discussed the
 work being done by the Division of Process Control Engineering (DPCE).

Mr. Edmisten described the responsibilities of the Division of Economic Effects Research (DEER), and DEER's general needs from the pulp industry study.

It was pointed out that the main objective of the industry study was to provide a basis for management decisions by NAPCA with respect to future research and development activities. The study will make a comprehensive systematic evaluation of both the technical and economic problems in the control of airborne emissions from the wood pulping industry. Dr. Hendrickson described the study and reported on progress to date.

DISCUSSION OF FIRST MILESTONE REPORT

Mr. A, speaking for the other industry representatives commended the NAPCA and the contractors for the planning and the efforts which had gone into the study up to the present time. He indicated, however, that the industry representatives were concerned about a few points in the Milestone Report. The report, therefore, was reviewed, section by section.

DATA COMPILATION

It was reported that work on the accumulation of data to define the geographical distribution of the industry and the relative importance of the various pulping methods was essentially complete. Data for this section were obtained from published sources and individual mills were merely asked to confirm the data which had been assembled. Maps illustrating the regional distribution of the industry will be prepared in the near future. The industry representatives had no special comments on this section.

FLOW DIAGRAMS

The various flow diagrams which describe the major pulp operations were discussed. The feeling of the industry representatives was that the values presented were generally within reason, but may be misleading when applied to any individual mill. It was suggested that in the final report we emphasize that no flow diagram is an example of any particular mill in the United States.

Some discussion was held regarding the statement concerning the efficiency of bark burners. It was pointed out that in some plants clarifier sludge is being burned in the bark burner which may tend to lower boiler efficiency and create other problems in operation.

CONTROL EQUIPMENT

The section on control equipment was discussed in general terms and the basis for calculation of the cost curves was presented. It was pointed out by the contractors that one of the areas in which we are having difficulty in obtaining valid data is that of maintenance costs. Dr. B indicated that Company B had some costs on maintenance at City B which we could obtain if we would send the personnel to the mill. Other industry representatives were going to look into the matter from the point of view of their companies.

Concern was expressed about statements like that contained in the first paragraph on page 15 of this section. It was felt that we should not give the impression that it was possible to make money by operating any type of control equipment.

One area which had not been covered was the cost of down time. A factor should be included in operating costs to reflect the effort necessary to keep control equipment operating at designated efficiency. It was also pointed out that the contractors should qualify the definition of efficiency as used, and define appropriate analytical techniques by which this efficiency is determined. The industry representatives pointed out that a supplier of control equipment may base his guarantee on one measure of efficiency, and an abatement agency might base compliance with a regulation on another measure of efficiency.

The question was raised as to what consideration was being given to the control of very dilute gas streams. As major sources within the mill come under control, the very dilute gas streams become of greater and greater importance. The contractors reported that methods of control for these streams are being considered. We may not have an answer in the report, but this may be pointed out as an area of needed research. With respect to odors, it was also stated that in the future, it may be necessary to consider odors from

the liquid waste treatment processes of a plant. Here again, as major sources of emission come under control, the relatively minor sources become important.

Equipment life was discussed and a life of ten years for scrubbers and precipitators was considered reasonable.

COST ANALYSIS

Much of the discussion on this section was covered in the previous section on control equipment. A question was raised, however, as to how the contractors were to assign part of the cost of control equipment to emission control and part to processing or chemical recovery. The reply was that a final approach had not been decided upon, but a possible approach was to plot an increasing per cent efficiency of the control devices against the dollar value of annual operating costs and annual value of recovered material. This should provide two curves. If the value of recovered materials exceeded the operating costs at lower efficiency, it is likely that with increased efficiency, the cost curve and the value curve would intersect. The point of intersection for a given piece of equipment would be the breakpoint between process and emission control.

SULFUR RECOVERY

The industry representatives felt that this section occupied a place of undue importance in the report. It was pointed out that in the final report this may occupy a very small area of concern. This happened to be one piece of work which was completed in some detail in time for the First Milestone Report and thus appeared to be of greater importance with respect to the overall project than was warranted.

It was suggested that this should not be a "blue sky" report. The report, although intended for one purpose, may be used for quite another by abatement agencies who read it. A suggested sulfur recovery study may find someone demanding that it be installed when it was not at all feasible for a given installation. It was felt that sulfur recovery should be identified as an extrapolation of a research effort which requires further development. The implication must not be given that it is in proven technology. It was pointed out that the whole study of sulfur recovery was intended to be in this light. The National Council has reported that at least one member mill is carrying out development work for use in the preparation of NSSC make-up liquor.

Black liquor oxidation was described briefly in this section. One industry representative indicated that they felt there were no advantages to black liquor oxidation in new mills except a possible reduction in hydrogen sulfide emission. The other advantages claimed for it were invalid. Another representative pointed out, however, that the other advantages may be applicable in some mills.

Considerable time was spent discussing the economic calculations of this section. It was felt that the values assigned to maintenance were low. Perhaps 5 per cent of capital cost would be a better value. Some industry representatives felt that the contractors should use return on investment calculations rather than payout. It was suggested that representatives of the contractors visit the accounting departments of several companies to determine a method which is acceptable to the industry for calculating these factors.

MILL VISITS

Satisfaction was expressed by the contractors for the mill visits that have been made. There were two areas where the information obtained was disappointing. These were the areas of obtaining valid emission data. The industry representatives were asked for suggestions but only one was forthcoming as indicated previously. All industry representatives promised that they would look into the matter.

GENERAL

The first meeting appeared to be a good kick-off meeting. All persons in attendance recognized this as a forum where points at issue could be debated. It was felt that furnishing additional copies of the Milestone Reports would help in the intra-company distribution, and thus should provide greater input at the meetings. It was agreed that in the future two copies of the Milestone Report would be sent to each industry member of the Committee.

The next meeting was tentatively scheduled for July 17 and 18 in either Minneapolis or St. Louis. Either of these locations is more suitable for the west coast members in making travel arrangements. Copies of Milestone Report No. 2 were promised to be read approximately 3 weeks in advance of the meeting, to allow sufficient time for review.

The meeting was conducted straight through to 1:30 P.M. at which time it was adjourned.

W. GENE TUCKER,
OEA, DPCE.
Dr. E. R. HENDRICKSON,
Environmental Engr. Inc.
J. E. ROBERSON,
J. E. Sirrinc Co.

Attachment: attendance list.

Industrial Representatives.—Dr. Herman Amberg, Crown Zellerbach Corp.; Mr. Richard M. Billings, Kimberly-Clark Corp.; Mr. N. J. Lardieri, Scott Paper Co.; Mr. Matthew Gould, Georgia-Pacific Corp.; Dr. Glenn Kimble, Union-Camp Corp.; Mr. G. J. Kneeland, St. Regis Paper Co.; Mr. George Marsh, Champion Papers; Dr. Samuel McKibbins, Continental Can Corp.; Mr. George Rand, International Paper Co.; Mr. Jack Walker, Westvaco; Mr. Virgil Minch, Mead Corp.; Dr. Isaiah Gellman, National Council for Air & Stream Improvement; Mr. John L. McClintock, Weyerhaeuser Company.

NAPCA Representative.—Mr. D. R. Monti, DPCE; Mr. N. G. Edmisten, DEER; Dr. K. H. Jones, OST; Mr. F. L. Bunyard, DEER; Mr. W. G. Tucker, DPCE.

Contractor Representatives.—Dr. E. R. Hendrickson, Environmental Engineering, Inc.; Mr. J. E. Roberson, J. E. Sirrinc Company; Mr. R. C. Ranew, J. E. Sirrinc Company; Mr. P. P. Gombola, J. E. Sirrinc Company; Dr. J. B. Koogler, Environmental Engineering, Inc.; Mr. J. Hedenbag, Poly Con Corp.; Mr. L. V. Russell, Reynolds, Smith and Hills; Mr. L. C. Doughty, Reynolds, Smith and Hills.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION,
PULP INDUSTRY LIAISON COMMITTEE,
Minneapolis, Minn., July 17-18, 1969.

MINUTES OF MEETING

The Pulp Industry Liaison Committee was convened for its second meeting at 1:00 P.M. on July 17, 1969. Mr. D. R. Monti, Chief, Office of Engineering Analysis, Division of Process Control Engineering, NAPCA, presided as chairman. See attached list for attendees.

July 17 Session

Mr. Monti opened the meeting with a welcome to the industry representatives and thanked them for their participation. After some miscellaneous items of general business, the group proceeded directly with the main purpose—to review the second Milestone Report of NAPCA's on-going contract research study of emissions control technology in the pulping industry. Industry representatives had received copies of the report about three weeks before the meeting, to give them time to review it and prepare comments.

Mr. A stated that the industry representatives had met prior to the formal meeting and had discussed Volume I of the Milestone Report and were prepared to proceed straight through with Mr. A as industry spokesman. Mr. A emphasized that no reference should be made to a particular mill. He also requested that the contractor be careful to delineate between tried and proven methods, and methods which are still under development.

CHAPTER 1. DISTRIBUTION AND GROWTH OF THE INDUSTRY

The consensus of the industry representatives was that the projections of the wood shortage in the South were too greatly emphasized. It was pointed out that the real purpose in the forecasts was to attempt to determine the future location of pulp mills. Mr. B noted that there were many factors other than wood supply, such as better management of forest lands, more efficient utilization of wood, availability of labor, and transportation considerations which influenced the geographical distribution of the industry. Mr. C stated that the industry was concerned that a projection of a major wood shortage would lead to an increase in wood prices. It was pointed out that Chapter 1 was being rewritten and that the new draft would be revised to de-emphasize the wood supply and that projections of geographical location would be based on the present distribution.

CHAPTER 2. ONGOING RESEARCH RELATED TO EMISSIONS

Mr. Doughty noted that Chapter 2 would be developed along the format of an annotated bibliography.

Dr. Hendrickson requested the industry's help in reporting any developments their companies may have made in the following areas:

1. Emission control technology.
2. Cost and effectiveness of emission control.
3. Sampling and analytical techniques.
4. Equipment development.
5. Process changes that might affect emissions.
6. Chemistry of pollutants or pollutant interactions.
7. Possible new pulping processes.

Mr. A offered the services of the NCASI technical staff along these lines and said that the NCASI would have leads on all industry-supported research.

CHAPTER 3. SAMPLING AND ANALYTICAL TECHNIQUES

Mr. A suggested that this material would be more helpful if presented in the form of a more critical review of the methods, emphasizing the difficulties encountered in the application of the methods. The industry would like to see specific recommendations for methods. There were a number of detailed comments which will be submitted later in writing.

Mr. D requested that a clear distinction be made between methods applicable for laboratory use and those applicable for continuous analysis in the plant.

It was pointed out that the last sentence of the first paragraph on page 3-53 concerning the variation in flow rates was true in many instances but not in all cases. Also, in the first paragraph on page 3-79, the statement referring to the wide and sometimes minute-to-minute fluctuations in emissions from pulp mills was questioned. It was agreed that the fluctuations were great but they varied more slowly than minute-to-minute.

A typographical error was noted on page 3-24, last sentence of the last paragraph.

Mr. B discussed difficulties his company had encountered in attempting to use odor testing panels. He stated that while there was good agreement as to the detectable level of pollutants, there was wide disagreement on the objectionable level. He also pointed out that personnel from his company had used some of the methods presented in the report and had run into considerable difficulty at times. He suggested that the shortcomings of the methods as well as the skill required to conduct the tests be discussed.

Mr. E requested a recommendation of the proper technique to obtain isokinetic conditions for particulate sampling between the calculation method and the null method.

Dr. Hendrickson indicated that a brief discussion and reference on the IGCI method for determining the efficiency of particulate collectors would be included in Chapter 3.

The industry commented that since the entire study was slanted toward emissions from pulp mills more emphasis should be placed on source testing rather than equal emphasis on source and ambient testing.

It was pointed out that sampling methods which met the requirements of everybody were not available in all cases. Therefore, one of the results of this chapter would be recommendations of R/D which is necessary. It will also be recommended that a manual of "standard methods" be prepared.

CHAPTER 4. PRESENT PULPING PRACTICES

It was suggested and agreed that the last sentence on page 4-2 concerning the use of the flow diagrams in abatement actions would be deleted. The entire paragraph is being rewritten to clarify the intent. A description of the three pulping processes should be added to the introduction.

Dr. Hendrickson noted that NSE Flow Diagram No. 2 was being omitted since only a few mills installed the process and that they had experienced difficulties and were drastically modifying their plants. There was complete agreement on this point.

Mr. F stated that there was only one sodium based sulfite mill and, therefore, that flow diagram was not of general interest. Much discussion developed concerning magnesite versus acid sulfite magnesium base processes. It was noted that the magnesite process was not really a "sulfite" process and should not be com-

pared to the other sulfite processes; therefore, the sodium-based flow diagram will be deleted and a magnesium-based acid bisulfite diagram prepared.

Mr. R expressed concern over the emissions shown on the combination of the N.S.S.C. Flow Sheet No. 1 with the kraft process. It was agreed that additional clarifying statements should be added to clearly state that the emissions noted were due only to burning of the N.S.S.C. black liquor and that some adverse affect may be seen in the emissions from the kraft system. Mr. E pointed out that the addition of NSSC liquor to the kraft system may cause an increase in the kraft emissions from the recovery boiler and multiple effect evaporators due to a decrease in the kraft liquor pH.

Mr. B suggested the inclusion of an additional N.S.S.C. flow diagram covering the process with no chemical recovery since the majority of the existing N.S.S.C. mills do not recover chemicals. It was pointed out by Dr. Hendrickson that this study was an emission study and that this was why such a system had not yet been included but that it would be reconsidered. Mr. B agreed to provide information to Sirrine on what he considered to be a typical NSSC mill.

Mr. H questioned 57 percent yield shown on kraft Flow Sheet No. 1 and suggested that perhaps 53-54 percent would be a more realistic figure.

Mr. D questioned the particulate and H_2S emissions shown for the recovery boiler on Kraft Flow Sheet No. 2; from his experience, they were much too low as shown.

Mr. G suggested that the SO_2 emissions shown for the kraft recovery boilers be rechecked as the values were higher than that measured in the Northwest.

Mr. E asked that consideration be given to including a fluid-bed calciner in place of the lime kiln on at least one flow sheet since some mills were using this equipment.

Mr. H suggested that the words, "particulates" and "chemicals" in the description of the causticizing section of the kraft flow diagrams should be changed to "lime" and "soda", respectively.

Mr. B asked that Note No. 2 on each flow sheet concerning the percentage of power boiler emissions chargeable to paper production be further clarified to avoid confusion.

Mr. G suggested that the SO_2 emissions of 4.96 pounds shown on Sulfite Flow Sheet No. 3 from the venturi absorber were too low and should be in the range of 15 to 20 pounds. Also on Sulfite Sheet No. 1, he suggested that the indicated SO_2 recovery efficiencies for the blow pit and accumulator collectors were too high and that emissions of eight to ten pounds would be more realistic than the two pounds shown on the diagram.

It was suggested that Sulfite Flow Sheet No. 4 be modified to include SO_2 recovery. However, since existing ammonium mills do not recover SO_2 and the flow diagrams are prepared to depict current practice, SO_2 recovery will *not* be shown. SO_2 recovery will be included in the flow diagram for a conceptualized ammonium mill.

Mr. Gombola asked for industry comments on the reported collection efficiencies of mechanical collectors on power and bark boilers. There was general agreement that the 85 percent efficiency shown on bark boilers was about the maximum that could be expected. Mr. I indicated that the best data available on efficiency of mechanical collectors in the pulp and paper industry could be obtained from the NCASI-NAPCA Power Boiler Questionnaires. Mr. A offered the services of the NCASI to clarify these points.

CHAPTER 5. QUANTITY AND NATURE OF EMISSIONS

Mr. A expressed the industry's concern over the discussion of black liquor oxidation. Specifically, it was felt that the table on page 5-2 of H_2S versus percent oxidation should give ranges of H_2S emissions rather than absolute values. Some of the H_2S values listed were felt to be too low. Mr. A suggested a review of this section with the NCASI. Dr. Hendrickson noted that a more complete discussion is planned for this chapter and others.

Further detailed points were made as follows:

Page 2.—The 35 percent figure reported for secondary air may not be generally applicable.

Page 3.—Newer furances do not have 40 percent overload capacity as might be implied. It was agreed that all sections on this page need more complete descriptions and better definitions.

Page 9.—Residual sulfur in the lime mud is not the dominant factor which determines SO_2 emissions from the lime kiln. Dr. Amberg stated that his company has experience in which "poor" lime mud did not affect SO_2 emissions. It was agreed that some editing was required.

It was agreed that a black liquor oxidation efficiency of 100 percent may or may not exist and therefor maximum efficiency will be indicated by 99+ percent.

CHAPTER 6. MILL VISITS

Dr. Hendrickson stated that the purpose of this chapter was to inform the committee how mills were selected and what types of questions were asked. The location or inclusion of the agenda outlines in the final report has not been decided, but the information gathered from mill visits will be incorporated into the body of the report without reference to any particular mill.

July 18 Session

The meeting was reconvened at 8:00 A.M. Industry representatives had met the previous evening to consolidate their comments on Volume II of the Milestone Report. Mr. A again acted as the industry spokesman.

CHAPTER 7. CONTROL METHODS PRESENTLY IN USE

A lengthy discussion developed on the method of calculation of depreciation and interest on page 7-65. A number of suggestions were made and Mr. B and Mr. J agreed to check with their accounting departments and advise Mr. Tucker of NAPCA. Industry representatives also suggested that perhaps 30 percent would be better for vacations, sick pay, et cetera, rather than the 22 percent shown on page 7-64. These items will be reviewed further by NAPCA and the contractor.

It was suggested that where references were made to collector efficiencies, the method of testing be specified. This applied particularly to references to particulate collector efficiencies. Dr. Hendrickson stated that this would be done and reference would be made to a method included in Chapter 3.

Concern was evidenced for the presentation of equipment cost and installed cost. Industry felt that the installed cost should be emphasized. Mr. Roberson noted that since the erection costs could vary considerably due to local conditions, the equipment costs (material only costs) were included for the industry's information. Industry requested that equipment cost (material only cost) curves be deleted.

Mr. D requested inclusion of escalation factors and specification of the time basis for the costs. Perhaps an ENR citation or curve similar to the one in Chapter 14 could be used.

A number of comments were made concerning the cost basis as gas volume rather than tons per day. Mr. Roberson and Mr. Hedenhag pointed out that the cost of the equipment is actually dependent on the gas volume and that since the relationship between tonnage and gas volume was variable, it was felt that gas volume was a better basis. After some discussion it was agreed that both gas volume and air dry tons would be shown on the cost curves. The basis for the air dry tonnage would be defined for each cost curve.

Mr. A suggested inclusion of site clearing costs and possibly allowances for downtime as the industry felt that many of the proposed changes would require downtime. Mr. Roberson pointed out that these costs were too variable to define but that a statement that they were not included and could be considerable would be included in the discussion.

A discussion developed on the inclusion of a new recovery boiler as a control device in those cases where existing furnaces could not meet control regulations due to design or overload. This will be considered, and cost of new reduced odor units compared with conventional units, but no attempt will be made to determine allocation of costs to process and air emission control.

Mr. D suggested that a discussion of in-line aerators for BLO be included. A much more complete discussion of BLO is planned.

Mr. A expressed concern that the discussion of materials of construction should be enlarged to include more emphasis on corrosion problems. Mr. Hedenhag pointed out that this will be included under the section on specific applications.

It was suggested that in the final report the Total Capital Cost and the Net Annual Cost data be presented before the Equipment Cost. This was agreed upon. The Equipment Cost data will probably be presented in an appendix to this chapter.

Page 7-26

Mr. A suggested including a discussion of the difficulties experienced with plugging in packed towers and that this would be minimized by proper packing selection. Also this section should include the application of scrubbers to new reduced odor furnaces for SO₂ removal.

Page 7-39

Industry felt that B.L.O. section should be amplified to include a discussion of the problems associated with B.L.O. and a comparison of weak B.L.O. and concentrated B.L.O. Mr. D noted that some legal difficulties have occurred from references to the Collins system and suggested that this be investigated before a discussion of the system is released.

Page 7-50

It was noted that a scrubber following a precipitator may produce a wet plume which could settle in the immediate area and might accentuate odor problems, especially in still air. These factors should be considered when evaluating the effectiveness of a control system.

Page 7-53

Concern was expressed over the figure of 50 percent loss of wood and the implication of wastefulness. It was suggested that this figure was not generally applicable.

Pages 7-70, 71 and 72

Possibility of rebuilding internals of old precipitator rather than adding a new one should be included. Is it feasible to rebuild a 90% unit to upgrade it to 99%? This would perhaps point out the impracticality of this approach.

Practicality of Alternate A-9 was questioned. It was pointed out by Mr. Roberson that many alternates might be investigated that would not turn out to be practical. The approach was to investigate all systems that might be considered by industry so that control methods which appear to be impractical could be evaluated with the conclusion that indeed they are impractical, if this is true.

Under Item D it was suggested that the new low odor recovery furnaces should be included as present rather than new technology since they will be more common by the time the report is published.

It was suggested that instead of referring to just "efficiency," the term should be changed to "percent particulate removal" or "percent oxidation" to be more understandable.

It was also suggested that incineration of noncondensable gases in separate incinerators be included since the physical separation of sources and the lime kiln could make this approach more practical.

Mr. H noted that, on pages 7-71 and 7-125, the justification of high collection efficiencies for lime kiln control devices was for the recovery of soda particles, not the calcium particles. He said that this should be indicated. Mr. Hedenhag noted that data on soda recovery versus pressure drop was limited, but that at least a discussion could be included.

A discussion developed on Item G-2, condensate stripping, and Mr. Ranew noted that this alternate was being deleted.

Item I-5 needs to be clarified. This will be done.

For the application of venturi scrubbers, a statement should be included on pressure drop.

It was suggested that the cost of tall stacks as a control device be presented and that the incineration of various waste materials from a mill be considered as a source of air pollution.

A recommendation was made that the designations used for the control systems on pages 7-70 to 72 be carried through and used whenever the control system is referred to.

Pages 7-104 and 105

Mr. A questioned the last sentence of paragraph two and stated that the condensate was not odor free. Mr. E pointed out the importance of residence time in the chlorination unit and felt it should be mentioned. Mr. H noted that the required chlorine was not always available and that it should be reworded to say that a portion of the required chlorine is usually available.

Page 7-108

Industry questioned the practicality of a packed tower for scrubbing batch digester gases due to the size required to handle surges. The resulting waste pollution problem was also noted. Again, it was pointed out that an attempt was being made to include all approaches so that the impractical ones would be evident.

Pages 7-114-120

Industry felt that the cost curves should reflect or at least point out that the major portion of the cost of incineration was the required ducting and that in many cases the costs shown would be too low. Mr. Roberson explained that this was recognized, but that some basis had to be chosen and that it was decided to use 1,000 feet of duct. The curve will be revised to include high and moderate duct costs. Mr. B also pointed out that the gas velocity mentioned was not correct. Since flame arrestors are required, it is not necessary to have excessive velocities. Cost should be included to protect the ducts from damage and explosion in mill operating areas.

Pages 7-121-123

Mr. A and Mr. B noted that the industry felt that catalytic oxidation should be considered as future technology rather than with present methods. They noted that so many problems had been encountered with the system that the industry did not consider it developed to the point of present usefulness. Major problems occurred in maintenance of electronic equipment and materials of construction in the corrosive atmosphere. Mr. Wrist stated that Mead had discontinued the use of their catalytic oxidation system and had converted to lime kiln incineration.

Mr. F suggested the inclusion of high stacks as a control device. Mr. B quoted an Ohio law that stated that the objective was to reduce ground level quantities of pollutants and therefore high stacks were considered as pollution control devices. A discussion followed in which it was noted that regulations did vary from state to state but that at least a discussion could be included.

Mr. F suggested that on page 7-128 Item E might also include the alternative of adding a cooling unit ahead of the venturi rather than a fourth stage.

He further suggested that incineration of solid waste, i.e., nonreputable paper, wood scraps, etc., and sludge should be discussed. He also requested some discussion of the creation of water pollution problems by solving air pollution problems. Mr. C questioned the applicability of the Zimpro system on page 7A-8. It was noted that this item was to be deleted.

It was suggested that the detailed calculations for water and waste be omitted since these are of minor importance to the control costs. This will be done and the cost of water and waste merely tabulated and discussed.

Dr. Hendrickson asked the industry representatives for suggestions as to additional control options that should be considered other than the following which had been mentioned earlier:

1. High stacks.
2. Separate incineration other than catalytic or in lime kilns.
3. In-line black liquor oxidation.
4. Scrubber on recovery boiler for SO₂ control.
5. Fluid bed calciners.
6. New recovery boilers in those cases where old unit cannot meet TRS standards.

No additional suggestions were made.

Messrs. A, C, and D again discussed an allowance for downtime to install control devices. They feel this point is very important and should help explain why it often takes a long time to get new controls into operation. Reference to the 5-day downtime will be deleted.

Dr. Hendrickson indicated that serious consideration would be given to all suggestions made. Part of the apparent misplacement of information essential to understanding Chapter 7 was due to the order of the chapters which followed the work statement in the contract. The final report would present the material in a more rational format. Data bases such as the calculations in 7A were presented for the information of the committee and probably would not appear in the final report.

CHAPTER 8. CONCEPTUALIZED POLLUTANT CONTROL SYSTEMS

Mr. A suggested that the two most likely alternatives for each source be discussed here. Mr. B suggested a ranking of priorities of the alternates with a discussion of the effect of each component of each system on the overall emissions level.

CHAPTER 9. ASSESSMENT OF NEW DEVELOPMENTS IN CONTROL

The title of the table on page 9-2 will be reworded so as not to imply that each alternate should be considered in each case. Suggested a change to the phrase, "to be investigated."

Suggestions were made by the committee that (a) a system be considered which would pick up the emissions from every vent where black liquor appears and incinerate, and (b) consideration be given to incineration of the dissolving tank vent gases after condensing.

Mr. K referring particularly to the B&W and Combustion Engineering system, suggested that either all suppliers names should be listed, or none.

CHAPTER 10. SULFUR RECOVERY

The consensus of the industry was that too much space and emphasis had been given to this section and that more qualifying statements should be included to the effect that this work is largely pilot plant work and should be considered as future technology or technological gaps rather than in a separate chapter. Mr. Monti stated that the objective here was to determine if there was a need for chemical recovery and what direction future government work should take. He also stated that the need for this investigation was evident since some pulp producing companies had requested government help to finance projects along these lines. Mr. Tucker stated that NAPCA wanted the material left in a separate chapter but agreed that qualifying statements were needed. Additional approaches will be considered.

Questions were raised about the validity of the fuel use projections.

Mr. I offered to provide data on use of coal and oil from the NCASI-NAPCA Power Boiler Questionnaire.

CHAPTER 11. ANALYSIS OF CONTROL METHODS AND SYSTEMS

The suggestion was made that wherever possible, the word "emission" be substituted for "pollution."

CHAPTER 12. TECHNOLOGICAL GAPS

Mr. E suggested the inclusion of instrumentation and its application in this section.

Some discussion developed as to the arrangement of the chapter sequence. Dr. Hendrickson noted that the final format had not been selected and should be given some serious thought.

CHAPTERS 13 AND 14. ASSESSMENT OF CONTROL COSTS AND PROJECTION OF CONTROL COSTS

Mr. K asked for a clarification of the need for mathematical modeling techniques. Messrs. Bunyard, Doughty, and Heaney briefly described this work.

Mr. D noted some question concerning placing control devices in series. Mr. Monti noted that a paper delivered at a recent A.I.Ch.E. meeting dealt with this subject. Mr. Hedenhag will obtain this for reference.

Several industry representatives indicated a desire to follow up with additional written comments to Mr. Tucker. The date for the next meeting was chosen as November 6, 1969, in New York.

Dr. E. R. HENDRICKSON,
Environmental Engineering, Inc.
JAMES E. ROBERSON,
J. E. Sirrinc Co.

W. GENE TUCKER,
Executive Secretary, DPCE, NAPCA.

Attachment: Attendance list.

Industry representatives.—Dr. Herman Amberg, Crown Zellerbach Corp.; Mr. Richard Billings, Kimberly-Clark Corp.; Mr. Matthew Gould, Georgia-Pacific Corp.; Dr. Glenn Kimble, Union Camp Corp.; Mr. George Kneeland, St. Regis Paper Co.; Dr. Nick Lardieri, Scott Paper Co.; Mr. George Marsh, Champion Papers; Mr. John McClintock, Weyerhaeuser Co.; Dr. Samuel McKibbins, Continental Can Corp.; Mr. A. L. Noble, Westvaco; Mr. George Rand, International Paper Co.; Mr. Peter Wrist, Mead Corp.; Dr. Isaiah Gellman, National Council for Air & Stream Improvement.

Contractor representatives.—Dr. E. R. Hendrickson, Environmental Engineering, Inc.; Mr. J. E. Roberson, J. E. Sirrinc Co.; Mr. R. C. Ranew, J. E. Sirrinc Co.; Dr. J. B. Koogler, Environmental Engineering, Inc.; Mr. J. Hedenhag, Poly Con Corp.; Mr. P. P. Gombola, J. E. Sirrinc Co.; Mr. L. C. Doughty, Reynolds, Smith & Hills; Mr. R. W. Clark, Reynolds, Smith & Hills; Dr. J. P. Heany, Environmental Engineering Inc.; Mr. W. Meakin, J. E. Sirrinc Co.

NAPCA representatives.—Mr. D. R. Monti, Division of Process Control Engineering; Mr. W. G. Tucker, Division of Process Control Engineering; Mr. F. L. Bunyard, Division of Economic Effects Research; Mr. W. Gilbert, Division of Economic Effects Research.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION,
PULP INDUSTRY LIAISON COMMITTEE,
New York, N.Y., November 6, 1969.

MINUTES OF MEETING

The Pulp Industry Liaison Committee was convened for its third meeting at 9:00 A.M., on November 6, 1969. Mr. W. Gene Tucker, Office of Engineering Analysis, Division of Process Control Engineering, NAPCA, presided as chairman and executive secretary. See attached list for attendees.

Mr. Tucker opened the meeting and apologized to the industry representatives for late delivery of some of the material to be reviewed at the meeting. Two of the chapters of the draft version of the report on pulping emissions control had been received only two or three days before the meeting.

Mr. A. acted as spokesman for the industry representatives.

The Committee requested information on how the final report would be published. Mr. Tucker advised that the Contractor would furnish two hundred copies of the finished report to NAPCA for distribution by DPCE and DEER. In addition, a master copy will go to the Clearinghouse for Federal Scientific and Technical Information, 5285 Port Royal Road, Springfield, Virginia 22151. CFSTI will assign a number to each volume of the report, and will print an additional supply which will be for sale at \$3.00 per volume. Mr. Tucker estimated that there would be about a 2-3 month interval between the end of the contract and the time that copies of the report will be available from CFSTI. At least two copies of the final report will be given to each industry member of the committee from the original 200 supplied to NAPCA. Mr. Tucker noted that if the industry people want a large number of additional copies, and preferred not to wait for the CFSTI printing, some arrangement could probably be worked out for the contractor to make a larger original printing.

Mr. A. suggested that the report would be more easily reviewed if each chapter had a summary at the beginning with detail documentation in an appendix. It was pointed out that Chapter 2 was arranged in this manner.

The industry members also pointed out that several of the chapters were received too late for detailed review.

CHAPTER 1

Although Chapter 1 was not included in this review, the industry representatives restated their previous request that no reference be made to the individual mills visited. It was noted that this was NAPCA's intent.

CHAPTER 2

Page 2.—The Committee felt the statement that the Pulp Industry was concentrated in "a relatively few" firms was not valid. They suggested that the sentence be reworded to read, "... concentrated in many firms." They also felt the industry ranked higher than tenth in total manufacturing.

Page 4.—The geographical regions should be defined in the text as to the states included, or by the geographical location in the United States, rather than be referred to by number.

Industry pointed out that the Scott mill in Michigan is now shut down. Also, the Mead mill in North Carolina is an NSSC mill and not a sulfite mill. It was also suggested that the data presented in the chapter be dated. Dr. Hendrickson pointed out that the data were current as of December, 1968. This information will be included on the listing of mills.

CHAPTER 3

Section 3.1.4.—The Industry Committee requested that this section include a statement to the effect that the choice of a pulping process depends on several factors such as wood source, product produced, et cetera. It was requested that the advantages and disadvantages of pulping processes be changed to general statements. Mr. A pointed out that sulfite pulping does not necessarily make the best stationery.

Page 3-7.—The slaker vent stack should be 24 inches in diameter rather than 24 feet. It was suggested that instead of describing the gas flow variations in terms of the slaker stack height, a range of gas volumes might be included and mention be made that the flow was dependent upon stack draft.

Flow Diagrams.—Mr. A stated that the Committee had not reviewed the flow diagrams in detail, but rather from a general standpoint such as range of values, et cetera. They felt that the values presented were reasonable with a few exceptions. These exceptions were the SO₂ emissions from lime kilns and particulate emissions from slakers. It was decided that SO₂ emissions from the lime kiln would be reduced to a trace, or to 0.1 lbs./ADT as a result of recent test data. There were no suggestions of better numbers to use for slaker emissions, but the contractor will study this source further before settling on final value for the flow diagrams.

Page 3-16.—Define treated non-condensable gases as those from the digesters and evaporators. Same comment for page 3-20.

Page 3-17.—It was requested that the scrubber emissions be clarified to indicate that the 0.3 value for RSH, RSR, and RSSR results from introducing the vent from the B. L. oxidation system. The particular emission after the scrubber should be 1.0 rather than 0.70.

Page 3-20.—The Committee stated that the value of 1.5 for the recovery boiler and direct contact evaporator seems low for 90 percent oxidation. In addition, it was suggested that scrubber types and efficiencies be included in the assumptions for the flow diagrams.

Page 3-30.—The general description of Flow Diagram No. 6 should state that a bleach plant is included. The particulate emission from the slaker vent appears high and should be checked for all flow diagrams.

Page 3-31.—Pulp yield of 47 percent does not agree with 45 percent on flow diagram.

Page 3-33.—It was pointed out that the write-up includes black liquor oxidation, which is not included on the flow diagram. It was also suggested that the words "and D. C. Evaporator" be deleted from the table.

Page 3-36.—The committee suggested that the description be changed so as to delete the phrase, "emphasis on odor abatement."

Page 3-44.—Include in the text, notes similar to note 10 on NSSC Flow Diagram No. 1 concerning the influence of NSSC liquor on the H₂S emissions from the kraft recovery process.

GENERAL COMMENTS, CHAPTER 3 :

Mr. B pointed out that a fluidized bed had not been included in the flow diagrams. He further advised that information on fluidized beds could be obtained from Mr. Y of X Company. Mr. C and Mr. D stated that the air flow rate to a F. B. calciner was about half the air flow rate to a lime kiln.

The Industry Committee questioned whether the National Council had been contacted concerning questions from the Second Milestone Meeting. Dr. Hendrickson replied that all previous requests had been forwarded to the National Council. The references received from the Council on power boilers had already been reviewed, and to date no information had been received on on-going industry research related to atmospheric emissions control. Mr. E promised follow-up on the latter topic in the near future.

A general discussion was held with regard to the timing required to incorporate comments in the final report. It was agreed that all comments would be returned to NAPCA no later than two weeks following the next meeting. Mr. E stated that other comments on Chapter 3 would be sent to NAPCA.

CHAPTER 5

Page 5-1.—The Industry Committee requested that the introduction be reworded so as not to use the phrase "reduced odor emission recovery furnace." Instead, it was suggested that such furnaces be referred to as "systems which eliminate the direct contact of black liquor with flue gas."

Page 5-3.—The statement with regard to precipitator sparking was found to be confusing, and it was suggested that it be omitted.

Mr. Tucker questioned the committee with regard to the value of the description and illustrations of control equipment. Industry felt this section of the report was of no value to them, but they had no objection to leaving it in the report.

Pages 5-17 and 5-18.—It was suggested that the statement, "Black liquor oxidation seems to have little or no effect on emission of hydrogen from the recovery furnace," be rewritten to state "Black liquor oxidation reduces H_2S in the flue gas leaving the direct contact evaporators, but seems to have little or no effect of emission of H_2S from the furnace itself."

Considerable discussion was devoted to chemical reactions given on Pages 5-17 and 5-18. The general conclusion was that the discussion presented only one of many theories and this theory is not the generally accepted theory. It should be indicated in some manner that there are other theories on the chemistry of BLO. It was also suggested that details on reversion phenomenon be amplified.

It was suggested that the statement on heat transfer in the black liquor system be changed to read ". . . the evaporation taking place *may* compensate for . . ."

The statement regarding the use of the bubble tray tower was found to be misleading and should be changed to indicate that the use of the bubble tray towers is limited almost exclusively to weak black liquor oxidation.

Page 5-20.—In the first sentence on Page 5-20, the phrase, "The manufacturers claim that . . ." be replaced by "Operating information has shown that . . ."

Considerable discussion was devoted to the remainder of the material on Page 5-20. It was suggested that the paragraph on inline aerators be rewritten in accordance with suggestions to be sent in by Mr. F. It was also suggested that the discussion of incinerating or scrubbing off gases from BLO systems be moved to Chapter 6 since this system is not presently in use. Mr. C said that scrubbing these gases was not practical since no effective scrubbing liquor is known.

The committee did not agree that the advantages of weak black liquor oxidation were so obvious and requested that the word "obvious" be omitted. The comment was also made that the paragraph started out "The advantages" and the remainder of the paragraph was devoted to disadvantages of weak BLO. Mr. Roberson agreed to rewrite the paragraph.

Page 5-22.—The Industry Committee had several questions on the "Particulate Cost Effectiveness Index." After considerable discussion, it was agreed that the index should not be used in the report. A different method will be developed to present effectiveness.

Page 5-25.—The committee stated that it was in agreement with the Total Capital Costs reported for the equipment, but it was requested that the Indirect Capital Cost be increased from 20 percent to 30 percent. It was agreed that the report would be written stating the Indirect Capital Cost was 30 percent but that the Total Capital Cost would not be changed. The Indirect Capital Cost will be broken down as:

	Percent
Contingency -----	15
Engineering -----	7
General construction-overhead -----	1
Start-up -----	3
Spare parts -----	2
Sales tax -----	2
Total -----	30

Page 5-27.—It was suggested that the rate for sick pay, vacation, et cetera, be changed to 30 percent. It was agreed that the hourly rate for operating labor would be lowered to \$4.25 so as not to change the \$5.50 per hour total.

Page 5-28.—Discussion again arose around the 10 percent interest rate used in the report. It was decided to leave the interest rate at 10 percent, but to footnote that the industry considers 20 percent more reasonable. This footnote will be based on comments submitted previously by Mr. A.

Page 5-32.—The committee requested that the statement on the comparison of precipitators to venturi scrubbers be deleted from the report (the last paragraph of Section 5.35).

Page 5-34.—All reference to manufacturers' names is to be removed.

Page 5-35.—The committee requested that the sentence with regard to 40-60 percent air distribution to the furnace be changed to read as follows: "Tests (6) show that there is an optimum ratio of primary to secondary air depending on the furnace." It was also requested that the statement on furnace operation for minimum emissions be changed to state "When the furnace is operated to provide for minimum emission, the most complete combustion conditions also exist."

For the statement beginning with "Apparently, best furnace operation . . ." it was requested that the words, "and chemical reduction," be removed. For the sentence on H₂S emission, remove the phrase, "assuming the furnace is properly operated."²

Page 5-36.—Insert *D. C.* before evaporator in second line at top of page.

It was suggested that the statement on collecting efficiencies be changed to state ". . . the collecting efficiencies are much higher than would be required . . ." The committee also suggested that the sentence, "On the other hand, the higher efficiencies . . ." be removed.

Page 5-40.—For the sentence, "The reason for this . . ." add the words, "most modern," to roof mounted precipitators. It was requested that the last sentence on the feasibility of rebuilding existing precipitators be changed as follows: "This proposition must be evaluated for each individual case." It was pointed out that rebuilding a precipitator would definitely be considered as an efficiency improvement alternative in certain situations.

Page 5-41.—Delete the word, "slightly," in the first sentence when referring to higher equipment costs. It was also pointed out that reason No. 3 for installing a scrubber subsequent to a precipitator was repetitious and should be deleted.

In the section, "Scrubber Installed . . ." change the second sentence to read, "The snow-outs sometimes occur . . ." and delete the last reason for installing a scrubber subsequent to a precipitator.

Page 5-42.—The Industry Committee concluded that this area of the report was excessively wordy and possibly too editorial. It was requested that the write-up be shortened and all recommendations removed.

Page 5-43.—In the second paragraph change the first sentence to "Water is most commonly used . . ." Change the second sentence on scrubbing medium as follows: "Addition of caustic will increase the absorption of SO₂, while weak wash may increase the emission of H₂S and other sulfur compounds." Change the last sentence to ". . . foaming is also a problem which precludes . . ."

Page 5-46.—It was decided to change the statement about 50 inches WG required to attain 99 percent collection efficiency to state "theoretically, about 50 inches WG . . ."

Page 5-51.—The committee suggested that the paragraph on the West Coast Canadian Kraft Industry pilot plant be moved to Chapter 6. It was also suggested that the attachment on scrubbing liquids be changed as follows: "In summary, technology has yet to produce a tried and proven system for simultaneously eliminating both gases and particulate . . ."

Page 5-52.—In order to more clearly define particulate efficiency, it was suggested that a statement on the method used (IGCI) to determine efficiency be included in the report. In addition, it was suggested that "AOE" be changed to "mean AOE" and the method of calculation defined.

Page 5-95.—It was pointed out that the conclusion on B.L. oxidation does not agree with that on Page 5-20.

Page 5-108.—A question was brought up regarding the type of equipment referred to as "Low Pressure Drop Venturi." The question was clarified by Mr. Roberson.

Page 5-109.—The committee pointed out that literature reference (11), Hough and Gross, was a literature search rather than actual research.

It was also pointed out that studies by Western Kraft (9) were for a recovery boiler rather than a dissolving tank vent stack.

Page 5-120.—In the first paragraph on "Combustion," it was stated that SO₂ is sorbed in the lime kiln. It was requested that the first two full sentences beginning with "This unit . . ." be deleted. In the first complete paragraph, the first sentence should be changed to read, ". . . the suction of the kiln fan." Additionally, it was suggested that the write-up on Catalytic Oxidation be changed as follows: ". . . but so far their use has not been proven applicable to this source."

Page 5-126.—Reword "Reduced Sulfur and Sulfur Oxides Removal" paragraph as follows:

Of the methods discussed, combustion could be expected to have an effectiveness approaching 100 percent removal. Chlorination and packed tower scrubbers would be expected to be somewhat less effective.

Under "Conclusion" delete the words "especially if it can be accomplished in the lime kiln."

Fig. 5-55.—"Central Odor Control System" should be changed to "Chlorination System."

Figs. 5-60 and 5-61.—The committee was of the opinion that cost curves for catalytic oxidation should be removed since operating difficulties have proven the method impractical. It was agreed that a statement to this effect would be included.

Page 5-136.—It was requested that the percent collected on soda removal be more precisely defined.

CHAPTER 6

The committee suggested that some mention should be made of the possibility of burning non-condensibles in a fluidized bed. It was also pointed out that the reference to Lankenau (2) on Page 6-4 was incorrect.

CHAPTER 8

Section 8.2.2, Selection of Most Feasible Process, was handed out at the meeting.

The industry maintained its objection to the philosophy of including this chapter in the report, but were more favorably inclined to the manner in which the material is now presented.

CHAPTER 9

Section 9.3, Sulfite, was handed out at the meeting. Committee comments on the chapter were that more details were needed on the accuracy, reliability, and suitability of the methods for routine testing. It was further suggested that the reader should not have to refer to references in order to pick a method. It was commented that methods for SO₂ were weak.

CHAPTER 11

Chapter 11 was handed out at the meeting and discussed by Dr. Hendrickson. Industry comments were requested.

Mr. E asked if this chapter would also include the Contractor's recommendations on the manner in which research should be undertaken, contracts,

grants, et cetera. Dr. Hendrickson replied that only the need for research projects would be identified. The selection of the appropriate type of research organization would not be done by the Contractor.

Mr. A suggested that Chapter 11 include the rationale for selecting the suggested research projects. It was noted that this was the original intent.

A lengthy discussion was held on relating research and development needs to the establishment of realistic air criteria and standards, and research to gather data on the physiological effects of pulp mill emissions. Dr. Hendrickson pointed out that criteria for air standards was not a part of this study.

Mr. Tucker stated that an effort would be made to relate research and development recommendations in Chapter 11 to ambient air criteria. Dr. Hendrickson stated that measurement methodology is probably of first priority due to the limitations of present technology.

CHAPTER 12

No comments.

CHAPTER 13

The following comments were made with regard to the multipath flow diagram: The vaporsphere should be shown tied into batch rather than continuous digester and the high solids evaporator should be shown as an emission source. The recovery boiler should be identified as a source of sulfur dioxide and particulates (Figs. 13-2, 13-4).

Dr. Heaney reviewed the mathematical model and considerable questioning resulted, mainly concerning the mechanics of the model and the output expected. Mr. G suggested that the model should include the possibility of reducing production as a control method. It was suggested that the study should approach control from the point of view of odors first, then see what particulate problems remain.

In answer to a committee question, Dr. Hendrickson pointed out that this study includes only the development of a model and does not include the actual projection of industry costs.

GENERAL COMMENTS

Mr. Tucker suggested a possible informal meeting in December to review new material not presently available. The possibility was discussed; a meeting was not scheduled.

The industry pointed out that costs and discussion of tall stacks had been omitted from Chapter 5. Cost curves for tall stacks will be included in the final report.

The committee noted several editorial and typographical errors in the report. It was pointed out that these are preliminary drafts and would be corrected before the final report is prepared.

The committee also requested that pages in future revisions that include changes be marked somehow so that during their review they won't have to plough through unchanged material they have already reviewed.

The latter part of January, 1970 was mentioned as an appropriate time for the next meeting, but the choice of a specific date was delayed pending a re-evaluation of the project schedule.

DR. E. R. HENDRICKSON,
Environmental Engineering, Inc.
JAMES E. ROBERSON,
J. E. Sistine Co.

W. GENE TUCKER,
Executive Secretary, DPCE, NAPCA.

Attachment: Attendance list.

Industry representatives.—Dr. Herman Amberg, Crown Zellerbach Corp.; Mr. Richard Billings, Kimberly-Clark Corp.; Dr. Loren Forman, Scott Paper Co.; Mr. Matthew Gould, Georgia-Pacific Corp.; Dr. Glenn Kimble, Union Camp Corp.; Mr. George Kneeland, St. Regis Paper Co.; Dr. Nick Lardieri, Scott Paper Co.; Mr. George Marsh, Champion Papers; Mr. John McClintock, Weyerhaeuser Co.; Dr. Samuel McKibbins, Continental Can Corp.; Mr. George Rand, International Paper Co.; Mr. William Wassmer, Westvaco; Mr. Peter Wrist, Mead Corp.; Dr. Isaiah Gellman, National Council for Air & Stream Improvement; Mr. Russell Blosser, National Council for Air & Stream Improvement.

Contractor representatives.—Dr. E. R. Hendrickson, Environmental Engineering, Inc.; Mr. J. E. Roberson, J. E. Serrine Co.; Dr. J. B. Koogler, Environmental Engineering, Inc.; Mr. J. Hedenhag, Poly Can Corp.; Mr. S. Jacobsson; Mr. P. P. Gombola, J. E. Serrine Co.; Mr. L. C. Doughty, Reynolds, Smith & Hills; Mr. F. Dryden, Reynolds, Smith & Hills; Dr. J. P. Heany, Environmental Engineering, Inc.; Mr. R. Farrel, J. E. Serrine Co.

NAPCA representatives.—Mr. N. Plaks, Division of Process Control Engineering; Mr. W. G. Tucker, Division of Process Control Engineering; Mr. J. O'Connor, Division of Economic Effects Research; Mr. F. L. Bunyard, Division of Economic Effects Research; Mr. R. V. Hendriks, Division of Process Control Engineering; Mr. E. N. Smith, Jr. Division of Economic Effects Research.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION,
PULP INDUSTRY LIAISON COMMITTEE,
Gainesville, Fla., January 29, 1970.

MINUTES OF MEETING

The Pulp Industry Liaison Committee was convened for its fourth meeting at 8:00 A.M. on January 29, 1970. Mr. W. Gene Tucker, Division of Process Control Engineering, NAPCA, presided as chairman and executive secretary, Messrs. John McClintock of Weyerhaeuser, George Marsh of Champion Papers, and Richard Billings of Kimberly-Clark were absent. See attached list for attendees.

Mr. Tucker opened the meeting and noted that this would be the last committee review of the drafts of the report on NAPCA's engineering study of pulping emissions control. The final report would be forwarded to NAPCA shortly after the contract completion date of March 15, so that any follow-up comments after this meeting should be sent to the contractor by the first week of February.

Mr. Tucker announced that Mr. Sheldon Meyers was the new Director of the Division of Process Control Engineering.

Mr. A acted as industry spokesman and suggested starting with Chapter 10.

CHAPTER 10

A. This chapter looks good and extensive.

Hendrickson. Final form will be as annotated bibliography.

B. Suggested that perhaps this material might better fit in an Appendix rather than a chapter unless discussion was included. Suggested ties between Chapter 10 and 11.

C. Asked Gellman if NCASI felt that all industry work in last two years was published.

B. Letter was sent to all companies and all information that industry wanted to report had been included.

Tucker. NAPCA's purpose was to know what industry was doing so they would not duplicate industry work. NAPCA is interested in obtaining input from the committee at later dates on specific projects to avoid this duplication.

C. Commented that so much of industry's and the equipment suppliers' work was of a proprietary nature and might not be published for years.

Hendrickson. A comment to this effect will be included.

CHAPTER 11

Hendrickson. Distributed first draft of Chapter 11 summary. Stated that several major areas of research are needed and have been identified. Other areas will be helpful in more specific areas or will provide information of a general nature. Discussed specific items on summary:

Item 1: This is needed for ambient air standards for determination of level of compliance. This is probably a major area of importance.

Item 2: Walker asked why lime kilns were included. Hendrickson stated that there was much controversy about whether there was odor or not and where it came from. Wrist said lime kiln incineration was a major factor or variable.

Item 3: Look at dilution required to bring estimated concentration down to acceptable level. Develop model (meteorological) for specific plant site.

Item 4: No Comment.

Item 5: No Comment.

Item 6: Sulfite mills are still here and must be considered.

Item 7: Hendrickson-Data for this study could be obtained from only a very few mills. It is recognized why these data are not generally available but felt that the time is here where this information would be of great value to operating companies.

Item 8: Hendrickson-Industry will have to rely on "add-on" devices and such data does not now exist.

Hendrickson. Stated that the information previously distributed in this chapter still applies, the new section is an order of magnitude. In the second section, no attempt will be made to set an order of priority, but an attempt will be made to define what can be done with this information that cannot be done now.

B. Industry generally agrees with priorities stated. Asked if BLO studies will be included under Item 2.

Hendrickson. This includes the recovery "system"; will change wording accordingly.

B. Industry especially interested in items "b", "e" and "f" from previous draft. Tucker. What is happening inside furnace is more important than BLO.

B. Generally agree but industry feels work is needed on BLO and a considerable effort is underway.

D. Does not feel that this ranking is that firm.

A. Major emissions are from the D.C. evaporators, not the furnace so the important point is the inter-relation of the components.

Tucker. Felt that more is known about BLO than operation of recovery furnace.

D. Disagreed.

E. Industry has more success with operation of the recovery furnace than consistent operation of BLO units. The emphasis should be on the stack rather than the furnace.

B. Answers are coming in from present work. NCASI is attaching more importance to miscellaneous sources and does not feel sufficient emphasis has been given to this area.

C. Felt toughest job would be SO₂ control. Asked about power boilers. Suggest changing terminology for lime kiln to "lime kiln system."

B. Perhaps should say "pulping system." As recovery boiler problems are solved other sources will become more important.

F. Continued contact between NAPCA and industry is important.

A. Suggested that problems are different with old versus new mill. Recovery furnace is more important in old mills; new ones have essentially solved odor emissions.

B. Under Item 5, expressed concern for physical criteria to be used in modeling.

A. Asked if other sources, such as electric power plants, would be included.

Hendrickson. This work would develop the "tools" by which this could be done and would not develop specific recommendations for regulations. The models that exist are geared to SO₂ and particulates, not low threshold compounds or situations such as isolated mills.

C. Stated the importance of background levels.

Hendrickson. This will not develop ambient criteria, but instead the relation between emissions and ambient concentrations.

D. Suggested rewording to add "procedures for" after "develop."

B. Felt the problem to be the path between the emissions and the receptor.

Tucker. The last section under item 5 should be reworded.

Hendrickson. This will be done.

Hendrickson. Item 7 is a recommendation to industry which would make it possible to assess the economic impact of emission control for use with regulating agencies, such as consideration of tax advantages.

C. Expressed doubt that this could be standardized throughout the industry.

A. Felt that if industry knew what was needed it can be done.

G. These data will become more important as more emphasis is placed on tight controls. Suggested omitting "standardize."

Hendrickson. Stated that the Clean Air Act required feedback on the economic impact. Suggested that this be removed from priority list and stated as a suggestion, rather than an R & D recommendation.

B. Item 8 should not be limited to liquids. The important point is a way to reuse collected emissions rather than transpose the problem to water pollution.

B. The emphasis should be on receptor effect. More information is needed on what is really the effect of these emissions.

A. Need more data on the relation between emissions and human health.

H. The important idea is the cost impact, therefore need to establish scientific evidence so the need for bearing this cost can be seen.

Hendrickson. Asked that if industry had any specific projects underway that they felt should be included to send them to him.

CHAPTERS 12 AND 13

A. Felt input costs are quite agreeable and acceptable. The model itself has been examined and is generally acceptable. There are some apparent typographical errors and a list of these will be provided. General agreement with the output costs. The area of disagreement is with the analysis of the output data.

Considerable discussion developed on accounting for the first 90 percent or so of recovery by the precipitators, whether or not this could be called a "savings" since existing mills feel that a 90 percent recovery is required to meet competition and has already been accounted for in the overall mill economics. A subcommittee was set up to meet during the afternoon to continue this discussion while others continued with other chapters.

ADDITIONAL COMMENTS ON CHAPTER 13

A. Suggested notation that the model was not a final answer and could be modified and improved as further data became available.

G. Question ten percent R.O.I.

Tucker. This was probably a wrong decision but has been made.

B. Suggested that both 10 and 20 percent be used.

G. Should clearly state that this is before taxes.

Tucker. Two columns will be included, one for 10 percent and one for 20 percent.

G. Questioned last sentence on page 13-7. Should be "may" rather than "will" and omit the wording "in which ---- eliminated." Questioned second paragraph on page 13-8.

Tucker. This will be omitted.

CHAPTER 8

I. Page 8-5, first sentence should be it is "assumed" rather than "concluded." Page 8-6, first paragraph, omit "unreasonably" fourth paragraph—suggest "specific" rather than "unique." Page 8-35, two additional disadvantages that should be added or emphasized: (1) possibility of process contamination from carbon particles and (2) corrosion problems.

Tucker. Asked for elaboration of carbon problem.

I. The carbon is difficult to remove and goes all the way through to the paper and shows up as black spots.

F. Pilot plant work at Georgia-Pacific has confirmed this as a serious problem.

C. Felt that the summary was very important. He feels that a solution will not be found to reuse the sulfur and that low sulfur oil will be either not available or very expensive.

E. Their pilot plant studies showed that the recovery process was at best a break-even proposition with no advantages to justify it, plus the carbon problem would necessitate a filtration step. Economically, they felt it was better to pay the higher cost for low sulfur oil.

E. Questioned last sentence of second paragraph in the summary, should add "theoretically."

CHAPTER 2

I. Page A-9—Correction on location of Continental Can Mill. Should be Port Wentworth.

E. One new mill shown as scheduled for 1969 has been shelved.

J. Scott Detroit Mill was shut down in 1969.

C. Williamsburg, Pennsylvania pulp mill has been shut down also. Official name is now Westvaco.

The meeting was formally adjourned at about 4:30 P.M.

Mr. Tucker emphasized that the Division of Process Control Engineering intended to maintain a continuing contact with the committee to get its views on specific R & D proposals that the Division feels are worthy of serious consideration.

An informal meeting among Messrs. E. G. Hendrickson, Roberson, Tucker and Withington was held the following morning at the Environmental Engineering offices, Chapter 4, which covered emission rates and was not reviewed the previous day due to lack of time, was covered in detail. Numerous comments, particularly on the discussions of process chemistry, were made by F and G. Much of this information was very valuable in preparing the final version of the report.

Dr. E. R. HENDRICKSON,
Environmental Engineering, Inc.
 JAMES E. ROBERSON,
J. E. Surrine Co.
 W. GENE TUCKER,
Executive Secretary, DPCE, NAPCA.

ATTENDANCE LIST

Industry representatives.—Dr. Herman Amberg, Crown Zellerbach Corp.; Dr. Loren Forman, Scott Paper Company; Mr. Matthew Gould, Georgia-Pacific Corp.; Dr. Glenn Kimble, Union Camp Corp.; Dr. George Kneeland, St. Regis Paper Co.; Dr. Nick Lardieri, Scott Paper Co.; Dr. Samuel McKibbins, Continental Can Corp.; Mr. George Rand, International Paper Co.; Mr. Jack Walker, Westvaco; Mr. Peter Wrist, Mead Corp.; Dr. Isaiah Gellman, National Council for Air & Stream Improvement; Mr. Russell Blosser, National Council for Air & Stream Improvement.

Contractor representatives.—Dr. E. R. Hendrickson, Environmental Engineering, Inc.; Mr. J. E. Roberson, J. E. Surrine Co.; Mr. R. C. Ranew, J. E. Surrine Company; Mr. P. P. Gombola, J. E. Surrine Company; Mr. L. C. Doughty, Reynolds, Smith & Hills; Mr. R. W. Clark, Reynolds, Smith & Hills; Mr. K. Withington, Environmental Engineering, Inc.; Dr. J. P. Heany, Environmental Engineering, Inc.

NAPCA representatives.—Mr. W. G. Tucker, Division of Process Control Engineering; Mr. F. L. Bunyard, Division of Economic Effects Research.

PRIMARY SMELTING INDUSTRY LIAISON COMMITTEE

MEETING MINUTES FOR OCTOBER 1, 1968, DENVER, COLO.

The following people attended the second meeting of the Smelting Industry Liaison Committee:

Mr. Angus Y. Bethune, Matthiessen and Hegeler Zinc Co.
 Mr. Edward R. Bingham, Jr., White Pine Copper Co.
 Mr. Allan K. Booth, Jr., Blackwell Zinc Co., Inc.
 Mr. Joseph W. Burgess, American Zinc Co.
 Mr. John T. Cullom, Magma Copper Co.
 Mr. John H. Davis, Jr., Phelps Dodge Corp.
 Mr. Morris A. Dodd, Eagle-Picher Industries, Inc.
 Mr. Edward M. Jones, Tennessee Copper Co.
 Mr. Stanley D. Michaelson, Kennecott Copper Corp.
 Mr. Kenneth W. Nelson, American Smelting and Refining Co.
 Mr. Walter W. Schmittroth, Bunker Hill Co.
 Mr. Jerome F. Smith, New Jersey Zinc Co.
 Mr. John S. Van Aken, National Zinc Co., Inc.
 Mr. John W. Warren, The Anaconda Co.
 Mr. Richard A. Walters, Arthur G. McKee and Co.
 Mr. Leland P. Argenbright, Arthur G. McKee and Co.
 Mr. Konrad Semrau, Stanford Research Institute
 Mr. F. Alan Ferguson, Stanford Research Institute
 Mr. Paul W. Spalte, National Air Pollution Control Admin.
 Mr. Dario R. Monti, National Air Pollution Control Admin.
 Mr. Norman Plaks, National Air Pollution Control Admin.

In the interim between the first and second meetings, the Committee was expanded from seven to fourteen. All fourteen members of the Committee were present. The change in the charge of the Committee was discussed. Rather than act as individual consultants, members now act as industry liaison representatives with the capacity to speak for industry from the industry viewpoint.

Representatives of the National Air Pollution Control Administration explained the transition of the National Air Pollution Control Center to the National Air Pollution Control Administration, the mission of the Division of Process Control Engineering and its organizational position in the Administration, and the philosophy and methodology of systems studies of specific industries, and more expressly this study and its primary goal definition of technology deficiencies that lie between present and desired control.

The contractor, Arthur G. McKee and Co., and the sub-contractor, Stanford Research Institute, reviewed the study to date and answered questions to clarify various parts of Progress Report No. 8, which had been sent to the Committee members prior to the meeting.

Members of the Committee exhibited considerable interest in the marketing aspects of the study, particularly the fact that elemental sulfur is always marketable, whereas sulfuric acid, sulfur dioxide, and ammonium sulfate are sometimes in little demand. Another significant point of discussion was the effect of increasing foreign and domestic recovery of sulfur products from non-smelter sources on the marketability of sulfur and sulfur-based byproducts from the smelter industry.

Following the comprehensive review of the study to date, the principal points were restated and the following conclusions presented:

1. The contractor will organize the collected data and information and then develop a report of results and conclusions.

2. The Division of Process Control Engineering will try to ensure that the conclusions are objectively reached so that the report will be beneficial to both the government and industry.

3. The cooperation of industry is essential, especially with respect to development of control processes and smelter data.

The necessity for cooperation among industry, the contractor, and NAPCA cannot be overstressed, since the results and conclusions must be the best possible and completely understood by all concerned.

After presentations by NAPCA and the contractor, the meeting was opened for general discussion. Pertinent points in the general discussion follow.

A Committee member stated that if a way could be developed to install a contact H_2SO_4 plant economically, it would somehow be installed. The cost of the plant is not as significant as is its economic impact upon the rest of the smelting plant especially as it affects such aspects as flues, stacks, and manpower.

The cost of removing low concentrations of SO_2 from emission streams is high; a large amount of work is needed to develop methods for increasing the SO_2 concentration of these streams. When some old smelters were built, the possibility that add-on H_2SO_4 plants might be necessary was not considered. As a result, in old plants large amounts of air are added to smelter gases to dilute the SO_2 in the gases and to lower stream temperatures and thus increase equipment life. Even in the newest plants, however, large quantities of SO_2 are emitted at low concentrations. Therefore, economical recovery of low SO_2 concentrations is not the problem of the older plants only.

The contractor said that use of continuous pyrometallurgical processes might have the effect of increasing the SO_2 concentration of emissions. Unfortunately, the contractor has not been able to obtain from the industry data that would quantitatively substantiate the claim about continuous pyrometallurgical processes.

A Committee member stated that using oxygen instead of air in the pyrometallurgical processes would increase SO_2 concentrations. In some cases, this might be more economical than operating a control process on emissions containing the lower SO_2 concentrations; but in most cases, it would be more costly.

A Committee member stated that the requirements for Research and Development cannot be emphasized enough. If it becomes necessary to stop emissions before economical processes are developed, the smelting industry might be forced out of the country. The industry does not believe that sulfur oxide control is that urgent. The study should be made carefully so that it does not present false information that could be used to force the industry into a dangerous situation.

According to the Committee, there are a few organizations that make regulations according to available technology. The State of Montana has slowed its legislation to wait for the smelter report. The Committee made the point that public opinion will be influenced by the report and that this should be kept in mind when the report is written. Certainly, the report should not present superficial conclusions that control is easy and economical thus endangering the industry.

The response was that such endangering of the industry by the report is very unlikely; the Liaison Committee was created to help ensure that this does not happen. It was further stated that the study will be performed reasonably and fairly with the hope that industry will participate in the Research and Development efforts urgently needed now to develop technology before public opinion forces the situation.

The contractor replied that working sheets will not appear in reports; the material appearing will be fully checked and in finished form. When asked if the document could be used as a propaganda tool, the contractor answered, "No!" It was further stated, however, that no matter how carefully a document is written it is possible that material taken out of context could be misused.

Representatives of Process Control Engineering reiterated that its goal is to initiate and advance the development of technology that can be implemented by the industry. The Division's goal does not include abatement. Further, it is not the goal of this study to suggest existing processes for control of existing pyrometallurgical operations; smelter operators know about existing processes. The goal of this study is to define the areas of needed research that would close the gaps between present capability of control and needed capability. The Committee stated that the information presented was fairly encouraging and that it reinforced what had heretofore been inferred.

The Committee continued to express concern whether the report could be used against or used to comprise the smelting industry, especially either by the local authorities or by the public media. Two suggested methods of overcoming this concern were found not to agree with the goals of the study:

1. Is it possible to relate the report to the conservation of a national resource—sulfur from the smelting industry—rather than to control of air pollution?
2. Is it possible to preface the report with the statement that no part of the report can be copied or used against industry?

It was explained that results of the study to date were the best that could be achieved with the information that was available and that the data obtained from the industry were disappointing. A member of the Committee pointed out that operation of a smelter in many respects is an art and not a science and that much information is unobtainable and not known by the whole industry. Another member stated that it must be recognized that some companies have proprietary information that is better than that in the report. A representative of Process Control Engineering then reiterated that the main purpose of this study is to define areas where research and development is needed to increase control capability; therefore, if someone has already developed technology applicable to his own process, that is good.

A Committee member stated the belief that air pollution abatement requirements might have economic effects that would cause the smelter industry to regress and cause some mines and smelters to shut down. When asked what range of cost increases would cause mines and smelters to start shutting down, the reply was that small increases would affect marginal operators.

In respect to the requirement that the recovery process be profitable, one Committee member commented [balance of paragraph deleted].

It was decided that the Committee would next meet to review the draft of the Final Report and that the time and location of the meeting should be determined at a later date.

The Committee was invited to participate in the study by providing the specific information already cited as needed to complete the study.

NORMAN PLAKS,
Division of Process Control Engineering.

CINCINNATI, OHIO, June 11, 1969.

SUMMARY OF SMELTING STUDY FINAL REPORT REVIEW MEETING OF PRIMARY
SMELTING INDUSTRY LIAISON COMMITTEE

Prior to the meeting the draft of the Smelting Study Final Report had been submitted for review to both the NAPCA Project Office and the Primary Smelting Industry Liaison Committee. The reports primary conclusions had indicated that imminent changes to the smelting practice which would result in higher sulfur dioxide concentration in the effluent smelter streams would have greater effect on control than any other factor; efforts applied towards bringing this to pass would have the greatest impact upon the control of emissions. Prior to the meeting with the Committee the Contractor had been informed by the Project Officer that the Reports Conclusions and Recommendations as presented did not build a complete and convincing case and where therefore not defensible. The contractor said that he would do whatever additional work is needed to enhance and complete the Reports' Conclusions and Recommendations. The Final Report with both the Committee's and NAPCA's comments accommodated will be released by the target date of June 30, 1969.

MEETING CONCLUSIONS AND RECOMMENDATIONS:

1. The Smelting Industry Liaison Committee's principle objection to the Report were:

(a) the reports tone declared that control of SO₂ emissions from smelters was technically feasible without placing sufficient emphasis upon what in many cases are rather dismal economics.

(b) the report, by emphasizing that changes to the smelting practice were imminent, and which would result in higher SO₂ concentrations, detracted from the smelter operators critical problem—the control of lean streams from existing operations.

2. The Contractor, who admitted to the existence of discontinuities between the body of the report and the Conclusions and Recommendations, said that he would reassess the relative impacts, upon control of the smelting industry emissions; included would be changes to the smelting practice vs development of more feasible control systems for existing lean streams. Once the reassessment is made a more comprehensive set of conclusions and recommendations will be presented in the report. An important consideration will be the time scale during which processes emitting lean streams will be expected to phase out and be replaced with strong stream emitting smelting processes.

3. From discussions during and outside of the meeting there is apparently developing an understanding and appreciation, on the part of this Industry Liaison Committee, for the mission of DPCE in relation to NAPCA. There are indications that there could be cooperation, between the Smelting Industry and NAPCA on projects aimed towards increasing the feasibility of controlling smelter emissions. This seems to be most apparent with Company A.

4. The Primary Smelting Industry Liaison Committee whose members term expires on June 30, 1969 should be restaffed as soon as possible. The rapport and the potential for cooperation with the Industry should not be allowed to subside especially since future work in this important industrial area is contemplated.

NORMAN PLAKS.

SYSTEMS ANALYSIS STUDY OF THE PRIMARY SMELTING INDUSTRY

MINUTES OF INDUSTRIAL LIAISON COMMITTEE MEETING

*San Francisco, Calif., June 14, 1970.**Representing NAPCA.*—P. W. Spalte, D. R. Monti.*Representing McKee and SRI.*—McKee: L. R. Argenbright; J. H. Jensen; Ben Preble; R. A. Walters; W. D. Michaely. SRI: K. T. Semrau; F. A. Ferguson; H. Benedict; Consultant: L. V. Olson.*Committee members.*—J. W. Burgess, American Zinc; J. T. Collum, Magma Copper; J. H. Davis, Jr., Phelps Dodge; S. D. Michaelson, Kennecott; K. W. Nelson, AS&R; J. W. Warren, Anaconda; A. Y. Bethune, Matthiessen & Hegeler.

1. FORMATION AND FUNCTION OF THE COMMITTEE

After acknowledging that our communications since the Denver meeting may have created some confusion, Mr. Spaitte explained how the committee members were selected; recommendations were taken from individual companies and AMC and selections made to give a balanced group with backgrounds in smelter operations, engineering and environmental control.

The committee was being looked to for advice on the first systems study and projects that might develop from it. The committee would be given prepared materials ahead of regular meeting to enable constructive criticism of what had been done, and it was hoped that as questions or problems arose the committee would be useful in helping overcome them.

Approval was still being awaited to make the committee official, but this stamp of approval was not to detract from the immediate work of the group.

After a request for clarification from Mr. A whether this committee was an aggregation of individual experts or an industry advisory committee, Mr. Spaitte reasserted that what we were looking for was expert advice from individuals.

Mr. A saw greater advantages if the committee could reflect an industry viewpoint rather than subjective individual viewpoints. Further discussion of the distinctions were deferred until later in the discussion.

2. PROJECT CONTENT AND PROJECT PROGRESS

Mr. Preble explained that the initial steps in Phase I, were concerned with an intensive background literature search for data and engineering data surveys of smelter establishments. The literature research, handled cooperatively by McKee and SRI was essentially completed, and 30 out of 34 plant surveys had been accomplished by McKee. Excellent cooperation had been extended by the industry in almost all cases. Mr. Preble restated the objective of this work was to come up with reliable data about emissions, stream conditions and plant conditions needed to assess the feasibility of various control schemes to be analyzed in Phase II.

Mr. Preble appraised the group of general procedures that are being set up to handle company sensitive information that will appear in the final report.

Mr. Semrau and Mr. Benedict of SRI explained the method of approach being used in the offsites field investigation. The objectives of this work were explained in terms of an assessment of the potential severity of the sulfur pollution problem in the vicinity of smelters. This effort is based on a study of land use in the area, topography, meteorology and observation and study of local conditions. The sites of the Arizona smelter group and one site in New Mexico have been visited thus far.

Mr. Preble explained that evaluation of data is in progress in preparation for specific analysis of ten recovery process options in Phase II. A tentative plan of action for Phase II was shown to the group. *The critical comments of the panel with respect to the process options was specifically requested by Mr. Spaitte. The list was to be regarded as purely tentative.*

Mr. A avered that there were two sound approaches. The add-on processes were the most immediate things to consider in view of the economic limitations to radically altering existing plants. Conversion to new processes was a longer range goal for new plants yet to be built. The listing showed these priorities in reverse order.

Mr. Argenbright stated that the list was not ranked in order of priority but was intended to indicate that there was greater need for work on those higher in the list.

Mr. B stated he needed to understand exactly what the pursuit was on the study and what the data was to be used for.

The answer given by Mr. Spaitte is given verbatim: "The data will be used to generate priorities for a federally-sponsored research and development program that hopefully will lead to improved capabilities for control of the emissions from smelter. At the conclusion of this we hope to come up with deserving research projects, well defined, and we hope that these will be sponsored jointly by government and industry. The purpose purely and simply is to comprehensively define the problem, to look at all possible solutions in enough detail to set research and development priorities with confidence."

Mr. A saw problems in evaluating processes for which the data is privately held and classified. Mr. Spaite, acknowledged respect for this situation, and suggested that there are occasions where companies gave up proprietary advantages to gain Federal support. The Program welcomed input from companies whenever this was possible. The committee was asked to consider the list and if contributions would be made in the way or nonconfidential information the Program would be grateful for it.

Several points were raised by committee members concerning the approach in Phase II. From the government side it was believed to be useful because it would define the cost sensitive parameters for the processes so that a company considering its application could evaluate it for their particular problem. Further, it brings together what is available on the processes in one composite picture that is better than that which any one company might have. It was also stated that through contract extensions additional process options could be evaluated.

Mr. Argenbright stated that from McKees point of view their work was believed to be a service to the industry.

In Phase III, the marketability of sulfur units various forms obtainable from smelter gases is being deal with. Mr. Ferguson explained that the work has been broken down into three tasks: 1) to determine the future world and U.S. supply and demand, and probable price of sulfur in the future, 2) to determine the present regional supply and demand for sulfur and sulfur products in areas adjacent to smelters, 3) to establish the potential or future demand for sulfur products in the regional areas served by the smelters. Task 1 and 2 are nearly complete but these represent about one third of the total effort. Looking ahead to task 3, two potential large usages need evaluation, (1) acid leaching of low grade ores and (2) phosphate fertilizer manufacture.

SRI would find very useful any information input that would enable a quantitative evaluation of the ore leaching situation.—Mr. A and Mr. B indicated this information would be very hard to come by since generally little was known about leaching practice and there is need for further research in this area. The issue is very complicated because electro winning of leach solutions regenerates sulfuric acid.

Mr. C stressed that the market evaluation of phosphate fertilizer manufacture should use present competitive prices or projected competitive prices as a basis. Mr. Ferguson indicated that estimates of future production potential are being based on present day economics although in the case of phosphate fertilizer it was still too early in the study to determine how this could be best handled.

3. FURTHER CONSIDERATIONS ON THE ROLE OF THE COMMITTEE

Mr. A expressed a point of view that the study could be best served by the committee acting in a participative manner with the contractor. That is, the committee and other knowledgeable persons from industry, who would be called upon in specific cases to help would provide collective contributions and opinions for McKee to work into the preparation of the report in lieu of the committee providing individual contributions for McKee to evaluate and use in the overall effort. No formal government authorized arrangement was proposed. All work would be done with tacit approval of companies providing the information or people. Thus, the project would not be dependent on the individual advisory contributions from committee members.

Mr. Spaite reasserted that we welcomed any input that the committee would give, not necessarily restricted to what comes across in a committee meeting. Submission of information to the contractor for evaluation for use in the report was certainly welcomed. Informal exchanges of information between the industry people and the contractor was the purview we had on how this system should work. For the present, regulations seem to dictate that the committee members are involved as individuals. Policy could be reviewed to see what could be done to enhance the role of the committee. A formal arrangement by which industry could be solicited for information was not within the scope of Mr. Spaite's authority to approve. The Program would have to look into the technicalities of formalized or semi-formalized arrangement where information solicited from the industry in the governments behalf was involved. The degree of imposition on the industry was a critical factor.

No definite date was set for the second meeting of the committee. It was stressed that a favorable time to have input from the committee was after reasonable conclusions had been drawn from the data on which process options and marketing decisions would be reached. The contractor is expected to meet with NAPCA in July for a comprehensive program review. Ample material is expected to be developed thereafter, to enable an appropriate review by the committee. In any case, NAPCA, hopes to arrange another meeting in a reasonably short time.

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