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OUTLINE OF WORK

LEGISLATIVE HISTORY OF THE CENTRAL INTELLIGENCE AGENCY

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LEGISLATIVE HISTORY OF THE CENTRAL INTELLIGENCE AGENCY

FOREWORD

1. This paper, a study of the legislative history of the Central Intelligence Agency, including pertinent materials on World War II foreign intelligence organizations, has been prepared by the Office of General Counsel, Central Intelligence Agency, as an aid to the better understanding of the present structure and functions of the Central Intelligence Agency.

2. The evolvement of the Agency under Congressional enactments is deeply rooted in earlier Executive developments. For this reason it is important to highlight those developments at least up until the passage of the National Security Act of 1947. Theoretically, the authority to prescribe functions for a foreign intelligence service lies within the power of both the Congress and the President. Without attempting to set down where these powers are mutually exclusive or where they are concurrent, it may be safely stated that in addition to the power of the purse, Congress has power, inter alia, "...to provide for the common Defense and general Welfare of the United States..." and "...To declare War...."[1] This War power includes preparation for war in times of peace, since "...the surest means of avoiding war is to be prepared for it in peace...."[2] Equally clear is the authority of the President to take executive actions to protect the national interest as long as they are not barred by the Constitution or other valid law of the land. "The very delicate, plenary, and exclusive power of the President as the sole organ of the Federal government in the field of international relations...does not require as a basis for its exercise an act of Congress."[3]

3. This paper draws primarily on Executive correspondence and orders, committee hearings and reports, and floor discussions and conference reports on bills specifically relating to CIA. Secondary source material and comment is used for the purpose of continuity and completeness.

4. To the extent this paper contributes to past and on-going efforts to commit the Agency's history to writing, it would seem to fall into the

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areas of a chronology and bibliography of legislative actions affecting the Agency, as well as a collection of: the issues put before Congress for resolution; the alternatives considered by Congress in resolving them; and the reasons or rationale supporting the choices or compromises Congress ultimately approved.

5. It is recommended that the existing CIA publication of the statutes specifically relating to CIA (in text and explanation form) be reviewed in connection with this work.

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CHRONOLOGY

While the United States had engaged in foreign intelligence activities since its founding, it took the events of the late 1930's to provide the impetus for the conception and development of foreign intelligence activities on a Government-wide basis. The results of these efforts culminated in the formation of the Central Intelligence Agency.[4] In this connection, it is felt that it would be helpful to sketch out in chronological fashion some of the highlights of the evolvement of CIA and its predecessor organizations.

I. EXECUTIVE

11 June 1941 Forerunner of national foreign intelligence service established by Presidential Order (6 Fed. Reg. 3422).

Key Elements: Office of Coordinator of Information; Government-wide collection of information bearing on national security; direct reporting to the President; inter-departmental committee system.

23 July 1941 Coordinator of Information authorized to expend funds for certain limited purposes by Presidential letter.

13 June 1942 Coordinator of Information functions, exclusive of certain foreign information activities transferred to Office of War Information, transferred to established Office of Strategic Services (16 Fed. Reg. 3422).

Key Elements: Joint Chiefs of Staff jurisdiction; Director of Strategic Services appointed by the President.

1 September 1942 Certain contracting latitude "...without regard to provisions of law..." granted to Director, Office of Strategic Services (Executive Order 9241).

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22 January 1946 First Government-wide foreign intelligence service established by Presidential directive.

Key Elements: National Intelligence Authority at Secretary-of-Department level; participation by personal representative of the President; the office of the Director of Central Intelligence (appointed by the President)' Central Intelligence Group; within limits of appropriations available to Secretaries of State, War, Navy; precursor of Central Intelligence responsibilities and authorities later enacted into law.

II. CONGRESS

28 June 1944 First independent appropriations for Office of Strategic Services (National War Agency Appropriations Act of 1945).

Key Elements: Appropriations in Title I covering the Executive office of the President; expenditures "for objects of a confidential nature;" certain accounting by certificate of Director of Strategic Services.

26 July 1947 Statutory basis for centralized foreign intelligence service prescribed by the National Security Act of 1947.

Key Elements: National Security Council, Office of the Director of Central Intelligence; the Central Intelligence Agency; foreign intelligence service on a Government-wide basis.

20 June 1949 Statutory basis for the administration of the CIA prescribed by the Central Intelligence Agency Act of 1949.

Key Elements: Enabling authorities for the administration of the CIA on an independent basis.

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I. EXECUTIVE DEVELOPMENT

Between 1941 and 1946 the responsibility for developing a coordinated foreign intelligence effort was assumed by the Executive Branch. President Roosevelt and then President Truman established in succession the Coordinator of Information, the Strategic Services, and the Central Intelligence Group in response to the pre-war, war, and post-war events which spanned this period. Quite understandably, these precursory organizations reflected as of the time of their establishment the Government's foreign intelligence needs as well as its foreign intelligence experience.

A. Initiative

With the continuing deterioration of the international situation in the late 1930's, President Franklin Roosevelt found himself facing an increasing number of complex problems which transcended the responsibilities of any one department. The President needed some staff facility to channel coordinated information to him and to assist him in coordinating the activities of the various departments in connection with these supra-departmental problems.

The vehicle for implementing this central staff came in the form of the Reorganization Act of 1939.[5] Under it, the Executive Office of the President was established.[6]

In September of 1939 the President organized the Executive Office into six principal divisions. One division was set aside for emergency management "...in the event of a national emergency or threat of a national emergency."[7] Eight months later and under a "threatened national emergency," the President established the Office of Emergency Management (OEM) for the "clearance of information..." and to secure maximum "utilization and coordination of agencies and facilities...."[8] In January of 1941 the functions of OEM were further refined in keeping with its duties to "...advise and assist the President in the discharge of extraordinary responsibilities imposed upon him by any emergency arising out of war, the threat of war, (or) imminence of war...."[9]

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Quite clearly the concept for organizing foreign intelligence activities on a Government-wide basis was being born out of the events which foretold the advent of the Second World War. The organizational improvisations to meet the emergency would serve as the foundation for foreign intelligence activity during the War and after it.

B. Coordinator of Information

The authorities and responsibilities of a Government-wide informational channel to the President were more precisely defined on 11 July 1941, some six months after the Presidential finding of a "threatened national emergency" in the case of OEM. The Office of Coordinator of Information (OCI) was then added to the Executive Office, and Colonel William J. Donovan was named to the position. Considering the early period of development, the functions of this office and the functions later enacted for the Central Intelligence Agency were quite similar:

> "Collect and analyze all information and data, which may bear upon national security; to correlate such information and data, and to make such information and data available to the President and to such departments and agencies as the President may determine, and to carry out, when requested by the President, such supplementary activities as may facilitate the securing of information important for national security not now available to the Government."[10]

The Coordinator of Information was to have access to information and data within the various departments and agencies but he was not to interfere with or impair the duties and responsibilities of the President's regular military and naval advisers.[11] To assist him, the Coordinator could appoint committees of representatives of the various departments and agencies. Colonel Donovan was to receive no compensation from the Office but was entitled to transportation, subsistence, and other incidental expenses.[12] Operating expenses for the Office were allocated by the President out of his Emergency Fund. Under this broad mandate, Colonel Donovan began building an intelligence service which would be of significant value in the prosecution of the war effort.

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C. Office of Strategic Services

Following closely on the heels of its Declarations of War against the AXIS powers, Congress enacted the First War Powers Act, 1941 (P. L. 77-354) and thereby conferred upon the President the "...authority which is urgently needed in order to put the Government of the United States on an immediate war footing."[13] Title I of the Act gave the President the authority to redistribute the functions of the various agencies to facilitate the prosecution of the war effort.

With the nation now on a war footing, the desirability of linking the tested and developing capabilities of COI more closely with the Armed Forces received primary emphasis. On 13 June 1942, the President, as Commander in Chief, issued a military order which re-designated the COI as the Office of Strategic Services (OSS) and placed it under the jurisdiction of the Joint Chiefs.[14] (Foreign information activities of COI were transferred to the newly created Office of War Information.[15]) OSS's mandate was to:

> "a. Collect and analyze such strategic information as may be required by the United States Joint Chiefs of Staff.
>
> "b. Plan and operate such special services as may be directed by the United States Joint Chiefs of Staff."

William J. Donovan was appointed by the President as Director of Strategic Services "under the direction and supervision of the United States Joint Chiefs of Staff."

D. OSS Contracting and Appropriations

In carrying out its mission, OSS faced a number of administrative problems which had not confronted COI. COI received necessary and secure support in the form of funding, contracting, and other services from the Executive Office. As a civilian agency under the JCS, OSS could not rely indefinitely upon the Executive Office for such support. The type of support needed sheds light on the support which would be needed later by its successors.

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Under the authority granted by the First War Powers Act of 1941, the President extended to OSS the same privilege to enter into contracts "...without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts..." as had been earlier granted to the War Department, the Navy Department, and the United States Maritime Commission.[16]

In its first fiscal year, OSS received funds by allocation from the President's Emergency Fund. To the extent determined by the President, they could be expended "...without regard to the provisions of law regulating the expenditure of Government funds or the employment of persons in the Government service...." Further, the President could authorize certain expenditures "...for objects of a confidential nature and in any such case the certificate of the expending agency as to the amount of the expenditure and that it is determined inadvisable to specify the nature thereof shall be deemed a sufficient voucher for the sum therein expressed to have been expended."[17]

OSS's dependence upon the President's Emergency Fund was removed by Act of Congress. In OSS's second fiscal year of operation (1943-1944), the National War Agencies Appropriation Act of 1944[18] as it pertained to OSS read as follows:

OFFICE OF STRATEGIC SERVICES

Salaries and expenses: For all expenses necessary to enable the Office of Strategic Services to carry out its functions and activities, including salaries of a Director at $10,000 per annum, one assistant director and one deputy director at $9,000 per annum each; utilization of voluntary and uncompensated services; procurement of necessary services, supplies and equipment without regard to section 3709, Revised Statutes; travel expenses, including (1) expenses of attendance at meetings of organizations concerned with the work of the Office of Strategic Services, (2) actual transportation and other necessary expenses and not to exceed $10 per diem in lieu of subsistence of persons serving while away from their homes without other compensation from the United States in an advisory capacity, and (3) expenses outside the United States without regard to the Standardized Government Travel Regulations and the Subsistence Expense Act of 1926, as amended (5 U. S. C. 821–833), and section 901 of the Act of June 29, 1936 (46 U. S. C. 1241); preparation and transportation of the remains of officers and employees who die abroad or in transit, while in the dispatch of their official duties, to their former homes in

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this country or to a place not more distant for interment, and for the ordinary expenses of such interment; purchase and exchange of law-books and books of reference; rental of news-reporting services; purchase of or subscription to commercial and trade reports, newspapers, and periodicals; the rendering of such gratuitous services and the free distribution of such materials as the Director deems advisable; purchase or rental and operation of photographic, reproduction, duplicating and printing machines, equipment, and devices and radio-receiving and radio-sending equipment and devices; maintenance, operation, repair, and hire of motor-propelled or horse-drawn passenger-carrying vehicles and vessels of all kinds; printing and binding; payment of living and quarters allowances to employees with official headquarters located abroad in accordance with regulations approved by the President on December 30, 1942; exchange of funds without regard to section 3651. Revised Statutes (31 U. S. C. 543); purchase and free distribution of firearms, guard uniforms, special clothing, and other personal equipment; the use of and payment for compartments or other superior accommodations considered necessary by the Director of Strategic Services or his designated representatives for security reasons or the protection of highly technical and valuable equipment; $35,000,000, of which amount such sums as may be authorized by the Director of the Bureau of the Budget may be transferred to other departments or agencies of the Government, either as advance payment or reimbursement of appropriation, for the performance of any of the functions or activities for which this appropriation is made: *Provided*, That $23,000,000 of this appropriation may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds or the employment of persons in the Government service, and $21,000,000 of such $23,000,000 may be expended for objects of a confidential nature, such expenditures to be accounted for solely on the certificate of the Director of the Office of Strategic Services and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

It is to be noted that from its inception, OSS was authorized to operate under two unusual rules relating to the expenditure of Government monies. The first permitted latitude concerning the purpose for which funds could be expended. The second assured that, whenever necessary, the purpose and details of the expenditure could be securely protected against unauthorized disclosure. Subsequent Congresses granted OSS unvouchered fund authority similar to that granted by the 78th Congress in the National War Agencies Appropriation Act of 1944; thus underlining the confidence enjoyed by the Director of OSS in the disposition of confidential funds.[19]

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E. Central Intelligence Group

The efforts to build a comprehensive intelligence system by Executive action was capstoned in the Presidential Directive of 22 January 1946 which established the National Intelligence Authority, the Central Intelligence Group, and the position of the Director of Central Intelligence.

Nearly two years of study and discussion within the Executive Branch preceded the issuance of the Directive. While a number of different proposals relating to functions and structure were advocated during this period, no one questioned the need for a coordinated intelligence system.

The Presidential Directive of 22 January 1946 was to have a marked influence on the legislation which was to follow. Its background sheds light on the issues which the Congress was soon to face.

F. Donovan "Principles"

Around 10 October 1944, General Donovan presented President Roosevelt with a document entitled "The Basis for a Permanent United States Foreign Intelligence Service." In that document, General Donovan wrote that an organization was needed "which will procure intelligence both by overt and covert methods and will at the same time provide intelligence guidance, determine national intelligence objectives, and correlate the intelligence material collected by all Government agencies." General Donovan went on to prescribe ten governing principles:

> "1. That there should be a central, overall Foreign Intelligence Service which (except for specialized intelligence pertinent to the operations of the armed services and certain other Government agencies) could serve objectively and impartially the needs of the diplomatic, military, economic and propaganda service of the Government.
>
> "2. That such a Service should not operate clandestine intelligence within the United States.

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"3. That it should have no policy function and should not be identified with any law-enforcing agency either at home or abroad.

"4. That the operations of such a Service should be primarily the collection, analysis, and dissemination of intelligence on the policy or strategy level.

"5. That such a Service should be under a highly qualified Director, appointed by the President, and be administered under Presidential direction.

"6. That, subject to the approval of the President, the policy of such a Service should be determined by the Director, with the advice and assistance of a board on which the Department of State and the Armed Services should be represented.

"7. That such a Service, charged with collecting intelligence affecting national interests and defense, should have its own means of communication and should be responsible for all secret activities, such as:

(a) Secret intelligence
(b) Counter-espionage
(c) Crypto-analysis
(d) Clandestine subversive operations.

"8. That such a Service be operated on both vouchered and unvouchered funds.

"9. That such a Service have a staff of specialists, professionally trained in analysis of intelligence and possessing a high degree of linguistic, regional, or functional competence to evaluate incoming intelligence, to make special reports, and to provide guidance for the collecting branches of the Agency.

"10. It is not necessary to create a new agency. The nucleus of such an organization already exists in the Office of Strategic Services."

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General Donovan's document was returned on 31 October with a comment that an adviser had informed the President that a better and cheaper intelligence system was possible and a request that General Donovan continue his work on a post-war intelligence organization.

G. Donovan "Plan"

In keeping with the President's request to continue working on a post-war intelligence organization, General Donovan drew up a more detailed plan for the President. In the transmittal memorandum, Donovan recommended that "intelligence control be returned to the supervision of the President," with a "central authority reporting directly to you the President) , with responsibility to frame intelligence objectives and to collect and coordinate the intelligence material required by the Executive Branch in planning and carrying out national policy and strategy."[20]

The detailed plan in the form of a draft directive incorporated the principles Donovan had earlier prescribed and added several functions and duties for the proposed central authority including: "Coordination of the functions of all intelligence agencies of the Government...;" collection, either directly or through existing Government Departments and agencies, of pertinent information...; procurement, training, and supervision of its intelligence personnel; subversive operations abroad, and determination of policies for and coordination of facilities essential to the collection of information."[21]

The Donovan plan also proposed elements necessary to the successful organization and operation of an intelligence organization including authority to "employ necessary personnel and make provision for necessary supplies, facilities, and services" and "provide for the internal organization and management...in such manner as its Director may determine."[22]

H. Joint Chiefs' Consideration

The Donovan plan of 18 November 1944 was sent to various Cabinet officials and the Joint Chiefs. On 24 January 1945, the Joint Strategic Survey Committee submitted a report[23] to the Joint Chiefs of Staff, making comments and recommendations on the Donovan plan and an alternate

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proposal submitted by the Joint Intelligence Committee. With one major exception, the substance of this report was to be recommended by the Secretaries of State, War, and Navy to the President on 7 January 1946 for the establishment of the National Intelligence Authority. The exception concerned an independent budget for the National Intelligence Authority. The Secretaries did not recommend an independent budget, a defect to be corrected by the Congress.

The recommendations of the Joint Strategic Survey Committee report were incorporated into a Joint Chiefs of Staff report[24] dated over a month after the war had ended. This report disagreed with Donovan's concept that the centralized service should exist under the direct supervision of the President. It was thought that that type of structure would "over-centralize the national intelligence service and place it at such a level that it would control the operation of departmental intelligence agencies without responsibility, either individually or collectively to the heads of departments concerned."[25]

The structure recommended by the Joint Chiefs included a National Intelligence Authority composed of the Secretaries of State, War, and Navy and a representative of the Joint Chiefs of Staff. The Authority was to be responsible for overall intelligence planning and development, inspection and coordination of all Federal intelligence activities, and was to assure the most effective accomplishment of the intelligence mission related to the national security. A Central Intelligence Agency with a Director appointed by the President was to be responsible to the NIA and assist it in its mission. An Intelligence Advisory Board made up of the heads of the principal military and civilian agencies having functions related to the national security was to advise the Director of Central Intelligence.

I. Secretaries of State, War, and Navy Consideration

As Donovan had earlier said, the need for foreign intelligence was "to assure that the formulation of national policy both in its political and military aspects is influenced and determined by knowledge (or ignorance) of the aims, capabilities, intentions, and policies of other nations."[26] Obviously, consideration by the Secretaries of State, War, and Navy, the determiners and customers of the proposed intelligence system, was needed before further progress could be made.

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J. Secretary of the Navy

Following the release of the Joint Chiefs of Staff report, Secretary of the Navy, James Forrestal, in a memorandum to the Secretary of War, dated 13 October 1945, commented upon subjects of mutual interest including: "Joint Intelligence. The Joint Chiefs of Staff, as you know, made a recommendation to the President for a national intelligence organization, the general outline of which provides for intelligence supervision by the War, State, and Navy Departments, with a director charged with the working responsibility functioning under these individuals as a group. I think this is a subject which should have our close attention. The Joint Chiefs of Staff paper seems to me soundly conceived and, if you agree, I think we should push it vigorously at the White House."

K. Secretary of War

Assistant Secretary Robert Lovett was placed in charge of a committee in the War Department to study the matter. After considering the opinions of a great many people experienced in wartime intelligence,[27] the Lovett Committee submitted a report [28] to the Secretary of War for a centralized national intelligence organization similar to that recommended in the Joint Chiefs of Staff report six weeks previously.

L. Secretary of State

In keeping with the Secretary of State's pre-eminence in the field of foreign affairs, the President directed him to "take the lead in developing a comprehensive and coordinated foreign intelligence program for all Federal agencies concerned with that type of activity...through the creation of an interdepartmental group, headed up under the State Department, which would formulate plans for (the President's) approval."[29] The Secretary of State submitted his National Intelligence plan to the Secretaries of War and Navy on 10 December 1945.[30]

The plan recommended by the Secretary of State provided for a National Intelligence Authority consisting of the Secretary of State (Chairman) and the Secretaries of War and Navy. Heads of other Departments

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and agencies could participate, on a call-in basis, on matters of special interest to them.

While the State plan did not preclude "centralized intelligence operations" its primary emphasis was on interdepartmental committees and organization, rather than on an independent agency with a separate budget. The accruing advantage was "(1) to avoid publicity and (2) to reduce competition among the central agency and the intelligence organizations of existing departments and agencies."[31]

In the event a centralized intelligence operation under the direction of the Authority was determined to be necessary by the Authority an executive would be appointed and held responsible for the effective conduct of the operation. In such case "...the personnel (including the executive), funds and facilities required to conduct such an operation shall be provided by the departments and agencies participating in the operation, in amounts and proportions agreed by them and approved by the Authority, based upon the relative responsibilities and capabilities of the participating departments and agencies.[32]

M. Recommendation to the President

On 7 January 1946 the Secretaries of State, War, and Navy submitted a joint proposal to the President for the establishment of a National Intelligence Authority and a Central Intelligence Agency.[33] This proposal, with one exception, was identical to the Joint Strategic Survey Committee report which had been submitted almost a year earlier to the Joint Chiefs.

The Secretaries did not recommend an independent budget for the central authority. While an independent budget had been an integral part of the proposals advocated by the Secretary of War and Navy, they seemed to have been swung over to the Department of State's position since "... it seemed to be the consensus at the meeting of the three Secretaries that an independent budget should be avoided for security reasons."[34] Funds for the National Intelligence Authority were to be provided by the participating departments in amounts and proportion agreed upon by the members of the Authority. The Director of the Central Intelligence

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Group, under the Authority, would be able to "employ necessary personnel and make provisions for necessary supplies, facilities and services" within the limits of the funds made available.[35]

N. Presidential Directive

The National Intelligence Authority, the office of the Director of Central Intelligence and the Central Intelligence Group were established by Presidential Directive on 22 January 1946. The Directive was substantially similar to the Secretaries' proposal although specific references to collection of intelligence by the Director were omitted. A close observer at that time suggests that this was done to avoid mention of this function in a published document.[36]

O. Text of Directive

COPY

THE WHITE HOUSE WASHINGTON January 22, 1946

To The Secretary of State,
The Secretary of War, and
The Secretary of the Navy.

1. It is my desire, and I hereby direct, that all Federal foreign intelligence activities be planned, developed and coordinated so as to assure the most effective accomplishment of the intelligence mission related to the national security. I hereby designate you, together with another person to be named by me as my personal representative, as the National Intelligence Authority to accomplish this purpose.

2. Within the limits of available appropriations, you shall each from time to time assign persons and facilities from your respective Departments, which persons shall collectively form a Central Intelligence Group and shall, under the direction of a Director of Central Intelligence, assist the National Intelligence Authority. The Director of Central Intelligence shall be designated by me, shall be responsible to the National Intelligence Authority, and shall sit as a non-voting member thereof.

3. Subject to the existing law, and to the direction and control of the National Intelligence Authority, the Director of Central Intelligence shall:

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a. Accomplish the correlation and evaluation of intelligence relating to the national security, and the appropriate dissemination within the Government of the resulting strategic and national policy intelligence. In so doing, full use shall be made of the staff and facilities of the intelligence agencies of your Departments.

b. Plan for the coordination of such of the activities of the intelligence agencies of your Departments as relate to the national security and recommend to the National Intelligence Authority the establishment of such over-all policies and objectives as will assure the most effective accomplishment of the national intelligence mission.

c. Perform, for the benefit of said intelligence agencies, such services of common concern as the National Intelligence Authority determines can be more efficiently accomplished centrally.

d. Perform such other functions and duties related to intelligence affecting the national security as the President and the National Intelligence Authority may from time to time direct.

4. No police, law enforcement or internal security functions shall be exercised under this directive.

5. Such intelligence received by the intelligence agencies of your Departments as may be designated by the National Intelligence Authority shall be freely available to the Director of Central Intelligence for correlation, evaluation or dissemination. To the extent approved by the National Intelligence Authority, the operations of said intelligence agencies shall be open to inspection by the Director of Central Intelligence in connection with planning functions.

6. The existing intelligence agencies of your Departments shall continue to collect, evaluate, correlate and disseminate departmental intelligence.

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P. Achievement through Executive Action

The publication of the Directive constituted a breakthrough for the concept of a Government-wide foreign intelligence structure. Responsibility for foreign intelligence matters had been clearly fixed in the office of the Director of Central Intelligence. The DCI was under the direction and control of the President's chief advisers in international and military affairs. The Secretaries of State, War, and Navy would be looking to the DCI for the correlation of foreign intelligence, its proper coordination and dissemination, and for all other needs affecting central intelligence matters. Clearly, central intelligence now existed as an entity.

The Directive was a compromise of diverse views which had been articulated for two years within the Executive Branch and more recently by the Secretaries of State, War, and Navy. Even though the fledgling organization was deprived of certain attributes of independence; i. e. independent budget and authority to hire personnel, its charter was written in broad terms so that it could "feel its evolutionary way and handle obstacles only in such order as it deemed best."[37] This would permit the details of the organization to be worked out in the first instance by the officials responsible for its performance.[38]

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II. LEGISLATIVE PROPOSALS--EXECUTIVE BRANCH

As early as 1944, the Director of OSS raised the question of legislation in connection with a permanent post-war intelligence organization.[39] In 1946, the Secretaries of State, War, and Navy saw the preparation of organizational plans to "include drafts of all necessary legislation"[40] as the first order of business once central intelligence had been established by Executive action.

A. CIG Consideration

By July 1946 a draft of enabling legislation for a proposed Central Intelligence Agency (CIA) was being reviewed by Clark M. Clifford, Special Assistant to the President. In transmitting a revision of the draft to Mr. Clifford in November, the DCI wrote that the "current draft has been expanded in the light of the experiences of the last ten months and the administrative facilities available. However, it does not materially change interdepartmental relationships conceived in the original Presidential letter of January 22, 1946."[41]

Two different types of consideration were involved in the proposed legislation. One concerned structural relationships and functions of central intelligence. The other concerned administrative authority to complement the autonomy envisioned for central intelligence.[42] As events transpired, CIA's functional responsibility and administrative authorities were to be divided and enacted in separate legislation. Nevertheless, comprehensive legislation was being pursued at this juncture.

In connection with functions, the comprehensive legislation proposed by CIG included a long declaration of policy ending with the statement that "the foreign intelligence activities, functions, and services of the Government be fully coordinated, and, when determined in accordance with the provisions of this act, be operated centrally for the accomplishment of the national intelligence mission of the United States." The proposal included programs for collecting "...foreign intelligence information by any and all means deemed effective," disseminating

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"...to the President and the appropriate departments and agencies of the Federal Government of the intelligence produced," and for planning and development "...of all foreign intelligence activities of the Federal Government." (Underscoring supplied)

In connection with structural relationships, the National Intelligence Authority was to be statutorily prescribed with the Director of Central Intelligence sitting as a non-voting member and with the CIA providing the Secretariat.

In connection with administrative authority, the appointment of the Director from either civilian or military life was provided for at a salary equivalent to that established by the Atomic Energy Act of 1946 for the Commissioners. A Deputy Director who "shall be authorized to sign such letters, papers, and documents, and to perform such other duties as may be directed by the Director...and to act as Director" in the Director's absence was also included. So was authority to hire retired personnel of the Armed Forces. Provisions for employing persons and authorizing the DCI "in his absolute discretion to, notwithstanding the provisions of other law, terminate the employment of personnel in the interest of the United States..." were also included. (The latter was in keeping with a similar provision found in the Department of State--its Appropriation Act of 1947(P. L. 79-470)). In connection with control of information, it was thought that a provision similar to Section 10 of the Atomic Energy Act of 1946 would be included once the Department of Justice had taken a position on a proposal to revise the espionage laws as recommended by the War and Navy Departments and the FBI. Appropriations and other necessary authorities were also included. In all ways the proposed draft was intended as a permanent authorization for a Central Intelligence Agency.

B. White House Consideration (Armed Forces Unification)

The effort to obtain permanent enabling legislation for a Central Intelligence Agency was subordinated to the objective of unifying the military departments in 1947. Unification was accorded the highest priority within the Executive Branch, with the result that enabling legislation for CIA was to be deferred to 1949.

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The concept of central intelligence was not overlooked in the unification proposals, however. President Truman's second plan for military unification envisioned a single defense establishment served by a number of coordinating agencies, some for inter-military departmental coordination and others for military-civilian coordination.[43] NIA was seen as the mechanism for linking military and foreign policy. It followed that CIG, its subordordinate agency, would serve as a coordinating mechanism for civilian-military intelligence.

The individuals in the White House working on the proposed National Security Act included Mr. Clark Clifford, Special Counsel to the President; Mr. Charles S. Murphy, Administrative Assistant to the President; Vice Admiral Forrest P. Sherman, Deputy Chief for Naval Operations; and Major General Lauris Norstad, Director of Plans and Operations, War Department General Staff. They felt that while the National Security Act should create a Central Intelligence Agency, and provide for its structural relationship, any administrative authorities needed by the Agency should be dealt with in separate legislation.

The second White House draft of the proposed National Security Act of 1947, dated 25 January 1947, covered the CIA as follows:

> "SEC. 302, (a) There is hereby established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof, to be appointed from civilian or military life by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of $15,000 per annum.
>
> (b) Subject to existing law, and to the direction and control of the National Security Council, the Central Intelligence Agency shall perform foreign intelligence functions related to the national security.[44]
>
> (c) Effective when the Director first appointed under subsection (a) has taken office--
>
> (1) The functions of the National Intelligence Authority (established by directive of the President, dated January 22, 1946) are transferred to the National Security Council, and such Authority shall cease to exist.

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(2) The functions of the Director of Central Intelligence, and the functions, personnel, property, and records of the Central Intelligence Group, established under such directive are transferred to the Director of Central Intelligence appointed under this Act and to the Central Intelligence Agency, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency."

In a memorandum to Mr. Clark M. Clifford, dated 28 January 1947, the DCI, General Vandenburg, summarized the outcome of earlier exchanges of views on language pertaining to CIA for incorporation in the National Security Act as "(a) setting forth a working basis for a Central Intelligence Agency to the Merger; and (b) eliminating from the proposed National Security Act any and all controversial material insofar as it referred to central intelligence which might in any way hamper the successful passage of the Act."

While deferring to the higher priority of military unification over CIG enabling legislation, General Vandenburg in the same memorandum went on to urge the incorporation of several additional provisions in the draft of the NSA to be submitted to the President. First, the DCI should sit on the National Security Council as a non-voting member in keeping with the decision of the 22 January 1946 Presidential directive. The specific language suggested was that "the DCI shall serve as the adviser to the Council on all matters pertaining to national intelligence and in this capacity, will attend meetings of the Council at its discretion but shall take no part in the decisions thereof."

Second, rather than merely transferring the functions of the DCI and CIG under the Presidential Directive to the DCI and CIA under the proposed legislation through incorporation by reference, it was recommended that some specific statement of CIA's function be made: "...the CIA shall

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coordinate the Nation's foreign intelligence activities and shall operate centrally those foreign intelligence functions which can be most efficiently performed centrally."

Third, a Deputy Director of Central Intelligence should be provided for: to be appointed from civilian or military life by the President and with the advice and consent of the Senate. The DCI concluded: "It was felt desirable to include this in the legislation in order to provide continuity of action in the absence of the Director or should there be a vacancy in that office. The Deputy Director should be a man of such caliber and stature as adequately to serve as operations deputy to the Director."

None of the DCI's three recommendations were included in the draft of the "National Security Act of 1947," which President Truman submitted to the Eightieth Congress on 26 February 1947. However, a memorandum[45] covering the discussions between CIG and the White House drafters illuminates the extent of agreement reached on certain points within the Executive Branch. Excerpts follow:

DCI as Intelligence Adviser

In a CIG conference preceding the first meeting with the White House drafters--

> "...the Director also indicated his desire to have included a provision that he would serve as the adviser to the Council on National Defense (later changed to National Security Council) on matters pertaining to intelligence, and that in this capacity he would attend all meetings of the Council. It was agreed that the Director should take no part in the decisions of the Council as this was a policy-making body, and it had long been agreed that central intelligence should not be involved in policy making."

At the White House meeting with the drafters--

> "...General Vandenberg stated that he was strongly opposed to the Central Intelligence Agency or its director participating

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in policy decisions on any matter. However, he felt that he should be present at meetings of the Council. To this General Norstad voiced serious exceptions, as he felt that the Council was already too big. He thought that the Director should not even be present as an observer, as this had proven to be cumbersome and unworkable at meetings of the Joint Chiefs of Staff. Admiral Sherman suggested, however, that the Director should normally be present at meetings of the Council, in its discretion. General Vandenberg concurred in this, as did General Norstad, and it was accepted with the additional proviso that the Joint Chiefs of Staff would also attend meetings at the discretion of the Council."

Further--

"...the Army-Navy conferees felt that the position of the Director as the Intelligence Adviser was inherent in the position itself, and that it would not be proper to provide by law that the head of an agency under the Council should sit on the Council."

Specific Statement of Functions of CIA

"...General Vandenberg indicated the difficulties which he had had in having to go to the N.I.A. on so many problems. He felt that the difficulties of his position would be multiplied, as he would have to ask policy guidance and direction from the Council on National Defense, which consists of many more members than the N.I.A. He was assured that the intent of the act was that the CIA would operate independently and come under the Council only on such specific measures as the Council may, from time to time, desire to direct. It would not be necessary for the Agency to ask continual approval from the Council."

Further--

"...It was the final sense of the meeting that the Director of Central Intelligence should report to the Council on National

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Defense. As General Vandenberg indicated that it would be necessary to report somewhere; that neither the President nor he was anxious to have another agency "free wheeling" around the Government. However, it was thought that the agency should have sufficient power to perform its own functions without it being necessary to have specific approval from the Council on each action."

C. Presidential Recommendation to Congress

On February 26, 1947 President Truman submitted to the Congress a draft entitled "National Security Act of 1947." As it pertained to CIA, it read as follows:

"SEC. 202. (a) There is hereby established under the National Security Council a Central Intelligence Agency, with a Director of Central Intelligence, who shall be the head thereof, to be appointed by the President. The Director shall receive compensation at the rate of $14,000[46] a year.

(b) Any commissioned officer of the United States Army, the United States Navy, or the United States Air Force may be appointed to the office of Director; and his appointment to, acceptance of, and service in, such office shall in no way affect any status, office, rank, or grade he may occupy or hold in the United States Army, the United States Navy, or the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer on the active list shall, while serving in the office of Director, receive the military pay and allowances payable to a commissioned officer of his grade and length of service and shall be paid, from any funds available to defray the expenses of the Agency, annual compensation at a rate equal to the amount by which $14,000 exceeds the amount of his annual military pay and allowances.

(c) Effective when the Director first appointed under subsection (a) has taken office--

(1) The functions of the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946) are transferred

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to the National Security Council, and such Authority shall cease to exist.

(2) The functions of the Director of Central Intelligence and the functions, personnel, property, and records of the Central Intelligence Group are transferred to the Director of Central Intelligence appointed under this Act and to the Central Intelligence Agency, respectively, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency."

The White House drafting committee proposed these minimal provisions for section 202 because they felt that the substantive portions of the proposed CIG enabling legislation were too controversial and subject to attack by other agencies and that the general authorities were controversial from a congressional point of view. They felt that CIG might justify these provisions in its own bill if it had time to present them adequately; but that if they were included in the Merger Bill, CIG might not have time to present their picture to the Congress in detail in the course of the hearings.[47]

However, as events transpired, Congress was to give a great deal of attention to four areas affecting section 202:

1. The position of CIA in the Governmental structure.
2. The inclusion of detailed functions for CIA.
3. The position of CIA in connection with internal security.
4. The question of military control over the Director if a military man were appointed to the position.

In fact, during the floor discussion of the bill in the House chamber, Mr. Manasco, a member of the Committee on Expenditures in the Executive Department and a member of the Subcommittee which marked up the bill, said: "This section on Central Intelligence was given more study by our Subcommittee and the Full Committee than any other section of the bill."[48]

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III. CONGRESSIONAL CONSIDERATION

NATIONAL SECURITY ACT OF 1947

A. Background

Even though the development of a Government-wide foreign intelligence service was initiated by the Executive Branch, Congress, in its role as prescriber of functions for the Executive Branch, had considered the need for a Government-wide foreign intelligence service prior to the Presidential transmittal of the draft National Security Act of 1947.

In 1946 the House Committee on Military Affairs issued "A Report on the System Currently Employed in the Collection, Evaluation and Dissemination of Intelligence Affecting the War Potential of the United States."[49] The report recognized the need for strong intelligence as the "nation's final line of defense." The Committee made nine recommendations:

> Recommendation 1: That the National Intelligence Authority, established on January 22, 1946, by Presidential directive, be authorized by act of Congress.
>
> Recommendation 2: That the National Intelligence Authority shall consist of the Secretaries of State, War, and the Navy, or deputies for intelligence.
>
> Recommendation 3: That the Central Intelligence Group receive its appropriations direct from the Congress.
>
> Recommendation 4: That the Central Intelligence Group has complete control over its own personnel.
>
> Recommendation 5: That the Director of the Central Intelligence Group be a civilian appointed for a preliminary term of two years and a permanent term of 10 years, at a salary of at least $12,000 a year.

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Recommendation 6: That the Director of the Central Intelligence Group be appointed by the President, by and with the consent of the Senate.

Recommendation 7: That the Director of Central Intelligence shall (1) accomplish the correlation and evaluation of intelligence relating to the national security, and the appropriate dissemination within the Government of the resulting strategic and national policy intelligence, and in so doing making full use of the staff and facilities of the intelligence agencies already existing in the various Government departments; (2) plan for the coordination of such of the activities of the intelligence agencies of the various Government departments as relate to the national security and recommend to the National Intelligence Authority the establishment of such over-all policies and objectives as will assure the most effective accomplishment of the national intelligence mission; (3) perform, for the benefit of said intelligence agencies, such services of common concern related directly to coordination, correlation, evaluation, and dissemination as the National Intelligence Authority shall determine can be more efficiently accomplished centrally; (4) perform such other similar functions and duties related to intelligence affecting the national security as the Congress and the National Intelligence Authority may from time to time direct. It is specifically understood that the Director of Central Intelligence shall not undertake operations for the collection of intelligence.

Recommendation 8: That Paragraphs 2, 4, 5, 6, 7, 8, 9, and 10 of the Presidential directive of January 22, 1946, relating to the establishment of a National Intelligence Authority be enacted into law, with such revisions in wording as may seem necessary.

Recommendation 9: That the Army be requested sympathetically to examine further the question of the establishment of an Intelligence Corps for the training, development, and assignment of especially qualified officers.

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Illustrative of Senate consideration of a Government-wide foreign intelligence organization is the action of the Senate Committee on Military Affairs during the second session of the 79th Congress, 1946. The first Truman plan for unification was submitted to Congress on 19 December 1945 and embodied in S. 2044, which was introduced by Senators Thomas, Hill, and Austin on 9 April 1946. The bill proposed a National Security Council outside of the national defense establishment and under it a Central Intelligence Agency for the purpose of coordinating military and civilian programs, policies, and plans in the foreign intelligence field.[50] In hearings before the Senate Committee on Military Affairs, General Marshall stated:

> "Intelligence relates to purpose as well as to military capacity to carry out that purpose. The point, I think, is we should know as much as we possibly can of the possible intent and the capability of any other country in the world.... Prior to entering the war we had little more than what a military attache could learn at a dinner, more or less, over the coffee cups.... Today I think we see clearly we must know what the other fellow is planning to do, in our own defense.... The important point is that the necessity applies equally outside of the armed forces. It includes the State Department and other functions of the Government, and it should therefore be correlated on that level."[51]

While S. 2044 was favorably acted upon by the Senate Military Affairs Committee, the Senate Committee on Naval Affairs, which also considered the bill, did not report the bill out; and it died in the 79th Congress.

The first session of the 80th Congress was to be the testing ground for the concept of centralized intelligence. On 26 February 1947 Congress received the Presidential draft of the National Security of 1947.

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Title I of the draft concerned the "National Defense Establishment." Title II,[52] "Coordination for National Security," provided for the National Security Council, Central Intelligence Agency[53] and the National Security Resources Board.

B. Congressional Processing

Congress, conceiving its tasks as providing for the future security of the United States, spent nearly five months in deliberating the provisions to be included in the National Security Act of 1947. The legislative processing relating to these deliberations is helpful in keying into the substantive evolvement of the CIA section of the Act.[54]

Senate. Introduction of a bill incorporating the President's draft was temporarily delayed in the Senate by a question concerning which standing committee would have jurisdiction over the bill. The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) questioned the decision of the President pro tem, Arthur Vandenburg (R., Mich.), to refer the measure to the Armed Services Committee.[55] The Senate upheld the President pro tem's ruling on 3 March, and Chairman Gurney (R., S.D.) then introduced the measure as S. 758. His Armed Services Committee held hearings for ten weeks, went into executive session on 20 May, and reported out an amended version of S. 758 on 5 June.[56] The bill was discussed on the floor on the 7th and on the 9th of July, when it was also approved by voice vote.

House. The measure was introduced in the House on 28 February 1947 as H.R. 4214 by the Chairman of the Committee on Expenditures in the Executive Departments (now the Committee on Government Operations), Clare Hoffman (R., Mich.). His Committee commenced hearings on 2 April 1947, concluding them on 1 July. A favorable report was issued on 16 July. H.R. 4214 was discussed by the House on 19 July, amended, ans passed by a voice vote. Immediately following passage of H.R. 4214, the House passed S. 758 after substituting the provisions of its own measure.

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Conference. S. 758 emerged from Conference Committee on 24 July. The Senate accepted the Conference Report the same day by a voice vote with the House following suit on the 25th of July.

C. Legislative Record of CIA

The legislative record on the CIA section of S. 758 and H.R. 4214 is found primarily in the reports of the committees and in the Congressional Record. Testimony of witnesses before the committees is also helpful in identifying the issues raised, the alternatives considered in resolving them, and the reasons or explanations for the choices or compromises ultimately approved.

In the legislative process, committees and particularly their members bear the brunt of responsibility for creating the record on the bills the committee reports out. In carrying out this responsibility, it must be recognized that security and other considerations act as a built in brake on what is written and said. In illustration, during the floor debate in the House on the CIA section of H.R. 4214, Mr. Manasco in opposing an amendment said "Many witnesses appeared before our committee. We were sworn to secrecy, and I hesitate to even discuss this section, because I am afraid that I may say something, because the Congressional Record is a public record, and divulge something here that we received in that committee that would give aid and comfort to any potential enemy we have." [57]

Considering this fact,a fairly extensive public record was made on the CIA section. In a way, this proved the White House drafting team correct in estimating that the CIA section had the potentiality for being a controversial part of the draft National Security Act of 1947. However, the drafting team was wrong in assuming that extensive deliberation would be avoided by reducing the CIA section down to, and in the view of CIG below, the minimum provisions needed, further, it underestimated Congressional interest in providing for a CIA.

Probably the most striking aspect of the Congressional discussion concerning CIA was the overwhelming support for institutionalizing the Agency in statute as a positive step towards protecting the nation's security. An interesting turnabout was the insertion of two provisions by Congress which had been earlier recommended by CIG, without success, to the White House drafting team. The first authorized the Director to terminate

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the employment of an officer or employee in the interests of the United States at the Director's discretion "nothwithstanding the provisions of any other law." The second involved spelling out functions for the Agency.

Actually, the CIA was but a part of a legislative proposal and, with the section relating to the National Military Establishment being the real center of controversy, CIA was bound to be caught in this controversy as much or more so than the National Military Establishment was to be caught in any controversy surrounding CIA.

The most extensively discussed provision relating to CIA concerned whether the Director of Central Intelligence should be a civilian or not. Undoubtedly, this was related to the strong sentiment in the Congress for retaining the traditional civilian control over the armed forces and against building up a strong General Staff. In line with "... a legitimate fear in this country lest we develop too much military control of any agency which has great powers and operates in secret...", ~~Congressman Judd's amendment to require that~~ an amendment requiring civilian status in the Director of Central Intelligence ~~be a civilian~~ passed the House. While the amendment was later eliminated in conference ~~committee~~, the House conferees were successful in obtaining a compromise provision which "... seeks to divorce the head of the agency from the armed services if a man in the service is appointed."[58]

For the most part, the reasons and rationale for Congressional action on the CIA section are clearly brought out in the record. An exception relates to the determination by Congress, in its wisdom, to specify functions for CIA in the Act. A ~~number~~ summary of some of the reasons advanced in support of ~~were advanced:~~ specifying these functions would include:

~~Under~~ The ~~theory of the~~ separation of powers obligates Congress is obligated to prescribe functions for the Executive Branch;

The lessons of Pearl Harbor imposed upon Congress, for the nation's future security, the responsibility for requiring one clearly responsible focal point for coordinating and disseminating national foreign intelligence;

Unless Congress expresses its intent in law, there is no assurance that the Executive Branch will follow its intent;

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Unless CIA's functions are specified, it may encroach upon the functions of other Agencies.

A further complicating factor is that CIG had strongly recommended to the White House drafting team that the functions of CIA be spelled out. This was to provide a stable charter for its primary responsibilities and to avoid the problem of constantly referring back to the National Security Council. The drafting team had no disagreement with the merits of CIG's position, it is recalled, but only felt that it should be done in separate legislation. Undoubtedly, the desirability of such a charter for the effective functioning of the Agency was also known to many knowledgeable members of Congress.

With this as an introduction to the paucity of the record in some cases and its obscurity in others, the legislative record on CIA will be arranged according to the dominant themes which were to develop:

the need for a Central Intelligence Agency;
the place of CIA in the Governmental structure;
the specification in statute of functions for CIA;
the ~~fear of~~ military control over the Director of Central Intelligence.
~~the authority of~~ CIA in connection with internal security.

Need for Central Intelligence

The need for central intelligence was reflected in the findings of committees during the 79th Congress, as previously noted, and was to be stressed again during the 89th Congress.

Four days before hearings were to commence on S. 758, Senator Thomas[59] of Utah made a major address on the floor of the Senate concerning the "President's" bill and emphasized the need for a Central Intelligence Agency:[60]

"Neither the War Department nor the Navy Department had an intelligence service adquate to our needs when the war broke out. The intelligence agencies in each Department operated separately for the most part, except for the exchange of routine military and naval attache reports. There was no real integration of intelligence at the operating level, and no established liaison with the State Department. Though funds were inadequate, there was much duplication of effort by the services.

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"The war brought substantial appropriations and drastic reorganization. The Office of Strategic Services was finally set up under the jurisdiction of the Joint Chiefs of Staff, and acted as the central coordinating agency in intelligence matters. Later, the Joint Intelligence Committee and its subcommittees made further provision for the coordination of intelligence activities. In spite of these and other changes, however, much unnecessary duplication existed in the intelligence services of the State, War, and Navy Departments. The significance of the collection, anaylsis, and evaluation of information concerning foreign countries is no less great now than it was during the war. The effective conduct of both foreign policy and military policy is dependent on the possession of full, accurate, and skillfully analyzed information concerning foreign countries. With our present world-wide sphere of international responsibility and our position among the world powers, we need the most efficient intelligence system that can be devised. Organization, of course, is not the whole story. We do know, however, that there is no returning to the prewar system, where the War, Navy and State Departments went their respective ways. We have now a central intelligence agency established by executive action. Provision for such an agency should be made in permanent legislation. It seems entirely logical that such an agency should be placed in the framework of any agency that might be set up to coordinate military and foreign policies.

The theme stated so strongly by Senator Thomas was to be reiterated and amplified when the Senate Armed Services Committee commenced its hearings on S. 758:

Vice Admiral Forrest Sherman, who was a member of the White House drafting team and who was detailed by the Secretary of the Navy to work with the Military Affairs Committee on the Common Defense Act of 1946, said: "I consider the Central Intelligence Agency to be a vital necessity under present world conditions. Its necessity will increase with our greater international responsibilities and as the power of sudden attack is amplified by further developments in long range weapons and weapons of mass destruction."[61]

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Lt. General Hoyt S. Vandenberg,[62] Director of Central Intelligence, made the most comprehensive statement concerning the need for central intelligence:

> I sincerely urge adoption of the intelligence provisions of this bill. Section 202 will enable us to do our share in maintaining the national security. It will form a firm basis on which we can construct the finest intelligence service in the world.
>
> In my opinion, a strong intelligence system is equally if not more essential in peace than in war. Upon us has fallen leadership in world affairs. The oceans have shrunk until today both Europe and Asia border the United States almost as do Canada and Mexico. The interests, intentions, and capabilities of the various nations on these land masses must be fully known to our national policy makers. We must have this intelligence if we are to be forewarned against possible acts of aggression, and if we are to be armed against disaster in an era of atomic warfare.
>
> I think it can be said without successful challenge that before Pearl Harbor we did not have an intelligence service in this country comparable to that of Great Britain or France or Russia or Germany or Japan. We did not have one because the people of the United States would not accept it. It was felt that there was something un-American about espionage and even about intelligence generally. There was a feeling that all that was necessary to win a war—if there ever were to be another war—was an ability to shoot straight. One of the great prewar fallacies was the common misconception that, if the Japanese should challenge us in the Pacific, our armed services would be able to handle the problem in a matter of a few months at most.
>
> All intelligence is not sinister, nor is it an invidious type of work. But before the Second World War, our intelligence services had left largely untapped the great open sources of information upon which roughly 80 percent of intelligence should normally be based. I mean such things as books, magazines, technical and scientific surveys, photographs, commercial analyses, newspapers, and radio broadcasts, and general information from people with a knowledge of affairs abroad. What weakened our position further was that those of our intelligence services which did dabble in any of these sources failed to coordinate their results with each other.
>
> The Joint Congressional Committee to Investigate the Pearl Harbor Attack reached many pertinent conclusions regarding the shortcomings of our intelligence system and made some very sound recommendations for its improvement. We are incorporating many of these into our present thinking.
>
> The committee showed that some very significant information had not been correctly evaluated. It found that some of the evaluated information was not passed on to the field commanders. But, over and above these failures were others, perhaps more serious, which went to the very structure of our intelligence organizations. I am talking now of the failure to exploit obvious sources; the failure to coordinate the collection and dissemination of intelligence; the failure to centralize intelligence functions of common concern to more than one department of the Government, which could more efficiently be performed centrally.

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In the testimony which has preceded mine in support of this bill—by the Secretaries of War and the Navy, General Eisenhower, Admiral Nimitz, and General Spaatz, among others—there has been shown an awareness of the need for coordination between the State Department and our foreign political policies on one hand and our National Defense Establishment and its policies on the other. Similarly with intelligence, there must be coordination and some centralization, so that no future congressional committee can possibly ask the question asked by the Pearl Harbor Committee: "Why, with some of the finest intelligence available in our history—why was it possible for a Pearl Harbor to occur?"

The committee recommended that intelligence work have centralization of authority and clear-cut allocation of responsibility. It found specific fault with the system of dissemination then in use—or, more accurately, the lack of dissemination of intelligence to those who had vital need of it. It stated that—

> the security of the Nation can be insured only through continuity of service and centralization of responsibility in those charged with handling intelligence.

It found that there is no substitute for imagination and resourcefulness on the part of intelligence personnel, and that part of the failure in this respect was—

> the failure to accord to intelligence work the important and significant role which it deserves.

The committee declared that—

> efficient intelligence services are just as essential in time of peace as in war.

All of these findings and recommendations have my hearty concurrence. In the Central Intelligence Group, and in its successor which this bill creates, must be found the answer to the prevention of another Pearl Harbor.

As the United States found itself suddenly projected into a global war, immense gaps in our knowledge became readily apparent. The word "intelligence" quickly took a fashionable connotation. Each new wartime agency—as well as many of the older departments—soon blossomed out with intelligence staffs of their own, each producing a mass of largely uncoordinated information. The resultant competition for funds and specialized personnel was a monumental example of waste.

The War and Navy Departments [illegible] nomic intelligence staffs, as did the Research and Analysis Division of the OSS. The Board of Economic Warfare and its successor, the Foreign Economic Administration, also delved deeply into fields of economic intelligence. Not content with staffs in Washington, they established subsidiary staffs in London and then followed these up with other units on the Continent.

When, during the war, for example, officials requested a report on the steel industry in Japan or the economic conditions in the Netherlands East Indies, they had the reports of the Board of Economic Warfare, G-2, ONI, and the OSS from which to choose. Because these agencies had competed to secure the best personnel, it was necessary for each of them to back up its experts by asserting that its particular reports were the best available, and that the others might well be disregarded.

As General Marshall stated in testifying on the unification bill before the Senate Military Affairs Committee last year—

> * * * Prior to entering the war, we had little more than what a military attaché could learn at a dinner, more or less over the coffee cups.

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From this start, we suddenly had intelligence springing up everywhere. But nowhere was its collection, production, or dissemination fully coordinated—not even in the armed forces. General Marshall pointed this out in his testimony when he mentioned—

> the difficulty we had in even developing a Joint Intelligence Committee. That would seem to be a very simple thing to do, but it was not at all.

There are great masses of information available to us in peace as in war. With our wartime experience behind us, we know now where to look for material, as well as for what to look.

The transition from war to peace does not change the necessity for coordination of the collection, production, and dissemination of the increasingly vast quantities of foreign intelligence information that are becoming available. This coordination the Central Intelligence Agency will supply.

President Roosevelt established the Office of Strategic Services for the purpose of gathering together men of exceptional background and ability who could operate in the field of national, rather than departmental, intelligence. In weighing the merits of the OSS, one should remember that it came late into the field. It was a stopgap. Overnight, it was given a function to perform that the British, for instance, had been developing since the days of Queen Elizabeth. When one considers these facts, the work of the OSS was quite remarkable and its known failures must be weighed against its successes. Moreover, it marked a crucial turning point in the development of United States intelligence. We are now attempting to profit by their experiences and mistakes.

Having attained its present international position of importance and power in an unstable world, the United States should not, in my opinion, find itself again confronted with the necessity of developing its plans and policies on the basis of intelligence collected, compiled, and interpreted by some foreign government. It is common knowledge that we found ourselves in just that position at the beginning of World War II.

For months we had to rely blindly and trustingly on the superior intelligence system of the British. Our successes prove that this trust was generally well placed. However, in matters so vital to a Nation having the responsibilities of a world power, the United States should never again have to go hat in hand, begging any foreign government for the eyes—the foreign intelligence—with which to see. We should be self-sufficient. The interests of others may not be our interests.

The need for our own coordinated intelligence program has been recognized in most quarters. The Pearl Harbor disaster dramatized that need and stopgap measures were adopted. As the war drew to a close, the President directed the Joint Chiefs of Staff to study the problem and draft recommendations for the future.

By the assignment of primary fields of intelligence responsibilities, we are—in the fields of collection, production, and dissemination—pre-

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venting overlapping functions.

By the assignment of primary fields of intelligence responsibilities, we are—in the fields of collection, production, and dissemination—pre-

Testimony before the House Committee on Expenditures in the Executive Departments included the following comments on the need for Central Intelligence:

General Carl Spaatz, Commanding General, Army Air Force, "The bill provides the basic elements of security of which we may mention five. ...Fourth, correct intelligence. The bill provides for enlargment of our capacity to know the capabilities of our possible enemies, how they can attack us, and with what. Each service will retain its own technical intelligence with its own trained attaches abroad. The CIA will coordinate information from all the services, as well as from other branches of the Government." [63]

. . . .

Fleet Admiral Nimitz, "The bill will establish a Central Intelligence Agency charged with the responsibility for collection of information from all available sources evaluation of that information and dissemination thereof. This Agency is intended to secure complete coverage of the wide field of intelligence and should minimize duplication. The bill recognizes that military intelligence is a composite of authenticated and evaluated information covering not only the armed forces establishment of a possible enemy but also his industrial capacity, racial traits, religious beliefs, and other related aspects."[64]

. . . .

Secretary James V. Forrestal, Secretary of the Navy,[65] listed the CIA second among the essentials of the bill, after the National Security Council. "The need for that (CIA) should be obvious to all of us."[66]

. . . . .

Rep. W. J. Dorn (D., S.C.): "With regard to the Central Intelligence Agency--I may be wrong, but I have always felt that if Admiral Kimmel had had proper intelligence from Washington the attack on Pearl Harbor would not have occurred, or at least we would have been able to meet it better. From your experience, do you think that this Central Intelligence Agency alone would warrant passage of this bill?"

Vice Admiral Radford: "Of course, I think it is most important. Actually it is in existence now. It is already functioning." [67]

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The Senate Committee report on S. 758 succinctly stated that: "To meet the future with confidence, we must make certain... that a central intelligence agency collects and analyzes that mass of information without which the Government cannot either maintain peace or wage war successfully." 68

The House committee report on H.R. 4214 expressed the need with equal clarity by stating, "The testimony received by your committee discloses an urgent need for a continuous program of close coordination between our domestic, foreign and military policies so that we may always be able to appraise our commitments as a Nation in the light of our resources and capabilities. This, you committee feels can be accomplished by the provisions of the bill for the National Security Council supplemented by a Central Intelligence Agency and the National Security Resources Board." Further that, "In order for the Council (National Security Council), in its deliberations and advice to the President, may have available adequate information, there is provided a permanent organization under the Council, which will furnish that information." 69

The need for central intelligence was also expressed on the floor of the Senate when S. 758 came up for consideration on the 7th and 9th of July:

Sen. M. Gurney: "As an important adjunct to the National Security Council there is a provision for a Central Intelligence Agency, which fills a long recognized demand for accurate information upon which important decisions, relating to foreign military policy can be based." 70

. . . . .

Sen. Baldwin: "Under the Council there is established a central intelligence agency to provide coordinated, adequate intelligence for all Government agencies concerned with national security. When one reads the record of the past war in regard to that field it is found that there was much to be desired in the way intelligence was covered, and there was great conflict about it. I say nothing here in deprecation of the men who were engaged in the intelligence service, because some remarkable and extremely courageous things were done. Nevertheless, we demonstrated from our experience the need of a central intelligence agency...."71

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Sen. Hill: "It would (S. 758) provide adequate security measures at all times, rather than only when hostilities threaten. It creates... a central intelligence agency which is so essential for the Government to maintain peace and without which the Government cannot wage war successfully." [72]

The need for central intelligence was also stressed on the floor of the House when H.R. 4214 was considered on 19 July:

Rep. Wadsworth: "This (H.R. 4214 and the instrumentalities it establishes) links the military policy with foreign policy, all measured by our resources and the potentialities of other people." [73]

. . . . .

Rep. Busbey (although troubled with certain features of the CIA section) said: "I am not opposed to a central intelligence agency. ... You remember Pearl Harbor. They had intelligence, but it was not correlated and evaluated correctly." [74]

. . . . .

Rep. Andrews of New York: "On the next level above the National Military Establishment there is provided the National Security Council with the President as chairman, which will effectively coordinate our domestic and foreign policies in the light of sound information furnished by the Central Intelligence Agency." [75]

. . . . . .

Rep. Sikes of Fla.: "During the intervening years between wars we have never had a proper balance between our foreign and military policies... We have never been fully informed of the capabilities, potential or intent of likely enemies... This is another time when we can well say, 'Remeber Pearl Harbor.'" [76]

. . . . .

Rep. Short of Mo.: "Mr. Chairman, on every score and by every count we should vote adequate funds for... our Central Intelligence--which has been lamentably weak--... These (including Central Intelligence) are the things above all others which will guarantee our security." [77]

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Rep. Holifield of Calif.: "Mr. Chairman, one of the most important features of this bill is the Central Intelligence Agency. I would like for you to turn back with me this afternoon to the most terrible period preceding World War II. Why, you had most of the newspapers and people in this country thinking that Adolf Hitler was a comic character, that a war in Europe could not last through the winter---I remember those editorials quite well--that Germany would not last through the winter of 1939. I remember officers of the Navy coming back from observation posts in the Pacific and saying that the Japanese could not last 3 weeks in a war with America. The Government in Washington was stunned and shocked beyond belief when it suddenly realized that Paris and France would fall. An important Member of the other body, who is still serving in that body, said that a few bombs on Tokyo would knock them out of the war. What a woeful lack of intelligence as to the potential power of our enemies. People were saying that Mussolini would not attack; that he was only bluffing. Around the world there was a total lack of knowledge of those forces that were marshalling to destroy American democracy. I tell you gentlemen of the committee that your central intelligence agency is a very important part of this bill." 78

. . . . .

Rep. Holifield: "I want to read to you some of the conclusions of the Pearl Harbor Committee, as follows. Their conclusions were: 'That the Hawaiian Command failed to discharge their responsibility in the light of the warnings received from Washington, and other information possessed by them and the principal command by mutual cooperations. (B) They failed to integrate and coordinate their facilities for defense, to alert properly the Army and Navy Establishments in Hawaii, particularly in the line of warning and intelligence available to them during the period November 27 to December 7, 1941. They failed to effect liaison on a basis adequately designed to acquaint each of them with the operations of the other, which was necessary to their joint security, and to exchange fully all significant intelligence, and they also failed to appreciate and evaluate the significance of the intelligence and other information available to them." 79

. . . . .

Rep. Harness: "Now a word about the Central Intelligence Agency. When such an organization was first proposed I confess I had some fear and doubt about it. Along with other members of the Committee, I insisted that the scope and authority of this Agency be carefully defined and limited. Please bear in mind that this is a bold departure from American tradition. This country has never before officially resorted to the collection of secret and strategic information in time of peace as an announced and fixed policy. Now, however, I am convinced that such an Agency as we are now considering is essential to our national security."

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Rep. Wadsworth: "...In addition, under the Council there would be another element which is to advise the Council, subject to regulations made by the Council, in the field of Intelligence, in the foreign field; and there is established a central intelligence agency subject to the Council headed by a director. The function of that agency is to constitute itself as a gathering point for information coming from all over the world through all kinds of channels concerning the potential strength of other nations and their political intentions. There is nothing secret about that. Every nation in the world is doing the same thing. But it must be remembered that the Central Intelligence Agency is subject to the Council and does not act independently. It is the agency for the collecting and dissemination of information which will help the President and the Council to adopt wise and effective policies. So with the information of that sort concerning other nations and information coming in with respect to our own resources, both of which are available to the Council and President, we will have for the first time in our history a piece of machinery that should work and it is high time that we have it. We have never had it before. During this last war all sorts of devices were resorted to, obviously in great haste, to accomplish a thing like this. You may remember the huge number of special committees, organizations and agencies set up by Executive Order in an attempt to catch up with the target. We have learned as a result of the war that we should have some permanent organization, and that is the one proposed in this bill."[81]

. . . . .

Rep. Manasco: "If we had had a strong central intelligence organization, in all probability we would never had had the attack on Pearl Harbor; there might not have been a World War II.. I hope the committee will support the provision in the bill, because the future security of our country in a large measure depends upon the intelligence we get. Most of it can be gathered without clandestine intelligence, but some of it must be of necessity clandestine intelligence. The things we say here today, the language we change, might endanger the lives of some American citizens in the future." [82]

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The preceeding excerpts emphasize the wide-spread support in the Congress for the statutory ratification of the concept of central intelligence. Opposition was forthcoming but it was to be related to either specific provisions or lack of safeguards in the CIA section and not to the general question of whether a Central Intelligence Agency was needed.

Postion Within Executive Branch

One of the themes dominating the legislative record on the CIA section concerned the position of the CIA in the Executive structure. Discussion of this question helped to crystallize the supra-departmental nature of the function and responsibilities of central intelligence and to test the soundness of the relationship established under the National Intelligence Authority within the "intelligence community."

It is recalled that the 22 January 1946 Presidential Directive creating the NIA placed the Director of Central Intelligence and the Central Intelligence Group under the control of the President's chief advisor in international and military affairs, the Secretaries of State, War and Navy, and the personal representative of the President. The DCI was a non-voting member of the NIA.

The Presidential draft of the National Security Act of 1947 simply provided that "there is hereby established under the National Security Council [83] a Central Intelligence Agency, with a Director of Central Intelligence, who shall be the head thereof. . . ." It also transferred ". . . the functions of the National Intelligence Authority. . . to the National Security Council." [84] The functions of the NIA, were to plan, develop and coordinate all Federal foreign intelligence activities ". . . to assure the most effective accomplishment of the intelligence mission related to the national security." [85] It also transferred the functions of the DCI and the CIG under the NIA to the DCI or CIA under the proposed act.

Three concerns were raised in connection with this arrangement. The first was whether the Agency could effectively operate by reporting to a group, the National Security Council. The second was whether this structural arrangement would support satisfactory relationships between the CIA and departments and their intelligence agencies. The third was the position of the DCI with respect to the NSC.

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During the hearings in the House committee, Representative Walter Judd (R., Minn.) pursued the respective merits of the CIA reporting to the NSC or to an individual:

Mr. Judd: "...I have concern as to whether the intelligence agency provided in the bill is given anywhere near the importance it deserves... it seems to be a joint and hydra-headed agency which will weaken our intelligence rather than strengthen it."

Dr. Vannevar Bush, Director of the Office of Emergency Management, Scientific Research and Development: "...The Central Intelligence Agency provided for (in the bill) links the military establishment and the State Department, and hence cannot logically be placed under the Secretary of National Defense. It is a joint matter. It might be reporting directly to the President...."

Mr. Judd: "I have never seen a hydra-headed organization which functions as well as one headed by a single man. If we were caught flat-footed without proper intelligence at the outbreak of another war, it might be disastrous."[86]

.....

Mr. Judd: "Regarding the CIA, do you think that it ought to be under the National Security Council, or directly under the Secretary of National Defense, on a par with the National Security Resources Board, the Joint Research and Development Board, the National Security Resources Board, The CIA is put under the National Security Council so that it has a dozen heads. It seems to me that this is so important that it ought to be on a par with those other agencies."

Vice Admiral Radford: "I feel that the CIA should be under the National Security Council."

Mr. Judd: "You don't think that its reports will make the rounds and never get any action?"

Vice Admiral Radford: "I hardly think so. I think its handling of reports can be controlled by the Director. I am sure it would be."[87]

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Mr. Dulles, who made extraordinary contributions to the success of the OSS and who was to later be appointed to the position as the Director of Central Intelligence, registered his concern over the Director reporting to the National Security Council in a statement to the Senate Committee:

> "Under the legislation as proposed, the Central Intelligence Agency is to operate under the National Security Council, the stated purpose of which is 'to advise the President with respect to the integration of foreign and military policies, and to enable the military services and other agencies of the Government to cooperate more effectively in matters involving national security.' This Council will have at least six members, and possibly more, subject to Presidential appointment. From its composition it will be largely military, although the Secretary of State will be a member. If precedent is any guide, it seems unlikely, in view of the burden of work upon all the members of this Council, that it will prove to be an effective working body which will meet frequently, or which could give much supervisory attention to a central intelligence agency. It would seem preferable that the Chief of Central Intelligence should report, as at present, to a smaller body, of which the Secretary of State would be the chairman, and which would include the Secretary of National Defense, and a representative of the President, with the right reserved to the Secretaries of State and of National Defense to be represented on this small board by deputies, who should have at least the rank of Assistant Secretary. And this board must really meet and assume the responsibility for advising and counseling the Director of Intelligence, and assure the proper liaison between the Agency and these two Departments and the Executive."

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Senator Gurney, Chairman of the Senate Armed Services Committee was also interested in the respective merits of whether the CIA should report to the National Security Council or to an individual, particularly the Secretary of National Defense and arranged for Mr. Charles S. Cheston, a former Assistant Director of the Office of Strategic Services, to discuss this and other matters relating to the CIA section of the proposed bill with Admiral Hillenkoetter. In a memorandum inserted in the Senate Hearings,[88] Mr. Cheston concluded: "It has been amply demonstrated that problems of peace and war in modern times require total intelligence. Each of the principal departments and agencies of Government requires information for the determination of basic questions of policy, the collection and analysis of which are entirely outside the scope of its own operations. It does not solve the problem to create a kind of clearing house for information gathered in the ordinary operations of the several departments. What is needed is an effective, integrated, single agency with clearly defined duties and authority to analyze and correlate information from all sources and, wherever necessary, to supplement existing methods of collection of information. Such an agency must serve all principal departments of the Government and also bring together the full and comprehensive information upon which national policy must be based. It should not supplant existing intelligence units within the several departments. Every effort should be made to improve and strengthen these units wherever possible. The problem is national and not departmental. And it will not be solved by having the policies and operation of such an agency determined by a committee of Cabinet members, whose primary duty is to discharge the full-time responsibilities of their own offices."

Admiral Hillenkoetter met with Mr. Cheston in Philadelphia on Memorial Day and, on 3 June 1947, wrote Senator Gurney as follows:

"The third point (advocated by Mr. Cheston) is that the Director should report to an individual rather than a committee. As I previously stated before the Senate Appropriations Committee, I feel that this is a matter to be determined by the Congress rather than by me. On purely theoretical grounds, it would, of course, be best to report to one individual rather than a group. However, I can work with a Council equally well, and see no great difference in either solution that Congress may determine. There may be some question as to the wisdom of having the Director of Central

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Intelligence report to the Secretary of National Defense. This, in effect, might be considered as placing the Agency within the military establishment, which would not, in all probability, be satisfactory to the State Department. They have a great interest in the operations of the Agency, and their contributions in the intelligence field are particularly important in time of peace, when the Foreign Service can operate throughout the world.

"As General Donovan stated in his memorandum to you of 7 May 1947, intelligence 'must serve the diplomatic as well as the military and naval arms.' This can be best done outside the military establishment. As General Donovan stated further "...Since the nature of its work requires it to have status, it should be independent of any Department of the Government (since it is obliged to serve all and must be free of the natural bias on operating Departments)'"

An incisive comment on the supra-departmental nature of the functions and responsibilities of central intelligence and the reasons why it should not be organized under an individual policymaker, was given the Senate Committee by Mr. Allen W. Dulles:[89]

"The State Department, irrespective of the form in which the Central Intelligence Agency is cast, will collect and process its own information as a basis for the day-by-day conduct of its work. The armed services intelligence agencies will do likewise. But for the proper judging of the situation in any foreign country it is important that information should be processed by an agency whose duty it is to weigh facts, and to draw conclusions from those facts, without having either the facts or the conclusions warped by the inevitable and even proper prejudices of the men whose duty it is to determine policy and who, having once determined a policy, are too likely to be blind to any facts which might tend to prove the policy to be faulty. The Central Intelligence Agency should have nothing to do with policy. It should try to get at the hard facts on which others must determine policy. The warnings which might well have pointed to the attack on Pearl Harbor were largely discounted by those who had already concluded that the Japanese must inevitably strike elsewhere. The warnings which reportedly came to Hitler of our invasion of North Africa were laughed aside. Hitler thought he knew we didn't

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have the ships to do it. It is impossible to provide any system which will be proof against the human frailty of intellectual stubbornness. Every individual suffers from that. All we can do is to see that we have created the best possible mechanism to get the unvarnished facts before the policy makers, and to get it there in time."

Senator Robertson of the Senate Armed Services Committee proposed on the floor of the Senate an amendment to elevate the Secretary of National Security (Secretary of Defense) to a position: "where he will be over the National Security Council, the Central Intelligence Agency, and the National Security Resources Board, and over the entire military establishment as well."[90] However the real thrust of Senator Robertson's amendment was that the Secretary of Defense should be the coordinator of national security and immediately under the President, and was only collaterally related to central intelligence. Senator Gurney in opposing the amendment said "We do not believe that the (Secretary of Defense) should in any way control, by means of a superior position, the conclusions which emanate from the Security Council. . . ."[91] The amendment was defeated.

The second concern relating to the establishment of the CIA under the National Security Council was whether this arrangement would support satisfactory relationships between the CIA and the departments and their intelligence agencies. This concern was clearly brought out in the following authoritative colloquy during the Senate Committee hearings:[92]

SENATOR TYDINGS: . . . when you get down to the Central Intelligence Agency, which certainly is one of the most important of all the functions set forth in the bill, I notice that it reports directly to the President and does not seem to have any line running to the War Department, or the Navy Department, or to the Secretary for Air. And I was wondering if that rather excluded position, you might say, was a wholesome thing. It seems to me that Central Intelligence Agency ought to have more direct contact with the Army and the Navy and the Air Force; and as I see it on the chart here, it is pretty well set aside and goes only to the President. What is the reason for that?

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ADMIRAL SHERMAN: Well, sir, this diagram shows the primary control of the Central Intelligence Agency through the National Security Council which, of course, is responsible to the President. But, of course, the Central Intelligence Agency, by its detailed directive, takes information in from the military services and also supplies them with information.

In other words, it is a staff agency and controlled through the National Security Council, which is supported by the military services, and in turn, supports them.

SENATOR TYDINGS: It seems to me that of course they would diffuse such information as a matter of orderly procedure to the Army, Navy and Air Force, as they collected the information and as they deemed it pertinent. But I would feel a little more secure about it if there were a line running from that agency to the War Department, the Navy Department, and the Air Force, rather than have it go up through the President and back again. Because the President is a rather busy man, and while he has control over it, one of its functions, it seems to me, ought to be to have a closer tie-in with the three services than the chart indicates.

ADMIRAL SHERMAN: Well, sir, that is the trouble with the diagram. Actually, the Security Council, placed directly under it, has members of the three departments, the Secretary of National Defense, the Central Intelligence Agency, who collaborates very closely with Military and Naval Intelligence, and there are a good many other cross-relationships.

SENATOR TYDINGS: I realize that, but even so, I think intelligence is about as important a part of running a war as there is, as I know you will agree. And it is rather set off there by itself, and is only under the President; which is all right for general direction purposes, but I do not feel satisfied in having it over there without some lines running to the War Department, the Navy Department, and the Air Force, even though that might follow and they might do it anyhow.

ADMIRAL SHERMAN: Well, in a further development of this chart, we might show a line of collaboration and service and so on, extending from the Central Intelligence Agency to the three departments, and to those others.

SENATOR TYDINGS: To the Joint Chiefs of Staff, anyway.

ADMIRAL SHERMAN: They serve the Joint Chiefs of Staff, as a matter of fact. We have a Central Intelligence (man) in the Policy Council of the Research and Development Board at the present time.

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SENATOR TYDINGS: If you ever do another chart, will you do me the favor of connecting that up with those three departments and with the Joint Chiefs of Staff? Because it looks like it is set up in that way to advise the President, more than to advise the services and the Joint Chiefs of Staff; which, of course, is not the intention of it at all, in my opinion.

ADMIRAL SHERMAN: We tried, in this particular chart, to show only the primary line of control, with the exception of the dotted line from the President to the Joint Chiefs of Staff, which is there for constitutional reasons.

SENATOR TYDINGS: Well, I hope that my comments will cause us to find some way that we can make sure that someone will offer an amendment from the War Department or the Navy Department that the Intelligence Agency is to have direct tie-in with the Joint Chiefs and the Army, Navy, and Air Force. Otherwise, we may have another Pearl Harbor controversy, with the question arising, "Who got the information?" And the reply, "It was not transmitted." That is one thing that should not happen again. And as this is set up, it would lend the layman the opinion that it was more or less detached, rather than an integral part of the three services.

. . . . .

SENATOR TYDINGS: Admiral, that is an awfully short bit of explanation, under the caption "Central Intelligence Agency," the way it is set up here, separately, to be appointed by the President, and superseding the services now run by the Army and the Navy, I respectfully submit to you and to General Norstad that it might be wise to put an amendment in there, in order to make certain that the thing is understood; that this Central Intelligence Agency shall service the three departments and the Joint Chiefs of Staff, and have some tie-in with the three departments, rather than to leave it hanging up there on a limb all off by itself. I do not think that would change anything materially, but it would clarify it, and make it plain that we are setting up something for the purposes for which we conceive it to be set up.

ADMIRAL SHERMAN: Well, sir, I would like to make a comment on the language as to the Central Intelligence Agency. At one time in the drafting we considered completely covering the Central Intelligence Agency in the manner that it should be covered by law.

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SENATOR TYDINGS: Admiral, my point is simply this: that under the wording as to the Central Intelligence Agency which begins on page 20 and ends at the top of page 22, it deals more or less with consolidation and not with the duties that devolve upon that office. It seems to me there is a void in the bill that ought to be eliminated.

ADMIRAL SHERMAN: Well, we considered the matter of trying to cover the Central Intelligence Agency adequately, and we found that that matter, in itself, was going to be a matter of legislation of considerable scope and importance.

SENATOR TYDINGS: A separate bill?

ADMIRAL SHERMAN: A separate bill. And after consultation with General Vandenberg, we felt it was better in this legislation only to show the relationship of the Central Intelligence Agency to the National Security Council, and then leave to separate legislation the task of a full and thorough development of the Central Intelligence Agency.

SENATOR TYDINGS: Well, now, for the record, is it safe for this Committee to assume that during this session it is likely that a bill will come along dealing with the Central Intelligence Agency in the particulars we have under discussion?

ADMIRAL SHERMAN: It is my understanding that that will take place.

THE CHAIRMAN: How about that, General Vandenberg?

GENERAL VANDENBERG: The enabling act is prepared, but we do not want to submit that until we have reason for it."

. . . . .

Later, General Vandenburg reviewed for the Senate committee the relationships which had been developed between the Director of Central Intelligence and the intelligence community under the 22 January 1946 Presidential directive:[93]

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"In order to perform his prescribed functions, the Director of Central Intelligence must keep in close and intimate contact with the departmental intelligence agencies of the Government. To provide formal machinery for this purpose, the President's Directive established an Intelligence Advisory Board to advise the Director. The permanent members of this Board are the Directors of Intelligence of the State, War and Navy Departments and the Air Force. Provision is made, moreover, to invite the heads of other intelligence agencies to sit as members of the Advisory Board on all matters which would affect their agencies. In this manner, the Board serves to furnish the Director with the benefits of the knowledge, advice, experience, viewpoints and over-all requirements of the departments and their intelligence agencies."

. . . . .

Of course, the responsibility of CIG to support the departments and their intelligence agencies was clearly set forth as a function of CIG under the President's Directive of 22 January 1946 and were carried over into the CIA section of the President's proposal by providing that "the functions of the Director of Central Intelligence and the functions... of the Central Intelligence Group are transferred to the Director of Central Intelligence appointed under this act and to the Central Intelligence Agency respectively. However, in keeping with the House Committee's views[94] "...that it is better legislative practice to spell out such (CIA's) duties in the interest of clarity and simplicity...." The proposed act was so amended and provided the basis for the following colloquy on the House floor:

Mr. Kersten: It seems to me from what the gentleman has said that the Central Intelligence Agency is one of the very important parts of this entire set-up. I wish to ask the gentleman if there is a definite coordination provided for between that Agency and, say the Department of State? For I feel that certain information of the Agency would affect the activities of the entire system.

Mr. Wadsworth: The gentleman is correct. May I point out that under the provisions of the bill the Central Intelligence Agency in effect must cooperate with all the agencies of the Government, including the State Department. It is the gathering point of information that may come in from any department of the Government with respect to the foreign field, including the State Department, of course; including the War Department, through G-2; including the Navy Department, through ONI. That information is gathered into the central agency to be evaluated by Central Intelligence and then disseminated to those agencies of Government that may be interested in some portion of it.

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The last consideration relating to structural relationships concerned the position of the Director with respect to the National Security Council. It is recalled that in the meeting with the White House drafting team General Vandenberg, while strongly opposing participation by either CIA or its Director in policy decisions, felt there should be a provision providing for his presence at the meetings of the Council. The drafting team felt that the position of the Director as the intelligence advisor to the Council was inherent in the position itself, and that it would be improper to provide by law that he head of the Agency, under the Council, should sit on the Council. While being present at the meetings of the Council did not necessarily constitute sitting "on" the Council, General Vandenberg's recommendation was rejected.

However, during a hearing of the House Committee with Secretary Forrestal testifying the issue was raised again: [95]

MR. BOGGS: The Director of the Central Intelligence Agency would work under the National Security Council.

SECRETARY FORRESTAL: That is correct.

MR. BOGGS: He is not a member of the National Security Council; he is an independent appointment of the President, but he works under, on this chart -- he is not a member of the Council, the heavy line drawn here, but he is more or less an executive secretary on intelligence matters for the Council.

SECRETARY FORRESTAL: Well, it is obvious, Mr. Boggs, that the results of his work would be of essential importance to the Security Council.

MR. BOGGS: I think so, and I agree with you, but the thought that I have in mind was that he should be a member of the Council himself. After all, he is dealing with all the information and the evaluation of that information, from wherever we can get it. It seems to me that he has knowledge and information of matters which the National Security Council would consider more information at hand and the evaluation of that information than any other member of that Council. He should be put on an equal basis.

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SECRETARY FORRESTAL: I think that there is always some limit to the effectiveness of any organization in proportion to the number of people that are on it. The services and the intelligence information of the Director of Intelligence would be available, and certainly no man who is either the Secretary of National Defense or the Chairman of the Security Council, would want to act or proceed without constant reference to the sources available to this Central Intelligence Director. But again, I would not try to specify it by law, so confident am I that the practical workings out of this organization would require his presence most of the time.

MR. BOGGS: I can see -- I do not know that I can see -- I can visualize in my mind, even if this bill becomes a law, as presently set up, a great deal of room for confusion on intelligence matters. Here we have the Director of the Central Intelligence Agency, responsible to the National Security Council, and yet the Director is not a member of that Council, but he has to get all of his information down through the chair of the Secretary of National Defense, and all the other agencies of Government in addition to our national defense agencies, the Secretary of Agriculture, the Secretary of State, and so forth. I just cannot quite see how the man is going to carry out his functions there without a great deal of confusion, and really more opportunity to put the blame on somebody else than there is now.

SECRETARY FORRESTAL: Well, if you have an organization, Mr. Boggs, in which men have to rely upon placing the blame, and this is particularly true of Government, if you once get that conception into their heads, you cannot run any organization, and it goes to the root, really, of this whole question. This thing will only work, and I have said from the beginning it would only work, if the components in it want it to work.

MR. BOGGS: Right, I certainly agree with that. . . ."

. . . . .

There was to be no further proposal to place the Director of Central Intelligence on the National Security Council as a member, although discussions such as that held between Mr. Boggs and Secretary Forrestal confirmed the role of the DCI as the nation's chief intelligence advisor and coordinator.

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(F) SUMMARY

In approving the National Security Act of 1947, Congress ratified, for the most part, the relationships which had existed within the intelligence community and to the policymakers under the National Intelligence Authority. The Director of Central Intelligence and the Central Intelligence Agency were placed under the National Security Council. Congress, however, expanded the Council to include the President.

As finally enacted, the "Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof..." was established..."under the National Security Council."[97] The responsibilities of the Director of Central Intelligence to the departments and their intelligence agencies under the 22 January 1946 Presidential Directive were made specific duties for CIA and for the DCI as head of the Agency "under the direction of the National Security Council" as follows:

> "(3) to correlate and evaluate intelligence relating to the national security, and provide for the dissemination of such intelligence within the Government using where appropriate existing agencies and facilities....
>
> (4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;"[98]

The discussions in the Congress concerning these matters helped to publicly clarify the role of the DCI and the CIA and the nature of the supra-departmental task facing central intelligence.

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paragraph 3 (c), the National Intelligence Authority, which was then composed of the Secretaries of State, War, and Navy and the personal representative of the President, directed the Director of Central Intelligence to conduct all organized federal espionage and counter-espionage operations for the collection of foreign intelligence information required for the national security.

This directive, which was issued on 8 July 1946, was quoted in part in a letter from the National Intelligence Authority to Chairman Clare Hoffman whose Committee drafted Section 102 of the National Security Act of 1947. This letter, signed by the Secretaries of State, War, and Navy, went on to explain "... The Central Intelligence Group should be free to assume, under our direction, or the subsequent direction of a National Security Council, the performance, for the benefit of the intelligence agencies of the Government, of such services, of common concern, including the field of collection, as this Authority or a subsequent Council determines can be most efficiently performed centrally."

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H. Collection Responsibility

From the inception of Donavan's early plans for central intelligence, there was a certain amount of fear within the existing intelligence agencies that the centralized service would encroach upon their collection, evaluation and dissemination functions. While the 22 January 1946 Presidential Directive did not specify a collection responsibility for the DCI, it was understood as one of the functions which the NIA could direct. However, to prevent over-centralization and to assuage the fears of existing intelligence agencies, the Presidential Directive stated in paragraph 6 that: "The existing intelligence agencies of your Departments (State, War and Navy) shall continue to collect, evaluate, correlate and disseminate departmental intelligence". (Underlining supplied.)

Pursuant to its responsibility under paragraph 1 of the Presidential Directive of 22 January 1946 for planning, developing, and coordinating all Federal foreign intelligence activities so as to ensure the most effective accomplishment of the intelligence mission related to the national security, the National Intelligence Authority under date of 8 July 1946, issued the following Directive which is quoted in part:

> "...the Director of Central Intelligence is hereby directed to perform the following services of common concern, which this authority has determined can be more efficiently accomplished centrally: Conduct of all organized Federal espionage and counter-espionage operations outside the United States and its possessions for the collection of foreign intelligence information required for the national security...."

In a report of the House Committee on Military Affairs dated days after the issuance of this collection directive by the NIA, the statutory authorization of the NIA was strongly recommended but the Committee would require that "It is specifically understood that the Director of Central Intelligence (in performing functions under the direction of the NIA and of the Congress) should not undertake operations for the collection of intelligence."[106]

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In a letter to Clare Hoffman, Chairman, House Committee on Expenditures in the Executive Departments, dated 26 June 1947, the Authority cited its 8 July 1946 Directive and denied charges appearing in the press that the CIG had usurped various departmental intelligence functions and forced established organizations out of the field. The letter stated:

> "It has long been frlt by those who have successfully operated clandestine intelligence systems that such work must be centralized within one agency. As a corollary to this proposition, it has likewise been proven that a multitude of espionage agencies results in two shortcomings: first, agents tend to uncover each other or block each other's funds or similarly neutralize each other, being unaware of identical objectives; second, each agency tends to hoard its own special information or attempts to be the first to deliver a choice piece of information to higher authorities. This latter type of competition does not permit the overall evaluation of intelligence on a given subject, as each agency is competing for prestige....
>
> "...The Central Intelligence Group should be free to assume, under our direction, or the subsequent direction of a National Security Council, the performance, for the benefit of the intelligence agencies of the Government, of such services, of common concern, including the field of collection, as this Authority or a subsequent Council determines can be most efficiently performed centrally."

On the following day the House Committee on Expenditures in the Executive Departments met in executive session to hear testimony on whether or not the collection of information should be centralized in the Central Intelligence Authority. The following comments are excerpts from that testimony.[107]

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