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SALT II AGREEMENT BEING DENUDED OF ARMS CONTROL BENEFITS

As the first three weeks of SALT hearings ended, traditional arms control supporters were being whiplashed beyond any anticipation.

We had, of course, anticipated that the treaty would be only a shell of high limitations under which forces would continue to increase in destructiveness and effectiveness. Under less embattled circumstances, arms controllers would have been virtually unanimous in denouncing it as wholly inadequate, if not simply a sham, and, at the very least, would have demanded the firmest commitments as to follow-on progress. Under the circumstances, many put on, instead, what *Bulletin of the Atomic Scientists* Editor Bernard Feld called a "brave front."

Premature Decision on MX

The next price to be exacted was the pressure to make a technologically premature decision on MX. This multibillion dollar missile system has arms race implications and costs that, in strategic terms, clearly exceed those of the treaty itself. Testimony by Secretary Brown revealed that the President himself reassured the Secretary of Defense not to worry, that some suitable basing scheme would be found, and hence that it would be all right for the President to announce MX would go forward in advance of the June SALT summit. The Department of Defense is scrambling now to confirm the President's projection, with a design scheme due for August. Never has a major weapon system been so tangibly encouraged by a SALT treaty.

Nevertheless, dismay in the arms control community, used as it is to losing, was muted by two disparate perceptions. In the first place, it was generally assumed that, in the absence of the treaty, MX authorization might be quite as inevitable. Further, it was widely believed that MX might well fall of its own weight, notwithstanding what commitments were made early when its basing problems became clear in subsequent years.

Conventional Forces Encouraged

Once MX commitments seemed assured, however, Senate attention turned to the beefing up of conventional forces. Senator Sam Nunn, followed by General Alexander Haig, made a commitment to the treaty contingent on major increases in NATO spending on NATO theater weapons. The four or five percent real growth in our defense budget desired by Senator Nunn could cost several billion dollars in real dollars andmore than 15% increases in current dollars at current rates of inflation.

The week after this revelation, Henry Kissinger not only reinforced these complaints but argued, among other things, for direct—and even periodic renewal of—linkage of the world political situation to SALT. Under his scheme, the Senate would review every two years whether it believed that the Soviets were acting in a fashion consistent with SALT. And this process of linkage would be begun in an initial Senate resolution explaining what the Senate would, and would not, tolerate. Thus was the link between SALT and detente—a traditional concern of disarmament supporters—also held ransom.

The only silver lining in this matter was a development looked on with great suspicion by the disarmament community—the rising proclivity of its traditional Senate opponents to adopt a rhetoric supporting an end to the arms race, and deep reductions. Senators Helms and Garn, following in the footsteps of Senator Henry Jackson, who had for some years been putting forward disarmament proposals, were arguing that the treaty should be recommitted with a view to urging reductions.

While most saw in this maneuver simple hypocrisy, a few saw in it the emergence of a national consensus in favor of arms reductions. Discounting sincerity as of limited relevance in political affairs, they seized upon this development to urge consensual support for a resolution shaping the future of SALT toward sharp reductions. Without such consensus, no reductions would occur in any case. Senator George McGovern championed this approach. (See the testimony before the Foreign Relations Committee of Jeremy J. Stone, on p. 2.) SALT was being made safe for MX, for NATO, for linkage; would it be made safe for SALT?

Soviet Unease Projected

There were some straws in the wind to be reflected upon. The Soviet Union's Politburo, seeing the shift in tide in U.S. thinking, must be concerned. The U.S. hare was about to bolt ahead of the tortoise again, as after Sputnik in the arms race and in the space race. Would the post-Brezhnev Politburo take an approach more forthcoming than heretofore? One could hope for a discontinuity in Soviet practices.

On the Carter Administration side of the equation, one could expect renewed determination to try to get sharp reductions. There were indications that the President himself was strongly in favor of them and sympathetic to the method of percentage reductions. (See January *PIR*.)

And there was, of course, the fact that, ratified or not, the SALT II structure of definitions and limits existed, to which one could apply percentages to try to secure reductions.

But there was not much more to point to. It seems evident that the SALT ratification process will always be, as Kissinger put it, "an opportunity to address problems which should be addressed anyway." Unfortunately, it provides the opportunity in a context in which one third of the Senate can hold the treaty hostage. The gimlet-eyed scrutiny by the Senate of a treaty so easy to veto will always make treaties expensive. □

PROXMIRE-HUTCHINSON EDITORIAL — 7; OIL CONSERVATION — 8

FOREIGN RELATIONS COMMITTEE URGED TO SHRINK SALT II

In personal testimony solicited by the Senate Foreign Relations Committe, FAS Director Stone supported the treaty as "something for nothing," against complaints by hawks, while criticizing the treaty from an arms control perspective as yet another example of offensive weapons arms control restricting, only too late, military characteristics that had already saturated.

He urged the conclusion in the FAS editorial of March, 1979—an alliance between hawks and doves to instruct U.S. negotiators to insist upon cutbacks in MIRVed ICBMs in the subsequent negotiations. As shown in the accompanying photograph, he explained how percentage annual reductions would work in shrinking the SALT II structure. This testimony, on the fifth day of Foreign Relations Committee hearings, was carried live by the Public Broadcasting Service (PBS) television network.

In my opinion, the American people are tired of hearing that disarmament is either at hand or around the corner but that, just now, ceilings are being put on the arms race, after which the real progress will follow. Americans are becoming cynical about the failure of the superpowers to *reverse* the arms race. And they understand quite well that this treaty is not really providing disarmament.

In these circumstances, the Congress's job, in dealing with this treaty—and the treaty-making process—is to shape the future rather than to massage a *fait accompli*.

The thesis of this testimony is that there are two roads which our Government might pursue to secure, and maintain, a national consensus for arms control treaties on offensive strategic weapons. One road leads to largely cosmetic treaties, which, like this one, as President Carter told Congress, "constrains none of the reasonable programs we have planned." Here pro-ratification doves support the treaty because it *is* a treaty, and pro-ratification hawks do so because it constrains nothing we were planning.

This is the easy path politically and bureaucratically. But it treats real disarmament as a means mainly to detente, and secures few, if any, of the real potential security and economic advantages to disarmament. As progress in disarmament falls behind expectations and desires, public cynicism sets in, and the SALT process itself loses support.

There is another road upon which the Carter Administration sought to embark in March, 1977, and upon which it could, with Senate support, make a new effort with renewed determination and stiffened backbone. This is the road of major reductions in strategic weapons—reductions that would, as a by-product of lowering weapons levels, redress the asymmetries and imbalances seen by the hawks even as it made unnecessary new weapons systems opposed by the doves.

It is the thesis of this testimony that the Senate should make its mark upon this treaty, not by amending its substantive proposals, or by adopting declarations of minor significance, but by attempting to forge a new consensus about what should be done in SALT III—and then instructing the Administration and the Soviet Union, by Senate resolution, of the terms without which a subsequent treaty would not be acceptable.

Treaty is "Something for Nothing"

Let me say at the outset that this treaty is far, far more vulnerable to criticism from doves than from hawks. The strong Soviet interest in securing an agreement with the United States, for various political reasons, has led that country to agree to:

(a) greater U.S. ability to inspect and verify than would be the case in the absence of the treaty;

(b) limits on numbers of Soviet warheads per missile lower than might otherwise be maintained;

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Photo By Ray Pinkson

(c) lower limits on numbers of missiles than might otherwise be maintained and, indeed, reductions of 250 Soviet strategic delivery vehicles.

And this agreement has been reached without the U.S. giving up, to my knowledge, any programs which we might otherwise have desired. Thus the treaty is, from the U.S. point of view, *something for nothing*. . . .

Doves Are the Ones with the Right to Complain

By contrast, the doves—though gagged by their fear of treaty rejection—have a great deal to complain about, in reflecting how the SALT process on offensive weapons is working out.

The SALT I (1972) and Vladivostok Agreement (1974) focused on numbers of bombers and missiles when, it was already clear, these numbers had saturated in favor of exploitation of the newest breakthrough: multiple warheads on each missile (MIRV). Now the SALT II Agreement puts an upper limit on numbers of warheads, but too late again, at a level that is basically one of saturation of the interests of either side.*

Meanwhile, the new breakthrough of cruise missiles has, at U.S. insistence, been embedded in the treaty rather than precluded. Just as failing to stop MIRV in earlier agreements represented a time bomb for SALT II and III, so also will the modern cruise missiles, with their verification problems, afflict future negotiations for decades hence.

There can be no doubt that both sides will be further from disarmament in 1985 when the treaty expires than they are today, just as we are worse off today than we were when negotiations for SALT II began in 1972 . . .

Arms control and disarmament is supposed to *do* something! It should help provide a solution to such problems as land-based missile vulnerability. It should make weapons systems unnecessary and save money. Above all, it should reduce the risks of war and reduce the destruction if war occurs. This treaty is doing these things, at best, by saying that matters would otherwise be worse . . .

Thus far, the SALT Agreements on offensive weapons have had little more provable effect on the course of the strategic arms race than scaffolding has on the shape of a building. . . .

The Hawk-Dove Controversy

Now in order to avoid duplicating recent history, we must learn from it. What exactly do the contending "hawks" and "doves" want? Ironically, today, they are, at least on paper, in surprising agreement: Both want "real" arms control! . . .

In recent years, Soviet progress in matching U.S. weapons levels has provided hawks with a potential regard for treaties. Treaties could in principle at least, redress the very imbalances of concern to the hawks. It was with this in mind that Senator Jackson made a number of disarmament proposals. Ironically, much recent complaint from Senate hawks about this treaty, such as that of Senator Jake Garn, is based upon the view that arms control has not done enough, and should do more.

At the same time, traditionally pro-arms control Senators, such as Senators McGovern, Hatfield, and Proxmire, have recognized that—especially in an age in which detente has gone about as far as it is going—treaties must be held to a higher standard than that of basically cosmetic agreement only. And they feel that this is especially so if hawkish support for treaties is purchased with commitments to weapons systems they consider wasteful. So they are also complaining that arms control is not doing enough to carry its freight.†

* Against a Soviet Union with only about 100 significant cities, we have 10,000 warheads at the ready—or one hundred to one—and this number will rise to more than 12,000 during the period of the treaty. This simple "overkill" calculation may seem oversimplified, but a factor of one hundred provides a lot of room for error! Meanwhile, the Soviet Union has 5,000 warheads which could rise, under the treaty, to 10,000.

Under these circumstances, a kind of "saturation parity" exists in which warheads are ample for city attack and deterrence. (As soon as their accuracies improve, which is simply a question of time, the numbers of warheads already existing on each side will be ample also for attacks on the fixed land-based missile forces as they presently exist.)

† Hawks who, heretofore, often assumed that defeat of the treaty would rouse the Nation to procure felt-to-be necessary weapons systems may be having second thoughts as to whether such a defeat would lead Americans to get mad at the *Russians* and buy more weapons, or just to get mad at *each other*. Meanwhile, those doves who assumed that MX would be easier to defeat in the context of the treaty, rather than in its absence, may also be uneasy following the President's speech tying MX to SALT. Thus a shared perception that ratification could lead to more weapons than defeat is providing a slight backlash in position for both hawks and doves.

For all these reasons, our Nation ought to be ready, in logic and in politics, for an aggressive policy of hard-nosed bargaining for real disarmament subsequent to the ratification of the treaty. And this is what I propose.

In 1977, to its credit, and to the credit of the United States, the Carter Administration proposed sharp cuts. It sought to forge precisely the kind of coalition here advocated—disarmament for the doves but disarmament of specific kinds desired by the hawks. The Russians objected violently, but there was one reason at least that does not now apply. The Russians rightly considered themselves near the end of negotiations on SALT II and were unwilling to start on new proposals in the midst of that negotiation.*

The Administration should try again with new far-reaching proposals and the Senate should pass resolutions of instruction that will give these proposals momentum and bargaining leverage.

Would it work, and could the Senate really help? Nothing is certain. But considering the current alternatives before the Senate reinforces the idea that this is the best course. . . .

The Common Ground: Sustained and Sharp Reductions in Particular, Of MIRVed Land-Based Missiles

But is there scope for agreement between hawks and doves upon what they would like next to do? I think there is.

MIRV (Multiple Independently Retargetable Reentry Vehicles) is a root cause of the concern of *both* hawks and doves. Introduced by the United States in 1970, and by the Soviet Union in 1975, MIRV makes it possible for a single missile to destroy several missiles on the other side. Soviet exploitation of this new technology puts it within reach, on paper at least, of the ability to destroy U.S. land-based missiles with only a fraction of its land-based force. That such an attack might be threatened, implicitly or explicitly, or even occur as a show of force, is a major current preoccupation of the hawks.

While denying the reality and political relevance of these attack scenarios, doves have their own reasons for concern about the same development . . .

In short, both hawks and doves would, today, prefer a return to the pre-MIRV period, at least insofar as land-based missiles are concerned. In such a pre-MIRV period, no one missile could destroy several and, hence, there would be no particular advantage in missiles firing first because, for each missile wasted in firing, at most one opposing missile would be destroyed. . . .

Unfortunately, the Administration position, at present, is to try to use SALT to move in the opposite direction. In what is surely one of the poorest arguments ever made in the strategic arena by an Administration, the President told Congress:

> "Without the SALT II limits, the Soviet Union could build so many warheads that any land-based system, fixed or mobile could be jeopardized."

But, obviously, no multi-billion dollar strategic weapon system should be based on a piece of paper, certainly not a piece of paper that could be abrogated by the Russians. Most bizarre of all, this particular piece of paper expires in 1986, before the MX will be even initially deployed. No good can come of purchasing systems that will require our negotiators to seek unilateral Soviet concessions in subsequent negotiations, so as to keep our weapons system viable.

Thus, instead of rushing to deploy the MX missile, and then begging the Russians to keep it viable, we should make a major effort in SALT III to make MX deployment unnecessary. We would do this by negotiating a sustained and continuous process of reductions, in particular of land-based *MIRVed* missiles.

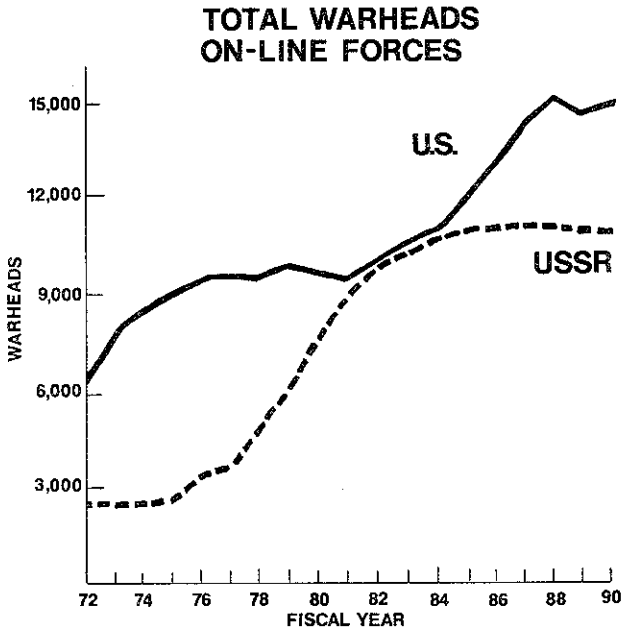
Whatever the concerns of hawks and doves, they can, in principle at least, be resolved by suitable disarmament agreements. Every wobbly table can be made stable by a round of *cutting off* of legs; we need not always *buildup* to seek stability.

If the SALT II Agreement has any advantage, it is precisely to provide a context of agreed definitions and background in which such subsequent negotiations take place. But unless a consensus of hawks and doves in the Senate pushes a major effort to secure such reductions, history suggests they will not take place. . . .

And If We Fail?

It is only too clear that reductions in strategic weapons cannot be secured by doves alone. Therefore, if it is impossible for hawks and doves to agree on a program of subsequent real reductions—as here proposed—these reductions, patently, will simply not occur.

In the wake of such a failure, I predict that SALT on offensive weapons will self-destruct by 1985. Doves would return to urging a unilateral policy of "buy only what you need." And since the U.S. already has so much nuclear fire power, squirreled away in so many ways, public support for constant additions to our stockpiles would wane. In this case, the hawkish concern for keeping up with those nuclear Joneses on the other side of the world would not be assuaged. Instead, the domestic debate would be increasingly polarized. A consensus would disappear, not only for SALT negotiations, but also for



DOD Graph With FAS Calibration

* One example of this was Brezhnev's responding speech in Tula when he said the USSR "is prepared to go further in limiting strategic armaments, but first one should consolidate the gains already made, all the more so since the Interim Agreement expires in October this year. Then one could go directly into negotiations on more far-reaching measures."

major additions to our strategic posture. . . .

We—and the Russians—are uniquely vulnerable to destruction. Unlike the Latin Americans, the Africans, and many Asians, we and the Russians (and the Europeans) are living dangerously on the edge of a nuclear abyss. While strategists argue the finer points of "who is ahead," the truth is that both sides are falling behind.

The Founding Fathers must be rotating in their graves at the diminution in our security that has occurred in the last thirty years. To maximize the likelihood that our Nation will reach its 300th and 400th birthdays, the disarmament process has got to be started. I would therefore hope that the Senate could rise to the occasion and formally announce in a suitable resolution the already existing latent consensus on pointing the negotiations in the direction of a disarmament that is both real and strategically meaningful.□

FAS COUNCIL VOTES FOR UC WEAPONS LAB SEVERANCE

In May, Governor Jerry Brown of California proposed to the University Board of Regents that it sever its relations as contractor with the nation's two weapons laboratories at Los Alamos and Livermore, while expressing readiness to continue as contractor for Livermore, if the latter would get out of the weapons business. In effect, the Government would be induced to move all weapons work to Los Alamos which, along with possible other energy work, would become the sole weapons laboratory. Meanwhile, Livermore would concentrate on energy.

The Federation Council voted, by 15 to 2, with 3 abstentions, to support this proposal (opposing it were Alvin Weinberg and Nina Byers), which vote was reported to the Board of Regents. The Board voted against the proposal in July, however, by 15 to 7.

Two strands of thought went into the Federation position. There was the question of whether a university should be in formal charge of a highly classified weapons project which, in practical fact, it cannot influence to any significant degree.

There was also the notion that two weapons laboratories were more than enough and, indeed, anachronistic in the present era. With weapons testing waning and a Comprehensive Test Ban in the wind, maintaining the "health of the laboratories"—a continual refrain of the opponents of a test ban—may better lie in merging two laboratories into one healthy laboratory rather than trying to maintain an outdated competition between two.□

DEFENSE SPENDING BORN OF SALT

"Vance told the committee that a general consensus on the need for more military spending is 'a benefit that will come out of these hearings.' . . . Indeed, more defense spending has emerged as the dominant theme of the SALT hearings, enunciated first by Vance and Defense Secretary Harold Brown at the opening of hearings in the Foreign Relations Committee three weeks ago." *(Washington Post, July 31, 1979)*

". . . Chairman John C. Stennis, Democrat of Mississippi, attempted to remind his fellow members that the treaty hearings were 'not a session on defense authorization.' . . . For, in fact, from its beginning early this month, the Senate's consideration of the arms limitation agreement with the Soviet Union has become an argument about the present status and the future of United States military strength as much as one about the merits of the treaty." *(New York Times, July 30, 1979)*□

Denis Hayes

DENIS HAYES SELECTED AS DIRECTOR OF SERI

On July 26, Council Member Denis Hayes was chosen to become Executive Director of the Solar Energy Research Institute (SERI) in Golden, Colorado. SERI is rapidly approaching 800 employees and a $100 million budget and is charged with developing solar energy. FAS released the following statement of approval:

"Denis Hayes is the most indefatigable environmentalist of his generation. As chief architect of both Earth Day and Sun Day, and as Chairman and organizer of the Solar Lobby, he has the credentials of a uniquely effective activist. As Director of the State of Illinois Energy Office, he has seen the problems of implementing energy policy. And as a senior researcher at Worldwatch, and through several other academic links, he has participated in the scholarly effort to advance the cause of renewable energy sources. The special confidence and trust in Mr. Hayes of the Federation's scientific membership is reflected in the fact that he is now, and has long served, as a member of the Federation of American Scientists' elected National Council and, until recently, was a Trustee of the Federation of American Scientists Fund.

"Federation members know, by reading the March, 1978 newsletter, that SERI is a new and vital institution with the associated growing pains and with heavy and difficult responsibilities. But we believe Mr. Hayes has the dedication, the energy level, the feeling for science, and the political shrewdness to make SERI what it wants to be, the guardian of the solar age. We wish him well and thank President Carter for this creative appointment."□

FAS CALLS FOR HEARINGS ON SYNTHETIC FUELS BILLS

In July, the Administration released, and Congress began immediately to mark up, a proposal for a $142 billion energy program, including $88 billion for synthetic fuels. By ironic coincidence, the $88 billion was supposed to save the same amount of fuel (2.5 million barrels per day) that two FAS members had proposed the same week to save by "drilling for oil and gas in our buildings" under the supervision of "house doctors"—see p. 8. What roused the special ire of FAS officials was the speed with which the legislation was being pressed, the insistence on finessing existing enviromental and procedural legislation that might slow the energy program, and the readiness to move forward without Congressional hearings. The letter below sought to remind the chairmen of eleven Congressional committees and subcommittees of related basic principles and the need for conservation. Meanwhile, FAS began to poll its energy specialists and more will appear on this subject.

Dear Mr. Chairman:

It is, in our view, incontrovertible that the various proposals for subsidizing a crash program of synthetic fuel production need more study, and at every level. Extensive hearings are clearly indicated.

At the level of feasibility, we find that the President is proposing that $88 billion dollars would lead to the production of 2.5 million barrels of oil substitutes per day. But the largest user of synthetic fuel plants in the world, South Africa, only produces tens of thousands of barrels of oil per day! Thus the President is proposing a hundred-fold increase from what is being done today. No person in the world can grasp the various financial, environmental, legal, and procedural implications of this effort. In particular, the real price of the various kinds of synthetic fuel are quite unknown. Newspaper reports, and the way in which the proposal has surfaced, reveal only too clearly that analyses of sufficient weight to support a program do not exist.

On the contrary, the Administration proposals attempt to finesse the need for environmental, and legal, analyses by embedding in their provisions, sweeping methods of neutralizing such existing legislation as the National Environmental Protection Act (NEPA). This act, painfully legislated to protect important environmental rights, also includes a requirement to weigh alternatives. It is significant that the synfuels supporters seem to believe that this legal lobotomy has to be performed on the body politic to give the synfuel program a chance.

Consistent with the awareness of impending difficulties, the Administration clothes its proposals in the rhetoric of a "war." If we were really in a situation justifying that kind of rhetoric, proposals like these would deserve crisis consideration. But if we were in a war situation, much easier, more reliable, and more immediately effective proposals such as gasoline rationing, or higher gasoline prices, would already be instituted. The Administration is proposing a "business-as-usual-type war" in which giant leaps of technological faith are put forward to disguise political weakness. In the Alice in Wonderland world of Washington politics, higher gasoline prices are a "hard" decision and an $88 billion investment in untried technologies is an "easy" way.

The fact of the matter is that America can make do with much less energy use than is customarily realized and that such conservation, often with no lifestyle changes, is by far the cheapest way to "increase" supply. Conservation methods require no untried technologies and far less massive investments. Once instituted, they work indefinitely with much less cost to the environment. They require no destruction of existing legislation. And they give the world much more confidence that America is getting its house in order than these long-range airy predictions of future technological fixes. Conservation will work.

The main ingredients in such conservation measures are these: (1) an intellectual awareness of the sources of unnecessary waste, and (2) full cost energy pricing to motivate the elimination of that waste. Today, in stark contrast with the war rhetoric, America has about the lowest prices for gasoline in the industrialized world, far lower than in Europe or Japan. Can it really be efficient for our society to invest $88 billion in synthetic fuels while keeping real fuel prices artificially depressed? This seems ludicrous.

To justify the kind of subsidies involved in the synthetic fuel program, analyses would have to make plausible—among many other things—that the program could be terminated at some future point when synthetic fuels became cost-effective in their own right. Obviously, we do not want to discover, in some future year, that we have an $88 billion investment in synthetic white elephants which must be subsidized year after year for the indefinite future. But this is obviously possible, and, it would seem, even likely if national fuel prices are kept artificially low.

In two recent cases, the Government has gotten into financial and political difficulties by artificially stimulating research and development activities—much less the full-scale construction here involved. These were the cases of the Supersonic Transport and the Clinch River Breeder Reactor. It was supposed that, with Government stimulation, the SST would eventually make it. After a titantic battle, the Government got out of the SST subsidy business, and history has completely vindicated that decision by the failure of Concorde to sell. The assumption that the Clinch River Breeder would be needed when ready—an assumption that underlay that subsidy—was based on unrealistically high projections of nuclear power growth and unrealistically low projections of Breeder capital costs, among other things. Here also, we learned the limits of man's ability to project his technological future.

By contrast, the Administration, in its synfuel program, is pushing the technological future far further, and pushing its legislative program far faster, than any program we have ever witnessed. Without even hearings on the implications of this program, important parts of the Congress want to pass it! Our own quick-to-react organization is itself so short of time to examine the implications of this unprecedented and major effort that we are unable to consult all of our intellectual resources and must send, instead, this reminder of basic principles.

No good can come of passing legislation like this without, at the least, the most detailed and prolonged scrutiny. After all, the program will take years to mature and its effects will be with us for decades. We therefore wish, in the strongest terms, to urge extended hearings on all aspects of this legislation.□

SPEECH & DEBATE CLAUSE DEFENDED AGAINST COURT DECISION

When the Supreme Court ruled that Senator Proxmire had no legislative immunity against libel suits for remarks made off the Senate floor, two predispositions inside our organization were, no doubt, ready to applaud. There was first the fact that Senator Proxmire has made a habit of holding up to ridicule particular publicly funded projects that were often drawn from the social and experimental sciences. Many scientists resented both the "Golden Fleece" implication and the way in which, they felt, science was misrepresented and/or brought into disrepute.

And then there wre those who remembered Senator Proxmire's immediate predecessor from Wisconsin, Senator Joseph McCarthy, who so misused Senate immunity that he was invited to make his slanderous charges of "communist" off the Senate floor precisely so as to make slander and libel suits possible.

Nevertheless, this Court decision appears to be bad for the operations of the Congress.

In the first place, the Constitution says of Senators and Representatives that "for any Speech or Debate in either House, they shall not be questioned in any other Place." The Court proposes to interpret this so narrowly that the very republication of the Senate speech, much less its promulgation in press releases or newsletters, would be actionable. In fact, this would nullify the Constitutional protection since the mere statement on the Senate floor often has all the effect of a rock being dropped down a bottomless well.

The speech and debate immunity is designed, of course, not only to protect the members of Congress from the consequences of law suits, but also from the burden of defending themselves against litigation. After all, Congressmen are constantly popping off and are elected to do so. And they have dedicated political enemies. It would seem to be child's play for such political opponents to see that Congressmen are kept busy in court.

What if, for example, Senators were discouraged from arguing that various major corporations in the country were led by persons who "knowingly benefited from step-ups in the arms race," etc. Or that the oil company executives were "defrauding" the country in one fashion or another. And so on.

Now it is true that the Courts have developed a public figure role which requires persons (and corporations) so designated to establish "actual malice" before they can secure damages. And this would protect Senators, as it protects the press, in their criticism of such persons. But again, the Court is interpreting this phrase very narrowly.

Public figures are defined in 1964 as being "for the most part" people of especial prominence who "commonly" have "thrust themselves to the forefront of particular public controversies." In fact, the Legislature needs the right to criticize, in particular, all projects funded by public monies without fear of libel suits if they get something wrong. Inquiries into expenditures of public monies is much of what Senators are hired for.

In short, the issue being raised by this decision goes far, far beyond Senator Proxmire and the scientific community. It involves the struggle to keep legislators blowing, rather than swallowing, whistles. What is at issue is the ability of the Legislature to function with a maximum of freedom from the burdens and pressures of litigation that is either politically motivated or based on the inevitable occasional errors associated with Congressional work.

But what to do? After a preliminary review, we are inclined to propose that the Congress consider a statute which would—for the purposes of *off* the Congressional floor comment—split the difference between the absolute immunity of the Speech and Debate Clause, on the one hand, that Congressmen might desire and claim, and the absence of any immunity whatsoever against libel suits on the other. The statute would provide, in effect, that Congressmen pursuing legitimate legislative goals in their newsletters, press releases, and speeches, etc., would be protected in their speech unless "malice" could be shown—i.e., knowing and reckless disregard of the facts, and so on. Congress would thus spell out the implications of the Speech and Debate Clause for off-the-floor comments and would preempt state libel law for the purposes of its own legislative work. (It would do this by virtue of its right under the "necessary and proper" clause to implement the Speech and Debate Clause.) In effect, Congressmen, who are, after all, Government officials, would get the kind of qualified immunity that is accorded Government officials acting in the scope of their duties.

Under this system, the Joe McCarthys, with their malicious and knowingly reckless slanders, would be controlled by fear of suits (and by the other political controls that may be, in their cases, even more important). But the other Congressmen, already harrassed and normally quite cautious, would be free, when the legislative purpose required it, to name names and give concrete examples of what it is they would otherwise describe only in more general rhetoric.

—*Reviewed and approved by the FAS Council, this statement was also endorsed by the following lawyers and legal scholars: Abram Chayes, Thomas I. Emerson, Leonard Meeker, Peter Raven-Hansen, and Adam Yarmolinsky.*

HOUSE DOCTOR PRESCRIBED

In a widely publicized FAS press conference, Council Member Robert Williams and Marc Ross released a paper advocating "house doctors" who could reduce the fuel necessary to heat houses. Williams and Ross suggested that the equivalent of 2.5 million barrels a day of oil could be saved, by the mid to late 1980's, by tightening up the insulation on houses. Thus, without loss of comfort, two thirds of our present dependence on Arab and Iranian oil could be eliminated. Fuel needed to heat a typical residence could be reduced by 50 to 75 percent with added insulation, caulking, weatherstripping, window improvements, and furnace modifications.

In order to achieve these greater than normally estimated savings, Williams and Ross first observed that relatively simple measures, if fitted carefully to the specific house in question, could reduce space heating fuel sharply. Second, they conceived the notion of a corps of house doctors who would be trained to advise on house insulation. Third, they would pursue innovative financing methods to overcome such economic obstacles as the failure of energy to cost its real replacement price, and the disinterest of owners of rental property in making the repairs which would reduce the fuel bills of the renters.

On the average, $1,500 per house or apartment would be invested in conservation according to this plan, or about $150 billion dollars spent over about ten years. Pilot projects on thousands of individual houses and apartments would gather data on the pathways by which warm air escapes in real (as opposed to oversimplified, theoretical) life. These would take two to four years at a cost of 50 to 100 million dollars.

The large sums of capital required, and the incentive to invest, would be secured by working through gas and electric utilities that would charge the customer loan payments on the retrofit charges as part of the utility bill. While this method releases gas and electricity which, in turn, can be used to release oil from other chores, it requires some modification in the case of oil heating consumers themselves. One scheme proposed would construct energy conservation financing corporations to make investment capital available for heating oil conservation projects. A tax on heating oil might provide the revenues. Consumers could pay back the loans when the house involved was sold. ☐

HUMAN RIGHTS IN ASIA

Research by the non-partisan Society for the Protection of East Asians' Human Rights has turned up a considerable number of cases of persecuted scientists in China. For further information, SPEAHR can be contacted at P.O. Box 1212, Cathedral Station, New York, N.Y. 10025.

SALT III COALITION BUILDING

The March *Public Interest Report* editorial called upon "hawks and doves" to join in a resolution to be attached to the SALT treaty resolution of ratification instructing U.S. negotiators to press for sharp cuts in SALT III, especially of MIRVed land-based missiles.

As the September *Public Interest Report* was going to press, this coalition was indeed emerging. For example, on August 1, Senator Daniel Patrick Moynihan of New York offered an amendment that would require the Soviet Union and United States to negotiate "significant and substantial reductions" by 1981. The *Washington Post* noted that his proposal echoed the "feelings of numerous Senators who feel SALT II doesn't go far enough"; it quoted Senator Alan Cranston (D. - Calif.), the majority whip, as predicting that some provision would be added to the resolution of ratification setting down the Senate's desire for substantial reductions. ☐

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