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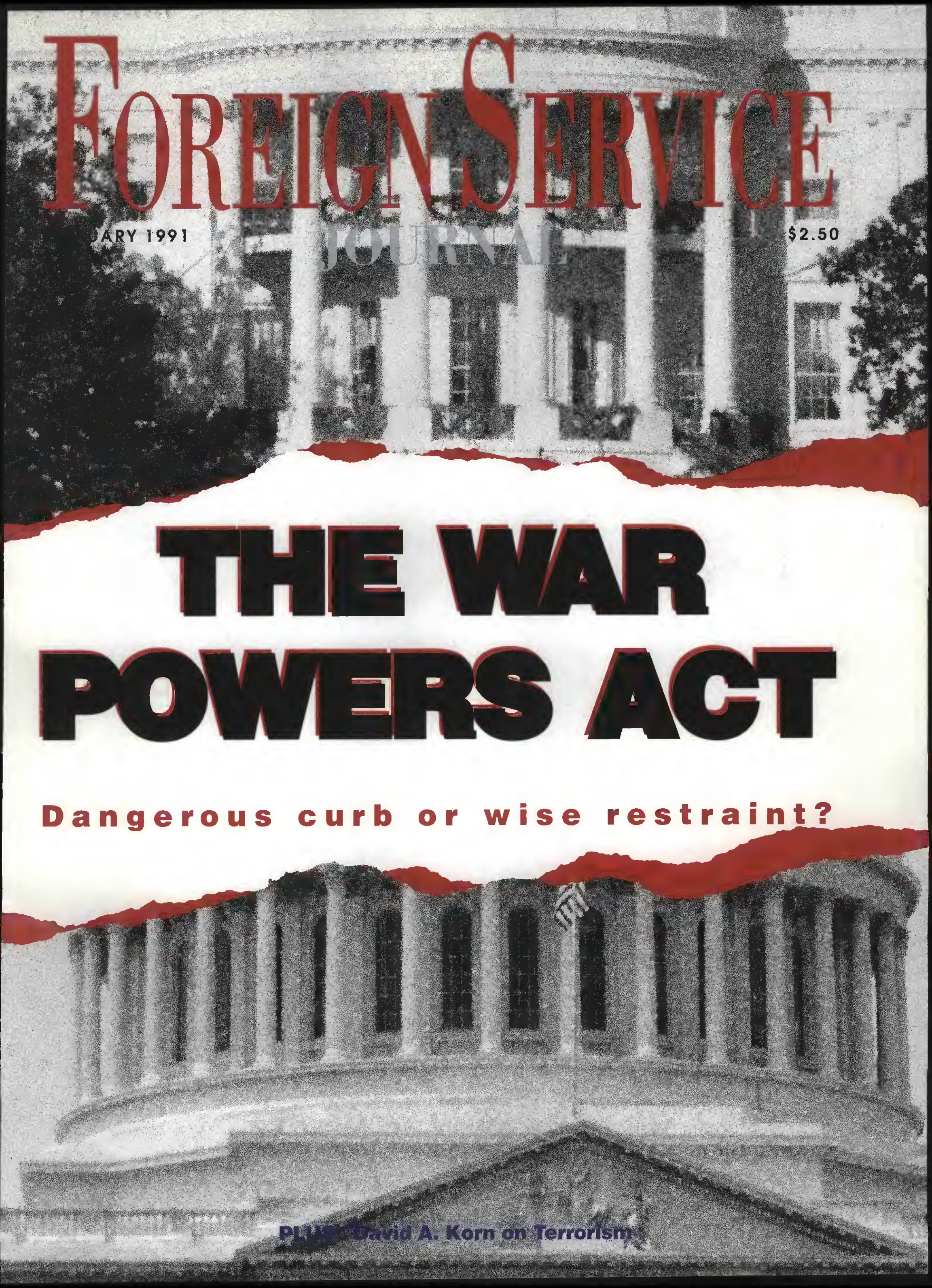

THE WAR POWERS ACT

Dangerous curb or wise restraint?

PLUS: David A. Korn on Terrorism

AFSA VIEWS

Telling it on the Mountain

If people join the Foreign Service because they're looking for adventure and challenge, there are quite a few who haven't been disappointed in the first two years of the Bush Administration. Recent crises that already have challenged the Consular Affairs Bureau include the Panama intervention, terrorism in the Philippines, the Liberian civil war, and the ongoing Iraq/Kuwait crisis. Add to this the high state of alert Americans must maintain wherever the narcotics cartels operate and in all regions of instability where the United States has taken a firm position.

Despite all this, one reason that Foreign Service duty doesn't strike all Americans as a script for Harrison Ford is that a lot of people don't even know what the Foreign Service is. As former Under Secretary Ron Spiers pointed out in a pithy op-ed piece some time ago, you have to start by distinguishing it from the forest service and the foreign legion.

Then comes the more difficult task—dealing with the large group of Americans who already know—or think they know—what the Foreign Service does. This is the group that asks (for the skeptical, I have the questions on tape, addressed to me on a call-in show) why the Foreign Service gave up Europe and Asia to communism and Latin America to dictators. Never mind that we've recouped most of what was "lost." To them, Washington is monochromatic, and all agencies have been endowed with an equally generous share of incompetence. Painting in the shades of difference in the executive branch is a painstaking task, and some people will never see them.

Whatever else AFSA may accomplish, our greatest challenge lies in better illustrating to our own countrymen what the Foreign Service is—a corps of loyal public servants—and what it isn't: a council of elders that debates administration proposals and decides whether to implement them. The association pursues this goal with an outreach progam that incorporates articles in the *FSJ*, regular contacts with key legislators and staff, and the effort we began in 1989 to build bridges with business partners through our "international associates" program of topical, trade-related conferences.

Regrettably, AFSA alone will make no more than a ripple in a sea of indifference. Telling it on the mountain is a task for everyone. We need to take full advantage, for instance, of the boost to Foreign Service public relations that Ambassador Nat Howell and staff provided through their four selfless months making a beseiged embassy in Kuwait a symbol of U.S. resolve. AFSA is organizing speaking tours early in 1991 for Howell and for Deputy Chief of Mission Barbara Bodine, and we have also proposed to potential donors the funding of a permanent AFSA speakers' bureau, which would supplement the State Department's meager budget, find active and retired Foreign Service people to meet regional requests for speakers, and perhaps even stimulate more such requests.

But our best resource by far is *you*, AFSA's members. All Foreign Service people have a story to tell. Most fail to realize that their stories, their videos, slides, and photos are of interest to more than just family and close friends. It's only a small step from the home to a church group, or to community Rotarians or Lions, and from there to the next town. In some cases, the regional programs division of the State Department's public affairs bureau can help with planning. For those of you on active duty, think about this option the next time you're on home leave, and give your hometown friends time enough to arrange things for you in advance. For our retired community, please register as interested parties for our (eventual) speakers bureau. And for all AFSA members, let us know other ways in which AFSA can help *you* tell the Foreign Service story.

—Ted Wilkinson

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FEATURES

DEPARTMENTS

MAKING HISTORY AT STATE

To The Editor:

Historians have three concerns about the department's *Foreign Relations* series: publication is seriously delayed; the volumes have become much thinner, while the material from which to draw has vastly expanded; and there is a crisis in confidence over decisions on the declassification and selection of materials for the series. These concerns feed on each other, but the last is the most serious. Even with reduced budget and personnel limitations, the department is trying hard to overcome delays in publication. Budgets are unlikely to accommodate an enlargement of the volumes, thus heightening the mistrust among historians over the nature of the documents left out. And in the era of Watergate, Irangate, and other government scandals, who can be surprised that historians are suspicious of decisions made by the bureaucracy in the declassification and publication process? Is it surprising that they want to know more about processes and decisions? Why wouldn't they be suspicious about what is left out? And even with the professionalism we in the Foreign Service can be sure exists among the declassifiers, who can expect historians on the outside to accept in this age the same assurances the department has been proffering for years?

The mandated charters of the department's advisory committee call for it to provide us with advice on matters the department solicits. The Historical Advisory Committee, formed long ago, also serves the informal but very real purpose of providing a seal of "good housekeeping" for the series. The function of this particular committee is unique. What responsible historian would lend his or her name to this committee without being convinced that the *Foreign Relations* series was a responsible effort? Surely the committee provides us advice on matters we raise, but just as surely it testifies to the professionalism of the product. Some in the department overlook this fact.

To better assure the historians of the nature of this work, several years ago the declassifiers began to brief the committee at its annual meeting on the content of particular volumes—what went in, what was left out, and why. That was an important step and was well-received, but the committee, holding secret clearances, sought as well to see documents that were excluded from the volumes. Many of the excluded documents originate in State; many others come from other agencies and foreign governments. The latter do raise important questions to address. While foreign government documents provide special problems, lack of progress in resolving the handling of department materials satisfactorily seems to aggravate the matter, and this inevitably leads to still larger demands.

And in the era of Watergate, Irangate, and other government scandals, who can be surprised that historians are suspicious of decisions made by the bureaucracy in the declassification and publication process? Is it surprising that they want to know more about processes and decisions?

Tension is built into the relationship between historians and the department, but it has generally been manageable by both sides in years past. Compromise is needed now, but a solution is not encouraged when we fall back once again to a defense of saying: we're professional, we act in good faith, don't question our judgment. If the *Foreign Relations* series is to serve a purpose, the department must be more open to confirm the confidence of the historian community. Without the "good housekeeping" seal of the historians, the series risks becoming a depreciated research tool that can only shrink into obscurity. That would be tragic.

George B. High
The writer is a Foreign Service officer.

To The Editor:

I was delighted to see the letter from Dwight Ambach et al. of the Office of Historical Documents Review (HDR) responding to my August article in the FSJ, "Gaps in the Historical Record." By revealing their inability to recognize the gravity of the problem, they may make a better case for the pending legislation to strengthen the advisory committee than I did. It may be useful, in addition, to note some things they distort or neglect to mention.

At no point in their letter do they deny that the *Foreign Relations of the United States* (FRUS) volumes in question were a fraud perpetrated on the American people to the detriment of the reputation of the series and to the embarrassment of HO and the entire department, indeed, of the U.S. government. And yet they insist that there is no need for new procedures. If current practices have resulted in fraud, is it not time for a change?

Dwight Ambach et al. argue that the historians, "who desire to know everything," will never be satisfied with any solution to the declassification problem. Maybe they're right, but they neglect to mention that in September 1989 the historians and the head of HDR (then CDC) *had* reached an agreement that seemed workable—and that the department refused to honor two months later. Had the department acted in good faith, had HDR, HO, and the advisory committee been allowed to execute that agreement, I would not

have resigned, the present situation would not have "gotten out of hand," and the legislation they dread would not be pending.

I do not doubt that Dwight Ambach and his colleagues share my desire for a "credible documentary record," but it is evident that they have failed to produce one. In failing, they have done us all a disservice. Their letter reveals that they have learned nothing from this disaster, have not repented, and have forfeited their right to determine what goes into the FRUS volumes. Congress has no choice but to mandate an *independent* advisory committee to oversee FRUS.

Warren I. Cohen
Warren Cohen is former chairman of the State Department Advisory Committee on Historical Diplomatic Documentation

RETIRED GENTLEMEN, TAKE NOTE

To The Editor:

Mr. Edgar Williams ("Letters," November FSJ) has a good idea. "Marry an older man?" Does he also have an idea about how one can meet these retired FSOs? Junior officers in Washington for training aren't likely to run in the same social circles as these gentlemen.

I'm going to be in Washington from February through May before going to Tegucigalpa as a junior GSO. Think about it.

Earline M. Reid

INQUIRY

Dr. Josef Pribek would like to resume contacts with any former State Department officers active in Czechoslovakia in the postwar period, from 1946 to 1948. He is seeking especially a Mr. Robert Boies/Boyce/Bois.

Anyone interested in corresponding with Dr. Pribek can write him at:

Pod krcskym lesem 12
142 00 Praha 4 - Kro
Czechoslovakia

All prompt answers will be greatly appreciated. ■

NOTE TO READERS: The Journal welcomes letters to the editor. Although all submissions are carefullly read, we regret that due to volume, we cannot acknowledge or return unpublished submissions. Letters may be edited for length.

Selected Questions from the Second and Third General Foreign Service Examinations of 1940, FSJ, February 1941:

Estimate the population of the United States.
30,000,000 • 70,000,000 • 100,000,000 • 130,000,000 • 230,000,000

Estimate the deficit of the United States Government, 1939, expressed in millions of dollars.
50 • 100 • 500 • 1,000 • 3,000

Indicate which of the numbered words or phrases in the left-hand column best applies to each of the words or phrases in the right-hand column. Do this by placing the appropriate number in the parentheses to the right of the word or phrase.

1. Event in ancient history	Peloponnesian War ( )
2. Event in medieval history	Founding of Rome ( )
3. Event in modern history	Crusades ( )
	French Revolution ( )

FOREIGN SERVICE QUIZ

Foreign Service Quiz (Answers appear on page 64.)

1. Who served most briefly as secretary of State?
2. What early American diplomat is responsible for the principle of "home leave"?
3. Appointed consul general at Paris in 1861, this major figure in American diplomacy blocked attempts by agents of the Confederacy to gain French support for their cause. Who was he?
4. Which future German chancellor was declared *persona non grata* while serving in his Washington, D.C. embassy?
5. Who is the only American ambassador to have served in Paris, Bonn, and London?

CLIPPINGS

ADJUSTING TO THE SPOTLIGHT

THE *NEW YORK TIMES*, DECEMBER 18, 1990, BY PATRICK E. TYLER

BAGHDAD, Iraq, Dec. 17 - Two weeks ago, the United States deputy chief of mission here, Joseph C. Wilson 4th, received an urgent telephone call from the State Department informing him that "the balloon is going up—this is no drill."

The Iraqis were preparing to fire, or had just fired, two Soviet-made Scud-B missiles, and Western intelligence feared that President Saddam Hussein was launching a strike either against the international force assembled in Saudi Arabia or against Israel.

As it turned out that first weekend in December, the Iraqis were simply conducting a test of their rocket forces. . . .

Mr. Wilson, a career diplomat for the last 15 years, regards his role in carrying out the day-to-day diplomacy of the United States in the Iraqi capital as an accident of history. He is neither an Arab specialist nor an experienced political officer. Rather, he has risen within the Foreign Service as an administrative officer, someone usually more concerned about embassy heating and plumbing work than with what is going on in the host country.

The reason he was thrust into such prominence was that April C. Glaspie, the Ambassador, who is an Arabist and an experienced political officer, left for Washington the day before the Iraqi attack on Kuwait. . . .

On Aug. 6, as the first United States armed forces were on their way to Saudi Arabia at the request of King Fahd of Saudi Arabia, Mr. Wilson was summoned to the Iraqi Foreign Ministry for what he assumed would be a stern encounter with Foreign Minister Tariq Aziz. Instead, he was ushered into the presence of Mr. Hussein, who at that moment had 120,000 troops in Kuwait. . . .

In an hourlong lecture, Mr. Hussein told the American diplomat that Kuwait belonged to Iraq and there was no going back; he added that if Saudi Arabia, the United States or any of its allies in the region sought to cut off Iraq's oil export pipelines or wage economic warfare against him, he would consider such acts as declarations of war.

BAGHDAD, THROUGH RUSSIAN EYES

IZVESTIA, BY YEVGENY BAI AND V. LITOVKIN, TRANSLATED FROM THE RUSSIAN BY *WORLD PRESS REVIEW*, JANUARY 1991

At first glance, Baghdad did not give the impression of a blockaded city—especially to Muscovites who were unaccustomed to seeing a variety of consumer goods in store windows and inexpensive, high-quality merchandise filling market stalls.

The [United Nations] blockade is inhumane, our escort told us the very first time we met. He was a Russian-language interpreter for Iraqi President Saddam Hussein and an expert on the Soviet Union. It is criminal, he said, because our children are deprived of milk and our old people, of medications. Diabetics are suffering, because the insulin supply has run out. But, he added, aspirin and other headache remedies are available. The same goes for eggs and cigarettes.

At the unofficial exchange rate of four Iraqi dinars to the dollar, a kilogram of tomatoes costs about 13 cents at the capital city's markets; cucumbers, 10 cents; eggplant, 10 cents; apples, 38 cents. The average Iraqi worker's monthly wage is $50. . . .

Our program included a visit to an elementary school. "Who is Bush?" we asked the children. "The enemy of the Iraqi people!" they answered. "And who is Gorbachev?" "Bush's friend!" One question created confusion: "Then what is Gorbachev to the Iraqi people—a friend or enemy?" "A friend," one of the older schoolchildren replied uncertainly. It is the same among grownups: The Soviet Union does not seem to be considered an enemy yet but is no longer a friend.

McCORMACK RETIRING

THE *WALL STREET JOURNAL*, DECEMBER 18, 1990

Richard McCormack, undersecretary of state for economic and agricultural affairs, said he will resign, becoming the most senior official to leave the State Department during the Bush Administration.

The 49-year-old Mr. McCormack, who said he is quitting to spend more time with his wife and three young children, told Sectretary of State James Baker of his final decision yesterday.

CRYSTAL BALL

THE *LOS ANGELES TIMES*, DECEMBER 11. 1990, "THE YEAR 2010," COMMENTS BY MICHAEL VLAHOS, DIRECTOR OF THE CENTER FOR THE STUDY OF FOREIGN AFFAIRS.

. . . East Asia becomes a cockpit of competition, not integration. A decline in U.S. ability and willingness to maintain large military forces across the Pacific, plus the growing strength of Asian countries' own armies, will gradually end America's role as the referee of East Asian affairs. A united Korea emerges as Japan's most aggressive competitor. Japan's relations with its neighbors become touchy.

The United States reassesses its role in the world and its domestic political system. In the wake of the Cold War and amid a widespread perception that the federal government isn't working, domestic politics turns to the job of renewing the American system. U.S. world role turns somewhat more isolationist, under a doctrine of "selective engagement" that avoids long-term commitments like those of the Cold War.

The political use of military force declines. Production technology is seen increasingly as the new yardstick of world power, replacing the traditional measures of heavy ground forces and nuclear arsenals. But the world powers do continue to deploy military forces, concentrating their interest on the oceans—and outer space. NATO gradually recedes in importance; Western Europe becomes an autonomous military power. ■

SPEAKING OUT

MARGUERITE COOPER

Twenty Years After the "Women's Revolution": A personal view

I was surprised to read the caption of a magazine picture recently: "a post-feminist woman." I rushed to the dictionary.

Feminism: "...equal political, economic, and social rights for women." This magazine thinks we have achieved equality, I reflected, and that we can put the struggle behind us and move on!

State Deputy Under Secretary for Management William Macomber meets with WAO members in 1972. Facing the camera are Macomber; his assistant, Gladys Rogers (to his left); Barbara Good (State); Elaine Fry (USIA); Idris Russell (State WAO vice president); and Viessa Jackson (AID WAO vice president).

Actually, there must be many who do not know how far women have come. Nor, perhaps, that the struggle continues. Or that those who strive for equal opportunity and dignity are not fringe militants, but mainstream women and men. Perhaps it is a good time to look back at the events of 1970, when landmark reforms opened up careers in the foreign affairs agencies to married women, providing the possibility for women to excel in any field and at any level: the possibility, mind you; no guarantees.

In November 1990, we celebrated the 20th anniversary of the Women's Action Organization (WAO) in State, USAID, and USIA. I would like to share my recollection of the heady days of the "women's revolution" and the many years that followed in an evolutionary crawl toward greater freedom of choice, as well as some personal thoughts about what they meant. Others will have a different view and different conclusions. What you see depends on where you sit.

Women in 1970

To set the scene we must revisit 1970. The following is a broad-brush treatment of a complex and technical subject, laced with some brief (and, of necessity, oversimplified) explanations along the way.

First and foremost, with few exceptions, women in the Foreign Service could not be married and remain career employees. There was no one regulation clearly prohibiting marriage, but a web of rules dealing with tenure, pay and allowances, and their implementation had the same effect.

My recollection of the reason given for requiring women to resign upon marriage was that a woman's legal residence was considered to be that of her husband, meaning that the woman would no longer be "world-wide available," a condition of employment. Plainly stated, those rules reflected the conventional wisdom of the time that a women's "place" was in the home, looking after the family and being provided for by a "breadwinner" husband. Women outside this accepted norm were expected to play quiet, supporting roles in occupations appropriate to their feminine natures.

Most women Foreign Service employees were secretaries in the Staff Corps (FSS), and 99 percent of the secretaries were women. About 80 percent of the secretaries were college graduates; most were serious professionals. Their male colleagues, largely communications personnel, had faster promotions, higher career ceilings, and better housing and transfer allowances.

Senior secretaries often had the duties of higher-grade executives or administrative assistants and staff aides. As secretaries, however, their career ceiling was three grades below that of communications supervisors. Secretaries in general felt greatly unappreciated: "go-fers" rather than professionals, treated like hired-hands or pieces of office equipment; not valuable members of the team.

The women Foreign Service officer generalists (FSOs) were rare, only 4.7 percent of the total FSO corps. Bright, articulate, and ambitious, they were considered oddities, outside the norm. This attitude was reflected in the low annual intake rate of 7 percent, and in efficiency reports' description of women's potential. Women's promotions were far slower than men's. They represented less than 2 percent of the senior grades.

A major problem for these women officers was their restricted choices in career functions and assignments. They were concentrated in the consular, cultural, and some administrative functions ("appropriate to women's nurturing instincts," I was told by an early career counselor).

As to assignments, the very few women political and economic officers were limited largely to posts in Canada, Western Europe, and Washington. It was felt that women "would not be taken seriously" by business and political leaders in Muslim countries, Asia, and Latin America—and Africa was too dangerous. In the department, they were concentrated in a few bureaus and rarely found in the "fast track" assignments, such as the country desk jobs and as staff aides.

Foreign Service wives were expected to stay at home, assist their husbands in their official entertainment of business contacts, and participate in "voluntary" community activity. For many, their homes were an extension of the office. For all, their homes and families were expected to promote a favorable U.S. image abroad.

By officially sanctioned custom, wives' rank matched their husbands' positions. Senior wives exerted authority over the wives of their husbands' subordinates, assigning community and social duties. Enforcement was largely ensured because their husbands' efficiency reports included a section evaluating their families. Resentment by lower-ranking wives was fed by occasional abuses and a generation gap in social values.

Some wives worked at hard-to-staff overseas posts, but always on a temporary basis and usually without allowances ("two for the price of one"). They could

Changing of the guard: WAO's first president, Mary Olmstead, meets with incoming officers in January 1972: Left to right are Olmsted; Dorothy Stansbury, the new president; Viessa Jackson, AID WAO vice president; Dorothy Dillon, USIA vice president; and Jean Joyce, State vice president.

not, however, work outside their husband's post without the ambassador's approval, which was infrequently given. Senior officers of that period generally believed married women's employment reflected badly on their husbands' ability to support them, and thus on the U.S. image.

In the Civil Service, women employees could be married. Unlike the Foreign Service, they did not have rotating assignments and postings far from "home." Only a few such women were at the senior and middle levels, but proportionately more than their Foreign Service counterparts.

The overwhelming majority of women Civil Service employees, however, worked in lower-level clerical and administrative jobs. Their average grade in State was GS-6. For all ranks, the most acute problem was barriers to advancement. At least in State, the most common complaints were that job descriptions were hopelessly out of date, performance appraisals frequently were not done or were incomplete, and promotions were arbitrary.

For readers today, some of this 20-year-old portrait may seem unbelievable. But it was real, and so were the personal frustration and anger many felt at the time. To the best of my knowledge, none of the restrictions on women was clearly covered by written official policy. In most cases it was a matter of tradition and automatic assumptions by officers responsible for personnel actions, including first-line supervisors. Women's obvious qualifications and potential were beside the point.

Time for change

By 1970, it was clearly time for change. America was in turmoil. Newspapers headlined protest rallies for civil rights and a larger role for women. Equal opportunity and the advancement of women and minorities became mainstream values, even fashionable, as a mark of "enlightenment." In 1970, several factors came together to produce fairly radical change for women in the foreign affairs agencies. The creation of the Women's Action Organization as an effective pressure group was one of them *(see the* FSJ, *January, 1981)*.

To set the stage, while the Civil Rights Act of 1964 had not covered the public sector, there were executive orders proclaiming equal employment opportunity as the policy of the executive branch. President Nixon initiated programs to advance women and minorities. Offices were created, information collected, and official groups set up to bring women's concerns to the attention of agencies' management. In 1969, USIA and A.I.D. created advisory committees under the Federal Women's Progam. State followed belatedly in mid-1970.

Fortuitously, the department itself was undergoing a major shakeup. Presidents from Kennedy on had criticized State as being unresponsive, closed, and hierarchical. Inter-agency task forces were appointed in 1969 to look at State's management, personnel policies, and figure out how to foster a more open and creative system. They sought personnel systems compatible with, if not parallel to, the Foreign Service system in the other foreign affairs agencies. This was a rare opportunity to propose fundamental change.

The women's organization began with three mid-level employees in State (Jean Joyce, Idris Russell, and Barbara Good) who tried to point out that the task force groups had totally failed to address women's concerns (April-May, 1970). By July they had a core of 20 supporters. The women (and now men) formed the Ad Hoc Group to Improve the Status of Women in the Foreign Affairs Agencies. I joined at this time and worked on the issue of training.

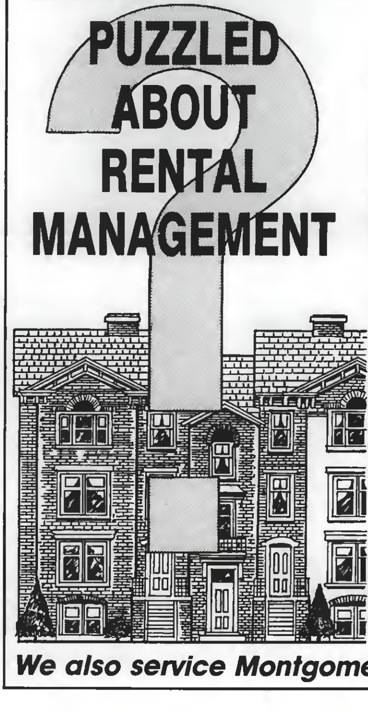
A critical turning point was the group's August 26th meeting with State Deputy Under Secretary for Management William Macomber. The Ad Hoc Group made its pitch for delaying the task force recommendations until the task force groups had a chance to address women's concerns specifically. Macomber would not stop the clock, but he invited the women to submit their comments in writing by September 8.

Macomber said he found the Ad Hoc Group's requests reasonable. For example, he saw no reason women employees need resign on marriage if they wanted to continue to work. Women deserved a "fair shake," and keeping them in the work force would reduce the costs of high turnover of trained and experienced personnel. The credibility of the Ad Hoc Group was enhanced when a hastily called, official open meeting on women a week later produced a large audience which pelted task force chairmen with critical questions.

"Not so few as to be disappointing"

The final task force reports contained only a few of the Ad Hoc Group's suggestions. However, the dialogue with Macomber provided other opportunities. To cite examples, that year the department requested that the group: compile a list of short- and long-range actions that could be taken to help women and make suggestions for the precepts for promotion boards, as well as for a White House initiative to increase the number of women in senior and mid-levels of the Civil Service.

Working through the newly formed Federal Women's Program Committee in State, Ad Hoc Group members pushed for



an official statement establishing women's right to marry and persuaded the Office of Personnel to send recruitment teams to women's colleges. With the Secretary's Open Forum they worked on issues of concern to spouses. By the end of 1971 they had been instrumental in the issuance of a series of management circulars on marriage, assignments, and spouses.

By November, 1970, the Ad Hoc Group had about 200 active members. With the task force reform exercise behind them, they had to decide whether to disband, merge into another group or remain separate. They decided to become permanent and took the more manageable name of the Women's Action Organization. Members included all categories of personnel in the three foreign affairs agencies and their spouses. Through word of mouth and recruitment of overseas members, WAO grew to 800 in 1972 and peaked at 1,000 members by late 1973.

During this same period, the department was faced with another challenge: the first successful sex discrimination grievance filed against it. Foreign Service officer Alison Palmer had been denied three political officer assignments in Africa. In 1971, the Civil Service Commission ruled in her favor and called for "remedial action."

Looking back at the period from 1970 to 1973, there were changes in official personnel policy benefiting women, some of them radical departures. Through policy pronouncements and changes to the regulations, the effective ban on marriage was removed. Husband and wife working teams ("tandem couples") were facilitated by changes in regulations on assignments, allowances, and leave. Upward mobility programs were created to allow some secretaries and administrative clerks in the Foreign and Civil Service to advance to new careers. Single employees' allowances for shipment of effects and housing were improved. An official policy statement on the professional status of secretaries was issued.

Women Foreign Service generalists increased from 149 to 234, including those reappointed who earlier had been forced to resign upon marriage. More women were selected for senior and university training. Official statements of

The Woman FSO's Catch 22

For those of us in the trenches, it felt like a revolution in 1970. Though we believed that what we were doing would strengthen the foreign affairs establishment by increasing its pool of resources, we also knew that some would think us disloyal troublemakers, and that we were putting our careers in jeopardy.

For myself, I felt desperate and helpless. I loved my work and the Foreign Service, but by 1970 I had decided that a career incompatible with marriage was intolerable, and I was looking for alternatives.

When I entered the service in 1956, I had no sense of personal discrimination based on my gender. On the day I entered, I learned that no single officers could serve behind the Iron Curtain, and women had to resign upon marriage. Catch 22. Out the window went my university specialization in Soviet Bloc affairs. I could not take Arabic language training in 1960 or be a political officer in Japan in 1963. I chose to specialize in South Asian affairs because other women political officers had broken the gender barrier.

I was at the receiving end of personnel changes permitting tandem couples when I married another Foreign Service officer in 1972. I was permitted to take leave without pay to join my husband in Lahore, Pakistan. Then I was assigned to the embassy in Islamabad where, later upon his retirement, he joined me as my "dependent spouse." Of my two supervisors in Islamabad, one strongly disapproved of tandems, seeing the arrangement as "double dipping at the public trough." The other was himself a member of a tandem couple.

— Marguerite Cooper

policy were issued barring discrimination in assignments and declaring that wives were "private persons" who could not be assigned duties. Efficiency reports were changed to remove comments about families. Posts were instructed to encourage the employment of wives abroad.

Rising expectations

Both external and internal factors were needed to make change possible. The first, of course, was changes in public opinion and social values. The women's movement was both a reflection of, and response to, the rising expectations of women. Executive orders in the 1960s and the Equal Employment Opportunity Act of 1972 gave needed official and legal sanction.

Secretary Macomber's request for the group's input into ongoing personnel decisions and his backing of the Federal Women's Program Committee, appointing the first full-time FWPC chairman (his personal assistant, Gladys Rogers), enabled WAO to choose a policy of working within the system rather than challenging it, e.g., through the courts.

WAO work was also essential in researching, organizing, and publicizing the cause. Mary Olmsted, WAO's first president, ensured that WAO's input was constructive and sophisticated. WAO built as broad a constituency as possible to avoid being torn apart by divisions between the Foreign and Civil Service, officers and support staff, employees and wives. It needed allies: it formed coalitions with other voluntary organizations, such as AFSA and the American Federation of Government Employees (AFGE).

Battling for men's minds

After the "revolution" came the crawl. It was one thing to get broad policy statements on equality—as welcome as they were—and quite another to get them implemented by mid-level managers and first line supervisors. WAO monitored the progress. While the record was mixed, certain patterns had emerged by 1975.

Foreign Service employees took advantage of the lifting of the marriage ban, and the number of tandem couples grew rapidly. State (but not USAID or USIA) increased the recruitment of women officers into the Foreign Service, but the women continued to be concentrated in consular, cultural, certain administrative, technical, and "support" functions in the three agencies. Their promotions continued to lag. Opportunities for spouses' employment abroad increased, but substantial barriers remained. Their status as private individuals abroad had a mixed reception and occasional severe lapses.

> *I come away from my 17 years in WAO with the conviction that individual women and men can make a difference: in their own lives and for their profession as a whole.*

Not surprisingly, the Civil Service workforce benefited the least from the reforms of 1970 to 1974. The task force groups had concentrated on the Foreign Service, although there were some spin-off effects. Each of the three agencies had small upper mobility programs for support staff (mandated by the Equal Employment Act), but the overwhelming majority of women were in low-ranking, dead end jobs. At the middle level, only USIA showed an increase (28 percent), and no progress was made by women at the senior level.

The barriers for women were both systemic and psychological, beginning with recruitment and progressing through assignments, performance appraisals, and promotions. While agency heads exhorted their managers to obey the law (the amended Civil Rights Act), there was little effective follow-through. For the most part, supervisors were unaware that their underlying assumptions about women were discriminatory and damaging.

Evolutionary crawl

These were the problems I inherited in 1976 when I became WAO president. I noted three other ominous signs: little, if any, access to senior managers in State and the withering of the follow-up mechanisms; a backlash against tandem couples' assignments; and discontent on the part of Foreign Service wives and secretaries who felt the women's revolution had diminished their role and status.

We worked with what we had. In 1975 the department implemented a Civil Service Merit Promotion system to provide for more systematic and open competition for jobs. WAO pressed for better counseling, job descriptions, performance appraisals, and training opportunities. It also began a series of "self-help" noontime programs to explain changes in personnel policies, help employees take advantage of existing opportunities for advancement, and improve job skills.

But with change slowed to a glacial pace, WAO felt compelled to work outside the system to get results. In 1976, it joined the class action suit (filed by Alison Palmer and other women FSOs) charging the department with sex discrimination against Women FSOs. Soon thereafter, the recruitment of entry-level women FSO's shot up.

The appointment by Secretary Vance in 1977 of an Executive Level Task Force on Affirmative Action had the potential for addressing other major grievances. These included more choice in functional specialties, good assignments, and faster promotions. Sadly, little progress was made. Personnel managers failed to acknowledge that the system was biased by sex stereotypes of a "woman's place" and "women's work." They emphasized bringing in women political appointees for senior level jobs rather than developing existing women employees and promoting from within.

Some Foreign Service spouses also turned to outside help when they could not get satisfaction from working within the system. In 1975, a WAO Study Group on Spouses, led by Hope Meyers, met with the director general for personnel to ask for help: in increasing their employment opportunities inside and outside of the posts abroad and in creating a liaison between the department and families. They were told that as "private persons" not employees, they could not be helped by the department. In response, the group created a Research Committee on Spouses and developed its own world-wide Spouses' Skills/Talent Data Bank with over 1000 listings, almost half with advanced degrees. Then, led by Cynthia Chard, the group effectively lobbied the Senate Foreign Relations Committee for authorization of the Data Bank and what later became the Family Liaison Office. In this effort, WAO joined forces with the American Association of Foreign Service Women (AAFSW).

Agenda for the 1990s

Women in the foreign affairs agencies have made significant strides, both quantitatively and qualitatively. Many former clerks and secretaries have moved into new fields with higher career ceilings, especially in administrative and technical jobs. Women are now better represented in "non-traditional" occupations and serve in every region of the globe. Today there are more than 800 tandem couples. More women are in the senior grades and in leadership positions in State, USAID, and USIA.

Nevertheless, our battles for equality, advancement, and dignity are certainly not over. Many problems remain the same: neglect of the Civil Service, lack of upward mobility programs for lower and mid-level Civil and Foreign Service women in State, and reliance on increased intake of entry-level women Foreign Service generalists to "trickle up" to the mid- and senior levels over time. The glass ceiling persists. And, there is a whole series of problems to be grappled with as the result of more married women with careers.

Management can be, and often is, an ally. WAO maintains a dialogue with senior management in the three agencies. While such managers may well be sympathetic, in my experience effective change requires that they be given informed analysis of problems and constructive solutions that benefit the system as a whole. And that takes time, organization, and leadership.

I come away from my 17 years in WAO with the conviction that individual women and men can make a difference: in their own lives and for their profession as a whole. I was able to marry, have a family, and pursue a career. For me, activism was early reality training in how the personnel system worked and how to use the career-relevant skills of organizing, strategizing, drafting, and briefing. And, it was the source of some of the deepest friendships I now savor. ■

A Foreign Service officer from 1956 to 1986, Marguerite Cooper was a founding member of the Women's Action Organization and its president from 1976 to 1978 and vice president for State from 1978 to 1981. She is currently a political consultant and campaign professional.

War Powers

AND THE

CONSTITUTION

The War Powers Resolution urges on the American people an interpretation of the Constitution that appears to require a choice between inaction on one hand and committing the United States to an all-out, formal "war" on the other. When the president and the Congress—both elected by all the people—agree that a middle course, local use of force, is desirable to achieve U.S. policy goals, it is hard to understand why they should be constrained to an extreme. Certainly neither international nor constitutional law requires such a result.

Passed over President Nixon's veto on November 7, 1973, the statement of purpose and policy of this joint resolution of Congress says:

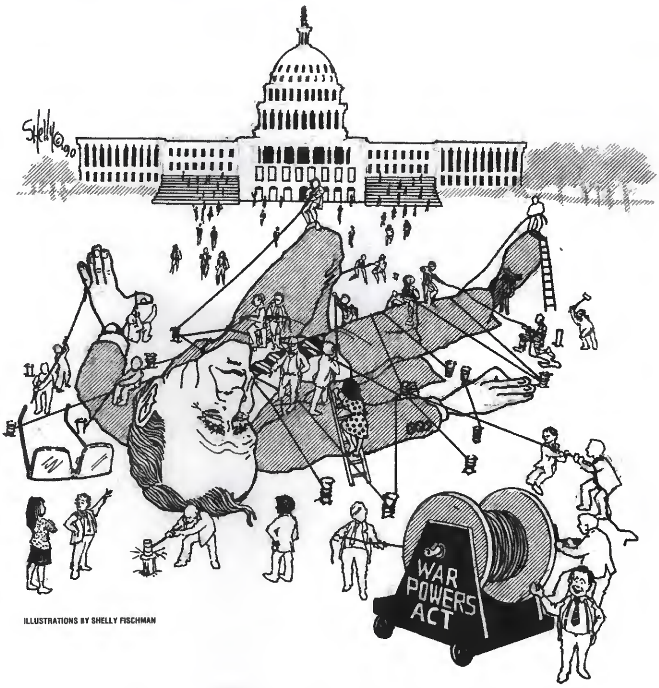
> The constitutional powers of the president as commander-in-chief to introduce the United States armed forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

On the basis of this argumentative assertion of constitutional law, the resolution purports to require the president "in every possible instance" to "consult with Congress before introducing United States armed forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated." And, where American forces are nonetheless introduced into hostilities without a declaration of war by Congress, various reports are required, even if the Congress is not in session. A definitive call by the Senate president and the speaker of the House to file the first such report sets a clock ticking: it requires the president within 60 days to "terminate" the use of U.S. armed forces, unless Congress has declared war or has extended the period for not more than 30 days.

No Congress can by legislation limit the constitutional authority of its successors, and in cases of inconsistent legislation, the later in time supersedes the earlier. There-

ALFRED P. RUBIN

fore, the attempt to limit the authority of a later Congress to authorize military action for longer than 30 days beyond the initial 60 is clearly unconstitutional. But that is moot; since the resolution was passed, no president has issued a first report, and there has been no definitive call for one, despite a number of instances that seem to fall within its scope: we have stationed Marines in Beirut during a civil war there, naval forces in the Persian Gulf during an all-out war between Iraq and Iran, and actually invaded Grenada and Panama. Despite books and articles supporting the constitutionality of the resolution, no one seems able to explain why it has not worked for 17 years. Some castigate a supposedly supine Congress for not demanding obedience to the asserted "law," implying that the speaker of the House should be replaced; the vice president, as president of the Senate, impeached; or the president himself should be impeached for failing to obey his constitutional responsibility to "take care that the Laws be faithfully executed."



ILLUSTRATIONS BY SHELLY FISCHMAN

WHAT IS WAR?

When Grotius wrote in 1625, a declaration of war had obvious legal functions unrelated to the use of armed force. It turned "neutrals" into "belligerents" and permitted a belligerent to intern "enemy" aliens and sequester their property for the duration of the war. It turned neutral merchant vessels into enemy vessels, subjecting them to seizure in port, capture at sea, and possible sale in a "prize court," with the proceeds of the sale distributed according to the international law of "prize." These and many other legal effects were well known to our revolutionary generation. Our government first applied them during the wars of the French Revolution, when we expelled the French consul, Citizen Genet, in an incident well known to students of U.S. diplomatic history.

The power of Congress to "declare war" occurs in the same clause of the Constitution (Article I, Section 8, Clause 11) as the power to "grant Letters of Marque and Reprisal" and to make "Rules concerning Captures on Land and Water." All the rest of the Congress's "war powers" are in other clauses. Letters of marque and reprisal and the law of captures are parts of the law of war that applied then (and apply now) to govern private property rights and personal status affected by local military actions; a declaration of war makes the law of war applicable to general relations between states. This is evidence that the framers of the Constitution and the legislators of the states considering

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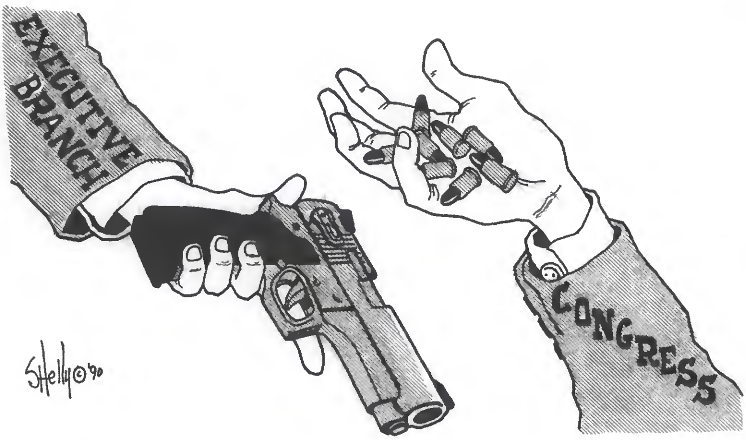

Under the Constitution, no money can legally be drawn from the federal treasury "but in consequence of Appropriations made by Law." Congress has the power "to raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two years." . . . [Congress] would have no difficulty in making the costs of their overseas stationing or movement a line item as well.

ratification had in mind the legal impact of a declaration of war on personal status and property rights. Language taken from Madison's notes that might seem to show some other notions in the minds of some of the framers was not given to the states or even to the persons supposed to have been quoted. It is hard to understand why Madison's reports of unclarities in the minds of some framers should be construed to create doubts about legal relationships well understood by international lawyers in 1787 (and 1990), and why, even if the doubts were created, they should be used to resolve questions of interpretation arising out of language ratified by the states without reference to those doubts.

In the early days of the Roman Republic, declarations of war had a religious meaning, involving the "god" of the tribe in the tribe's struggle for survival or gain. Since that meaning was eroded in the days of the Roman Empire, states have often declared war for the sake of legal results having nothing to do with fighting, and have often engaged in hostilities without any declaration of war. In the latter cases, the laws of war have been applied to the particular engagement, ships have been taken as "prize," and captives treated as prisoners of war; the Supreme Court held this position the first times the issue arose, in Bas v. Tingy (1800) and Talbot v. Seeman (1801), and has reiterated it whenever the issue has been adjudicated. The effect of congressional practice, moreover, has been to reduce the legal significance of the power to "declare war," not to limit the power of the president as commander in chief during peacetime as well as wartime to order U.S. forces into hostilities under the laws of war. In some cases, Congress has even authorized the president to use his authority as commander in chief to engage U.S. armed forces in "unneutral service;" no declaration of war was ever considered necessary as a prerequisite. In some cases, such as the transfer of 50 overage destroyers to the United Kingdom in 1940 and U.S. protection of convoys to the United Kingdom in 1941—distinctly "unneutral" acts during the Second World War—the president acted without specific congressional authorization.

Some would limit the commander-in-chief power by citing the power of the Congress to "declare war," referring to Federalist No. 69 as well as to the Constitution. But this interpretation of the Constitution does not seem to involve any analysis of the function of declarations of war in legal or historical context, and Federalist No. 69 does not pose the power of Congress to declare war as a limit on the authority of the president to order military action.

UN AUTHORITY

The United Nations Charter is a treaty of the United States and thus supreme law of the land. Under the charter, the Security Council, the only body with authority to require member states to act militarily, has not required the United States to do anything except embargo exports to Iraq and possibly to make some reports. Its authorization to enforce the Iraq embargo against third states cannot be self-executing in the United States to the degree that military forces are involved in the enforcement action. Aside from unresolvable questions regarding the threshold of self-execution of treaties under our Constitution, the use of military forces requires money, and only the Congress can enact legislation in the United States appropriating funds necessary to discharge our obligations to the United Nations. Indeed, we are almost two years in arrears of dues that we owe under the obligatory assessment system created by the charter. It is difficult to understand why, under U.S. constitutional law, the fundamental appropriations authority of the Congress should be regarded as preserved with regard to our non-discretionary institutional assessments but not with regard to discretionary action under the authority of the Security Council.

POWER OF THE PURSE

The obvious solution to the political and legal problem of assuring the Congress a determining role in the decision to use force lies in the appropriations power.

Under the Constitution, no money can legally be drawn from the federal treasury "but in consequence of Appropriations made by Law." Congress has the power "to raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two years." (No such limit of time hampers the authority of the Congress "to provide and maintain a Navy.") For many years, with few exceptions, every item of military construction abroad has been a separate line item in the Defense Department budget, which could be stricken by Congress. If Congress wanted to control the movement of troops, it would have no difficulty in making the costs of their overseas stationing or movement a line item as well. If a general authority to spend money is felt desirable to delegate to the president as commander in chief for emergency movement of troops, limited appropriations for that purpose could be made a line item, or, as happened with regard to the use of American forces in Cambodia, a separate act could be passed restricting the use of otherwise available funds to forbid a stationing or movement the Congress was not satisfied was wise.

As things stand now, every penny that is spent by the United States to support our forces in the Persian Gulf area has been appropriated by Congress for that use. No item of equipment can be used, no bullet issued from inventory, without authorizing legislation. Thus, it is not true that Congress has no control over a panicky executive's use of the commander-in-chief power. Congress can even encourage the use of force, if it wants to, without declaring war. While it cannot order the troops or ships directly into action, it can authorize military action, as it did in the Gulf of Tonkin Resolution of 1964. It could appropriate the funds to support overseas adventures of which it approved, as it appropriated the funds necessary to support President Jefferson's dispatch of the fleet to Tripoli in 1802.

CONSTITUTIONAL "GIMMICK"

There are other constitutional powers available to the Congress if it wants to control the executive. For example, the Senate must support by a simple majority the appointment of "public ministers," a phrase that has been interpreted to include cabinet and many other executive branch appointments. The Congress has the power by law to determine the organization of the executive branch, at least with regard to "Appointments . . . not otherwise provided for [in the Constitution] and which shall be established by Law."

All of this makes incomprehensible the reliance on the power to "declare war" as the basis for legislative competence to limit unwise action by the president, except, perhaps, as a search for a constitutional gimmick to replace the inability of a convinced minority of Congress to muster the necessary majority to pass the obvious legislation limiting appropriations, disposal of government property, or appointments.

I suppose there is some appropriation act authorizing the spending of money to station American military forces in huge numbers to defend Saudi Arabia and possibly to engage in military operations against Iraq, but it seems to rest on general appropriations, not on any reasoned consideration by Congress as to how the taxpayers' money should be spent on specific, narrowly focused, long lead-time military ventures. Thus, even if that stationing had been undertaken pursuant to the UN charter, it is not clear that the build-up to the present size can be supported by appropriations. If it can be supported by appropriations, then it is difficult to understand the fuss about the War Powers resolution. The normal rule of statutory construction is that in case of conflict between statutes, the later statute governs. There is little doubt that an appropriation effective in 1990 must have been passed long after the War Powers Resolution of 1973 and, to the extent authorizing the expenditure of funds for purposes forbidden by that resolution, supersedes it. Of course, the Congress can still exercise the discretion it undoubtedly has to determine limits on the future availability of public funds for foreign military adventures.

Nor can contributions from other member states of the coalition trying to restore Kuwait's independence replace appropriations. Under the legislation implementing the Constitution's grant of the appropriations power to Congress, all monies received by the United States must be deposited in the Treasury, and generally only funds authorized by Congress can pay the expenses of the United States. That was the essence of the Iran-Contra scandal: the attempt to set up a secret slush fund for unauthorized activities by the executive without congressional appropriation.

OVERRIDING WAR POWERS

In sum, the Congress has ample tools available to restrain a president suspected of instability or unwisdom in his exercise of his constitutional authority as commander-in-chief of the armed forces. The War Powers resolution, to the degree that it sets up a requirement of an authorizing statute, seems to have been met by appropriations. To the degree that it sets up a "declaration of war" prerequisite to the use of that authority, it has not worked for 17 years and will not work now, because authorizing the use of force or the expenditure of public monies is not and has never been the constitutional function of a declaration of war. If the concerned minority cannot muster the votes necessary to implement the restraints they would like to place on the president consistently with the Constitution, then that is the result of democratic choice under our Constitution. The minority may be wiser in their policy preferences than the majority; the Constitution does not compel the majority to be wise, nor does it make wisdom a necessary part of our law-making process. But authority is the bottom line of constitutional law, and meddling with the distribution of authority in order to achieve wise policy starts us on the path to the very tyranny the Constitution was drafted to avoid. ■

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War Powers

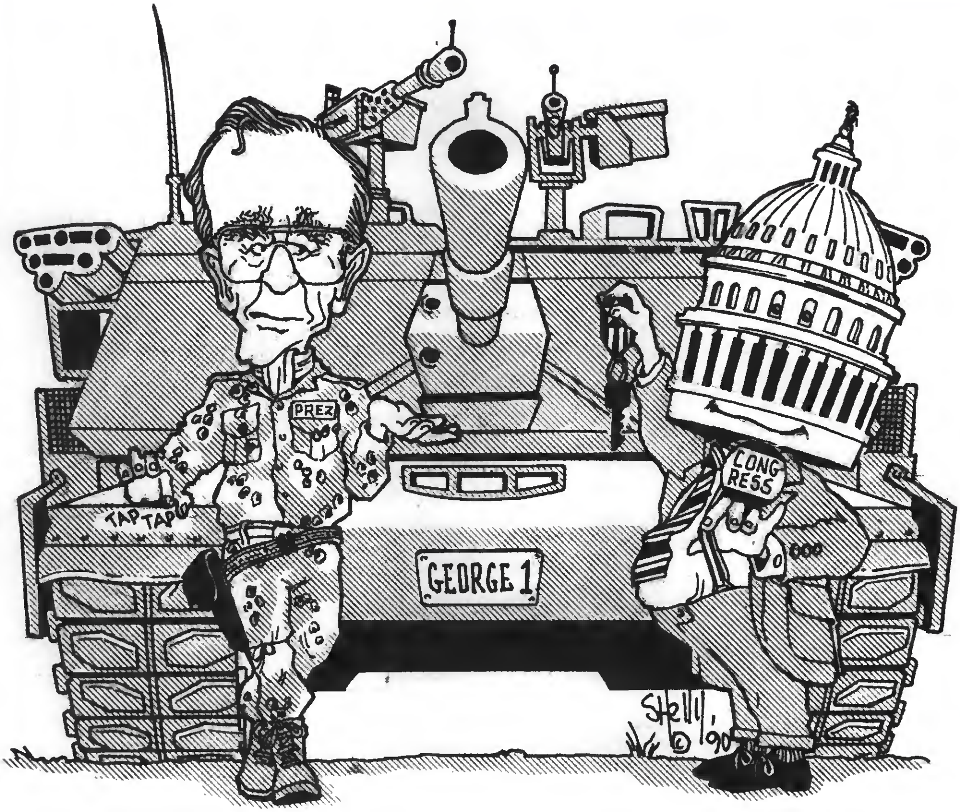
A SOURCE OF PRESIDENTIAL STRENGTH

The Persian Gulf Crisis has refocused attention on war powers, in both their constitutional and pragmatic dimensions. The debate has spurred discussion of the War Powers Act enacted in 1973. Misconceptions about the law abound.

First is the idea that the War Powers Act was some hasty and ill-conceived measure directed at the ongoing Vietnam War. On the contrary, the dwindling Vietnam War was specifically exempted from the act's provisions, and many leading supporters of the Vietnam War—preeminently Armed Services Commit-tee Chairman John Stennis—were staunch proponents of the War Powers Act. Moreover, the charge of hastiness is blatantly false. The War Powers Act reflected a very broad national consensus worked out over 3 1/2 years and was enacted only after exhaustive hearings and extensive floor debate. These facts cannot be glossed over: the Senate voted 72 to 18 for the original Senate bill, 75 to 20 for the House-Senate conference bill, and 75 to 18 to override President Nixon's veto, making War Powers the only law passed over Nixon's veto in 1973.

The principal sponsors of the War Powers Act were Senators Jacob Javits and Stennis, both men of judicious temperament, outstanding lawyers, and brilliant legislators with decades of experience in the national security field. Hardly members of the Woodstock generation, they were unabashed patriots and lifelong proponents of American strength and world leadership. But they were appalled by the quagmire of Vietnam, the breakdown in relations between the president and the Congress, and the dangerous isolation of the presidency—factors that collectively had precipitated the gravest national and constitutional crisis of this century. They were determined to enact a statutory framework to induce and facilitate a functioning partnership between the president and the Congress as the *sine qua non* of national effectiveness in a dangerous world.

ALBERT (PETER) LAKELAND



THE FRAMERS' INTENT

The easiest defense of the War Powers Act is argued solely in terms of "original intent," a doctrine much in vogue today. However, while "original intent" was indeed the starting point for drafting the War Powers Act, a conscious effort was made to translate that original intent into a legislative framework reflecting the exigencies of America's current status as a 20th century superpower and leader of a worldwide coalition of free nations.

To understand the War Powers Act, it is necessary to examine the Constitution itself and its "original intent" — what we call today "legislative history." The wording of the Constitution, as well as contemporaneous explanations by the framers themselves, shows that the framers intended to vest the decisive war powers in the Congress. The Constitution is notably terse and sparse. Nonetheless, Article I, Section 8 enumerates the war powers of the Congress in some detail: e.g. "provide for the common defense," "raise and support armies," "provide and maintain a navy," "make rules for the government and regulation of the land and naval forces," and, most important, "declare war." In addition, the Constitution gives to Congress the power to respond to terrorism and

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irregular attacks short of war. This power, as expressed in the vocabulary of the time, is to: "define and punish piracies and felonies committed on the high seas and offenses against the law of nations," and to "grant letters of marque and reprisal."

Over against these plenary and cumulative war powers given to the Congress, Article II, Section 2 of the Constitution states: "The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States."

The historical record shows clearly that in designating the president as commander-in-chief, framers of the Constitution intended *not* to strengthen the president *vis a vis* the Congress (whose agent he was in these matters), but rather to strengthen him against the governors of the 13 states who were the commanders-in-chief of their state militias. For it was those state militias which, when called to national service by the Congress, constituted the whole of the armed forces of the country at that time. A corollary reason for designating the president as commander-in-chief was to assure civilian supremacy over the military.

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In 1976, under a commission from the American Bar Association, Judge Abraham Sofaer published a historical study entitled *War, Foreign Policy and Constitutional Power*. Sofaer's conclusion with respect to the Constitutional Convention's decision to designate the president as commander-in-chief is stated as follows:

> "The commander-in-chief power received extraordinarily short treatment, considering its subsequent importance. What was said contained no hint of any authority based on this provision to use the armed forces without legislative approval."

The writings of Alexander Hamilton are particularly instructive on the role of the commander-in-chief. Everyone at the Constitutional Convention knew that George Washington would be elected as the first president, and the presidency was shaped with Washington in mind. Hamilton had been Washington's military aide during the Revolution. Moreover, early in the convention Hamilton had put forth his own plan of government, unabashedly built around an all-powerful president-for-life. Hamilton's plan was decisively rejected. Against this background of personal defeat, Hamilton's words in the *Federalist Papers*, No. 69, carry special weight:

> "The President is to be commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would pertain to the legislature."

It is thus clear from the contemporary evidence that the framers of the Constitution, in giving the commander-in-chiefship to the president, did not intend it as a grant of authority in diminution of the war powers they had granted so specifically and in so plenary a fashion to the Congress. Rather, it was a measure to assure the supremacy of the *federal* authority over the authority of the constituent states, and in this equation the president, as commander-in-chief, was to be the agent of the Congress and not its rival.

With this in mind, we can proceed to divining the meaning of the authority given to Congress to "declare war." The penultimate draft of the Constitution gave Congress the power to "make war." The change in final wording resulted from an amendment offered by James Madison. Madison explained this amendment in the record he kept, and later published, of the proceedings of the Constitutional Convention. Madison's explanation is as follows:

> "Madison then moved to insert "declare," striking out "make"; leaving to the Executive the power to repel sudden attacks."

This terse sentence is of great importance to understanding constitutional intent and thus to understanding the rationale of the War Powers Act, which flows directly from this road map provided to us by Madison in his explanation of his amendment. First, it is clear that "declare" in the parlance of the day meant "decide": Congress has the power to *decide* the question of war or no war. Second, Madison's explanation spells out, albeit cryptically, the crucial nature of the interface intended between the president, *in his limited, adjunct role as commander-in-chief*, and the Congress as the *decider of war*.

What Madison tells us with his amendment is that while the commander-in-chief normally was an authority only to carry into execution a prior congressional decision to make war, he was intended also to be "free to repel sudden attacks." "Free" from what? Free from the requirement of a prior congressional decision. "Free" to do what? Free to "repel sudden attacks."

Here, buried cryptically within the words of the Constitution itself, is the vesting in the commander-in-chief of a limited but essential power to undertake *emergency defensive actions* on his own authority. This provided the key to the drafting of a 20th century War Powers Act that would be in literal and spiritual consonance with our 18th century Constitution.

The essence of the War Powers Act was to delineate in clear statutory language the procedures and institutional mechanisms to be followed in circumstances where the commander-in-chief undertakes emergency defensive action without prior congressional authorization. Having such arrangements in place is absolutely essential. Not only the Constitution but bitter experience has taught us that conjoining the powers and responsibilities of the Congress with those of the president is prerequisite to success—however much it may discomfit the national security bureaucracy in the executive branch. The War Powers Act states that this conjoining must be accomplished within 60 days, or the president will be left without constitutional authority to continue.

Establishing this legislative framework and specific time period is clearly within the constitutional authority granted to the Congress in Article I, Section 8:

> "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

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CURBING OVERWEENING POWER

Putting aside the constitutional niceties, it is *politically* untenable for a president unilaterally to wage a sustained war. Both Lyndon Johnson and Richard Nixon were driven from office by the consequences of their effort—not by the Congress but by the American people.

A primary motivation for enactment of the War Powers Act was a perception of dangerous and overweening strength in the presidency in matters of war, resulting in a profoundly disruptive constitutional imbalance. Certainly our nation witnessed, within one six-year period, the painful spectacle of two exceptionally "strong" presidents (Lyndon Johnson and Richard Nixon) being driven from office on the very issue of attempted unilateral presidential war-making. Both made the mistake of believing they had the war powers of a king.

During the Constitutional Convention, Madison anticipated a future problem of this nature. He offered an amendment to the treaty clause, which he later withdrew. According to Madison's own account:

> "Mr. Madison then moved to authorize a concurrence of two-thirds of the Senate to make treaties of peace, without concurrence of the President. The President, he said, would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace."

Madison proved to be prophetic. To quote from a toast by President Nixon to Lyndon Johnson in April 1972:

> "Each of us in his way tries to leave [the presidency] with as much respect and as much strength in the world as he possibly can—that is his responsibility—and to do it in the best way he can. . . . But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of the president of the United States will lose respect, and I am not going to let that happen."

The specter of self-aggrandizing, "imperial president" acting has diminished precipitously. It has been supplanted by the spectacle of acute disorder within the executive branch. This problem was very much in evidence during the Carter and Reagan administrations in the national security area, as departments feuded and undercut each other. The president seemed to have become too weak—not master of his own house—a trend which culminated in the Iran-Contra fiasco.

The situation has improved in the Bush Administration, reflecting the president's personal experience and active interest in national security affairs as well as Secretary Baker's diplomatic ingenuity and political *savoir faire*.

Nonetheless, given its constitutional parameters, the commander-in-chiefship still lacks conceptual and institutional coherence within the executive branch. This is evident in the prolonged maneuvering between the White House and the Congress over the use of force in the Persian Gulf. Failure to conjoin with the Congress in any decision to initiate hostilities would be a constitutional as well as pragmatic blunder. The War Powers Act provides a ready statutory mechanism. If used by the president as its sponsors intended, it could be a source of strength to the president and the nation. ■

Albert (Peter) Lakeland, an attorney and former Foreign Service officer, was principal draftsman of the War Powers Act in his capacity as executive assistant to the late Senator Jacob Javits.

The Khartoum murders and U.S. policy on terrorism

"We Will Not Pay Blackmail"

David A. Korn

At a few minutes past 7 p.m. on March 1, 1973, Palestinian gunmen belonging to the Black September Organization, the secret terror arm of Yasser Arafat's Al-Fatah, burst into the Embassy of Saudi Arabia in Khartoum, Sudan, just as the farewell reception that the Saudi ambassador was holding for George Curtis Moore, the counselor of the American Embassy, was drawing to a close. They seized Moore, U.S. Ambassador Cleo A. Noel Jr., and Belgian Chargé d'Affaires Guy Eid. They announced their demands: the release by the United States of Sirhan Sirhan (the killer of Senator Robert Kennedy), of Black September operative Abu Daoud and a number of other Palestinians held in jail in Jordan, and of unspecified Palestinian prisoners in Israel. Twenty-six hours later, after the United States, Jordan, and Israel had all publicly declared that they would not meet any of the Black September demands, the gunmen murdered Moore, Noel, and Eid.

It was the first instance in which terrorists seized a U.S. ambassador and a senior member of his staff and then killed them after ransom demands were refused. So far, it has remained the only one. Ambassador Roger Davies was killed in an attack on the American Embassy in Nicosia in 1974; Ambassador Francis E. Meloy and Counselor Robert Waring were seized by Palestinian gunmen in Beirut in 1976 and killed on the spot, with no ransom demands made; and Ambassador Adolph Dubs was killed in Kabul in circumstances that have never been fully elucidated. Ambassador Diego Asencio was seized in Bogota in February 1980 together with other foreign diplomats and held for ransom. The United States and Colombia refused to pay up, but Asencio was more fortunate than his colleagues in Khartoum. Two months to the day after being taken hostage, he was released unharmed.

Khartoum was also the first instance in which the policy of "no deals and no concessions" was put to the test; in fact it was the first instance in which this policy was officially proclaimed.

The cost of ransom

In the beginning, there was no policy proscription against meeting terrorists' demands. When Ambassador Charles Burke Elbrick was kidnapped on September 4, 1969 in Rio de Janeiro, Washington responded by pressing a reluctant government of Brazil to accede to the terrorists' demands. The Brazilians released 15 left-wing political prisoners, and Elbrick went free. Washington's action saved Elbrick's life. He later said he never had any doubt that he would have been shot if anything had gone wrong.


Mario Ruiz/Picture Group

But the success of Elbrick's kidnappers soon caused others to emulate them. The following year, 1970, became the year of kidnappings of foreign diplomats in Brazil: in March the Japanese consul general, in June the German ambassador, and in December the Swiss ambassador. At the behest of the diplomats' governments, the Brazilians ransomed each of them. When the West German ambassador to Guatemala, Count Karl von Spreti, was kidnapped in March 1970, Bonn wanted the Guatemalan authorities to ransom him too. But the government of Guatemala declined to meet the kidnappers demands or even to negotiate with them. Von Spreti's body was found in an abandoned hut six days after he was seized. The West Germans did not applaud Guatemala's steadfastness in refusing to deal with

In the photo above, a former hostage from a highjacked TWA airliner greets a loved one on his return at Andrews Air Force Base in 1985. In the highjacking incident, one American was killed by Shiite extremists, while 39 American men were kept hostage for two weeks.

terrorists. Instead, Bonn reacted angrily. It accused the Guatemalans of abetting murder, and it withdrew most of the staff of its embassy.

Stonewall tactics

The United States became the first not to ask another government to ransom its personnel. On July 31, 1970, Tupamaro guerrillas in Montevideo seized Dan Mitrione, an Indiana police chief sent to advise the Uruguayan police under a U.S. assistance program, and demanded the release of Tupamaros held in Uruguayan jails. The president of Uruguay announced that no deal would be made. The United States evidently did nothing to encourage him in this stance but neither did it try to change his position. Fifteen days after Mitrione was seized, the Tupamaros shot him through the back of the head and left his body in a stolen car. They later explained that they felt they had no choice. If the kidnapping exchange method were to be an effective tool, it had to be carried to its logical conclusion.

At the time, however, the Mitrione case was viewed in Washington as an isolated incident. The Nixon Administration's refusal to ask the government of Uruguay to ransom him was not seen as establishing a general policy. It had as much to do with the particular circumstances in Uruguay, where the Tupamaros had for some time been carrying out a campaign of terror and of kidnapping, as it did with the belief that paying ransom was in and of itself wrong and would lead to more terror and more kidnapping.

It was the Black September's capture and killing of Israeli athletes at the Munich Olympic games, in September 1972, that precipitated matters. The seizure of the Israeli pavilion by gunmen wearing ski masks and the massacre of nine Israeli athletes in a bungled rescue attempt took place on camera, before the eyes of the entire world. It brought home, as little else could, the horror of terrorism. Publically, the Israelis had refused to bargain for the lives of their athletes. Richard Nixon had always admired the Israelis' toughness, but never more than now when, it seemed, they had been ready to sacrifice their own people's lives for what Nixon saw as a matter of principle.

The three no's

Two weeks after Munich, Nixon announced the establishment of a Cabinet Committee to Combat Terrorism, comprising 10 departments of the government and headed by Secretary of State William P. Rogers. A week later, on October 2, 1972, Rogers announced the appointment of Armin H. Meyer, former ambassador to Lebanon, Iran, and Japan, to chair the Cabinet Committee Working Group and to be his own special assistant and coordinator for combatting terrorism.

Armin Meyer was to be the first head of what came to be known as S/CT. The creation of the Cabinet Committee and of his office made it sound as though the Nixon Administration were gearing up for a high-powered campaign against terrorism. In fact, however, Meyer was to be a general without an army. He was responsible for coordinating everything the U.S. government did in regard to terrorism and for giving direction and leadership to U.S. policy. But the entire staff under his direct orders was to consist of one middle-grade officer and one secretary. As for the rest, he had to rely on what he could wheedle and cajole out of other agencies that often felt they had more pressing priorities.

He was also to be the custodian of a policy for which, at the outset at least, no one in the department wanted to assume responsibility. The policy was brief and to the point. It consisted of three no's: no negotiations with terrorists, no deals with them, and no concessions to them. It was the absolute contrary of the FBI's policy on domestic kidnapping, which was and is to negotiate, make deals, pay ransom—in short, do anything to assure the safety of the hostages. It came handed down in the name of the president, but many suspected that its real author was Nixon's national security adviser, Henry Kissinger.

Many—including, apparently, Nixon and Kissinger—thought the policy was modeled on Israeli policy. This reflected a rather common misunderstanding: the Israelis loudly proclaimed their refusal to pay ransom, and they often followed that policy, but only when they saw a possibility of freeing their people by military action. Where there clearly was no such possibility, they almost always sought a deal. Even at Munich, at the very last minute Golda Meir secretly offered the Black September terrorists a deal. (It fell through owing to a glitch in the terrorists' arrangements for obtaining approval for an agreement on terms other than their original demands.) The Israelis were ready to make close calls, and sometimes their people died because they miscalculated, but they never deliberately sacrificed anyone to the principle of "no ransom."

The White House handed down the no negotiations, no deals, and no concessions policy not for discussion or study, but only for implementation. But when Ambassador Meyer drew up a message to the field to advise posts of it, he found that Secretary Rogers would not sign it, and neither would any other senior officer of the department. All recognized only too well that it declared forfeit the lives of American Foreign Service officers in the event they were taken hostage, and all were hesitant to associate their names with it. It seemed just too callous.

"This is Haiti"

The new policy was generally known around the department—not long before he left for Khartoum, Cleo Noel had been in a staff meeting where it was discussed. The policy had still not been publicly announced, however, when Ambassador Clinton Knox was held by gunmen at his residence in Port-au-Prince on January 23, 1973. Knox's captors demanded the release of 31 of their group held in Haitian jails and the payment of $500,000. Otherwise, they said, they would kill Knox and his consul, Ward Christensen, who had been lured by the gunmen to Knox's residence.

Deputy Under Secretary for Administration William

Photo courtesy of David Korn

Cleo A. Noel Jr. takes his oath as U.S. ambassador on March 1, 1973, while his wife, Lucille, holds the Bible. Administering the oath was George Curtis Moore, embassy counselor. Both Noel and Moore were seized the same day by Black Hand terrorists and murdered the following day.

Macomber flew to Haiti. Macomber told President Jean-Claude Duvalier, who was personally handling the negotiations with the terrorists, that the American policy was to pay no ransom and make no concessions and that U.S. advice to the government of Haiti was the same. Duvalier, who was 21 at the time, replied: "That may be what you say in the United States, but this is Haiti. If we don't pay, they will kill them!" Duvalier talked the terrorists down to a better price—12 prisoners released and $70,000 in ransom—and then paid. Ambassador Clinton Knox emerged from his ordeal drained and shaken. At one point his captors had seemed quite genuinely on the verge of killing him. "It was a helluva thing," he told reporters. "They threatened to blow my head off if they didn't get what they wanted."

Although the happy outcome in Port-au-Prince occurred not because of but in spite of the administration's no negotiations, no deals, and no concessions policy, Macomber counted his mission there a success. He later said that it was one of the considerations that led him to fly to Khartoum after Moore and Noel were seized. Another was the success that the government of Thailand had had just a little over two months earlier after a Black September team had seized the Israeli embassy in Bangkok. The Thais had strung out negotiations with the terrorists and had worn them down until they finally agreed to release their six Israeli hostages unharmed in exchange for guaranteed safe passage out of Thailand for themselves. It became known as the Bangkok solution, and Macomber, Meyer, and others looked upon it as a model for how to deal with diplomatic hostage-taking. Its main elements were to get the terrorists past their first keyed-up hours, to bring them to break their deadlines, to wear them down to the point of exhaustion and get them to think about saving their own skins, then give the only deal that the administration's policy would condone—safe passage in return for release of the hostages.

The problem with the Bangkok solution was that, from Black September's perspective, it was a model of what should not be allowed to happen. Bangkok was a humiliating setback for the terrorists, and one of the reasons for the Khartoum operation was Black September's determination to prove to the world that if its demands were not met, it would kill its hostages. And that is precisely what it did in Khartoum.

The Khartoum killings aroused considerable unease and no small measure of quiet criticism of the president and the administration in the ranks of the Foreign Service. Three hours before the Black September gunmen shot Moore, Noel, and the Belgian charge, Nixon defiantly declared to the press: "We will not pay blackmail." Many—among them, some who were to rally to the president's defense—felt that it was one thing to decide on a policy of no concessions and quite another to flaunt it in the faces of armed killers holding defenseless hostages. The Black September terrorists themselves said that their decision to kill Moore, Noel, and Eid was made after they learned of Nixon's statement.

Growing discomfort

Nixon came to the State Department on March 6 and delivered an awkward speech in which he defended the no concessions policy. He declared before the assembled staff that Rogers had told him a survey had been made of the Foreign Service some months earlier on what FSOs wanted done if they were taken hostage, and that the unanimous answer had been that no ransom should be paid. This came as news to most of the president's audience, for there had been no general survey, only, apparently, a sampling of opinion among senior officers.

Some argued in defense of the president that the Black September never intended Khartoum to be anything but a killing operation and that no matter what the United States, Jordan, and Israel had done, Moore and Noel would have had to die. This contention is most emphatically not borne out by the department's own classified records. Cables and memoranda recently made available to this writer pursuant to a Freedom of Information Act request show that the Black September gunmen broke no fewer than four of their own deadlines. They shed all their demands but the one that called for release of Abu Daoud and a number of other Palestinians held by Jordan. Had they wanted only an excuse for killing there would have been no reason for them to break deadlines or pare down demands.

After Dan Mitrione's assassination, AFSA advocated an international convention that would pledge all governments to refuse ransom, or, failing that, a unilateral American declaration in that sense. After the Khartoum murders, however, opinion within AFSA swung a certain distance in the opposite direction. The senselessness and the brutality of the murders, and Nixon's controversial press conference statement, were the main reasons for this, but two other developments contributed to the general unease. One was that King Hussein of Jordan, after having taken his cue from the United States and having refused to release Abu Daoud when this was set as the price for Moore's and Noel's lives, casually let the Black September operative and his colleagues go a few months later. The other was that after the Khartoum killers were tried by a Sudanese court and sentenced to life in prison, President Nimeiry reduced their sentences to seven years and sent them off to serve that time under the auspices of the PLO in Cairo, in effect all but freeing them. The Ford Administration pulled Ambassador William D. Brewer out of Khartoum, but four months later it sent him back. And after some further delay, relations between the United States and Sudan were gradually normalized.

Demanding consistency

AFSA strongly protested the return of Ambassador Brewer. Acting President F. Allen ("Tex") Harris set out the association's position in a letter to Secretary Kissinger not long after Brewer was called back from Khartoum. The association had supported the policy of refusing to pay ransom, Harris wrote. "We believe, however, that the necessary collateral policy must be that any nation which refuses to take conscientious action . . . against international murderers and extortionists must face heavier costs for refusing to act against such criminals . . . If this is not the case, our entire policy must be reviewed." In other words, the administration had to be consistent; if it was going to ask Foreign Service personnel to sacrifice their lives for the sake of a "no concessions" policy, it had to be ready to impose stern penalties on governments that failed to punish their killers.

In August 1974 AFSA set up a committee to conduct its own review of the administration's policy, the Working Group on Terrorism and Extraordinary Dangers. The initiative for this came from FSO Harry C. Blaney, who was to be the group's chairman from its inception in 1974 until 1978. Blaney and the other members of the group held discussions with management and made a number of proposals aimed at introducing more flexibility into U.S. policy, but they found little receptivity on the part of the administration. As then-AFSA President Tom Boyatt said later, "the basic attitude (of the administration) was that it was none of our business."

Critics of the "no deals, no concessions" policy point out that securing ransom is not always uppermost in the minds of terrorists. They do indeed take hostages to extort money or free prisoners, but they also do it for other reasons, for example, to bring their cause to world attention or to thwart political developments that they oppose (the latter used by Palestinian groups that opposed Egypt's rapprochement with Israel in the mid 1970s), or to prove a point (for example, as with the Black September in Khartoum that they would kill if they did not get what they wanted). So each case, critics say, needs to be looked upon as *sui generis* and be dealt with according to its particular circumstances.

Hidebound policy

Next month will mark the 18th anniversary of the murder of George Curtis Moore and Cleo Allen Noel Jr. Much has changed in the interval. Fewer countries harbour or give aid to terrorists and more are ready to impose stern penalties on them. The United States' reach is no longer confined to domestic hostage-taking cases: since October 1984, there has been a law on the books that authorizes the FBI to investigate and the Department of Justice to prosecute hostage-taking anywhere in the world. But U.S. policy on dealing with hostage-taking has changed very little: it continues to be no deals and no concessions. "No negotiations" has been dropped, in recognition that if there is to be any hope at all of saving hostages one must at least talk to the captors, and that talking does not require making concessions. But in another respect the policy may have become more inflexible. According to a senior official of S/CT, the United States would now probably no longer agree to allowing hostage-takers safe passage in return for the freeing of their hostages unharmed.

There is no persuasive evidence that the no concessions policy has been effective in deterring hostage-taking. On the contrary, knowledgeable sources say that there have been and continue to be many plots to seize American ambassadors and other personnel overseas. What has defeated them is not the realization that the United States will not make concessions or pay ransom but better protection, better intelligence, and better international cooperation.

Essentially what happened on March 1 and 2, 1973 was that those charged with rescuing two talented, dedicated, and honorable Foreign Service officers found themselves bound by a policy so rigid that it left them no recourse but to grasp at a solution that, under the circumstances, offered no realistic hope of success. The 18th anniversary of the Khartoum tragedy would be a fitting time to review that policy, before what happened in Khartoum happens again. ■

David A. Korn, a former Foreign Service officer, is writing a book on the assassinations of Curt Moore and Cleo Noel.

Doing Home Leave Right

Brian Carlson

One of the major and unique benefits you collect as a Foreign Service family is biennial home leave.

Congress mandates that an employee and his or her family must return to the United States for at least 20 working days during every couple of years of service, and this vacation time does not come out of annual leave—it's in addition to it. Yet for lack of careful planning, too many Foreign Service families fail to reap the maximum advantage from this benefit.

One proven way to optimize home leave is to make sure that it includes some real vacation time in a real vacation place. Does this sound obvious? Read on, and see if you've been making the most of home leave.

Real vacation time means something other than visiting relatives' and friends' homes. Whether you go to the beach, stay in the mountains, hike or bicycle, or rent a recreational vehicle, make sure it's a week or two of *real* vacation time.

Costs, of course, are a factor. But you'll probably be surprised by how reasonable a vacation home or condo can be, especially if you avoid renting during the high season. Soak up the sun in Florida beach resorts in May or June, ski the Rockies in December or January (but not between Christmas and New Year's), or go to the mountains in the fall or spring.

Nothing, except perhaps the children's school schedule, says you must take home leave in mid-summer. If your home leave is in connection with a transfer from one post to another, you might find it advantageous to delay your departure until the end of summer. Your supervisor will be happy that the position is not gapped, and your successor will appreciate the reduced pressure to get to post quickly.

As for you, well, you're also more likely to find friends at home when you

visit during fall, winter, or spring. In Washington, colleagues will be at work and happy to talk with you during your consultations. Besides, much of the United States is decidedly more comfortable during all but the mid-summer months. And it is often cheaper.

Okay, but how do you do it? Planning and perseverance pay off. First of all, after deciding where you want to spend some quality time on this vacation, review whom you know with any property, business, or other connections there. You're not looking for a freebie, but lodging at a reasonable cost.

Is a house swap possible? If you live in government-leased or owned quarters, your GSO will probably insist only that you leave the property in the hands of another government employee. If you are on a housing allowance and in a desirable location, it can be even easier to arrange a trade for a week or so.

Even if your current post is hardly a vacation spot, think who might like to come there for a few weeks. Is there a university that specializes in area or language studies relevant to your host country? Your family might find a few weeks of a house swap in a college town quite pleasant.

Many good properties in the United States are never put on the commercial rental market. Their owners either don't need to rent them out or prefer to accept less rental income in return for a better class of renter. To find these houses, think of who can put you in touch with the commercial rental market in a given area.

And don't give up on simply renting a condo in a resort area. One Foreign Service officer recently found that he can drive some pretty good deals even in premier Colorado ski resorts—especially when he made it clear he was interested in more than a standard, seven-day rental.

The other major expense of a high-quality home leave is the travel itself. Taking any route other than the authorized round-trip from post to home leave point (via Washington for consultations) may cost extra. A little footwork may get you more travel, however, at little or no extra expense.

First, go to your travel office and find out how much your authorized routing would cost if you followed it exactly.

"LET'S SEE....I COULD GET YOU A CHEAPER FARE IF YOU'D BE WILLING TO PUT UP WITH PESKY STOPOVERS IN PARIS, VIENNA, ISTANBUL AND THE SEYCHELLES."

Remember that you have to travel economy class or even on contract fares, if they are available. This amount is your "allowance," and anything over it will come out of your pocket.

With that figure in mind, you should now research the cost of your desired routing. Remember to have your travel agent check on some of the following money savers:

- The number of stops permitted en route to the destination farthest away.
- APEX and other advance purchase or discount fares. Since you are on vacation without a tight schedule to meet, perhaps you can take advantage of off-peak flights the airlines are trying to fill.
- "Visit USA" coupons. Intended for foreign visitors to America, these special fares are offered by many domestic U.S. carriers, but only to overseas purchasers of transoceanic tickets, and only at the time the international ticket is bought. Usually, the more of these coupons you buy, the cheaper each flight becomes—down to as low as $35 per flight—regardless of distance. The rules on these fares vary from airline to airline, so it's best to determine which lines serve all or most of the cities you wish to visit and then look into specific conditions.

Don't forget that since you will be traveling on official orders, you will probably qualify for government rates at hotels and rental car agencies. Experience indicates that many of the best rent-a-car rates cannot be accessed by overseas travel agents. Ask a relative in the United States to make some exploratory calls to the 800 numbers for you.

In these days of deregulated air travel, many of us have forgotten that long-distance surface travel still exists in the United States. A few random calls to bus, train, and airline reservation offices suggested the dimensions of the savings: a one-way Greyhound bus ticket from Los Angeles to New York costs $158.95, while a comparable Amtrak coach ticket costs $259. For comparison, a Northwest three-day advance purchase, Monday-Thursday ticket is $544. On the bus you'll also get almost three days of familiarization with the American landscape as a bonus.

For those traveling with a family, transportation costs may quickly increase and renting a car may save money. There are some attractive weekly rates available, especially if the car is returned to the point of origin. For example, a Budget economy-model rental costs $99 per week with unlimited mileage. Car rental rates are often

One last thought for the aggressive home leave planner: you can combine your U.S. domestic transportation and lodging costs. Consider renting a camper or recreational vehicle for several weeks. Go where you like, see the countryside, buy food at the supermarket, and avoid making hotel reservations, and lugging your suitcase.

cheaper in smaller cities and away from large metropolitan airports. Don't forget that since you will be traveling on official orders, you will probably qualify for government rates at hotels and rental car agencies. Experience indicates that many of the best rent-a-car rates cannot be accessed by overseas travel agents. Ask a relative in the United States to make some exploratory calls to the 800 numbers for you.

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The best part of planning a home leave comes at the end. Settling back into your seat as you fly to post, you will look back on a truly enjoyable and memorable vacation. ■

Foreign Service officer Brian Carlson recently returned from a winter home leave that included skiing in Colorado and sunning in Florida, in addition to stops in California, Arizona, Kentucky, Washington, New Hampshire, and Massachusetts.

DIPLOMATS IN HISTORY: THOMAS JEFFERSON

The following is excerpted from an original dispatch by Thomas Jefferson, sent during his tenure as U.S. minister plenipotentiary in France to Vice President John Adams. This is the first in an occasional series of historical documents by or about American representatives abroad. The dispatch and introductory note have been provided by Peter D. Eicher, a Foreign Service officer currently on sabbatical as an Una Chapman Cox fellow to undertake studies of early American diplomats.

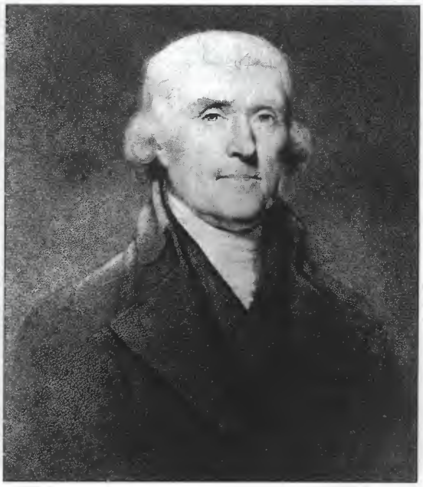
ON WAR

U.S. negotiations with the Barbary states of Algiers, Tripoli, and Tunis were carried out under the direction of the U.S. minister in Lisbon. The 1785 treaty with Algiers required the United States to pay ransom for captured sailors, give presents, and provide an annual tribute to the dey. Jefferson was not involved in the negotiations but objected to buying peace. After becoming president, Jefferson did go to war with Tripoli and eventually concluded a largely unsatisfactory peace that provided for "presents" but no tribute. Congress declared war on Algiers during President Madison's administration; the peace of 1816 eliminated all ransom, tribute, and presents and required the dey to pay reparations to the United States. In this dispatch, Jefferson outlines his reasons for favoring war with Algiers.

Paris, July 11, 1786

Dear Sir,

Our instructions relative to the Barbary States . . . required us to proceed by way of negotiation to obtain . . . peace. . . . I acknowledge I very early thought it would be best to effect a peace through the medium of war. . . . I shall trouble you with my reasons. Of the four positions laid down in your letters, . . . I agree to the three first, which are, in substance, that the good offices of our friends cannot procure us a peace without paying its price; that they cannot materially lessen that price; and that paying it, we can have peace in spite of the intrigues of our enemies. As to the fourth, that the longer the negotiation is delayed the larger will be the demand, this will depend upon the intermediate captures. If they are many and rich, the price may be raised; if few and poor, it will be lessened. However, if it is decided that we shall buy a peace, I know no reason for delaying the operation, but should rather think it ought to be hastened. But I should prefer the obtaining of it by war.



1st. Justice is in favor of this opinion. 2d. Honor favors it. 3d. It will procure us respect in Europe; and respect is a safeguard to interest. 4th. It will arm the Federal head with the safest of all instruments of coercion over its delinquent members. . . . 5th. I think it least expensive. . . . I ask a fleet of one hundred and fifty guns, the one half of which shall be in constant cruise. This fleet built, manned, and victualled for six months, will cost four hundred and fifty thousand pounds sterling a year. . . . Were we to charge all this to the Algerine war, it would amount to little more than what we must pay to buy peace. But as it is proper and necessary that we should establish a small marine force, (even were we to buy peace from the Algerines,) and . . . that force, laid up in our dockyards, would cost us half as much annually as if kept in order for service. . . . 6th. It will be as effectual. . . . About forty years ago the Algerines having broken their treaty with France, this Court sent Monsieur de Massiac with one large and two small frigates. He blockaded the harbor of Algiers three months, and they subscribed to the terms he proposed. If it be admitted, however, that war, on the fairest prospects, is still exposed to uncertainties, I weigh against this the greater uncertainty of the duration of a peace bought with money from such a people. . . .

So far I have gone on the supposition that the whole weight of this war should rest on us. But, 1. Naples will join us. . . . 2. Every principle of reason assures us that Portugal will join us. . . . I suppose, then, that a convention might be formed between Portugal, Naples, and the United States, by which the burthen of war might be quotaed on them, according to their respective wealth; and . . . Algiers should subscribe to a peace with all three, on equal terms. This might be left open for other nations to accede to, and many, if not most of the Powers of Europe . . . would sooner or later enter into the confederacy for the sake of having their peace with the piratical States guarantied by the whole. . . .

These the reasons which have influenced my judgement on this question . . . You make the result different from what I do. The same facts impress us differently. . . As I have nothing to say in the decision, [I] am ready to proceed heartily in any other plan which may be adopted, if my agency should be thought useful. . .

I add nothing . . . on any other subject, but assurances of the sincere esteem and respect, with which I am, &c.,

—**TH. JEFFERSON**

Editor's Note:

These vignettes from Enugu, Nigeria were submitted by Anne J. Gordon, who was posted to Nigeria with her husband, USIA officer William Gordon, from 1960 to 1965.

Notes from Nigeria

One morning soon after we had arrived, a very pleasant lady offered to take me to the native market, where food was cheap. I liked the liveliness of the market, its colorful atmosphere, and the enterprising attitudes of the women vendors. We visited the meat market, where dark-colored meat was hanging from the top of the stall. I assumed that the meat was covered with spices and smoked, like our Talmadge hams in Atlanta. My British friend took down the piece of her choice and swung it around and around. Flies flew in all directions. I jumped back upon seeing the "spice" fly while she paid the merchant, placed the meat in her pail, and commented, "You Americans are too sanitary. You even wrap tomatoes in cellophane. That is why you become ill upon arrival. All you have to do is wash and soak this meat, then cook it for a *long* time." I ate warily when invited to her home and continued to purchase meat from Kingsway, the then-modern British supermarket.

When my husband told me that we were invited to Nsukka, where we Americans had opened the University of Nigeria, I wondered if he really meant *we*. He nodded, adding that the local chief had invited us to his home.

The chief received us in his flowing white *agbada* into his round, clay-roofed guest quarters, which, though the weather was extremely hot, remained very cool inside. We were seated, and the chief softly clapped his hands for a steward, who promptly appeared with glasses of palm wine and a tray of small chopped nuts and kola nuts—these not offered to me, for I was a lady—as well as an English biscuit. The chief, educated in London, asked questions about the United States, its system of education, the American Negro, and other matters, following the pouring of palm wine outside the entrance as a libation to dead ancestors. I raised the wine glass to drink, pleased that I really was included in this visit, then I saw something wiggle in my glass. I watched, realizing that this was not a small piece of palm tree fiber but a white worm with a small black head. I thought, "This is asking too much in the winning of friends for my country," as I clenched my upraised glass. The steward came in and whispered something to our host, who excused himself and went outside. Seated by an open, unscreened window, I hastily threw out my palm wine—then I panicked, wondering if I had doused the chief as he passed below.

... then I saw something wiggle in my glass. I watched, realizing that this was not a small piece of palm tree fiber but a white worm with a small black head.

Our first Foreign Service assignment was always exciting, challenging, and enjoyable, even when I felt put out by a few guests in our home. One such memorable guest was the Nigerian journalist who stated loudly, "As attractive as you are, Mrs. Gordon (African men are great flatterers), I would never have allowed my son to marry you." I asked him why. His reply: "You are a descendant of slaves, and my tribe has never been enslaved. We were the warriors. We," he said proudly, "sold slaves to the traders."

"How shameful," I said just as loudly. "I would never have married *your* son." ■

BOOKS

'Burdensome Legacies'

American Presidents and the Middle East

By George Lenczowski, Duke University Press, 1990, $40 hardcover, $17.95 softcover

Reviewed by James Bahti

George Lenczowski, author of the classic textbook *The Middle East in World Affairs*, has taken a new approach to examining the role of the United States in the Middle East: he focuses on the events or crises each president from Truman through Reagan has faced, analyzing how foreign and domestic forces have affected their actions.

The author notes Truman's lack of experience in foreign affairs and his yielding, despite the State Department's opposition, to Zionist pressures to support creating the state of Israel. With disapproval, he quotes Truman's erroneous reference to the Balfour Declaration as "promising to the Jews the opportunity to *reestablish* a homeland in Palestine" instead of "establish." Truman's formulation apparently justified a claim two millennia old, says the author.

Lenczowski clearly approves of Eisenhower's handling of several Middle East crises, seeing Eisenhower as having placed principle ahead of domestic pressures. But he is critical of Kennedy for lacking awareness of frustrated Palestinian nationalism, though Kennedy showed concern for the Palestinians as refugees. The chapter on the Kennedy Administration contains a concise description of the 1961 Iraqi effort to claim Kuwait. Lenczowski sums up Kennedy's efforts in the Middle East as having no resounding successes but avoiding major disasters.

Johnson is another president Lenczowski scores for inexperience in foreign affairs and a penchant for using personal emissaries. The author discusses the administration's radical switch from supplying Israel with moderate supplies of defensive weapons to providing large quantities of offensive arms. The 1967 war and the post-war developments are described in some detail, including the Israeli attack on the USS *Liberty*. It was during Johnson's administration, says the author, that the concept of Israel as a strategic asset for America found its inception.

The Nixon Administration, with its "burdensome legacy" from Johnson, receives its share of criticism too. Lenczowski writes of the 1968 mission by ex-Governor William Scranton, his recommendation for a more "even-handed" approach to the area, the implicit White House disavowal of his remarks, and the metamorphosis of "even-handed" into a dirty word. He discusses Nixon's ambivalence on Israel: critical of the "short-sighted" pro-Israel attitude in many circles but at the same time viewing Israel as the only "pro-freedom" state in the Middle East. The sad story of the birth and early demise of the 1969 Rogers Plan (including the return of occupied lands in exchange for peace, a solution to the refugee problem, and a Jordanian-Israeli agreement on the status of Jerusalem) is related in some detail, as are the Jordan crisis of 1970 and the October 1973 war. In reality, Lenczowski declares, U.S. policy during the Nixon Administration was "significantly tilted in favor of Israel."

The author notes that President Ford was unhappy that Congress got "its oar deeply into the conduct of foreign affairs," particularly in Cyprus. Ford also began to question the rationale of our policy toward Israel; he wanted Israel to recognize that there had to be "some quid pro quo," and in 1975 ordered a "reassessment" of administration policies in the Middle East.

The Middle East probably consumed more of President Carter's time than all other foreign policy issues combined. Lenczowski suggests that the "ethnic pluralism" of Carter's appointees and the "militant emergence" of the American-Israel Public Affairs Committee (AIPAC) helped shape U.S. Middle East policy. Carter's pro-Israel moves included strengthened anti-boycott legislation and pressure on the Soviet Union to relax restrictions on Jewish emigration. On the other hand, his advocacy of a Palestinian homeland (remember the Balfour Declaration?) caused the expected domestic uproar.

The author is critical of Reagan's timidity (influenced by Secretary Haig) with the Israelis (e.g., after the Israeli invasion of Lebanon and its use of cluster bombs). The author is prescient in suggesting the difficulties that would arise if the now-recognized PLO is unable to control extremists within its ranks.

Lenczowski states that Eisenhower was the only one of the eight presidents studied who was impervious to domestic pressures, while Johnson was the most vulnerable. Virtually all presidential "doctrines" were based on the need to resist Soviet advances in the Middle East (a threat most Arabs did not recognize). "No-strings" aid to Israel permitted that country to rebuff Washington peace initiatives and to use American-supplied arms "in disregard of the officially imposed retraints."

Lenczowski concludes this book by asking rhetorical questions about the eight presidents: What did they really think about Arabs? Did any of them harbor implicit anti-Arab racism? Did they really believe in self-determination? Should the United States try to "reform" some Arab nations? And can support of Israel be treated in isolation? Interesting questions.

Two minor errors in the book should be noted: 1) Lebanon President Chamoun's hanky-panky with the parliamentary elections occurred in 1957, not 1958, and 2) the no-longer secret addendum to the memorandum of understanding relating to the Sinai II agreement did *not* require Israeli consent for U.S. recognition of or negotiation with the PLO. I also believe Lenczowski incorrectly characterizes General (later President) Chehab of Lebanon as "conciliatory" toward Nasser and Lebanon's Moslems; he was simply less hard-nosed than Chamoun.

James Bahti is a former Foreign Service officer who served many years in the Middle East.

Getting Good Press

COMMUNICATING WITH THE WORLD: U.S. PUBLIC DIPLOMACY OVERSEAS

By Hans N. Tuch, Institute for the Study of Diplomacy (Georgetown University) and St. Martin's Press, 1990, $35 hardcover

Reviewed by Jerrold Keilson

Hans Tuch has written an excellent monograph on public diplomacy, one of the lesser-known yet highly effective tools of the foreign policy profession. Relying heavily on his own experiences as a USIS Foreign Service officer in the Soviet Union, Germany, and Brazil, Tuch describes and analyzes the impact of those USIS programs that fall under the rubric of public diplomacy.

One problem with public diplomacy, as Tuch recognizes, is in definition. Practitioners argue whether it is meant to support foreign policy positions of particular administrations or to offer an understanding of American society and values. Tuch clearly and correctly stands with the latter group, defining public diplomacy as "government's process of communicating with foreign publics in an attempt to bring about understanding for its nation's ideas and ideals, its institutions and culture, as well as its national goals and current policies." He is critical of the Reagan Administration's use of public diplomacy to promote specific foreign policies at the expense of these other objectives. This pushes public diplomacy toward propaganda, and destroys the credibility of other public diplomacy activities.

Tuch writes extensively about the high-visibility programs such as Radio Free Europe, Radio Liberty, Worldnet television programming, and the Wireless File. He emphasizes their function in disseminating accurate and unbiased information to present and future opinion leaders of foreign countries. Many of these efforts have been extremely successful. Tuch recounts stories of the many Eastern Europeans who learned English listening to Radio Free Europe, and who knew what was happening in their country through its reporting. Tuch also raises hard questions that USIA will need to resolve concerning the role of programs such as Radio Free Europe in the changed circumstances of Central and Eastern Europe. He suggests that some programs may have outlived their usefulness, and resources should be shifted to other programs that are more relevant in today's world.

Tuch's treatment of the International Visitors Program is a disappointment. This program is consistently rated as the most effective tool for public diplomacy by USIS officers, yet Tuch devoted little more than three pages to it. USIA figures indicate that more than 100 current and former heads of state participated in this program. The more than 5,000 opinion makers who come to the United States yearly under its sponsorship receive a direct and intensive exposure to American culture and values that cannot be obtained through any other program. Given the high regard in which this program is held, further discussion of its past and future is warranted.

Yet this is a minor quibble to what is an excellent book, and worthwhile reading for all practitioners of public diplomacy.

Jerrold Keilson, formerly of USIS, works with the Delphi International Group in Washington.

Noted in Brief

The Pure Concept of Diplomacy

José Calvet de Magalhaes, translated by Bernardo Futsoher Pereira, Greenwood Press, 1988, $37.95 hardcover

Diplomacy is a slippery term that seems to grow slipperier all the time. Slaphappy abusers are legion, ranging from those engaged in general, popular discourse on international affairs to the inhabitants of academic communities where courses and textbooks are generated on "diplomatic history" which, in fact, deal little with diplomacy but rather with foreign policy developments.

Ambassador Magalhaes, a career Portuguese diplomat, thinks this confusion has gone on long enough. In a slim volume of 126 pages, he argues for a definition that he distills from a highly condensed historical review of the process, concluding that diplomacy is an instrument of foreign policy, designed to establish and develop peaceful contact between governments of different states, through the use of intermediaries mutually recognized (as diplomats) by the respective parties.

This eliminates many of the current abuses of the term, such as those arising from applying it to private transactions ("private diplomacy," "business diplomacy," and the like). But it also rules out summitry involving heads of state, not intermediaries, and rules out ministers of foreign affairs. "A diplomat," Magalhaes insists, "is an intermediary between the governments, something a minister cannot be since he belongs to one of those governments." It rules out force and even threats of force, since these are not "peaceful." Furthermore, when diplomats become involved in the policy-making process, they cease to be diplomats, for they are no longer serving as intermediaries.

Diplomacy and foreign policy-making are so much a continuum, I find it fracturing reality to say that as soon as a diplomat engages in the policy-making process he is no longer acting a diplomatic role. Diplomacy can mean different things to different governments. To say that a country is not engaged in diplomacy when its uses its diplomatic intermediaries to promote deception, etc. is substituting one's own value system for a political process.

Ambassador Magalhaes is not alone in having had it up to here with the bandying of the term diplomacy. But it must be defined realistically, so as to embrace current usage and not genuflect to ages long gone. — Smith Simpson ■

IN MEMORY

Edward J. Dembski, 79, died of cancer September 24 at his home in Bethesda, Maryland.

After serving in the Army in Europe during World War II, Dembski became a Foreign Service budget officer. He had overseas assignments in West Germany, England, Panama, Ecuador, and Pakistan. He later transferred to AID, serving also as a budget officer. In 1979 he retired.

Survivors include his wife, Madge Evetta Addy Dembski of Bethesda; three children, Robert Dembski of Potomac, Maryland, Michael Dembski of Silver Spring, Maryland, and Sandra Gonzales, a Foreign Service officer in Pakistan; and a grandchild.

Richard Finley, 58, died on July 16 in the earthquake that struck the Philippines.

Finley joined AID in 1969 as an accounting technician in Washington. In 1975 he transferred to the Foreign Service, serving in the Ivory Coast in 1978 and in Cameroon in 1981. In 1983 he was the deputy AID controller in Barbados where he received a superior unit award for his service. Finley was the AID controller in Tanzania from 1985 until he retired in 1988. At the time of his death he was under an AID contract.

He is survived in Washington by his wife, the former Virginia Stallman, and his mother, Quindora Burnett. Other survivors include his daughter, Debra, and one grandchild.

Dean R. Miller, 64, died at St. David's Hospital in Austin, Texas on September 6.

Miller joined the Foreign Service as a secretary in 1956 and served in secretarial and administrative positions in Baghdad, Genoa, Aden, Rome, Frankfurt, and Medellín. He worked as a communicator in Tehran, Maseru, Riyadh, Ankara, Budapest, and Izmir and retired in February 1990.

Survivors include his wife, Helen G. Miller, a retired Foreign Service secretary; his daughter, Andrea M., and his son, Robert D., of Austin, Texas.

Brewster Morris, 81, died September 3 at his home in Tiburon, California. He reportedly died of Parkinson's disease.

Morris's first post with the Foreign Service was in Montreal in 1937. He went on to serve in Vienna, Berlin, Stockholm, Moscow, London, Washington, and Chad (where he was the ambassador from 1963 to 1967).

His wife, the fomer Margaret Downes, a fellow Foreign Service officer whom he married in 1948, died in 1985. His only immediate survivor is his brother, who lives in Villanova, Pennsylvania.

Jane F. Spillane, 83, died of heart ailments September 27 at the Clark Manor Nursing Home in Worcester, Massachusetts.

Spillane, who emigrated from Ireland in 1922, was employed by the State Department in 1940 as a cook at Blair House, a government guest house across Lafayette Square from the White House. She retired in the early 1970s and moved to Worcester, Massachusetts.

Survivors include three sisters, Mary E. Henry of Worcester, Rose Ann Bohan and Mary Catherine Farrelly, both of Ireland; and three brothers, Stephen Farrelly of London, and Phillip and Patrick J. Farrelly, both of Dublin.

Retired Army Col. Robert George Martin Storey, 63, died of cancer October 3 at his home in Majis, Spain. He also had a residence in Arlington, Virginia.

In 1958, he became an assistant military attaché at the U.S. embassy in Spain. He returned to Washington in 1962 as deputy chief of protocol for the army. after assignments to West Germany, Italy, and Vietnam. In his last assignment, Storey served as executive assistant to Ambassador Ellsworth Bunker and chief U.S. negotiator for the Panama Canal Treaty. He retired from active duty in 1973.

In 1979 Storey joined the D.C. government as staff director of the city's office of personnel. He became a senior policy analyst in the office of Mayor Marion Barry in 1985, retiring in 1989.

Storey's first wife, Nanette F. Hart Storey, died in 1976. Survivors include his wife, Germana Faini Storey; two brothers, Raymond T. Storey of Hinkley, Ohio, and Leo M. Storey Jr. of Asheville, North Carolina.

Charles H. Taliaferro, 86, died October 7 in Bridgewater, Virginia.

Taliaferro joined the State Department in 1930 and served in Mazatlan, Yucatan, Nuevo Laredo, and Piedras Negras in Mexico; Buenos Aires, Argentina; Halifax, Nova Scotia, and Windsor, Ontario. He retired in Canada after 32 years of service.

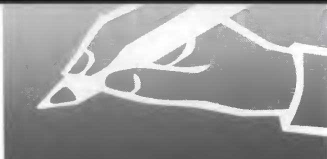
His wife, the former Ruth Firebaugh, survives him in Bridgewater, Virginia. Other survivors include three daughters, Sarah Elizabeth Pickrell of Dallas, Texas, Anna Kathryn Hollen of Harrisonburg, Virginia, and Mary T. Mullen of Salem, Virginia; six grandchildren; and one great-grandchild.

Andy H. Wallen, 79, died of a respiratory ailment October 9. He lived in Arlington, Virginia.

In 1946 Wallen joined the State Department, serving for 26 years as director of the budget and accounting division of the Office of Foreign Liquidation. He later became branch chief and supervisor of systems accounting in the department's Office of the Budget. In 1966 Wallen became a Foreign Service officer and served as deputy director of the Office of Finance in Washington. He retired in 1972.

Included in Wallen's many club-related activities were his chairmanships of the State Department's Air Activities Club and the USIA Recreation Association.

Mamie Huneycutt, his wife of 45 years, died in 1982. Survivors include his daughter, Louise Snuggs of Atlanta, Georgia, and four grandchildren. ■



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T A X G U I D E

AFSA's Foreign Service Tax Guide for 1990

Deborah M. Leahy
Member Services

Federal tax provisions

The following is a summary of 1990 federal tax provisions as they apply to Foreign Service employees and their families. Foreign Service employees most frequently ask AFSA about home ownership, tax liability upon sale of a residence, and domicile. Therefore, as in past years, we have devoted special sections to these issues.

AFSA's Tax Guide is designed as an informational and reference tool. *It does not presume to be any more than that.* Although we try to be accurate, many of the new provisions of the tax code and implementing IRS regulations have not been fully tested. Therefore, *use caution* and *consult with a tax adviser* if you have specific questions or an unusual or complex situation. Furthermore, do not wait until the last minute. The Tax Reform Act of 1986 is complicated and continues to go through revisions and "corrections."

For 1990, there are basically two tax rates for individuals, 15 and 28 percent, except for high earners who incur a 5 percent surcharge. The rate is 15 percent for taxable income up to $32,450 for married couples; $19,450 for singles. Income above that is taxed at 28 percent, up to $78,400 for couples, $47,050 for singles. As income tops these amounts, a 5 percent surtax is levied and then drops back to 28 percent at $155,320. This is known as the "bubble tax rate."

Personal exemption

For each taxpayer, spouse, and dependent the personal exemption has been increased to $2,050. This is one of the few areas in which Foreign Service employees with large families come out ahead.

Standard deduction

The standard deduction is given to non-itemizers and alleviates the loss of many deductions. It has been steadily increasing since 1987. This trend is a deliberate attempt to provide taxpayers an incentive to switch to the 1040EZ form. For couples it is $5,450; that increases to $6,100 if one member of the couple is over 65 and $6,750 if both are over 65. For singles the deduction is $3,250. Married couples filing separately get a standard deduction of $2,725 and head-of-household filers receive a $4,750 deduction.

Most unreimbursed employee business expenses must now be reported as miscellaneous expenses and are subject to a 2 percent floor of adjusted gross income (AGI). This includes professional dues and publications, employment and education expenses, home office, legal, accounting, custodial and tax preparation fees, home leave and representational expenses—and contributions to AFSA's Legislative Action Fund. Unreimbursed moving expenses are the exception; they may be fully deducted without the 2 percent floor. Medical expenses, however, are subject to a floor equalling 7.5 percent of AGI. This means that any deductible medical cost would have to exceed $2,250 for a taxpayer with a $30,000 AGI.

State and local income taxes and real estate and personal property taxes remain fully deductible for itemizers, as are charitable contributions for most taxpayers. Deductions, including those for charitable contributions, will be limited for taxpayers who have an AGI over $100,000. Those taxpayers will lose deductions equal to 3 per cent of the amount by which their income exceeds $100,000. Donations to the AFSA scholarship fund are fully deductible as charitable contributions. Individuals may dispose of any profit from the sale of personal property abroad in this manner.

Since the 1986 reform, deductions for consumer interest on credit cards, car, and educational loans, are being phased out. For 1990, only 10 percent is deductible. Mortgage interest is, for the most part, still fully deductible and is discussed in more detail in the home-ownership section of this article. Interest on loans intended to finance investments is deductible up to the amount of net income from investments, plus $1,000. Interest for loans intended to finance a business is 100 percent deductible. "Passive-investment" interest on loans in which the taxpayer is an inactive participant, i.e. a limited partnership, can be deducted only from the income produced by the investment. Interest on loans that do not fall into the above categories, such as borrowing money to buy tax-exempt securities, is not deductible.

Home leave expenses

Employee business expenses, such as home leave and representation, have to be deducted as a miscellaneous expense, thereby severely limiting any refunds. In addition to the 2 percent floor, only 80 percent for meals and entertainment may be claimed (100 percent for unreimbursed travel and lodging). Only the employee's (not family members') home leave expenses are deductible. Maintaining a travel log and holding onto a copy of home leave orders will be helpful, should the IRS ever question claimed expenses. It is important to save receipts: without receipts for food, a taxpayer may deduct only $26 to $34 a day (depending on the per diem rate at the home leave address), no matter how large the grocery or restaurant bill. Lodging is deductible, as long as it is not with friends, relatives, or in one's own home. The IRS will disallow use of per diem rates and any expenses claimed for family members. If a hotel bill indicates double rates, the single room rate should be claimed, and, if possible, the hotel's rate sheet should be saved for IRS scrutiny. Car rental, mileage, and other unreimbursed travel expenses, including parking fees and tolls, may be deducted. The new rate for business miles driven is 26 cents on the first 15,000 miles and 11 cents per mile afterward. Those who use this optional mileage method, need not keep detailed records of actual vehicle expenses. The only thing necessary will be a detailed odometer log to justify the business use of the vehicle and percentage of business use. This optional mileage method does not apply to leased vehicles.

Official Residence Expenses (ORE)

The IRS has issued a new ruling dealing with the 5 percent of salary that principal officers and others who receive ORE formerly could claim as a deduction. Effective October 1, 1990, employees who receive ORE will no longer be allowed to reduce their reportable income by 5 percent. *The reduction, however, can be taken for the first nine months of 1990.*

Unfortunately, the Standardized Regulations regarding ORE tend to support the IRS's new ruling, which says that "usual expenses" are not deductible. Section 440 of the Standardized Regulations defines "usual expenses" as 5 percent of salary. The only expenses that are deductible after October 1 will be expenses above the 5 percent that are paid out of pocket. Employees should save receipts for any out-of-pocket expenses associated with their representational duties. These expenses can be deducted as miscellaneous business expenses.

Home ownership

For 1990, employees may deduct interest up to $1 million on acquisition debt for loans secured by a first and/or second home. This also includes loans taken out for major home improvements. On home equity loans, interest is deductible up to $100,000, no matter how much the home cost or what the loan is used for. The $100,000 ceiling applies to the total of all home equity loans—it is not $100,000 for each home.

The same generally applies to refinancing a mortgage. Points paid to obtain a refinanced loan cannot fully be deducted the same year, however. The U.S. Tax Court held in November 1988 that in a refinancing transaction, points must be deducted over the life of the loan.

A qualified home is defined as the taxpayer's principal home and one other home. The second home can be a house, condo, co-op, mobile home, or boat, as long as the structure includes basic living accommodations, including sleeping, bathroom, and cooking facilities. If the second home is vacation property rented for fewer than 15 days during the year, the income need not be reported. Rental expenses cannot be claimed either, but all property taxes and mortgage interest may be deducted.

Rental of home

Taxpayers who are overseas and rented their homes in 1990 can continue to deduct mortgage interest as a rental expense under the passive-loss rules, as long as the AGI does not exceed $100,000 and the taxpayer is actively managing the property. Retaining a property manager does not mean losing this benefit. Also deductible are property management fees, depreciation costs, taxes, losses (such as cost of improvements) up to $25,000, after offsetting the rental income.

Sale of residence

If there is a profit on sale of a principal residence, taxes are owed on the profit or capital gains, unless one qualifies for one of the tax benefits discussed below. Efforts by Congress to reduce the rate of taxation on capital gains were defeated. Although legislation aimed at reducing capital gains taxation will likely be reintroduced, capital gains are currently fully taxable. In many instances, total taxable income from wages and profits will trigger the 5 percent surcharge. It is, therefore, extremely important to take every legitimate deduction and to be aware of the various tax benefits that may be available.

One such benefit involves the once-in-a-lifetime exemption (the once-in-a-lifetime rule applies to singles and couples and may not be used again even when the spouse reaches age 55). A taxpayer 55 years or older who sells his or her home can take a capital gains exclusion up to $125,000 without having to reinvest in another home. In order to qualify, the taxpayer must have lived in the home for three out of the last five years (up to two years spent in a nursing home can count as time spent in the home) prior to sale. Many Foreign Service employees are hurt by the three out of five years provision. Despite repeated attempts, AFSA has been unsuccessful in persuading Congress to grant an exemption for Foreign Service personnel, who cannot meet this requirement due to prolonged overseas service.

Under section 1034 of the tax code, frequently referred to as the rollover residence replacement rule, taxes may be deferred on profit from the sale of the principal residence when buying a replacement principal residence within two years before or after the sale. Americans working abroad, including Foreign Service employees on overseas assignment, are permitted up to an additional two-year period to replace their former residence. The deferral rule may be applied repeatedly, and there is no limit on the amount eligible for deferral of taxation. It may also be used in conjunction with the once-in-a-lifetime exclusion. Temporary rental of the home does not necessarily disqualify one from claiming the deferral. The IRS has never defined what time period constitutes temporary but may challenge a claim that the home was a principal residence, if it had been rented for many years and had clearly become investment property. Foreign Service employees who are overseas for prolonged periods during which they rent their home are increasingly subject to IRS scrutiny when they sell their house and claim deferral of capital gains.

Under a U.S. Tax Court decision, *Trisko v. Commissioner,* a Foreign Service officer was granted the deferral even though he had rented his home for a 44-month period prior to sale. The court determined that his house remained a principal residence even though it was converted to investment property. In reaching this decision, the court applied the following tests: Was the property the taxpayer's only home? Did he reside in it prior to going overseas? Did he intend to return to the residence upon completion of overseas duty? And what were the reasons for selling it?

On the basis of this decision and conversations with tax experts, AFSA suggests claiming the deferral only if the circumstances are similar to those of this case and if the home is rented only during assignments overseas and not longer than 44 months. A copy of the Trisko decision may be requested from AFSA.

What happens if one purchases and moves to a new residence then decides to get some rental income from the old home before selling it a couple of years later? The IRS may determine that the taxpayer no longer meets the "principal residence" test for the old home, since he or she moved out of it and converted it to investment property. Again, intent is key. The IRS allows temporary rental prior to sale as a "matter of convenience," such as a poor resale market at the time the new home was purchased. If the IRS determines that rental income was the prime motive for not selling the house, taxes must be paid on the gain of rental property, even though it was once used as a principal residence.

A considerable number of Foreign Service employees do not qualify under the deferral rule because of extended overseas assignments. If at all possible, Foreign Service officers should move back into the house for at least six months before selling it, thereby reestablishing principal residence. If this is not possible, they might look into a tax-deferred property exchange, which is essentially a real estate investor's version of the residence replacement rule.

Property exchanges

Under Internal Revenue Code 1031: a Foreign Service employee whose U.S. home may no longer qualify for special tax treatment under the residence replacement rule may be eligible to replace his or her former home through an "exchange" under section 1031 of the tax code. Few people are aware of the exchange provision, even though it has been available for quite a few years. It is, however, gaining in popularity as a result of the 1986 Tax Act, which eliminated many real estate shelters, including taxability of profits from the sale of property. Technically, a simultaneous trade of investments must occur. However, investors can first sell their property as long as they sign a sales contract on the new acquisition within 45 days and close the deal within six months of the sales contract. The rules are highly complicated and exchanges must be conducted in a specific manner and time frame. The IRS frowns on their use, and *a property exchange should never be attempted without assistance from real estate professionals, tax experts, and competent legal counsel specializing in this field.*

Exchanges are essentially a real estate investor's version of the special rules that allow homeowners to roll over proceeds from the sale of a home into another home. They allow investors to swap their property for another without paying taxes on the profit. There is no limit on how many times taxes can be deferred, as long as the taxpayer continues exchanging one property for another. The properties must clearly qualify as investments, and the taxpayer cannot reside in any of these properties at the time of exchange. Conversion to principal residence in the future is possible.

Many Foreign Service employees ask what items can be added to the cost basis of their homes when they are ready to sell. Money spent on "fixing up" the home for sale to reach what is called adjusted sales price may be deducted from the sales price. To qualify as legitimate "fixing-up costs," the following conditions must be met: 1) the expenses must be for work performed during the 90-day period ending on the day on which the contract to sell the old residence was made; 2) the expenses must be paid on or before the 30th day after sale of the house, and 3) the expenses must not be capital expenditures for permanent improvements or replacements (these can be added to the basis of the property, original purchase price, thereby reducing the amount of profit). A new roof and kitchen counters are not "fix-up" items. But painting the house, cleaning up the garden, and making minor repairs qualify as "fixing-up costs."

Lump-sum credit option

For those who retired under the Alternative Form of Annuity (AFA), thus electing the lump-sum withdrawal of contributions to the retirement trust fund, the lump sum is taxable in the year in which it is received.

Those retiring before reaching age 55 will have an extra 10 percent tax applied to that part of the lump sum included in gross income. In general, 85 to 95 percent of the lump sum is taxable. For those who prepare their own tax returns, IRS publication No. 721 contains instructions, actuarial tables, and worksheets for calculating the "exclusion percentage" applicable to lump sum and monthly annuity payments.

The Senior Executive Service filed suit in the U.S. Court of Claims for the refund of lump-sum tax payments on the grounds of double taxation, since these funds had already been taxed before being deposited into the retirement trust fund. The Court of Claims ruled against SES, however, and the case is now being appealed to the U.S. Court of Appeals. Regardless of the decision, the case will surely be appealed to the Supreme Court so a final decision cannot be expected for some time.

State tax provisions

This guide will help to answer some of the questions regarding one of the most perplexing problems facing Foreign Service employees and retirees: the filing of state income tax. Every member serving abroad must maintain a state of domicile in the United States, and the tax liability that the employee faces varies greatly from state to state. In addition, there are myriad regulations pertaining to the taxability of Foreign Service pensions and annuities, as each state has different rules about the conditions under which individuals are liable for such income.

This guide, which supercedes last year's article on the subject (*see The FSJ*, February 1990), will review the laws regarding income tax and tax on annuities and pensions as they pertain to Foreign Service personnel. The provisions will be reviewed on a state-by-state basis to make it easy for members to concentrate on laws that are applicable to their situation. *Please note that while AFSA makes every attempt to provide the most up-to-date information, readers should still speak with a tax expert in the state in question with any specific questions.* The first section of the guide will summarize individual state income tax provisions, and the second section will examine each state's laws on exemptions of annuities and pensions.

State income tax provisions

Many Foreign Service employees have questions about their liability to pay state income taxes during periods posted overseas or assigned to Washington. It is a fundamental rule of law that all U.S. citizens, because they have the right to vote, retain a state of domicile even if residing abroad. There are many criteria used in determining which state is a citizen's domicile. One of the strongest determinants is prolonged physical presence, a standard that Foreign Service personnel frequently cannot meet, due to overseas service.

In such cases, the states will make a determination of the individual's income tax status based on other factors, including where the individual has family ties, where he or she is registered to vote or has a driver's license, where he or she owns property, or where the person has bank accounts or other financial holdings. In the case of Foreign Service employees, the domicile might be the state from which the person joined the service or where he or she intends to return upon separation. For purposes of this article, the term domicile refers to legal residence; some states also define it as permanent residence. Residence refers to physical presence in the state.

Foreign Service personnel must continue to pay taxes to the state of domicile (or to the District of Columbia) while residing outside of the state, including during assignments abroad. Thus, it is advantageous if the state of domicile has little or no tax on income earned outside the state.

A non-resident, according to most states' definitions, is an individual who earns income or interest in the specific state but does not live there or is living there for only part of the year (usually, less than six months). Individuals are generally considered residents, and are thus fully liable for taxes, if they are domiciled in the state or if they are living in the state (usually at least six months of the year) but are not domiciled there.

Thus, in addition to paying tax to the state of domicile, Foreign Service employees residing in metropolitan Washington are also required to pay income tax to either the District, Maryland, or Virginia. However, most states allow a credit, so that the taxpayer pays the higher tax rate of the two states, with each state receiving a share. California specifically exempts all Foreign Service *officers* domiciled in the state from state income taxation if they reside outside the state and do not earn income in California. AFSA has become aware of recent cases of career Foreign Service staff who were not being allowed the exemption.

There are currently seven states with no state income tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming. In addition, the following states have no tax on personal income but do tax profits from the sale of bonds and property: Connecticut, New Hampshire, and Tennessee.

There are also six states which, under certain conditions, do not tax income earned outside of the state: Missouri, New Jersey, New York, Oregon, Pennsylvania, and West Virginia. The requirements are that the individual have a permanent "place of abode" elsewhere, not have a permanent "place of abode" in the state, and not spend more than 30 (31 in the case of Oregon) days in the state during the tax year. Also, please note that these six states require the filing of non-resident returns for all income earned from in-state sources.

AFSA is aware of a case in which a Foreign Service employee domiciled in Pennsylvania was forced to continue paying state income tax even though the employee was assigned overseas, occupying government housing. The state of Pennsylvania held that "quarters provided by the government at no cost to Petitioner cannot be considered as maintaining a permanent place of abode." Members of the Foreign Service who are quartered in government housing will have to pay income tax to Pennsylvania. If they rent their own home overseas, however, they will be exempt from these taxes. AFSA is not aware of a similar ruling in any of the other five states, but Foreign Service employees should be aware that states could challenge the status of government housing in the future.

The following list gives a state-by-state overview of the latest information available on tax liability. For further information please contact AFSA's Member Services Department.

Alabama: State income tax on all sources of income

Alaska: No state income tax

Arizona: State income tax on all sources of income

Arkansas: State income tax on all sources of income

California: Exempts career Foreign Service *officers* living outside California from taxes on out-of-state income. Personnel must file form 540NR.

Colorado: State income tax on all sources of income

Connecticut: No personal income tax, but tax liability on profits from the sale of property and bonds. Profits from the sale of property are taxed even if the property is located out of the state or the transaction occurs out of the state.

Delaware: State income tax on all sources of income

District of Columbia: Income tax on all sources of income. Effective 1988, the D.C. tax exclusion no longer applies to Foreign Service officers. AFSA's appeal of the D.C. tax ruling has been denied, thus employees must pay D.C. income tax while residing in the District.

Florida: No state income tax.

Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi: State income tax on all sources of income

Missouri: No tax liability for out-of-state income if the individual has no permanent residence in Missouri, has a permanent residence elsewhere, and is not physically present in the state for more than 30 days during the tax year. A return must be filed yearly with an attached affidavit of non-residency. Filing is also required on Form 40, Schedule NRI, for income of more than $600 from Missouri sources.

Montana, Nebraska: State income tax on all sources of income

Nevada: No state income tax

New Hampshire: No personal income tax, but tax liability on profits from in-state sources, including the sale of property and bonds

New Jersey: No tax liability for out-of-state income if the individual has no permanent residence in New Jersey, has a permanent residence elsewhere, and is not physically in the state for more than 30 days during the tax year. Filing a return is not required, but it is recommended in order to preserve domicile status. Filing is required on Form 1040 NR for revenue derived from in-state sources.

New Mexico: State income tax on all sources of income

New York: No tax liability for out-of-state income if the individual has no permanent residence in New York, has a permanent residence elsewhere, and is not present in the state more than 30 days during the tax year. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on Form IT-203-I or IT-203-P for revenue derived from New York sources.

North Carolina, North Dakota, Ohio, and Oklahoma: State income tax on all sources of income

Oregon: No tax liability for out-of-state income if the individual has no permanent residence in Oregon, has a permanent residence elsewhere, and is not physically present in the state for more than 31 days during the tax year. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on Form 40 NR for income derived from Oregon sources.

Pennsylvania: No tax liability for out-of-state income if the individual has no permanent residence in the state, has a permanent residence elsewhere, and spends no more than 30 days in the state during the tax year. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on Form PA-40-NR for all income derived from Pennsylvania sources. *Members of the Foreign Service living abroad in government quarters must continue to pay income tax.*

Rhode Island and South Carolina: State income tax on all sources of income

South Dakota: No state income tax

Tennessee: No personal income tax, but tax liability on profits from in-state sources, including the sale of property and bonds

Texas: No state income tax

Utah, Vermont, and Virginia: State income tax on all sources of income

Washington: No state income tax

West Virginia: No tax liability for out-of-state income if the individual has no permanent residence in West Virginia, has a permanent residence elsewhere, and spends no more than thirty days of the tax year in West Virginia. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on Form IT-140 NR for all income derived from West Virginia sources.

Wisconsin: State income tax on all sources of income

Wyoming: No state income tax

State pension and annuity tax

The laws regarding the taxation of Foreign Service annuities vary greatly from state to state. In addition to the 10 states that have no income tax or no tax on personal income, there are several states that do not tax income derived from pensions and annuities. There are four states—Alabama, Iowa, Kansas, and North Dakota—that tax Foreign Service annuities while exempting those of the Civil Service. In addition, there are three states—Arizona, Idaho, and Oklahoma—that have provisions exempting certain amounts of Civil Service annuities. It is unclear from the information available to AFSA whether the exemption pertains to Foreign Service annuities as well.

In response to the U.S. Supreme Court's decision in *Davis v. Michigan Department of the Treasury*, annuitants in a number of states are challenging unequal taxation of state versus federal annuities. In this precedent-setting decision, the court ruled that the policy of the state of Michigan to exempt from taxation the annuities of retired state of Michigan and local government employees while taxing the annuities of retired federal employees residing in Michigan discriminates against federal annuitants and is therefore unconstitutional. Because many states have similar practices regarding the treatment of annuitant income, individuals and groups are currently involved in litigation in order to compel their states of residence to comply with *Davis v. Michigan*.

In particular, retired AFSA members in Arizona have banded together with other federal annuitants, forming a coalition to pursue a class action suit against the Arizona Department of Revenue. Interested parties are encouraged to contact: Brian Luscher, Bonn & Jensen, 805 North Second Street, Phoenix, Arizona 85004, (602) 254-5557.

All other states tax Foreign and Civil Service annuities and pensions to varying degrees. The following information is current but does not reflect changes that may result from current legal action in various states in response to *Davis v. Michigan*.

Alabama: Specifically exempts Civil Service, but not Foreign Service, annuities. Therefore Foreign Service annuities are fully taxable.

Alaska: No personal income tax

Arizona: $2,500 exemption. It is not clear whether this exemption pertains to Foreign Service annuities, however. See above paragraphs for further discussion

Arkansas: Up to $6,000 exempt

California: Fully taxable

Colorado: Up to $20,000 exempt, only if 55 or older

Connecticut: No personal income tax

Delaware: Two exclusions: (1) Up to $2,000 exempt if earned income is less than $2,500 and Adjusted Gross Income is less than $10,000; if married and filing jointly, up to $4,000 exempt if earned income is less than $5,000 and AGI is under $20,000. This is applicable if 60 years or older or totally disabled. (2) Amounts received as pension exempted up to $2,000 if under 60, and up to $3,000 if over 60.

District of Columbia: $3,000 exempt only if the taxpayer is 62 years or older

Florida: No personal income tax

Georgia: $10,000 exempt for those 62 years or older and permanently or totally disabled

Hawaii: Full exemption

Idaho: Up to $11,700 exempt for a single return; up to $17,544 if filing jointly. Up to $9,394 exempt for unmarried survivor of annuitant. Must be 65 years or older, or 62 years or older and disabled. Amount reduced dollar for dollar by social security benefits. However, it is not clear whether this exclusion pertains to Foreign Service annuities. See above paragraph for further information.

Illinois: Full Exemption

Indiana: $2,000 exemption for most 62 years or older, reduced dollar for dollar by social security benefits.

Iowa: Specifically exempts Civil Service, but not Foreign Service, annuities. Therefore Foreign Service annuities are fully taxable.

Kansas: Specifically exempts Civil Service, but not Foreign Service, annuities. Therefore, Foreign Service annuities are fully taxable.

Kentucky: Civil Service annuities are specifically exempted. It is not certain whether this exemption applies to Foreign Service annuities.

Louisiana: May exclude up to $6,000 for single, $12,000 for married filing jointly, only if 65 years or older. Totally exempts Civil Service annuities.

Maine: Fully taxable

Maryland: For individuals 65 years or older or permanently disabled, pensions and annuities are excluded 10,800 using the following formula: The total amount of social security benefits received is subtracted from $10,800. The remaining amount is exempted.

Massachusetts: Full exemption

Michigan: Full exemption for Civil Service annuities. See above for discussion of U.S. Supreme Court decision in *Davis v. Michigan*.

Minnesota: Individuals 65 and older or permanently disabled may obtain an exclusion of certain income by filling out a Subtraction for the Elderly form. Whether an individual qualifies for an exclusion depends on several criteria, including amount of income, amount of social security benefits received, and the amount of the pension. An individual must fill out this form to determine if he or she qualifies.

Mississippi: Up to $6,000 of annuity may be excluded.

Missouri: Fully taxable

Montana: Full exemption of Civil Service annuities. It is not clear, however, if Foreign Service annuities are also exempt.

Nebraska: Fully taxable

Nevada: No personal income tax

New Hampshire: No personal income tax

New Jersey: $7,500 when filing as a single, $10,000 when filing jointly. For persons 62 years or older or permanently disabled, up to $7,500 may be excluded if filing single return or up to $10,000 if married and filing jointly. Additional amounts ($3,000 single, $6,000 joint) may be deducted if ineligible for social security benefits. Also, if earned income totals less than $3,000 on lines 13, 41, and 48 of the return, an individual may exclude any unused portion of the pension exclusion.

New Mexico: Up to $3,000 is exempt

New York: Full exemption for individuals over 59 1/2 years

North Carolina: Up to $4,000 may be excluded.

North Dakota: Specifically exempts Civil Service, but not Foreign Service annuities. Foreign Service annuities are fully taxable.

Ohio: Gives a tax credit based on the amount of the retirement annuity. If the annuity is below $500, then there is no credit. Annuity of $500-1,499 merits an $80 credit; $5,000-$7,999 merits $130 credit; and any annuity over $8,000 merits a credit of $200. If the individual is 65 years or older, an additional $50 tax credit is given.

Oklahoma: $5,550 excluded. However, it is not clear whether this exemption pertains to Foreign Service annuities. See above paragraph for further discussion.

Oregon: $5,000 exemption for those who are 62 years or older. It is phased out for annuities over $30,000.

Pennsylvania: Full exemption

Rhode Island: Fully taxable

South Carolina: Up to $3,000 may be excluded

South Dakota, Tennessee and Texas: No personal income tax

Utah: $7,500 exemption

Vermont: Fully taxable

Virginia: $12,000 plus $800 personal exemption is exempted (excluding social security) for individuals over 65. $6,000 is exempted (excluding social security) for people 62 to 64 years of age. There is no exemption for annuities for taxpayers under 62 years of age.

Washington: No personal income tax

West Virginia: $2,000 excluded. There is also $8,000 exclusion for income from any source for those 65 years or older.

Wisconsin: Fully taxable

Wyoming: No personal income tax

The author would like to express thanks for their help in preparing this article to AFSA's tax consultant, Bob Dussell, who continues to provide advice to countless Foreign Service employees, and to AFSA's Executive Director Sabine Sisk.

1991 election of AFSA officers and constituency representatives

This election call, issued in accordance with Article V (1) of the AFSA bylaws, constitutes a formal notice to all AFSA members of the opportunity to participate in nominations and elections of a new governing board. All of the officer and representative positions listed below are for two-year terms beginning July 15, 1991.

A. ***Positions to be filled***

1. The officer positions to be filled in this election are:

(a) President
(b) Vice President for State
(c) Vice President for A.I.D.
(d) Vice President for USIA
(e) Vice President for Retirees
(f) Secretary
(g) Treasurer

2. The constituency representative positions to be filled in this election are:

(a) State Department representatives (five positions)
(b) A.I.D. representatives (two positions)
(c) USIA representative (one position)
(d) Commerce representative (one position)
(e) Agriculture representative (one position)
(f) Retired member representatives (four positions)

AFSA bylaws, Article IV (4), authorize one constituency representative position for every 1,000 members or fraction thereof. The number of positions to be filled in this election is based upon the membership rolls as of December 31, 1990.

B. ***Qualifications for being nominated***

1. Any AFSA member in good standing (i.e., a member whose dues are automatically deducted or who has paid dues through February 1991) may submit names (including his or her own name) in nomination for any or all of the above-mentioned positions for which the nominee is eligible.

2. In order to be nominated, a person must likewise be a member in good standing. (The bylaws require that a "candidate" be a member through June 1991.) If a member is nominated who is not on automatic dues deduction and has paid dues through February 28, 1991 but has not paid through June 30, 1991, that member will be contacted and advised that he or she must pay dues through June 30 in order to be a candidate.)

C. ***General provisions***

1. No member may nominate more than one person for each officer position or more than the number of representatives established for each constituency. No member's name may appear on the ballot for more than one position.

2. Management officials and confidential employees cannot be nominated for positions on the governing board, nor may they make or support nominations or serve on nominating committees.

3. Nominations may be submitted individually or in slates. Slate designations will be noted on the ballot.

D. ***All nominations must be submitted in writing or by cable.***

All written nominations must be addressed to the AFSA Elections Committee, P.O. Box 42677, Washington, D.C. 20015-0677. To be valid, they must, without exception, be received at this address no later than 12 noon on March 4, 1991. Members overseas can send "AFSA channel" cables marked for delivery to the AFSA Elections Committee. They must be received in the department's Communications Center within the same time limit. Alternatively, nominations can be hand-delivered to a committee member who will be in the AFSA office, Room 3644, Department of State, from 11 a.m. to 12 noon on March 4.

E. ***A nominee can indicate his or her acceptance of a nomination*** by appending a letter to the letter of nomination or by appropriate notation on that letter. Otherwise, an authorized representative of the Elections Committee will communicate with each nominee (including members who nominate themselves) as quickly as possible after the receipt of each nomination to determine whether the nominee wishes to be a candidate. Any member who so accepts the nomination must confirm his or her acceptance in writing, with this confirmation addressed to the AFSA Elections Committee at the above address, to be received no later than 12 noon on March 11, 1991. Members overseas can send an "AFSA channel" message accepting nomination, which must be received in the department's Communications Center within the same time limit. Any nominee whose written acceptance of nomination has not been received by the Elections Committee by the above time limit will be considered to have declined candidacy.

F. ***All candidates nominated under the procedure outlined above will be given the opportunity to submit brief biographies and campaign statements*** for dissemination to the AFSA membership in the May issue of the FOREIGN SERVICE JOURNAL in AFSA News. Further information regarding such statements and FOREIGN SERVICE JOURNAL editorial deadlines will be contained in the "Instructions to Candidates," which will be issued by the Elections Committee on or before March 4, 1991.

G. ***The AFSA bylaws provide that, should candidates wish to mail supplementary statements to the membership,*** the association will make available to them on request, and at their expense, the membership mailing list or address labels. Further details on this and such other services as the Elections Committee may be able to provide candidates will be included in the "Instructions to Candidates" mentioned in F above.

H. ***Ballots:*** The ballot will be distributed on or about May 15, 1991 to each person who is an AFSA member as of April 30, 1991. Each member may cast one vote for each officer position and, in addition, one vote for each representative position in the member's own constituency by voting for candidates listed on the official ballot, or by writing in the name(s) of member(s) eligible as of June 30, 1991, or by doing both. To be valid, a ballot must be received by the Elections Committee no later than 12 noon Friday, June 28, 1991 at the address indicated on the envelope accompanying the ballot. More detailed balloting instructions will accompany the ballots.

I. ***Tally:*** On or about July 1, 1991, the Elections Committee will count the ballots and declare elected the candidate receiving the greatest number of votes for each position. Candidates or their representatives may be present during the tally and challenge the validity of any vote or the eligibility of any voter. The committee will inform candidates individually of the election results by the swiftest possible means and will publish the names of all elected candidates in the September issue of the FOREIGN SERVICE JOURNAL. The elected candidates will take office on July 15, 1991, as provided in the bylaws.

J. ***Questions, suggestions, or complaints:*** At any time following the publication of this election call through September 15, 1991, any member may file a written question, suggestion, or complaint concerning the conduct of the 1991 election. Such question, suggestion, or complaint should be addressed to the AFSA Elections Committee, P.O. Box 42677, Washington, D.C. 20015-0677.

Proposed revisions to AFSA's bylaws

This proposed bylaw revision will be referred to the membership for a vote along with the ballots, which will be sent to members in mid-May. Members may submit comments on the revisions in accordance with Article VIII of the existing bylaws, which may be requested from AFSA/Washington or from post representatives. Comments should be addressed to the AFSA Elections Committee, P.O. Box 42677, Washington, D.C. 20015-0677.

—Alan Lukens

Chairman, Elections Committee

Following is the Governing Board's statement of explanation of the proposed bylaws:

The AFSA Governing Board traditionally proposes bylaw changes together with the biennial election of a new board. A review showed that as a result of piecemeal changes over the years, the bylaws needed a complete—though largely cosmetic—rewrite. The board has done this and is submitting for your approval in May not changes to specific articles or sections, but rewritten bylaws.

The board has tried to organize material coherently, clean up language, clarify (but not significantly change) rights and authorities, and generally provide a more useful document. There are, however, changes of which you should be aware, one of them of real significance to all members:

Dues: The practice has developed during the terms of the last several governing boards of proposing dues increases (as required by the bylaws) every three to four years. This board endorses that practice but notes that between dues increases the association suffers an effective loss of revenue due to inflation. In order to overcome this and provide more predictability to association revenues, the board recommends that the bylaws be changed to permit (but not require) dues increases *not to exceed the increase in the Consumer Price Index since the previous increase in dues.* Any larger increase will still have to be approved by a majority of the members voting (new Article IV).

Membership: Although for years the association has had associate members and we now actively recruit groups to become International Associates, the current bylaws provide for only one category of membership. The revised bylaws will clarify membership categories and authorize associate memberships.

Governing Board: The revised bylaws clarify, but do not substantially change, provisions relating to election, authority, responsibility, and operations of the Governing Board.

Internal Organization: The revised bylaws spell out the authority and responsibilities of several existing committees (constituency committees, Journal Editorial Board, and Education Committee) and clarify the board's authority to establish other committees. They also provide more realistic organizational alternatives for overseas chapters.

The Governing Board asks that you carefully review the proposed bylaws carefully. The board is confident that you will agree they improve this document, and it asks that you vote in May to adopt them.

THE AMERICAN FOREIGN SERVICE ASSOCIATION BYLAWS as amended July 1991

ARTICLE I

Name and Place of Business

The name of this organization shall be the AMERICAN FOREIGN SERVICE ASSOCIATION, a nonprofit corporation incorporated in the District of Columbia.

ARTICLE II

Purposes and Objectives

In accordance with the general purposes and objectives set forth in the Certificate of Incorporation, the following are declared to be the primary purposes and objectives of this association:

1. To further the interests and well-being of the members of the association;

2. To represent the members of the Foreign Service of the United States, in accordance with Chapters 10 (Labor-Management Relations) and 11 (Grievances) of the Foreign Service Act of 1980;

3. To work closely with the foreign affairs agencies, the Congress, and other interested institutions and individuals to strengthen the ability of the foreign affairs community to contribute to effective foreign policies;

4. To accept and receive gifts, grants, devises, bequests, and funds as may be donated or otherwise given to this association by any person or persons, group or groups, and to utilize or dispose of the same for the purposes of this association, or as directed by said donors;

5. To maintain and operate a scholarship fund and such other funds as may be established by the board commensurate with the purposes and objectives of the association;

6. To publish the *Foreign Service Journal* and other official organs of the association; and

7. To carry on such other activities as may be deemed practicable in order to serve the interests of the association or its members.

ARTICLE III

Membership

Section 1. General Provisions: The association shall be composed of regular members, associate members, and honorary members. The board shall establish terms, conditions, and privileges for the associate and honorary member categories.

Section 2. Regular Members: Regular membership is limited to current or former members of the Foreign Service as defined by Sections 103 (paragraphs 1 to 5) and 202 of the Foreign Service Act of 1980, or successor legislation. Individuals eligible for regular membership may be so admitted upon application and payment of dues, and shall be permitted to maintain their membership as long as they remain eligible and maintain current dues payments. Only regular members may vote, hold office, or exercise other rights regarding the conduct of the affairs of the association.

Section 3. Associate Members: Individuals or organizations closely associated with or interested in the foreign affairs of the U.S. but not eligible for regular membership may become associate members upon the acceptance of their application by the board and the payment of dues, and shall be permitted to maintain membership so long as they maintain current dues payments.

Section 4. Honorary Members: The board may invite to become honorary members such individuals as it deems proper. Honorary members shall be exempt from the payment of dues.

Section 5. Removal of Members: Members may be expelled or otherwise disciplined by the association for engaging in conduct which discredits or brings into disrepute the association or the Foreign Service, or for taking legal or administrative agency action against the association without exhausting all reasonable internal administrative procedures. No member may be disciplined by the association without being served with specific charges, given a reasonable time to prepare a defense, and permitted due hearing. The board shall establish procedures for removal or disciplinary actions, and its decisions shall be final and binding.

ARTICLE IV

Dues

The board shall establish the dues to be paid by members, and may alter such dues at its discretion; except that any increase in dues for regular members shall not exceed the cumulative increase in the national Consumer Price Index (CPI), as published by the U.S. Department of Labor, since the effective date of the last previous dues increase. Any proposal to increase dues of regular members by more than the CPI must be submitted to a referendum and approved by a majority of those members voting by secret ballot.

ARTICLE V

The Governing Board

Section 1. General: This association shall be governed by a Governing Board (herein called "the board") consisting of regular members in good standing, elected by the regular membership biennially for two-year terms as officers or representatives in the manner provided in Section 4 below.

Section 2. Authority and responsibility: The board is empowered to promulgate and implement the regulations and policies of the association; appoint and oversee its committees and publications; actively pursue its objectives; and supervise the disbursement of its funds. The board is responsible for:

(a) managing the property and affairs of the association;

(b) adopting rules and policies for the conduct of association business;

(c) maintaining fiscal integrity in the conduct of the affairs of the association, including provisions for accounting and financial controls, and for providing regular financial reports or summaries to the membership;

(d) to the extent practicable, keeping the membership currently informed on, seeking its advice before making decisions on, and informing it promptly of its decisions on important matters affecting the membership, the Foreign Service, and the association;

(e) facilitating communication from any member(s) to the membership, or any practicable portion thereof, on association business, at the expense of the member(s) initiating the communication;

(f) ensuring that persons in any position of authority at any level of the association do not engage in business or financial activities or have financial interests which conflict with their duties to the association or its members; and

(g) reporting to the membership annually on its management of the association's affairs and finances, and its plans and budget for the succeeding year.

Section 3. Officers: The officers of the association shall be a president, constituency vice presidents, a secretary, and a treasurer. They shall be elected as described in Section 4, below. They shall have the powers and duties specifically conferred on them by applicable law and regulation, these bylaws, and the board.

Section 4. Manner of election:

(a) The president, secretary, and treasurer shall be elected by the regular membership at the same time as other members of the board.

(b) The constituency vice presidents and representatives shall be elected from constituencies composed of the regular members belonging to the Foreign Service in each of the departments or agencies to which Chapter 10 of the Foreign Service Act of 1980 applies, pursuant to Sec. 1003(a), and a single retired constituency for all former members of the service from all such departments and agencies.

Each constituency having a minimum of 100 members as of the last working day of the calendar year before the election shall be entitled to a constituency vice president. In addition, each constituency shall be entitled to one representative for each 1,000 members or fraction thereof as of the last working day of the calendar year before the election year, provided that any constituency that for three consecutive months has a membership which would on that date have entitled it to an additional representative shall have an additional representative, who shall be appointed by the board.

Section 5. Meetings and voting:

(a) Meetings: The board shall meet at least once each month. The board shall also meet to consider a particular subject or subjects upon the written request of the president, one-third of the board members, an overseas chapter, or 25 regular members, submitted at least five days prior to the date of the proposed meeting.

Meetings shall be announced and open to any regular member, provided that the board may adopt regulations to preserve good order, and may go into executive session. Minutes, except of executive sessions, shall be available to members on request.

(b) Voting: Each board member shall have one vote. A majority of the members of the board shall constitute a quorum and must be present for any vote. board members who will be outside the Washington area for a board meeting may leave a written proxy with another board member who shall vote that proxy in accordance with the wishes of the absent member or, absent indication of such preferences, in accordance with his or her own preference.

Section 6. Vacancies: Vacancies occurring during the term of the board shall be filled by the board by appointment from the regular membership, provided that constituency vice presidents and representatives shall be chosen from the constituency of the vacancy as defined in Section 4, above.

Section 7. Recall: The membership has the right to recall the president, secretary, and treasurer, and the membership of any constituency has the right to recall any constituency vice president or representative in whom said membership has no confidence. Two-thirds of the board or 5 per cent of the membership concerned may recommend such recall by written request and supporting statement to the Standing Committee on Elections. The committee shall submit the recall proposal, supporting statements and statements, if any, submitted in favor of the board member in question to the membership concerned for vote by secret ballot.

Section 8. Residency: Board members shall be resident in the Washington area within 60 days of appointment or election to office and shall remain resident in the Washington area throughout their term in office. Board members who cease to be resident in the Washington area during their term shall submit their resignations to the board.

ARTICLE VI
Internal Organization

Section 1. The following committees and boards shall exist on a permanent basis:

(a) Committee on Elections: The Committee on Elections shall have full power within the association, subject to applicable law, regulation, these bylaws and the association budget, to conduct regular elections for Governing Board, recall elections, referenda, and any vote on amendments to these bylaws. The committee shall establish regulations for these procedures and interpret relevant sections of the bylaws, resolve disputes and determine and declare election results.

The Committee on Elections shall be composed of at least five members, including a chair and at least one member from each constituency. The board shall appoint the chair and members of the committee for two-year terms beginning July 15 of each even-numbered year, and shall fill vacancies occurring during such term, but may not remove committee members except on recommendation of the committee or in accordance with disciplinary procedures. Committee members shall be impartial in the performance of their duties while serving, and for six months thereafter they shall not be board members or candidates or nominators thereof, or accept appointment to the chair of any other committee.

(b) Constituency Standing Committees: Standing committees for each constituency shall have primary responsibility, subject to the overall guidance of the board, for the interests of members of said constituencies in general and in particular for members assigned in the Washington area. The board shall appoint, and determine the terms of, the chair and members of each constituency standing committee from among the members within each such constituency.

(c) Journal Editorial Board: The board shall appoint and determine the terms of the chair and members of the Journal Editorial Board who, under the overall guidance of the board, shall be specifically responsible for the editorial policy of the FOREIGN SERVICE JOURNAL.

(d) Committee on Education: The board shall appoint and determine the terms of the chair and members of the Committee on Education who, under the overall guidance of the board, shall develop policies and criteria for awards under the association's scholarship programs.

Section 2: The board shall have the authority to establish and appoint and determine the terms of members of other committees as it deems necessary for the efficient operation of the association and to further its purposes and objectives. The board shall provide overall guidance to such committees, but may delegate to them such authority as it deems necessary. Where practicable, the membership and authorities of such committees should be spelled out in writing and approved by the board.

Section 3. Chapters and Representatives: Regular members assigned outside of the Washington Area may organize chapters at their post, under the general direction of the board. Chapters may adopt bylaws, which must be approved by the board. The president of any such chapter shall be the principal AFSA representative at that post, entitled to represent AFSA to post management in accordance with applicable agreements between AFSA and the foreign affairs agencies and agency regulations. Where a formal chapter does not exist, members may nevertheless elect an AFSA representative for their post or, in the absence of such election, the board may appoint such a representative. The board will from time to time issue guidance to its post representatives and for the organization and functioning of chapters. The activities of both representatives and chapters shall in all respects be consistent with these bylaws, the board's guidance, and the association's agreements with the foreign affairs agencies.

ARTICLE VII
Elections

Section 1. Candidates: All regular members of the association in good standing are eligible to be candidates for the officer or representative positions on the board.

Section 2. Procedures:

(a) In odd-numbered years the Committee on Elections shall issue to all Members an election call prescribing the terms and conditions of the election and soliciting candidacies in the February FOREIGN SERVICE JOURNAL and in other appropriate media.

(b) All nominations shall be in writing and must be received by the Committee on Elections not later than 30 days following the date of the election call. Nominations must be accompanied by evidence of eligibility as of

June 30 of the year of the election. Nominations may be individual or by slate, and candidates may be self-nominated or nominated by any regular member.

(c) The Committee on Elections shall verify the eligibility of candidates for each position and announce candidates' names on or about April 1.

(d) The committee shall receive campaign statements from candidates and/or slates and distribute them to the concerned membership at association expense pursuant to procedures it shall establish for that purpose. The committee shall also facilitate the distribution, during a campaign period of not less than 30 days, of additional material related to the election which candidates, slates and/or other members wish to distribute at their own expense. Those initiating such statements and materials shall assume full legal responsibility for their contents.

(e) The committee shall mail the official ballot bearing the names of all qualified candidates, slate identifications when applicable, and voting instructions to each regular member on or about May 15.

(f) Each regular member may cast one vote each for president, secretary and treasurer, one vote for the appropriate constituency vice president and one vote for each representative position available in the member's constituency. Members may vote for candidates as individuals or as a slate, or may write in the name(s) of any regular member(s) who fulfills the eligibility requirements as prescribed.

(g) The committee shall ensure the secrecy of each member's vote.

(h) The committee shall count on or about July 1 all ballots received as of the close of business the last working day of June. Candidates or their representatives may observe counting procedures and are entitled to challenge the validity of any vote or the eligibility of any voter.

(i) The committee will decide on challenges and declare elected the candidates receiving the greatest number of valid votes for each position.

(j) The new board shall take office on July 15.

ARTICLE VIII
Referendum

Section 1. The membership may, by majority vote in a referendum, determine the association's policy on any matter within the scope of the association's purposes and objectives.

Section 2. One-third of the board, 10 chapters, or 100 regular members may initiate a referendum by submitting a specific proposal to the Committee on Elections. The Committee on Elections will submit it to the regular membership for decision in a secret ballot under procedures established by it for that purpose.

ARTICLE IX
Amendments

Section 1. Procedures:

(a) One hundred regular members or the board may propose, in writing and accompanied by a statement of justification, an amendment to these bylaws by submission to the Committee on Elections.

(b) The committee shall promptly circulate to the membership each such proposed amendment and justification by publication in the FOREIGN SERVICE JOURNAL and other appropriate media. The committee shall accept, for 45 days following the date of publication of the proposed amendment, statements of appropriate length submitted in opposition thereto and signed by not less than 10 members. No two statements shall be signed by the same member.

(c) Members may distribute, at their own expense, additional statements regarding a proposed amendment. To facilitate this process, the association shall make available on request the membership list or address labels, for which it shall be reimbursed for all related expenses.

(d) The committee shall commence a poll of the membership on the proposed amendment within 90 days following the date of its publication, and shall conclude the poll within 45 days. The committee shall provide, along with ballots, the statements in support of and in opposition to the proposed amendment.

Section 2. Adoption of a proposed amendment will require the affirmative votes of not less than two-thirds of the valid votes received and will be effective immediately.

ARTICLE X
Parliamentary Authority

The association's parliamentary authority shall be the most recent edition of *Robert's Rules of Order Newly Revised*, except as otherwise provided by applicable law, regulation, or decision of the Governing Board.

Answers to the Foreign Service Quiz. Questions appear on page 8.

1. Elihu B. Washburne of Illinois, who served 11 days. He was appointed by President Ulysses S. Grant and went on to serve as minister to France after his term as secretary, granted to him to elevate his prestige before his posting to France.

2. Thomas Jefferson, who wrote in 1801: ". . . no person should be continued on foreign mission beyond an absence of six, seven, or eight years."

3. John Bigelow

4. Franz von Papen, chancellor in 1932, who served as military attache in Washington in 1915. He was expelled from the United States on charges of espionage.

5. David K. E. Bruce. He served as ambassador to France from 1949 to 1952; to Germany from 1957 to 1959; and to the United Kingdom, from 1961 to 1969.

AFSA ◆ NEWS

Further limits on prescriptive relief

Turna R. Lewis
General Counsel

A District of Columbia District Court case places further limitations on prescriptive relief, which allows an employee who is challenging a management decision affecting his or her employment to continue collecting pay and benefits pending a final decision. In *Miller v. James A. Baker* (90-409, October 22, 1990) the court held that the Foreign Service Grievance Board does not have unlimited authority to grant prescriptive relief to nontenured employees. The court instead stressed the secretary of State's authority to terminate a career candidate's limited appointment.

Miller joined the Foreign Service in 1978 as a career candidate under a five-year limited appointment. When her term expired in 1983, she was granted an extended appointment for an additional five years. In April 1988, the department notified her that she would not be granted tenure and consequently would be separated from the Foreign Service at the expiration of her limited appointment in June 1988.

Miller filed a grievance in June 1988 alleging that she received inaccurate and erroneous employee evaluation reports that adversely affected her opportunity for tenure. After the department denied her grievance in January 1989, she appealed to the Foreign Service Grievance Board and requested prescriptive relief pending resolution of her grievance. The board granted her request, but the department refused to comply.

The board ultimately upheld the department's decision to terminate Miller. Miller did not challenge the board's decision but sought back pay from the department covering the period between her termination and the board's final decision.

The Department of State argued that the board lacks authority to hear a grievance concerning the expiration of a limited appointment. The department also cited an earlier District Court case, *Haynes/Sethi*, also involving nontenured employees, which ruled that the board had no authority to grant prescriptive relief pending resolution of a grievance unless the grievance concerned misconduct by the employee. The department also argued that if the Foreign Service Act were interpreted to allow the board unlimited authority to grant prescriptive relief, the effect would be to undermine the secretary's authority to terminate limited appointments "at any time," since prescriptive relief defers removal.

In Miller, the District Court found the department's argument persuasive and also followed the reasoning in Haynes/Sethi, a prior District Court decision. The court viewed this issue as a conflict between two statutory provisions in the Foreign Service Act: 1106 (8), which gives the board authority to grant prescriptive relief to employees in certain circumstances, and 611, which grants the secretary the authority to terminate limited appointees "at any time," except in cases of misconduct.

Since the legislative authority was unclear as to which provision controls, the court decided that the secretary should sway in such employment decisions. Specifically, the court found that "because members of the Foreign Service hold positions of great importance and responsibility as representatives of the Department of State and the U.S. Government, . . . this court will not circumscribe the Secretary's discretion to control that membership in the absence of a clear statutory mandate."

The real impact of this case has yet to be felt. It is important to note that neither Miller nor Haynes/Sethi involved issues of employee misconduct. In cases of alleged misconduct, the Foreign Service Act clearly provides that employees may be granted prescriptive relief and a pre-termination hearing. Thus it appears the Miller decision does not affect the current state of prescriptive relief for career employees. However, for nontenured employees, the recent case law signals a change for the worse in its limitation of the board's authority. To date, the case law, read in its most favorable light, suggests that nontenured employees are entitled to prescriptive relief only when there is an allegation of employee misconduct.

Ethics Act bans freelancing

Mark W. Smith
Legal Assistant

In an attempt to end congressional honoraria, the 1989 Ethics Reform Act has also circumscribed what federal employees may receive as compensation for activities unrelated to government work. The act included a ban, effective January 1, 1991, preventing any federal employee from receiving remuneration "for any speech, appearance or writing." For example, federal employees who write theater or restaurant reviews may not be paid for such work. Curiously, certain kinds of writing, such as novels, song lyrics, and poetry, are exempted.

The ban is facing several challenges. A class action lawsuit seeking to lift the pay ban for non-government activities was filed late last year by the National Treasury Employees Union (NTEU) and two IRS tax examining assistants. One of the plaintiffs writes and speaks on environmental issues, and the other serves as a minister. In the suit they claim that the act unconstitutionally limits their freedom of speech. The NTEU suit seeks an injunction from the District Court that would apply to employees at GS-16 and below. Other lawsuits are pending from the American Civil Liberties Union (ACLU) and the American Federation of Government Employees (AFGE).

These suits may never be reviewed in court, though, since Congress is re-examining the ban. Both White House and congressional officials have expressed unhappiness about the ban's unintended effect, and last October corrective legislation was introduced as part of an unrelated bill. The budget debacle prevented its consideration at that time, however, and so the Ethics Office of the Department of Justice plans to introduce amendments in the current session. Senator David Pryor (D-AR), chairman of the Federal Services subcommittee, will also be working on amendments in response to employees' complaints. Since Congress is wary of appearing to backslide on ethics, hearings will most likely be held. These will push back any changes to late spring or summer, unless they become proposals attached to earlier bills.

In the interim, it will be difficult for employees to circumvent the ban by rewording written contracts; the statutory language and legislative history account for most possible arrangements. It may be possible, though, to avoid the ban by delaying payment until corrective legislation is passed.

News Briefs

MEETING ON FRONT-LOADED LEASES: On December 7, 1990, AFSA met with department management and the Bureau of Finance and Management Policy (FMP) to discuss a recent change in housing reimbursement for employees on temporary duty (TDY) at the Foreign Service Institute. FMP had denied employees full reimbursement for "front-loaded" leases (i.e. leases that showed declining rent). AFSA questioned whether FMP had the authority to deny reimbursement pending a GAO decision regarding the legitimacy of "front-loaded" leases.

Employees on TDY are currently reimbursed for housing at 30-day intervals only up to the maximum per diem allowance applicable to each period. This becomes a problem during the later months of TDY, when the per diem is reduced to $23 for lodging expenses.

FMP submitted a case for GAO review in order to determine the propriety of employee claims based on "front-loaded" leases. The case presented is an exceptional case with exaggerated circumstances (where the total amount claimed is based on a rent figure far out of line with the market rate) which we believe is unlike most employee claims of this nature.

AFSA would like to see more typical cases reviewed by the GAO. We encourage employees who have experienced difficulty obtaining reimbursement for "front-loaded" leases should contact AFSA. Until and unless there is a ruling to the contrary, members are advised to read carefully the information handed out at FSI, which no longer suggests "front-loading" as the best way to secure adequate living quarters during training.

HALE FELLOWS: Foreign Service Director General Edward J. Perkins and three retired State Department officers were recently elected fellows of the National Academy of Public Administration. Joining Perkins as new academy fellows were Bruce Laingen, former chargé d'affaires in Iran and a guest scholar at the Brookings Institution; Samuel Lewis, former ambassador to Israel and president of the U.S. Institute of Peace; and Ronald Spiers, former under secretary for management and current under secretary general of the United Nations. The academy is charged with improving government effectiveness. Four of the 12 fellows elected were Foreign Service officers.

BOOKFAIR RESULTS SPEAK VOLUMES: Congratulations to AAFSW BOOKFAIR Chair, Joan McGinley for an outstanding BOOKFAIR 90. The AFSA Scholarship Program is a primary beneficiary of BOOKFAIR, receiving half of proceeds used to fund AFSA/AAFSW scholarships. During 1990, the proceeds from AAFSW BOOKFAIR accounted for 54 percent of AFSA Scholarship Programs funds raised. Every year, AAFSW BOOKFAIR selects an outstanding person in whose honor a scholarship is designated. Ingeborg Lueders, this year's honoree, has been a devoted BOOKFAIR volunteer for many years. Lueders has had a distinguished career as a Foreign Service officer, serving in Vienna, Oslo, Munich, Bogotá, Guatemala, Damascus, and Islamabad.

NEW SECONDARY SCHOLARSHIP: Foxcroft School recently announced a partial scholarship for a qualifying daughter of a Foreign Service officer. Additional financial aid is available based on need. Foxcroft School is located in Middleburg, Virginia with students from 25 states and 13 countries who attend as full and five-day boarders or day students. Application deadline is May 1, 1991. For further information, contact Rebecca B. Gilmore, Director of admissions, Foxcroft School, Middleburg, VA 22117. 703/687-5555.

STATE STANDING COMMITTEE

Reforms favor families

Richard Milton
State Vice President

- **PIT stop.** Foreign Service family members stand to benefit from two new initiatives--one already in place and the other well along in the clearance gauntlet.

State announced November 30th that those employed in PIT/AFM positions overseas who have accumulated 12 months of service (even if part-time and non-consecutively) may now apply for non-competitive Civil Service openings when they return to the United States. The icing on the cake is retroactivity, making employees eligible until January 1, 1994 if they have had 12 months' accumulated experiencebut fallen short of the previously required 18 months. AFSA welcomes this recognition of one of the special needs of the Foreign Service.

- **All in the family**. AFSA met with State management November 19 for a preliminary discussion of a proposed American Family Member Associates Program (AFMAP). The AFMAP would impose upon existing PIT employment around the world a structure for "career" progression. Personnel files would maintained or at least monitored in Washington, security clearances would be sustained through transfers from one overseas assignment to another, and upward mobility through a series of increasingly demanding PIT experiences might lead to full-time career employment. The State Standing Committee expects soon to receive a second draft from the department and will review it carefully.
- **Assignment Regulations.** At year's end AFSA had almost wrapped up negotiations on a complete re-write of 3 FAM 140, the section of our regulations on assignments. Progress was made on a number of fronts, not the least of which was improvement in the clarity of the writing. Changes made included limitations on reassignments at post to protect the integrity of the open assignments system, a more precise definition of the circumstances in which a Civil Service employee might fill a Foreign Service position, and the assumption of more responsibility by Personnel for finding work for an employee in the medical complement who has been certified as capable of part-time employment during recovery, so as to minimize the amount of sick leave used. We hope to secure agreement on procedures to ensure consistency in the granting of waivers for service in the U.S. beyond five years and to permit appeals of retention in the Medical Complement after the employee believes he/she has recovered.

Fond farewells

AFSA has regretfully bid goodbye to Member Services Representative Amy MacEachin and Conference Coordinator Brian Hennessey.

Amy had been with AFSA since early 1989 and worked 18 months with Member Services. In addition to providing counseling to innumerable grievants, Amy became an authority on a wide range of bread-and-butter issues affecting members overseas.

In his 18-month tenure at AFSA, Brian pioneered an ambitious program of bimonthly conferences on foreign affairs. He was also instrumental in expanding AFSA's outreach to the business community, in an effort to increase Foreign Service links with the private sector.

Amy is studying for her master's degree in education, and Brian has left for a year-long bicycle tour of Africa. We wish them well in the year ahead.

Calendar

February 15: Deadline for AFSA scholarship applications
March 8: AFSA conference on "State and Local Government Involvement in International Affairs"
April 3-4: AFSA conference on "Business Opportunities with Mexico"
May 3: Foreign Service Day
June 13: AFSA conference on the health industry

Triumphant return

Ambassador to Iraq April Glaspie (foreground) greets Barbara Bodine, deputy chief of mission in Kuwait.

Secretary of State James Baker talks with returning Ambassador to Kuwait Nat Howell and his wife, Margie, at Andrews Air Force Base.

PHOTOGRAPHS BY JULIA T. SCHIEKEN

National security in a changing world

Richard S. Thompson
Professional Issues Coordinator

Former Secretary of Defense Frank Carlucci told a Foreign Service Club luncheon audience December 10 that the State Department and National Security Council should lead a systematic review of U.S. interests and priorities around the world, and then develop a political, military, and economic strategy to further those interests. Former Foreign Service officer Carlucci was speaking as part of AFSA's "New Diplomacy for a New Era" series.

Carlucci noted that the Iraq conflict was a reminder that a multipolar world need not be safer than a bipolar one. Although nuclear Armageddon is less likely, new and resurgent regional disputes are fundamentally more difficult to cope with. Traditional rules, such as diplomatic immunity and bans on certain kinds of weapons, are in question.

The worldwide quest for freedom is bound to continue, however, Carlucci said, impelled in large measure by developments in telecommunications. Nations will be more interdependent and multilateral negotiations will play a greater role.

Reviewing trouble spots, Carlucci asserted that the Soviet Union remains a danger to the United States as long as its military capability is not substantially reduced and modernization of strategic missiles proceeds. Chaos in the Soviet Union could put the safe control of nuclear missiles in question. Other areas that present challenges to U.S. national security are the Middle East; Eastern Europe, where the flames of freedom are in some respects burning out of control, and Latin America and Africa, where political instability remains a problem.

Carlucci suggested that putting together a national security strategy for this kind of multiple threat is difficult, and the United States must be cautious. For example, six months ago everyone talked of lighter, more mobile U.S. forces; now the Iraq threat demands heavy tanks in Saudi Arabia. Instead of developing weapons in a vacuum, the United States should undertake a systematic review–led by the State Department and the NSC–of our interests and priorities around the world then blueprint a political, military, and economic strategy. After the mission, doctrine, and tactics of the U.S. military have been laid out, the proper weapons systems can be devised.

Turning to the organization of the government, Carlucci noted that the secretary of State should have a stronger role, within the constraints of America's constituency-based system of government. Whatever the organization may be, "It is more important than ever to integrate our political, economic and military strategy," Carlucci said. He said he was deeply troubled by a neo-isolationist trend in the United States, paradoxically embraced by the extremes of both left and right, which exaggerates our relative decline. Although trade is important, "Let's not sacrifice our strategic interests on the altar of trade."

On the Gulf crisis, Carlucci reiterated three principles put forward by a bipartisan group he is co-chairing: no benefits for the aggressor; any solution must deal with Iraq's weapons of mass destruction; and the best way to deal with the situation is through a combination of isolation, economic sanctions, and a credible threat of military force. In a question-and-answer period, Carlucci said that he was beginning to see merit in the administration view that collective security might require the use of armed force in Kuwait. He cautioned, however, that war would leave a bad legacy with the Arabs and would likely result in an Arab-Israeli confrontation.

With regard to the military options, Carlucci stressed the importance of destroying Iraqi missiles as early as possible, and the impossibility of guaranteeing victory without a land assault along with massive use of U.S. air power.

A more complete report on this event is available from AFSA. Contact Dick Thompson at 338-4045.

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