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Amendment – Terrorism, Treason, Sabotage June 1985  
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*De Graffenreid*

5209

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

September 16, 1985

MEMORANDUM FOR KATHY JAFFKE

FROM: WILLIAM F. MARTIN *WFM*

SUBJECT: Reply to Senator Stevens' letter to  
Max Friedersdorf Concerning Byrd Amendment

Attached at Tab A is a draft response to Senator Stevens' letter to Max Friedersdorf on the Byrd Amendment dealing with treason, sabotage, and terrorism.

Attachment

Tab A Draft response to Senator Stevens

THE WHITE HOUSE  
WASHINGTON

Dear Senator Stevens:

I want to assure you that we share your concern--and the concern of the other supporters of the Byrd amendment--on the need for a focus on the foreign espionage problem. We do not, however, think that we need yet another special body to provide that focus. For one thing, it would take months to organize and staff. We believe that the place for such a review should be in the Intelligence Committees. They were created for this, and they are ready to go. For this reason, we strongly support the Senate Intelligence Committee's current study of the Soviet intelligence threat and US counterintelligence and security programs.

Sincerely,

The Honorable Ted Stevens  
United States Senate  
Washington, D. C. 20510

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

September 12, 1985

ACTION

MEMORANDUM FOR WILLIAM F. MARTIN

FROM: KENNETH deGRAFFENREID *kd*

SUBJECT: Response to Senator Stevens' letter to  
Max Friedersdorf on the Byrd Amendment

Senator Stevens has written a letter to Max Friedersdorf concerning the Byrd Amendment dealing with treason, sabotage, and terrorism. Legislative Affairs requested that the NSC Staff provide them a draft response to Senator Stevens' letter. We asked the State Department to draft a proposed reply to Senator Stevens, and we have received their draft reply.

Attached at Tab I is a memorandum to Kathy Jaffke for your signature forwarding a draft reply to Senator Stevens (Tab IA).

Recommendation

That you sign the memorandum to Kathy Jaffke at Tab I forwarding a draft reply to Senator Stevens.

Approve *WRF* Disapprove \_\_\_\_\_

Ollie North concurs.

Attachment

Tab I Memorandum to Kathy Jaffke for signature  
A Draft reply to Senator Stevens

Tab II Incoming correspondence

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

September 12, 1985

ACTION

MEMORANDUM FOR WILLIAM F. MARTIN

FROM: KENNETH deGRAFFENREID *kd*

SUBJECT: Response to Senator Stevens' letter to  
Max Friedersdorf on the Byrd Amendment

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Attachment

Tab I Memorandum to Kathy Jaffke for signature  
A Draft reply to Senator Stevens

Tab II Incoming correspondence



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NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

MEMORANDUM FOR KATHY JAFFKE

FROM: WILLIAM F. MARTIN

SUBJECT: Reply to Senator Stevens' letter to  
Max Friedersdorf Concerning Byrd Amendment

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Attachment

Tab A                      Draft response to Senator Stevens







THE WHITE HOUSE

WASHINGTON

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Sincerely,

The Honorable Ted Stevens  
United States Senate  
Washington, D. C. 20510





UNCLASSIFIED  
(Classification)

DEPARTMENT OF STATE  
EXECUTIVE SECRETARIAT  
TRANSMITTAL FORM

S/S 8519329

Date August 28, 1985

For: Mr. Robert C. McFarlane  
National Security Council  
The White House

Reference:

To: Max Friedersdorf From: Senator Ted Stevens

Date: June 21, 1985 Subject: Byrd amendment dealing with  
treason, sabotage and terrorism

WH Referral Dated: June 28, 1985 NSC ID# 8505209  
(if any)

       The attached item was sent directly to the  
Department of State.

Action Taken:

- XX   A draft reply is attached.  
       A draft reply will be forwarded.  
       A translation is attached.  
       An information copy of a direct reply is attached.  
       We believe no response is necessary for the reason  
cited below.  
       The Department of State has no objection to the  
proposed travel.  
       Other.

Remarks:

*Tom Collins*  
for Nicholas Platt  
Executive Secretary

UNCLASSIFIED  
(Classification)

Dear Senator Stevens:

I want to assure you that we share your concern--and the concern of the other supporters of the Byrd amendment--on the need for a focus on the foreign espionage problem. We do not, however, think that we need yet another special body to provide that focus. For one thing, it would take months to organize and staff. We believe that the place for such a review should be in the Intelligence Committees. They were created for this and they're ready to go. For this reason we strongly support the Senate Intelligence Committee's current study of the Soviet intelligence threat and U.S. counter-intelligence and security programs.

The Honorable  
Ted Stevens,  
United States Senate.

NATIONAL SECURITY COUNCIL

ID 8505209

REFERRAL

DATE: 28 JUN 85

MEMORANDUM FOR: STATE SECRETARIAT

8519329

DOCUMENT DESCRIPTION:

TO: MARTIN

SOURCE: BLESSE, M

DATE: 28 JUN 85

KEYWORDS: TERRORISM

INTELLIGENCE

BYRD, ROBERT C

CO

SUBJ: SEN STEVENS LTR RE BYRD AMENDMENT ON TERRORISM - TREASON & SABOTAGE

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REQUIRED ACTION: DRAFT REPLY FOR WH SIG

DUEDATE: 03 JUL 85

COMMENTS:

FOR ROBERT M. KIMMITT

EXECUTIVE SECRETARY

*Received in S/S-I  
11:57am*

THE WHITE HOUSE  
WASHINGTON



June 28, 1985

MEMORANDUM FOR: WILLIAM F. MARTIN

FROM: MELANIE BLESSE, Legislative *MB*  
Affairs

SUBJECT: Ted Stevens Letter Regarding  
Byrd Amendment on Terrorism

I am attaching a copy of a letter we have received from Ted Stevens regarding the Byrd amendment dealing with treason, sabotage and terrorism. I would like to forgo an interim response in this case and request that you send us a draft directly.

Thank you for your assistance.



# 316761

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TED STEVENS, ALASKA  
LOWELL P. WEICKER, JR., CONNECTICUT  
JAMES A. MCCLURE, IDAHO  
PAUL LAXALT, NEVADA  
JAKE GARN, UTAH  
THAD COCHRAN, MISSISSIPPI  
MARK ANDREWS, NORTH DAKOTA  
JAMES ABDNOR, SOUTH DAKOTA  
ROBERT W. KASTEN, JR., WISCONSIN  
ALFONSE M. D'AMATO, NEW YORK  
MACK MATTINGLY, GEORGIA  
WARREN RUDMAN, NEW HAMPSHIRE  
ARLEN SPECTER, PENNSYLVANIA  
PETE V. DOMENICI, NEW MEXICO

JOHN C. STENNIS, MISSISSIPPI  
ROBERT C. BYRD, WEST VIRGINIA  
WILLIAM PROXMIRE, WISCONSIN  
DANIEL K. INOUE, HAWAII  
ERNEST F. HOLLINGS, SOUTH CAROLINA  
LAWTON CHILES, FLORIDA  
J. BENNETT JOHNSTON, LOUISIANA  
QUENTIN N. BURDICK, NORTH DAKOTA  
PATRICK J. LEAHY, VERMONT  
JIM SASSER, TENNESSEE  
DENNIS DECONCINI, ARIZONA  
DALE BUMPERS, ARKANSAS  
FRANK R. LAUTENBERG, NEW JERSEY  
TOM HARKIN, IOWA

# United States Senate

COMMITTEE ON APPROPRIATIONS  
WASHINGTON, DC 20510

J. KEITH KENNEDY, STAFF DIRECTOR  
FRANCIS J. SULLIVAN, MINORITY STAFF DIRECTOR

June 21, 1985

The Honorable Max L. Friedersdorf  
Assistant to the President  
and Legislative Strategy Coordinator  
The White House  
Washington, D.C. 20500

Dear Max:

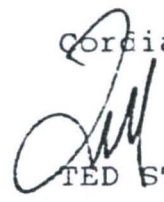
I believe the White House made the wrong call on Byrd's amendment dealing with treason, sabotage and terrorism. Those subjects need national focus. And, the Byrd approach gave us six Republicans and two Democrats. It could not get out of hand.

Further, this is one area that Byrd will work with us to get the authority we need -- for polygraphs, etc.

I think that you ought to discuss this with Bud McFarlane and let me know how the amendment should be changed so as to avoid Administration opposition in the future.

With best wishes,

Cordially,

  
TED STEVENS

99TH CONGRESS  
1ST SESSION

# S. J. RES. 148

To establish a national commission on espionage and security.

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## IN THE SENATE OF THE UNITED STATES

JUNE 17 (legislative day, JUNE 3), 1985

Mr. BYRD introduced the following joint resolution; which was read twice and referred to the Committee on Governmental Affairs

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## JOINT RESOLUTION

To establish a national commission on espionage and security.

1        *Resolved by the Senate and House of Representatives*  
2 *of the United States of America in Congress assembled,*  
3 That (a) there is hereby established a national commission  
4 which may be called for convenience of expression, the Na-  
5 tional Commission on Espionage and Security, to conduct an  
6 investigation and study with respect to the adequacy of  
7 counterespionage, counterintelligence, and security activities  
8 of the United States in the protection of vital secret (1) de-  
9 fense, (2) foreign policy, and (3) intelligence information of  
10 the United States against the efforts of hostile foreign powers  
11 to obtain such information, as further described in section 3  
12 below.

1 (b) The Commission created by this resolution shall con-  
2 sist of eight members, to be appointed as follows:

3 (1) Four to be appointed by the President of the  
4 United States, including one former Secretary of De-  
5 fense, one former Director of Central Intelligence, and  
6 one former Special Assistant to the President for Na-  
7 tional Security Affairs.

8 (2) One to be appointed by the President of the  
9 Senate from the majority Members of the Senate upon  
10 the recommendation of the majority leader of the  
11 Senate.

12 (3) One to be appointed by the President of the  
13 Senate from the minority Members of the Senate upon  
14 the recommendation of the minority leader of the  
15 Senate.

16 (4) One to be appointed by the Speaker of the  
17 House of Representatives from the majority Members  
18 of the House.

19 (5) One to be appointed by the Speaker of the  
20 House of Representatives from the minority Members  
21 of the House upon the recommendation of the minority  
22 leader of the House.

23 (c) The members of the Commission shall select a Chair-  
24 man and a Vice Chairman. Vacancies in the membership of  
25 the Commission shall not affect the authority of the remain-

1 ing members to execute the functions of the Commission and  
2 shall be filled in the same manner as the original appoint-  
3 ments to it are made.

4 (d) A majority of the members of the Commission shall  
5 constitute a quorum for the transaction of business, but the  
6 Commission may affix a lesser number as a quorum for the  
7 purpose of taking testimony or depositions.

8 (e) To enable the Commission to make the investigation  
9 and study authorized and directed by this resolution, the  
10 Commission is authorized to employ and fix the compensation  
11 of such persons as it deems necessary and appropriate, sub-  
12 ject to the provisions of section 12(c) below.

13 SEC. 2. The Commission is authorized to hold hearings,  
14 take testimony and depositions under oath, and to do every-  
15 thing necessary and appropriate which is authorized by law  
16 to make the investigation and study specified in subsection (a)  
17 of the first section.

18 SEC. 3. Without abridging in any way the authority  
19 conferred upon the Commission by the preceding section, the  
20 Commission is authorized and directed to make a complete  
21 investigation and study which will reveal the full facts with  
22 respect to—

23 (a) the nature and extent of recent penetrations  
24 of, or efforts to penetrate, the United States Govern-

1 ment by hostile foreign powers to obtain the informa-  
2 tion described in section 1(a);

3 (b) the extent and adequacy of efforts by the  
4 United States to detect and protect against such pene-  
5 trations;

6 (c) The adequacy and effectiveness of—

7 (1) the classification system;

8 (2) background investigations conducted for  
9 security clearances;

10 (3) systems involving the issuance of such  
11 clearances;

12 (4) security systems;

13 (5) counterintelligence investigations;

14 (6) counterespionage investigations;

15 (7) damage assessments;

16 (8) relevant Federal laws, executive orders,  
17 directives, and policies;

18 (9) investigative, prosecutorial and expulsion  
19 policy; and

20 (10) treaties and other international agree-  
21 ments to which the United States is a signatory.

22 (d) Such other related matters as the Commis-  
23 sion deems necessary in order to carry out its  
24 responsibilities.

1        SEC. 4. Subject only to other provisions of this resolu-  
2 tion, all departments, agencies, and other components, and  
3 all officials and other employees, of the United States Gov-  
4 ernment are authorized and directed to—

5            (a) extend full and complete cooperation to the  
6 Commission;

7            (b) render such assistance as the Commission may  
8 request;

9            (c) provide such information and testimony,  
10 whether at hearings or by interview or deposition, as  
11 the Commission may request; and

12            (d) provide access to all records, writings, docu-  
13 ments and other materials as the Commission may  
14 request.

15        SEC. 5. (a) The Commission, or any member of the  
16 Commission when so authorized by the Commission, shall  
17 have the power to issue subpoenas requiring the attendance  
18 and testimony of witnesses and production of information re-  
19 lating to a matter under investigation by the Commission. A  
20 subpoena may require the person to whom it is directed to  
21 produce such information at any time before such person is to  
22 testify. Such attendance of witnesses and the production of  
23 such evidence may be required from any place within the  
24 jurisdiction of the United States at any designated place of  
25 interview or hearing. A person to whom a subpoena issued

1 under this subsection is directed may, for cause shown, move  
2 to enlarge or shorten the time of attendance and testimony,  
3 or may move to quash or modify a subpoena for the produc-  
4 tion of information if it is unreasonable or oppressive. In the  
5 case of a subpoena issued for the purpose of taking a deposi-  
6 tion upon oral examination, the person to be deposed may  
7 make any motion permitted under rule 26(c) of the Federal  
8 Rules of Civil Procedure.

9 (b)(1) In the case of contumacy or refusal to obey a sub-  
10 poena issued to a person under this section, a court of the  
11 United States within the jurisdiction of which the person is  
12 directed to appear or produce information, or within the juris-  
13 diction of which the person is found, resides or transacts busi-  
14 ness, may upon application by the Attorney General, issue to  
15 such person an order requiring such person to appear before  
16 the Commission, or before a member of the Commission, or a  
17 member of the staff of the Commission designated by the  
18 Commission for such purpose, there to give testimony or  
19 produce information relating to the matter under investiga-  
20 tion, as required by subpoena. Any failure to obey such order  
21 of the court may be punished by the court as a contempt  
22 thereof.

23 (2) The Commission is an agency of the United States  
24 for the purpose of rule 81(a)(3) of the Federal Rules of Civil  
25 Procedure.

1 (c) Process of a court to which application may be made  
2 under this section may be served in a judicial district wherein  
3 the person required to be served is found, resides, or trans-  
4 acts business.

5 SEC. 6. A court of the United States within the jurisdic-  
6 tion in which testimony of a person held in custody is sought  
7 by the Commission or within the jurisdiction of which such  
8 person is held in custody, may, upon application by the At-  
9 torney General, issue a writ of habeas corpus ad testifican-  
10 dum requiring the custodian to produce such person before  
11 the Commission, or before a member of the Commission or a  
12 member of the staff of the Commission designated by the  
13 Commission for such purpose.

14 SEC. 7. The Commission is an agency of the United  
15 States for the purpose of part V of title 18 of the United  
16 States Code.

17 SEC. 8. (a) Process and papers issued pursuant to this  
18 resolution may be served in person, by registered or certified  
19 mail, by telegraph, or by leaving a copy thereof at the resi-  
20 dence or principal office or place of business of the person  
21 required to be served. When service is by registered or certi-  
22 fied mail, or by telegraph, the return post office receipt or  
23 telegraph receipt therefor shall be proof of service. Other-  
24 wise, the verified return by the individual making service,



1 setting forth the manner of such service shall be proof of  
2 service.

3 (b) A witness summoned pursuant to this resolution  
4 shall be paid the same fees and mileage as are paid witnesses  
5 in the courts of the United States, and a witness whose depo-  
6 sition is taken and the person taking the same shall severally  
7 be entitled to the same fees as are paid for like services in the  
8 courts of the United States.

9 SEC. 9. (a) The investigative activities of the Commis-  
10 sion are civil or criminal law enforcement activities for the  
11 purposes of section 552a(b)(7) of title 5, United States Code,  
12 except that section 552a(c)(3) shall apply after the termina-  
13 tion of the Commission.

14 (b) The Commission is a Government authority, and an  
15 investigation conducted by the Commission is a law enforce-  
16 ment inquiry, for the purposes of the Right to Financial Pri-  
17 vacy Act of 1978 (12 U.S.C. 3401 et seq.). Any delay au-  
18 thorized by court order in the notice required under that Act  
19 shall not exceed the life of the Commission, including any  
20 extension thereof. Notwithstanding a delay authorized by  
21 court order, if the Commission elects to publicly disclose the  
22 information in hearings or otherwise, it shall give notice re-  
23 quired under the Right to Financial Privacy Act a reasonable  
24 time in advance of such disclosure.

1        SEC. 10. Conduct which, if directed against a United  
2 States attorney, would violate section 111 or 1114 of title  
3 18, United States Code, shall, if directed against a member of  
4 the Commission, be subject to the same punishments as are  
5 provided by such sections for such conduct.

6        SEC. 11. The functions of the President under section  
7 10(d) of the Federal Advisory Committee Act (5 U.S.C.  
8 App. 10(d)) shall be performed by the Chairman of the  
9 Commission.

10       SEC. 12. (a) The Commission shall adopt rules and pro-  
11 cedures (1) to govern its proceedings; (2) to provide for the  
12 security of records, documents, information, and other mate-  
13 rials in its custody and of its proceedings; (3) to prevent un-  
14 authorized disclosure of information and materials disclosed  
15 to it in the course of its inquiry; (4) to provide the right to  
16 counsel to all witnesses examined pursuant to subpoena; and  
17 (5) to accord the full protection of all rights secured and guar-  
18 anteed by the Constitution of the United States.

19       (b) No information in the possession of the Commission  
20 shall be disclosed by any member or employee of the Com-  
21 mission to any person who is not a member or employee of  
22 the Commission, except as authorized by the Commission and  
23 by law.

24       (c) The term "employee of the Commission" means a  
25 person (1) whose services have been retained by the Commis-

1 sion, (2) who has been specifically designated by the Commis-  
2 sion as authorized to have access to information in the pos-  
3 session of the Commission, and (3) who has agreed in writing  
4 and under oath to be bound by the rules of the Commission,  
5 the provisions of this resolution, and other provisions of law  
6 relating to the nondisclosure of information.

7       SEC. 13. The Commission shall make a final report of  
8 the results of the investigation, together with its findings and  
9 its recommendations to the President and to the Congress, at  
10 the earliest possible date, but no later than March 1, 1987.  
11 The Commission may also submit such interim reports as it  
12 considers appropriate. After submission of its final report, the  
13 Commission shall have three calendar months to close its af-  
14 fairs, and on the expiration of such three calendar months  
15 shall cease to exist.

16       SEC. 14. There are authorized to be appropriated for  
17 the fiscal year ending September 30, 1986, such sums as are  
18 necessary to carry out the activities of the Commission.

○