

was revoked, [but] intimating no views as to the validity of those procedures." In a separate, special concurrence Harlan amplified his statement by saying he could not subscribe to the Court's opinion because it "unnecessarily deals with the very issue it disclaims deciding." Although Warren had stated that the Court did not need to decide the constitutional question of the right of confrontation, he devoted five pages to discussing it, starting with the Roman law of 2000 years ago.

#### Clark Dissents

Justice Tom Clark, in a lone dissent, observed:

"Surely one does not have a constitutional right to have access to the Government's military secrets. . . . What for anyone else would be considered a privilege at best has for Greene been enshrouded in constitutional protection. This sleight of hand is too much for me." In his special concurrence Harlan took sharp issue with this view and commented: "It is regrettable that my brother Clark should have so far yielded to the temptations of colorful characterization. . . ."

Clark emphasized that the Court's opinion, by dealing so "copiously" with the constitutional issues, had "put a cloud" over the entire federal employee loyalty program:

"While the Court disclaims deciding this constitutional question, no one reading the opinion will doubt that the explicit language of its broad sweep speaks in prophecy. Let us hope that the winds may change. If they do not the present temporary debacle will turn into a rout of our internal security."

#### Hearings Held

On 2 July, 3 days after the decision on the Greene case, the Senate Constitutional Rights Subcommittee, under the chairmanship of Senator Thomas C. Hennings, Jr., (D-Mo.), held a public hearing on methods of providing fair hearing procedures in federal loyalty-security programs, with particular reference to the industrial personnel security review program. One of the witnesses was Ralph S. Brown, Jr., professor of law at the Yale University School of Law and author of the recently published book *Loyalty and Security*.

He pointed out that confrontation and cross-examination are not the only elements of due process that are often ignored in security cases. He then mentioned four other defects, saying:

"First, the . . . alleged need for concealing the sources of derogatory information leads to inadequate charges, so that the employee does not know what he has to defend against. Second, in the hearings additional matters are often raised which have no relevance to the charges, or for that matter to the criteria of the programs. . . . Third, the findings on which decision is based, in the few instances in which they are disclosed, tend to stray from the charges, especially in raising questions of veracity of which the employee has been given no notice. Fourth, though the employee may have, under the regulations, a right of review or appeal to a higher authority than the hearing board, he will usually not be told what the findings are that are being reviewed and therefore cannot appeal intelligently. The Greene case itself demonstrates both of these deviations from fair procedure."

Another witness was Joseph Rauh, prominent Washington attorney and expert on civil liberties cases. He made some particularly constructive comments about the secret informer issue. After pointing out that throughout its history the United States Government had always employed undercover agents, Rauh observed: "I am not against undercover agents. The question is, how you use them. . . . We suggest that you use undercover agents in this field of security as you use them in every other field, as leads to get witnesses who will testify on the open record."

Recently, on 31 July, Senator Hennings announced that he had scheduled additional loyalty-security hearings on 28 and 29 July to which he had invited the Attorney General and the Secretary of Defense. However, both men refused to attend, indicating that the Administration had not yet formulated a position on the subject.

Hennings said that he was disturbed by reports that, as a result of the Greene decision, the Administration is considering the immediate issuance of an Executive Order covering hearing procedures under the industrial security program. He commented:

"I think it is highly important, before either Congress or the Administration acts in this matter, that the constitutional issues be explored carefully and thoroughly. . . . Since the Constitutional Rights Subcommittee is in the middle of a study of fair hearing procedures under the federal loyalty-security program, I do not think action should be taken until this study has been completed."

#### New Bills Offered

Meanwhile, four new loyalty-security bills have already been offered—one in the House and three in the Senate. Senator Hennings reports that he is preparing a fifth. [These are in addition to H.R. 3693 (Scherer), S.776 (Butler), and S.1916 (Cotton-Stennis), which have been pending since early spring.] The bill before the House is H.R. 8121, introduced by Francis E. Walter (D-Pa.). The Senate has before it S.2314, sponsored by Strom Thurmond (D-S.C.); S. 2392, sponsored by Owen D. Johnston (D-S.C.) and James O. Eastland (D-Miss.); and S. 2416, sponsored by Thomas J. Dodd (D-Conn.) and Kenneth B. Keating (R-N.Y.). The 29-page Thurmond bill provides that regularly established confidential informants shall be protected if the investigative agency concerned determines that the "disclosure of their identity would prejudice the national security." The Johnston-Eastland bill merely authorizes the continuation of the present program, as does the Walter bill in the House. The Dodd-Keating bill, brief and rather vague, provides that the right of confrontation be limited only in cases in which such confrontation or disclosure of a witness' activities would "adversely affect the national security, safety, or public interest." All of the Senate bills are being referred to the Internal Security Subcommittee. The Congress now has an opportunity to establish the structure for a personnel security program that will give consideration both to the legitimate needs of national security and to the requirements of due process.

#### Top-Level Decision Making in Science and Other Fields To Be Studied by Senate Group

A study of top-level governmental decision making in scientific, educational, and other fields is currently under way in Washington. The Senate's new National Policy Machinery subcommittee, headed by Henry M. Jackson (D-Wash.), will examine the policy-making procedures employed by the government in deciding issues of basic national and international significance. Among the questions that the group will ask are these: Was top-level consideration given to the psychological impact of permitting the Soviet Union to achieve scientific firsts in the missile and satellite field? Is such consideration being

given to the relationship between our present output of scientists and engineers and our future needs for these personnel? How extensive a military commitment will national resources permit?

The committee will study the ways in which these and other fundamental issues are decided and will suggest improvements, including, possibly, the creation of an academy of national policy similar in function to the National Academy of Sciences. President Eisenhower, reversing an earlier position, has assured Jackson of the cooperation of the executive office and of the National Security Council, the policy-making group that was the particular subject of a speech Jackson gave at the War College last April in which he outlined the weaknesses in the government's present executive organization.

Jackson and Senators Humphrey (D-Minn.) and Mundt (R-S.D.) are conducting the study because of their concern with the demands the East-West conflict makes on the institutions of a democracy. Jackson feels some of these institutions, those relating to policy making, must be evaluated in light of the new demands. One of the major factors that will decide the outcome of the conflict, Jackson believes, is the degree to which our government is able to present to the decision makers of the country clear alternatives on the issues the cold war is constantly bringing to the fore. The committee will concern itself only with the most basic decisions, made at the highest levels of government. An example from the past is the World War II decision to defeat Germany first and Japan second. Current examples of such questions, in addition to those bearing on science, are these: Should the increase of our gross national product be set as a goal of national policy? How much consideration has been given to the use of nuclear weapons in limited war?

#### Current Practices

Fundamental issues that bear on the eventual outcome of the cold war, Jackson maintains, are currently either not reaching top decision-making bodies such as the National Security Council or are reaching them in the form of fuzzy sets of alternatives or predecided recommendations. Such recommendations, Jackson suggests, are the result of low-level compromises among various departments of government. He believes that "plans which do not lead to sharp disputes at the NSC level are not good



Henry M. Jackson, who heads a new Senate committee which will examine U.S. policy-making procedures.

plans; they do not present the kind of issues which the top level ought to be called on to decide in this hard slugging contest between the Sino-Soviet bloc and ourselves. There is," he says, "a role for both Chiefs and Indians, and only confusion can result when the Indians try to do the work of compromise which is the job of the Chiefs."

Present practices, Jackson maintains, lead to confusion and ambiguity about national goals among both government leaders and the public. Today, when survival is the issue, we lack a "coherent and purposeful national program that sets forth in simple terms what we have to do to survive, and why." "In wartime," Jackson told his War College audience, "our leaders know, and our people know, what they are trying to do, and what is demanded of them. This makes possible the marvelous unity and energy of wartime. We have no comparable strategy for the cold war. Our leaders do not know, and the people surely do not know, what our purposes are and how we propose to achieve them. . . . Our people are never told what is required of them. The Congress is presented with only bits and pieces of policies—that give us no clear idea of what the Executive branch is really trying to accomplish."

#### Some Early Proposals

The failures and weaknesses of current policy-making procedures can be remedied, Jackson believes, by instituting a number of organizational changes. Some of these he suggested to the War College audience. Policy-planning staffs could be set up in each main department, with a position, role, and prestige

like those of the Policy Planning Staff set up in the State Department during the Truman Administration. A policy committee could be organized in the form of an academy of national policy, outside the government but with access to classified information. The academy could draw on experts in national defense and in the sciences, social sciences, and humanities, and on leaders from public life. To the greatest extent possible the academy's reports would be made public, as part of a continuing effort to develop an informed public opinion. In addition, the academy would prepare confidential reports for use by the government. Unlike temporary committees, this center, being permanent, could build up a reputation for producing responsible and helpful reports. In the area of national scientific activities, the National Academy of Sciences has a similar role.

Other suggestions made by Jackson include redefinition of the National Security Council's role as that of identifying and clarifying policy choices for the President and his principal advisers. Its function would be that of sharpening policy choices in order to help the President and the National Science Council see the issues clearly and thus decide them intelligently.

#### Guidelines Adopted

Jackson's group, which is a subcommittee of the Senate's Committee on Government Organization, plans to study, rather than to investigate, current policy-making practices. In correspondence with the President it was agreed that the committee would be apolitical, and that there would be no sensationalism or attempts to embarrass officials. After a set of proposed guidelines had been adopted, the President assigned Charles A. Haskins, senior staff member of the National Security Council, to work with the subcommittee. A professional staff for the group has been assembled; it includes at least two former members of the State Department's Policy Planning Staff.

Jackson, who at the age of 47 is starting his second term in the Senate, is generally regarded as a responsible and informed Senator with extensive experience on committees dealing with atomic energy, the armed services, and missile development. With his staff set up, and with the assurances of the President behind him, he has already begun work on his study of the government's policy-making machinery. In voting its unani-

mous approval of the study, the Senate allocated \$60,000 and gave the committee until the end of January 1960 to complete its report. More money and an extension of time to June or July of next year will probably be requested by the subcommittee.

Jackson's group will work with representatives of the National Security Council in conducting the study. The issue, the men, and the cooperation of the President, observers suggest, indicate that the committee's work will lead to important legislation.

### **"Most Scientific" Satellite Put in Orbit 7 August**

A 142-pound satellite, designed to conduct 15 experiments during its year of life, has been placed in a highly elliptical orbit around the earth by the National Aeronautics and Space Administration. The launching vehicle, a three-stage Thor-Able rocket, left the pad at Cape Canaveral at 10:23 A.M. on 7 Au-

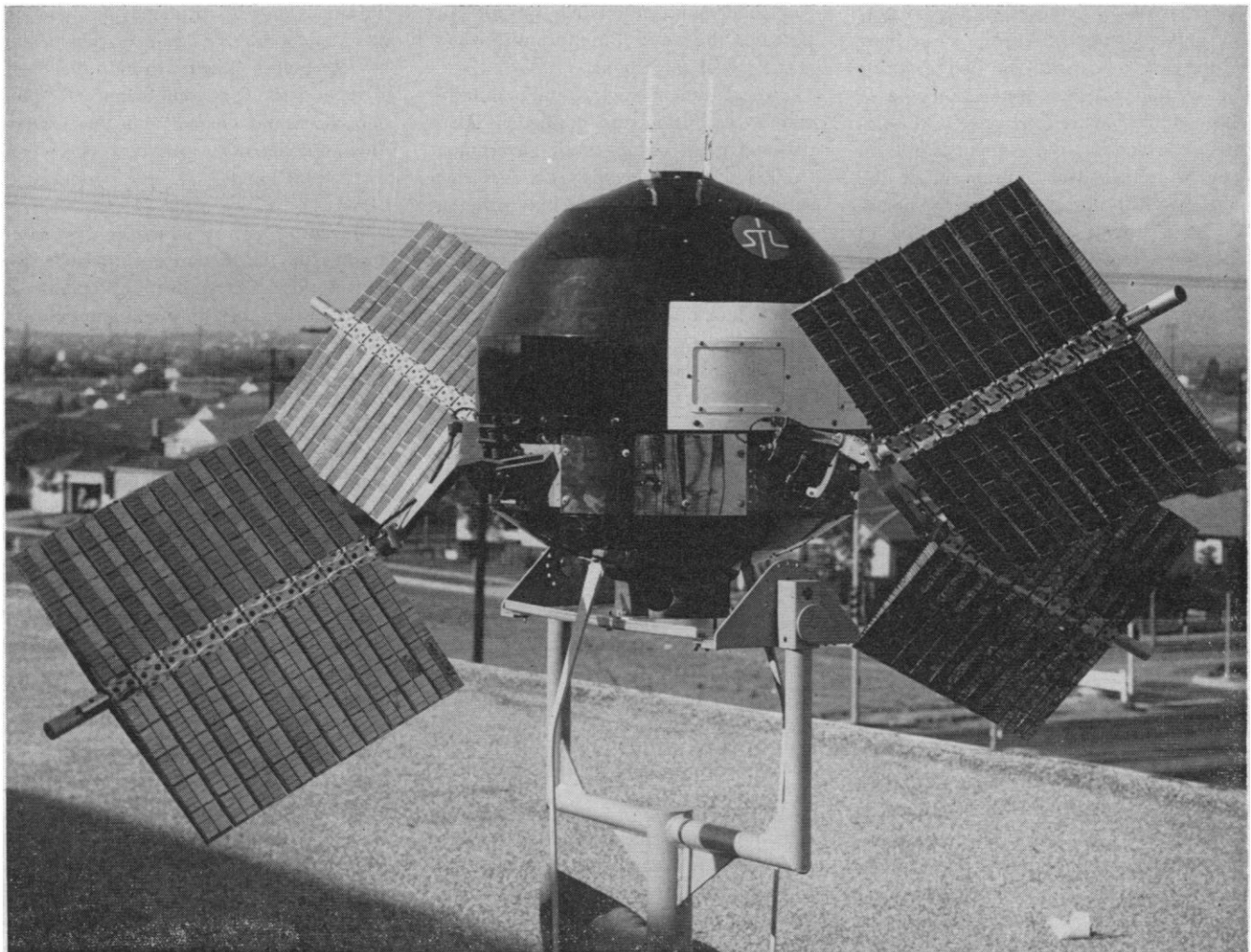
gust after one short delay in the countdown.

The satellite, which has an apogee of 26,400 miles and a perigee of 156, has the following devices and experiments: three devices to map the radiation belt ringing the earth with each of the instruments concentrating on a specific radiation energy level; a 2½-pound scanning device which is designed to relay a crude picture of the earth's cloud cover; 8000 solar cells, 1000 on each side of the four vanes, to generate current to recharge the satellite's chemical batteries; a micrometeorite detector to gauge the size and speed of meteoric particles hitting the satellite; two types of magnetometers to map the earth's magnetic field; and four experiments to study the behavior of radio waves, all aimed at finding out more about deep space communications. According to a NASA spokesman, all of the devices in the satellite were operating properly 3 days after the launching. Because of the four vanes, or "paddle wheels," projecting from its body, the new satellite is unusual in appearance.

### **Second Bill to Spur Private Philanthropy Given No More Chance than the First**

A proposal to stimulate private philanthropy for education, embodying ideas recently put forth by Clifford C. Furnas, chancellor of the University of Buffalo, has been introduced in the House of Representatives. This is the second measure with this aim now before Congress. Earlier this year, Representative Frank Thompson, Jr., (D-N.J.) and Senator James E. Murray (D-Mont.) introduced identical bills providing all taxpayers with the same tax benefits for philanthropy that are now allowed persons in the top-income brackets. These bills, which reflected the conclusions of the AAAS-sponsored study "Stimulating Voluntary Giving to Higher Education and Other Programs," are before the House Ways and Means Committee and the Senate Finance Committee.

The new measure, which was introduced 23 July by Representative Harris B. McDowell, Jr., (D-Del.), allows \$1 of



Payload of the Explorer VI rocket, launched 7 August from Cape Canaveral by the National Aeronautics and Space Administration. The satellite, which weighs 142 pounds, is shown with solar cell paddle wheels extended. The launching vehicle was a Thor-Able rocket.