responsible for contracting and acquisition policy, and several auditors, as well as a competition advocate and breakout procurement center representative.

In each case we heard testimony about extraordinary prices charged by a contractor or enormous price increases from 1 year to the next. For example, in a recent audit by the Department of Defense Inspector General, of 15,000 aircraft engine parts reviewed, 4,000 had increased in price more than 500 percent and some by more than 1,000 percent. We heard from Navy and DOD auditors that the Government paid $100 to $110 for parts which were in the DOD supply system for $0.04 and $0.05.

Why did these increases or extraordinary payments occur? Were they isolated incidents? We heard numerous reasons from the DOD including lack of personnel to fill out the forms to requisition parts through the supply system; lack of technical data to compete acquisitions; inability to compete because the item was proprietary; and quality control problems if the Government buys a part from other than the known supplier. Ordering of parts and negotiating prices after the order is placed is justified because they do not have time to negotiate prices and still submit the order in time to account for the usual 18- to 24-month leadtime. But the problems uncovered and responses I just read are only the tip of the iceberg. The problem of spare part price increases, inventory management, and long leadtimes is a 20-year-old problem that resurfaces every few years. However, in that time there has never been an adequate solution proposed. I believe that has not occurred in part because this is a management problem which cannot be resolved by simply issuing new regulations or enacting legislation. The statutes and regulations which would prohibit many of the practices which led to these abuses are already in existence—they were simply not followed. The only way we will resolve these issues and insure that the taxpayers' money is not wasted is to focus attention to the problem. I think that has occurred as a result of the various hearings in both the House and the Senate, as well as the abundance of publicity which has been generated. However, the Armed Services Committee wants to insure that the attention and resources dedicated to resolving these issues in the Department of Defense do not wane once the publicity stops.

This amendment will accomplish that objective by imposing a management discipline on the system and by making it clear that Congress will not tolerate excessive spare parts prices. The committee worked long and hard to insure that this bill would attack the root causes and not just the symptoms of the problem. For these reasons I commend this amendment to my fellow colleagues and urge your support.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. NICHOLS) has expired.

(On request of Mr. KASICH and by unanimous consent, Mr. NICHOLS was allowed to proceed for 4 additional minutes.)

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to my colleague on the committee, the gentleman from Ohio.

Mr. KASICH. I appreciate the gentleman yielding.

Mr. Chairman, let me say to the House that I could not agree more with the statements of the gentleman from Kentucky (Mr. HOPKINS). The House of Representatives, and I do not think it would be an overstatement to say that also the taxapayers of this country, owe a great debt of service to the chairman of the Subcommittee on Investigations. The chairman, under what was at many times intense pressure, called hearings time and time again to bring forward those people who, at the Government level, are in charge of procurement, a very complicated issue that took great deal of time to understand.

The chairman also saw fit to bring contractors before the subcommittee in an attempt to receive their side of the story and then put together a piece of spare parts legislation that was balanced.

Let us get to basics. The basics are that there were spare parts that were being sold by contractors to the Government for prices that were 200, 300, 400, even 500 percent in excess of what the Government should have paid for them. The public is frustrated. In fact, I even think that the majority party in this House has a commercial on television right now where we see a man hold up a wrench and say, "That is what we should be paying for this."

Everyone knows what we are talking about when we talk about the problems of inflated prices on spare parts. This legislation, the Nichols bill, which has been intensely studied and put together over a period in excess of 1 year, is going to go farther than any legislation in this Congress toward solving this problem.

I will give my colleagues a couple examples. The chairman has in his legislation the establishment of competition advocates. Those are people who will work in the services, and whose sole job will be to spur an increase in competition. We have already seen competition advocates successfully increase competition within the Navy. We are going to see it happen in other areas of the Armed Forces because of the language in this bill.

Another important item requires contractors to identify the manufacturers of items. What had been happening is that contractors were stamping their names on parts that had been manufactured by subcontractors, and dramatically increasing the pri that was being charged to the Gover ment. The Nichols bill requires man facturers to identify who actual made the part, and to eliminate all i terference in the selling of those spa parts by the firm that manufactur it. If we go directly to the manufactu ers, and bypass the prime contracto we are going to get it for a muc cheaper price.

The bill requires the Department Defense to check its own syste supply inventory when ordering spa parts. In our investigation, the chai man found examples of the Gover ment buying parts at excessive rate even though those same parts we available through the Government own inventory. We literally thre money away on parts that were sittir on our own shelves.

It also goes far in the data righ section. Let me say this: The da rights section is a vital part of this bi

The chairman was good enough accept an amendment from a fres man Republican that would provid 7-year limit on proprietary righ Under the current law, if a compa receives proprietary rights on a pro uct, that means for the next 200 yea that company has the exclusive or m nopoly right to sell that part to t Government. As the Air Force itse says, when you do not have compet tion in the procurement of spare part the cost of those items will increa dramatically.

This bill provides for significan reform in the data rights area. I states that the Government will re ceive all data needed to procure th part. It states that when Governmen funds are used to research and develo an item, it will not be proprietary. An it provides a 7-year cutoff period, stat ing that after a period of 7 years o less, a company shall not have exclu sive or monopoly rights to sell the par to the Government.

The CHAIRMAN. The time of th gentleman from Alabama (Mr. NICH OLS) has again expired.

(By unanimous consent, Mr. NICH OLS was allowed to proceed for 3 addi tional minutes.)

Mr. KASICH. If the gentleman wil yield further, what it essentially wi do is to permit the Government t bring more contractors into the proc ess of bidding on spare parts. As w get more contractors, and as we hav more competition, we are going to se a solution to this problem.

I want to compliment the gentlema from Alabama (Mr. NICHOLS) fo standing up in what were very difficul times, coming forward with a bill tha I think will go a long way toward solv ing the spare parts problem. It is no going to be totally solved under this but we go a long way toward, that end and I want to compliment the chair man for his leadership in the subcom mittee.

the procurement procedures. Well, we certainly would not want to do anything like that, would we. After all, GAO said that if we make the connections called for in this area over a period of time, we could have saved $25 billion. The Grace Commission report said that within 1 year with competitive bidding, as the Bedell amendment calls for, we would save $9.3 billion.

Now, we realize that our deficit is close to $200 billion and this is not going to solve our deficit problems entirely. But certainly $9.3 billion, my friend, is not chickenfeed. If anything, the Nichols amendment, which I support, and the Bedell amendment, which I support, do not go far enough, and I am going to tell the gentleman why I feel that way. There is no onus, no burden put on anyone in DOD because of these unconscionable cost overruns.

Mr. BROOKS. May I say to my friend that I am going to have to regain my time, because I promised also to yield to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. I thank the gentleman for yielding.

Let me remind my colleagues that the gentleman in the well is the chairman of the Government Operations Committee and has spent many, many hours and has vast knowledge on this subject.

I would agree with my colleague from Maryland, perhaps this does not go far enough. But it is eons ahead of where we were.

And if I may ask the gentleman in the well, in his opinion, based on his knowledge and experience, if the amendment of the gentleman from Iowa were to pass, would it not open up bidding by all vendors and thereby open up the possibility that a vendor, well intended as he may be, might not be qualified to supply either the quality or the quantity that might be needed by the armed services?

Mr. BROOKS. I believe the gentleman states the situation accurately. I think it would endanger the procurement of properly tested equipment, services and facilities that many areas of our Defense establishment need in the worst way if we are going to have a good defense system.

Mr. HOPKINS. If the gentleman will yield further, would it not, then, if that were the case, based on the gentleman's experience, cost more, if that were the case, if that should happen?

Mr. BROOKS. I think that is correct. This will ultimately result in higher cost of spare parts. They are not facing the problem. They are trying to destroy the whole situation. They do not understand the entire procurement process. They are trying, with an aborting amendment, to set aside just what the Defense Department is supposed to do. What we need is general legislation. We need general legislation on competition. That is the heart of good pricing—competition.

Mr. HOPKINS. So the Nichols amendment then is a step in the right direction?

Mr. BROOKS. That is what I said and that is what I believe. It is not perfect. We are not going to cure the world, not the whole world, this week. But we can make a step forward, and the Nichols amendment does that.

Mr. HOPKINS. I thank the gentleman.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from Louisiana.

The CHAIRMAN. The time of the gentleman from Texas (Mr. BROOKS) has again expired.

(On request of Mr. ROEMER and by unanimous consent, Mr. BROOKS was allowed to proceed for 1 additional minute.)

Mr. ROEMER. I thank my distinguished colleague for yielding.

Let me make sure I understand what the gentleman just said in answer to our colleague from Kentucky.

Is the gentleman making the case that if the Bedell amendment is adopted by this committee, the price of clawhammers is going to go up from $435?

Mr. BROOKS. It could.

Mr. ROEMER. Does the gentleman really believe that?

Mr. BROOKS. I am not going to buy any of that. I did not buy this Allen wrench they offered for $9,000. But the cost could go up. This Allen wrench was offered at $9,000 to the Air Force, and it cost more than that whole stack of television gismos that we had already on here.

Mr. ROEMER. The gentleman has made a serious charge about the amendment of the gentleman from Iowa, that the price of already inflated spare parts could go higher.

Mr. BROOKS. Yes; I think it could.

Mr. ROEMER. Could the gentleman explain his charge?

Mr. BROOKS. Sure, it could go higher, certainly.

Mr. ROEMER. How?

Mr. BROOKS. Would anybody in their right mind believe that you would sell an Allen wrench like this one for more than 45 cents? But they offered it to the Government for $9,000. I do not think you could go much higher than $9,000 on an Allen wrench.

Mr. NICHOLS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I must oppose the amendment offered by my friend from Iowa (Mr. BEDELL). In so doing, let me say that I commend my colleague for his persistence in bringing the problems associated with spare parts to the attention of the Members. We differ in the approach in solving these problems. After more than a year-long investigation and eight hearings on the subject, the Armed Services Committee has reported a rather comprehensive bill.

□ 1800

We believe that the provisions in the amendment just offered which have been accepted by my chairman and by my ranking minority Member, address the real issues in a much more comprehensive and effective manner.

Many of the provisions in my amendment encompass, and in fact are more stringent, are more demanding than those in the amendment offered by Mr. BEDELL. In addition, I am opposed to the substance of Mr. BEDELL's amendment and let me explain to the Members why.

The amendment would, in my judgment, preclude the Department of Defense's use of a qualified products list which are necessary to insure qualified products are offered to the Government. Let me explain the qualified products list, if I may.

It is much like getting the Underwriter's Laboratory seal of approval, which all consumers rely on as an indication that the products has met certain safety standards.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman.

Mr. OTTINGER. Why on Earth would you have to be on a qualified bidders list to supply a claw hammer or an allen wrench?

Mr. NICHOLS. Let me tell the gentleman that I am not talking about claw hammers. We have about 100,000 items a year that are bought out of the 4 million items that we buy on the qualified bidders list. Let me tell the gentleman why that is necessary that we not abandon the qualified bidders list, if I may.

We think it is necessary that DOD must test products ahead of time before we buy them. Because the Defense Department is obliged to buy from the lowest bidder, it does not have the option of going out and picking the best product and buying it. Those of you who read Jack Anderson's column, and I do not usually quote from Jack Anderson's column, but on the 17th of May, he gave a clear example why qualified bidders lists are needed.

In that column he cited the loss of about 16,000 American servicemen in the last 21 years due to accidental death. And he stated, and I will quote:

Often our soldiers paid with their lives for penny-pinching practices that led to accidents. One such instance has been the increase in drowning accidents due to faulty and inadequate life jackets.

It is obvious then why lifejackets are on a qualified bidders list.

The same thing would apply for brake components on our aircraft. If that brake system fails or wears out prematurely, we do not only lose a $25 or $30 million aircraft, but we lost a human life as well.

I think it would be a very bad mistake to do away with qualified bidders lists. Bids ought to be evaluated ahead of time to determine if the product he offers meets Defense Department specifications. We need to ascertain the qualities of the product he is offering ahead of schedule and not after his bid has been offered.

I strongly object to the amendment offered by Mr. BEDELL.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman.

Mr. MAVROULES. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has hit the nail right on the head with talking about screws and everything else here this afternoon.

The qualitative edge is one thing that we take pride in, because we do have that qualitative edge when we start talking and comparing with other nations. I think both amendments are pretty good. I am in support of the Nichols amendment and against the Bedell amendment, as much as I do that reluctantly. Let me give you my reasons why.

Although I personally, from the Armed Services point of view, have many differences with the Pentagon and the Defense Department, let us give credit where it is due. As for the Secretary of Defense, who has put into use at the present time his new auditing procedures; internal auditing, which again is attacking some of the problems that were referred to here this afternoon.

We have to take one step at a time, Mr. Chairman, one step at a time, and I think we have taken that initial step. We have sanitized our bill; I think it is a bill that could be approved by the Members of Congress, and we have put people on notice by stating this in our committee hearings. That, if indeed it does not work; if indeed it does not work, we are going to take a second look at it down the road.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. NICHOLS) has expired.

(By unanimous consent, Mr. NICHOLS was allowed to proceed for 2 additional minutes.)

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman.

Mr. MAVROULES. The other point that we must make crystal clear: All of those who testified before our committee, all of them, were asked one question when they were investigating the so-called fraudulence procedures, is that, "Do we have any proof of any fraud taking place among the contractors and the defense industry?"

Not once, not once did someone come forth, at least through our internal auditing group, stating that there was no fraud committed. That is a very, very important point. So the point that we have to make here this afternoon is this: We have a good piece of legislation; we have had days and days of testimony on it. I think after listening to the Chairman here this afternoon, I think we have an obligation to go with those who took the testimony and came out with a decision.

Therefore, Mr. Chairman, I support your bill, and I am against the other amendment.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Ohio.

Mr. KASICH. You know, there are different ways of looking at things sometimes. In this instance, I must disagree with the argument of the distinguished chairman of the Government Operations Committee.

I would make the argument that if people in this Chamber are concerned about the spare parts problem, then they ought to read the amendment. Because in this amendment, as a colloquy between the sponsor of this amendment and another gentleman on the floor showed we have language that says that the Secretary of Defense ought to consider whether there should be a limit on proprietary rights if the data was developed substantially with Federal funds.

Under the current law, if Federal funds, if just one dime of Federal funds is used to develop a part, the data reverts to the Government. This amendment weakens the law that is now in effect.

Now, the gentleman has a toolbox up there, and he wants to solve the toolbox problem.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. NICHOLS) has again expired.

(By unanimous consent, Mr. NICHOLS was allowed to proceed for 1 additional minute.)

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Ohio.

Mr. KASICH. I happen to have some spare parts of my own. I have got a spring here that should cost 60 cents, but the Government paid $15.27 for it. Under this amendment if that part was developed by a private company, that part could remain proprietary forever. The abuse would continue.

If the gentleman from Maryland is sincere in his efforts to try to solve this problem, then he cannot support any amendment that goes in the direction of watering down the 7-year limit on proprietary rights, which he complimented me for just 10 minutes ago.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. KASICH. If the gentleman would let me finish my statement, I would be more than happy to yield.

Mr. MITCHELL. I would ask that the gentleman not question my sincerity under any occasion.

Mr. KASICH. That is not what I am attempting to do.

Mr. MITCHELL. That is the way it came out.

Mr. KASICH. I want to apologize.

The CHAIRMAN. The Chair would insist on regular order. The gentleman from Alabama (Mr. NICHOLS) has the time.

Mr. KASICH. I want to say to the gentleman from Maryland that I do not in any way, shape, or form question his sincerity. What I am suggesting to the gentleman is that if he is serious about the 7-year limit that is placed on proprietary rights, which he argued is the most serious provision in the Nichols bill, then he cannot support this amendment.

Mr. NICHOLS. Mr. Chairman, I must ask that the amendment be defeated.

Mr. KASICH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose the amendment for one basic reason: The gentleman who offers this amendment says it is designed to strengthen the Nichols bill. But the gentleman's amendment weakens the 7-year provision that is contained in the present Nichols bill, which now puts a limit on proprietary rights for those firms that develop parts with the use of Government funds, as well as those that develop parts at their own expense. I am paticularly concerned about proprietary rights for items like a washer that the Government is paying 76 cents for, but could buy for 12 cents, or again, the spring, which the Government is paying $15.27 for, but ought to be buying for 60 cents.

□ 1810

In a colloquy, the question was asked that if somebody should develop an item at their own expense, does that mean that their rights should be protected forever? The answer given to that question was yes, but I do not agree with that. If such practices are allowed to continue, companies that produce those simple parts will be allowed to be the sole supplier for these parts for as long as they wish, which means that company would operate forever in a monopoly situation with the Government.

That is a very, very important point, and I want the gentleman from Maryland, who complimented me on my provision, to understand my argument here. I certainly would never question the integrity or the sincerity of the gentleman from Maryland on this. In fact, I commend him for his work, but I want him to understand this very crucial argument.

The other point I tried to make is that language in this amendment weakens the present Federal law as it applies to proprietary rights. Under current Federal law, if the Government puts one dime into the development of that part, the data on that part reverts back to the Government. But the Bedell amendment states that if data is developed partially at Gov-

Mr. NICHOLS. I thank the gentleman from Ohio.

Mr COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Texas, a member of the committee.

(Mr. COLEMAN of Texas asked and was given permission to revise and extend his remarks.)

Mr. COLEMAN of Texas. I thank the gentleman for yielding.

Mr. Chairman, I rise to express my strong support for the amendment offered today by Mr. NICHOLS, chairman of the House Armed Services Subcommittee on Investigations, to the Department of Defense authorization bill in the area of spare parts. I commend him and the members of his subcommittee for their hard work and leadership in this reform movement.

I am proud to be a cosponsor of the legislation, H.R. 5064, which is the basis of this amendment, as reported by the House Armed Services Committee. It represents a year of careful examination by the Investigations Subcommittee in response to the much publicized spare parts procurement process by the Defense Department. The amendment provides for more cost effective and efficient purchases of spare parts.

A great number of my constituents have contacted me to express their deep concern over the matter of excessive prices for spare parts by the military. This amendment helps alleviate some of those concerns. It directs that the Department of Defense should refuse to pay prices that are not fair and reasonable, should make purchases in quantities that offer the best price for the number of units needed, and use standard or commercial parts whenever technically acceptable or cost effective.

In addition, the amendment encourages competition by requiring that Government personnel evaluation systems recognize efforts to increase competition and other cost savings and mandates review of noncompetitive acquisitions. It requires contractors to identify manufacturers and producers of items so as to avoid the "middleman" where practical. The amendment also requires planning in the Department of Defense acquisitions to insure that the Department check its inventory and records before ordering from a contractor.

With respect to concerns about technical data, the amendment defines categories in which the Government shall have unlimited rights in technical data and requires contractors to warrant that data they provide be in conformance with the contract. It also mandates the Department to develop a plan for improving its data management system to allow for easier access to technical data which the Government possesses, and restricts certain limitations on the Government's use of technical data.

I think the amendment includes well-reasoned moves in the direction of much needed reform. I urge my colleagues to support it.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from California.

Mr. HUNTER. I appreciate the gentleman yieding.

Mr. Chairman, I simply want to say in the area of proprietary rights, data rights, in my experience with the Navy and with contractors that is one of the biggest problems we have and the biggest generator of cost overruns, where you have a company which makes an original part and thereafter for the next several hundred years has the right to repair that part, and there are other companies who could repair the part if they had the proprietary rights, if they had the data or the blueprints essentially that were available. They could it for maybe half the price but they cannot because the company that originally manufactured the part has the rights to that data.

I commend the committee for putting that very important element into this package. I think that this bill, in fact, will operate to greatly reduce the cost of defense to the American taxpayers.

Mr. NICHOLS. I thank the gentleman from California.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Maryland, the distinguished chairman of the Small Business Committee.

□ 1720

Mr. MITCHELL. I thank the gentleman for yielding. I want to commend him for his effort.

But I have a series of serious concerns about the nature of this amendment. I am appreciative of the fact that we are going to encourage agency personnel to do things through an evaluation system, the identification of items and so forth, encourage the establishment of data management systems. But you have to lay that against the background of what this Congress has been trying to do since 1969.

Since 1969, various committees of the Congress have looked at this issue and have suggested certain things that ought to be done. But they were never really done.

Essentially it got to be a jawboning process, with DOD, and which was blithely ignored. The record will show that when the dialog first got started 50 percent of the spare parts were sole source, noncompetitive in DOD. Despite 1969 and the ensuing years, that figure has risen to 77 percent.

I guess what I am saying, though, is I commend the gentleman for all of the work he has done, and particularly my colleague for his very good amendment. It comes almost down to, except in the case of your amendment, it comes down to jawboning again.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. NICHOLS) has again expired.

(By unanimous consent Mr. NICHOLS was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL. That is my only concern. I would like to see an amendment that was a little bit tougher. Yours is all right, no question about that.

But the rest of it, it certainly seems to me to encourage, to encourage to identify, to encourage the agency to identify every other source, that is what we have been telling them since 1969, and that is what they have ignored.

Mr. NICHOLS. Let me respond to the gentleman, my friend from Maryland, and tell him he is exactly correct. This has been an ongoing problem ever since I have been in Congress, ever since you have been in Congress.

But let me remind the gentleman we have never put this into the law. We have always done it by regulations, and the Secretary of Defense, and admirals and generals, they come and they go. For that reason, that is why we are putting it into the law. We feel like it has sufficient teeth in it to do the job.

Mr. MITCHELL. I thank the gentleman for his explanation.

I am not yet satisfied, but I do commend you for these first forward steps you have taken.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the distinguished gentleman from Alabama for yielding. I endorse his amendment.

I support the very careful work which the gentleman has done. I commend him for the leadership which he has brought to the House, and I urge my colleagues to adopt his amendment.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Illinois.

(Mr. DURBIN asked and was given permission to extend remarks.)

Mr. DURBIN. Mr. Chairman, I would like to commend Mr. NICHOLS for preparing this legislation which shows that Members of Congress are truly concerned about eliminating waste, correcting system failures, and improving management deficiencies in the Government.

The Democratic freshmen have been concentrating their efforts on identifying ways to control the high Federal deficits. When the President's Private Sector Survey on Cost Control, the Grace Commission, published its findings earlier this year, we were naturally interested in applying those recom-

