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TO CREATE A SENATE SELECT COMMITTEE
ON INTELLIGENCE: A LEGISLATIVE
HISTORY OF SENATE RESOLUTION 400

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TABLE OF CONTENTS

	Page
Introduction	1
I. <u>Senate Oversight of Intelligence</u>	4
II. <u>Legislative Proposals: 94th Congress</u>	7
III. <u>Committee Action</u>	9
A. Government Operations Committee	9
1. S. Res. 400	13
B. Judiciary Committee	14
C. Committee on Rules and Administration	15
1. S. Res. 400 (Cannon Amendment in the Nature of a Substitute)	20
2. S. Res. 400 (As Amended, But Not Reported)	21
IV. <u>S. Res. 400: Cannon Compromise</u>	22
A. Armed Services Committee	24
V. <u>Legislative History of Senate Floor Debate</u>	26
--Section 1. Statement of Purpose	27
--Section 2. Committee Structure; (a) Membership.....	28
(b and c) Rotation of Members; Chairman	32
(d) Senate Rule XXV	34
--Section 3. Jurisdiction; (a) Legislative and Authorization Jurisdiction	39
(b) Joint Sequential Referral	67
(c and d) Not limiting Other Committees Information or Review	75
--Section 4. Committee Reports; (a and b) Reports to and from Committee.....	76
(c) Reports to Congressional Budget Office	82
--Section 5. Incidental Powers.....	83
--Section 6. Committee Staff	84
--Section 7. Individual Privacy	84
--Section 8. Disclosure of Information	85
--Section 9. Presidential Representative At Committee Meeting	100
--Section 10. Disposition of the Material of the Select Committee on Intelligence	101
--Section 11. Committee Access to Information	101

	Page
--Section 12. Annual Authorizations	109
--Section 13. Committee Studies	111
--Section 14. Definitions	113
--Section 15. Funding For the New Committee	114
--Section 16. Effect on Other Laws	114
VI. <u>S. Res. 400: As Enacted</u>	115
Appendix I: Government Operations Committee Report	118
Appendix II: Committee on Rules and Administration Report and Recommendations of the Committee on the Judiciary	163
Appendix III: Hughes-Ryan Amendment	185
Appendix IV: Documents	187
Appendix V: Chronology	189

INTRODUCTION

Senator Church, Chairman of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, noted in a statement accompanying release of the Committee's final report on April 26, 1976, "that the intelligence community's immunity from congressional oversight had been a basic reason for the failures, inefficiencies and misdeeds of the past." Senator Church asserted, "It is most critical that the Senate bring into being a strong oversight committee with power of authorization and full access to information."

The Senate Government Operations Committee, cognizant of the work of the Church Committee, had earlier held hearings on legislation to improve oversight of the intelligence community and had voted 12-0 on February 24, 1976, to report out S. Res. 400, a resolution to create a "Committee on Intelligence Activities" with primary legislative and annual authorization jurisdiction over the intelligence community, with the right to be "fully and currently informed with respect to intelligence activities, including significant anticipated activities", and with the right to disclose classified information over the objection of the President, subject to concurrence by the Senate.

S. Res. 400 was referred to the Committee on Rules and Administration, which amended the resolution to establish a standing "Select Committee on Intelligence Activities" with concurrent, sequential legislative and authorization jurisdiction, and deleted the requirement for an annual authorization. Retained in principle, but modified, was the right to be "fully and currently informed with respect to intelligence activities,

including significant anticipated activities" and the right to disclose information over the objection of the President, given concurrence by the Senate.

The Committee on Rules and Administration, however, did not report this amended version of S. Res. 400 but, by a 5-4 vote, reported a substitute in the nature of an amendment which would have created a "Select Committee on Intelligence Activities" to conduct oversight of intelligence and with power of subpoena. Legislative and authorization jurisdiction, the right to be "fully and currently informed..." and the right to disclose information over the President's objection were deleted from the original version of S. Res. 400 as reported by the Government Operations Committee. S. Res. 400 as reported by the Committee on Rules and Administration was introduced in the Senate on May 10, 1976, but received little further consideration.

On that same date the Senate Majority Leader and other Senators informally began work on a compromise resolution which was introduced in the Senate on May 12, 1976, and came to be known as the "Cannon Compromise". It provided for the establishment of a permanent "Select Committee on Intelligence" with exclusive legislative and annual or biannual authorization jurisdiction over the CIA and the Director of Central Intelligence, shared sequential jurisdiction over other national intelligence activities, the right to be "fully and currently informed of all intelligence activities, including significant anticipated activities", and the right to disclose information over the objection of the President, given concurrence of the full Senate. On May 19, 1976, this version of S. Res. 400 was agreed to in the Senate by a vote of 72-22.

On May 20, 1976 fifteen Members, eight Democrats and seven Republicans, were appointed to the Senate Select Committee on Intelligence. Majority Leader Mansfield appointed Daniel K. Inouye, Birch Bayh, Adlai E. Stevenson 3rd, William D. Hathaway, Walter D. Huddleston, Joseph R. Biden, Jr., Robert B. Morgan and Gary W. Hart. Minority Leader Scott appointed Clifford P. Case, Strom Thurmond, Howard H. Baker, Jr., Mark O. Hatfield, Robert T. Stafford, Barry Goldwater and E.J. Garn. Daniel K. Inouye was elected chairman of the committee and Howard H. Baker, Jr. vice chairman.

* * *

The purpose of this paper is to provide a brief narrative history of the events leading to the introduction of S. Res. 400 (Cannon Compromise) in the Senate and to set forth key portions of the debate which serve to illustrate the legislative intent of the resolution. The appendices contain the texts of the two committee reports on S. Res. 400, an outline legislative history of the Hughes-Ryan amendment -- a statutory landmark in the history of Senate oversight of the CIA in that it requires the provision of timely reports on covert operations to specified congressional committees--, a bibliography of the Senate hearings, reports and floor debates on its oversight of intelligence, and a chronology.

I. Senate Oversight of Intelligence

The National Security Act of 1947 established the National Security Council (NSC) and the Central Intelligence Agency (CIA) and provided for the unification of the Armed Services. Senate oversight of the CIA was provided for through an informal agreement worked out by its bipartisan leadership. Under this agreement the Armed Services and Appropriations Committees were granted oversight jurisdiction over the CIA, a responsibility which was delegated to special subcommittees created for that purpose.

Dissatisfaction with that arrangement was expressed over the years by a small number of Senators, mostly members of the Foreign Relations Committee, who argued that their Committee's jurisdiction over "relations of the United States with foreign nations generally" required knowledge of CIA activities abroad. Legislative proposals to accommodate this view took two basic forms: those which would create a joint committee on intelligence oversight and those which would give the Foreign Relations Committee or its members an oversight role. Two bills, one representing each of these positions, reached the floor of the Senate. In 1955 Senator Mansfield introduced S. Con. Res. 2, which would have reached a 12-member Joint Committee on Central Intelligence. The new committee would have consisted of three members from both the Armed Services and Appropriations committees, the committees exercising oversight under the existing arrangement, thereby keeping essentially the same members in charge of oversight but concentrating and making more explicit their task.

The proposed committee would have had legislative jurisdiction and would have been "fully and currently informed" by the CIA. The resolution was defeated by a vote of 59 to 27.

In 1968 S. Res. 283, which would have established a Committee on Intelligence Operations, was reported out by the Foreign Relations Committee. The proposed committee would have had nine members, three each from the Armed Services, Appropriations and Foreign Relations Committees, and would have had oversight jurisdiction over U.S. foreign intelligence agencies. The bill was referred to the Armed Services Committee on a point of order, sustained by a vote of 61 to 28, that the resolution was subject to the jurisdiction of that committee and had to receive its consideration before being placed on the Senate Calendar.

A number of actions, however, were responsive to the concern that Foreign Relations Committee members be apprised of foreign intelligence activities. After Senate rejection of S. Res. 283, the Chairman of the CIA Subcommittee of the Armed Services Committee invited three members of the Foreign Relations Committee to attend sessions of the Subcommittee, a practice which was discontinued in the early 1970's. Again in 1974 Senators Mansfield and Scott, majority and minority leaders and both members of the Foreign Relations Committee, were invited by the Subcommittee Chairman to participate as non-voting members.

With passage of P.L. 93-359 in December 1974 the "appropriate committees ...including the Foreign Relations Committee of the U.S. Senate" were given statutory oversight responsibilities with respect to foreign

covert operations. Section 662 of the law, entitled "Limitations on Intelligence Activities," prohibits the funding of foreign covert operations, "except those intended solely for obtaining the necessary intelligence," unless the President deems it "important to the national security" and submits a report "in a timely fashion,...to the appropriate committees...including the Committee on Foreign Relations of the Senate..." *

The 94th Congress, prompted by a lengthy New York Times report that the CIA had engaged in domestic intelligence operations and other activities which "directly violated its charter", and by earlier revelations, created Select Committees in both Houses to investigate these charges. The Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities was instructed to investigate the CIA and other intelligence agencies and to consider "the need for improved, strengthened or consolidated oversight of United States intelligence activities by the Congress."

The Select Committee's investigations publicly confirmed that the nation's intelligence and counterintelligence agencies engaged in wire-tapping, surveillance, and mail openings within the domestic United States against its citizens, intervened in the political processes of other nations to a degree apparently unknown by congressional oversight committees, and engaged in disruptive and provocative acts against political dissidents at home. These findings prompted consideration of legislative proposals to create a new oversight committee in the Senate or a joint committee in

* See Appendix III for a Legislative History of the Hughes-Ryan Amendment.

the Congress.

II. Legislative Proposals (94th Congress)

A number of legislative proposals to create joint, select or standing intelligence oversight committees were introduced in the Senate during the 94th Congress. The Government Operations Committee* initiated hearings on this matter with special consideration directed towards S. 189, S. 317, S. Con. Res. 4, S. 2893 and S. 2865. Of these, S. 2893, sponsored by Senator Frank Church, Chairman of the Select Committee on Intelligence and cosponsored by seven other members of the Committee, received most consideration.

S. 2893 would establish a standing "Committee on Intelligence Activities" with five members appointed by the majority leader and four members by the minority leader. Committee members and professional staff would not be permitted to serve more than six years on the Committee.

The Committee would have exclusive jurisdiction over the CIA and the Director of Central Intelligence and authorization jurisdiction over the agencies and departments of the foreign intelligence community, including FBI intelligence. Committee jurisdiction over the organization, reorganization and activities of the agencies and departments of the intelligence community, with the exception of the CIA and the Director of Central Intelligence, would be concurrent with that of other standing committees.

The head of each such department and agency would keep the Committee "fully and currently informed with respect to intelligence activities which are the responsibility of or engaged in by such department or agency." No "significant covert or clandestine operation" would be engaged in until the Committee "has been fully informed of the proposed activity by the head of the department or agency."

* The Government Operations Committee held hearings on the same subject during the 93rd Congress. See U.S. Congress. Senate. Committee on Government Operations. Subcommittee on Intergovernmental Relations. Legislative proposals to strengthen congressional oversight of nation's intelligence agencies. Hearings, 93d Congress, 2d session, on S. 4019, S. 2738. S. Res. 419, S. 1547, Washington, U.S. Govt. Print. Off., 1975. 205 p.

Committee members and employees would be prohibited from disclosing any information in possession of the committee relating to U.S. intelligence activities "except in closed session of the Senate" or "unless authorized by such committee." Such disclosure could occur after a vote by the full Senate over the objection of the President.

S. 317 would establish a "Joint Committee on Intelligence Oversight" composed of 14 members, four from each House to be appointed by the majority leader and three by the minority leader. The duty of the Joint Committee would be the continuing study and investigation of federal bodies dealing with intelligence gathering or surveillance of persons, including the CIA, DIA, NSA, Secret Service and FBI. All bills and other matters within the joint committee's jurisdiction would be referred to the joint committee and could not be considered in either House unless reported out by the joint committee. Specific authorization would be required for any intelligence or surveillance activities before funds could be appropriated for same. The directors of the above named agencies would be required to keep the joint committee "fully and currently informed."

S. Con. Res. 4 would establish a Joint Committee on Information and Intelligence to be composed of seven Members of the Senate appointed by the President of the Senate, and seven Members of the House of Representatives appointed by the Speaker of the House of Representatives.

The joint committee would make continuing studies of: (1) the activities of each information and intelligence agency of the United States; (2) the relationships between information and intelligence agencies of the United States and United States-based corporations and the effect of such relationships on United States foreign policy and intelligence operations abroad; (3) the problems relating to information and intelligence programs; and (4) the problems relating to the gathering of information and intelligence affecting the national security, and its coordination and utilization by various departments, agencies, and instrumentalities of the United States.

Each information and intelligence agency of the United States would give to the joint committee such information regarding its activities as the committee may require.

S. 189 would establish a Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance.

It would be the function of the joint committee: (1) to make a continuing study of the need to reorganize the departments and agencies of the United States engaged in the investigation or surveillance of individuals, (2) to make a continuing study of the governmental relationship between the United States and the States insofar as that relationship involves the area of investigation or surveillance of individuals; and (3) to file reports at least annually, and at such other times as the joint committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the joint committee.

The joint committee would be required to at least annually, receive the testimony under oath, of a representative of every department, agency, instrumentality, or other entity of the Federal Government, which engages in investigations or surveillance of individuals. Such testimony shall relate to: (1) the full scope and nature of the respective department's, agency's, instrumentality's or other entity's investigations or surveillance of individuals; and (2) the criteria, standards, guidelines, or other general basis utilized by each such department, agency, instrumentality, or other entity in determining whether or not investigative or surveillance activities should be initiated, carried out, or maintained.

S. 2865 would establish a Committee on Intelligence Oversight comprised of ten members with legislative jurisdiction over matters relating to the United States intelligence community, including: (1) the Central Intelligence Agency; (2) the Defense Intelligence Agency; and (3) the National Security Agency.

Disclosure to unauthorized persons of any information in the possession of the Committee by any Committee member, agent, or employee would result in automatic suspension of any Committee member and possible expulsion from the Senate. The bill sets criminal penalties for any employee of the committee who violates the nondisclosure provisions of this Act.

Annual reports to the Committee from the Directors of the FBI, CIA, and Defense Intelligence Agency reviewing the operations of each agency or bureau would be required and made available to the public.

III. Committee Action

A. Government Operations Committee

The Government Operations Committee held nine days of hearings and heard 26 witnesses testify on legislative proposals designed to improve oversight of the intelligence community. Of the Senators, former and current cabinet officials, and Directors of Central Intelligence who testified, most favored creation of a new oversight committee although three members of the Senate Armed Services Committee strongly opposed such an action. The Senators tended to favor a standing committee of the Senate, but executive branch officials advocated a joint committee which would concentrate oversight and reduce the number of committees involved.

Chairman Ribicoff opened the hearings by declaring that he strongly favored creation of a new committee. He suggested that the answers to the following questions should influence its structure:

First, should the committee be a joint committee of Congress or a permanent committee of the Senate, should Senators serve on the committee on a rotating basis, and should the legislation explicitly reserve seats on the committee for members of other committees?

Second, should the new committee have jurisdiction over legislation, including authorization legislation, involving the Government's national intelligence activities?

Should the entire intelligence activities of the Government be subject to annual authorization legislation reviewed by the new committee?

Third, should the committee have jurisdiction over domestic intelligence activities and, if so,--what type of jurisdiction?

Fourth, to what extent should the legislation spell out the extent and nature of the duty of the executive branch to keep the new committee fully and currently informed of its activities and plans?

Fifth, should the bill amend the procedures now governing notice to Congress of any covert actions undertaken by the executive branch?

Sixth,, what, if anything, should the legislation say about the standards, and safeguards that should govern the committee disclosure of sensitive information to other Senators, and to the general public?

Senators Mansfield, Church, Baker, Nelson, Cranston, and Huddleston testified in favor of a new Senate oversight committee. Both Senators Mansfield and Church emphasized the importance of having a committee with a comprehensive mandate which could "accommodate an integrated perception of national intelligence." They argued that the existing system of piecemeal, uncoordinated oversight had not and would not work. Senator Mansfield asserted that the intelligence community's excesses were "a direct result of congressional neglect and inattention", endorsed rotating membership and stated that an annual authorizing function was "essential to the question of accountability."

Senators Tower, Thurmond and Goldwater strongly opposed alteration of the existing oversight system. Senator Tower felt the proposed legislation was "hastily conceived and simplistic" and stated that the present oversight committees can and should continue to carry out their responsibilities. Senator Goldwater noted that "In the past, there was little oversight of the intelligence community...(but)...If the Congress wants more oversight, the existing committees can and should be required to perform." Goldwater asserted that the idea of rotating membership was an assault on seniority and expertise and noted that the present committees had good, experienced staffs. Senator Thurmond argued that the Church bill (S. 2893) divorced the intelligence functions of the Armed Services, Foreign Relations, Judiciary and Finance committees from their substantive work and should therefore be opposed.

Most current and former executive branch officials who testified strongly endorsed creation of a new oversight committee. Secretary of State Kissinger and former CIA Director William Colby both urged prompt action on the matter; "the sooner the better," said Colby. Colby also emphasized that "reasonable limits" should be placed upon the matters made available to such a committee and endorsed sanctions against executive branch and congressional employees who violated secrecy agreements. Kissinger, Colby, former Secretary of State Dean Rusk and long-term Presidential advisor Clark Clifford all voiced a clear preference for a joint committee, indicating that one advantage of such an arrangement would be to improve executive-legislative relationships.

Providing information on covert operations to the Congress was one of the more delicate issues discussed during the hearings. Secretary of State Kissinger, representing the Administration viewpoint, indicated that "the proper constitutional perspective" would suggest that the existing system of informing the Congress "in a timely fashion" was "adequate for oversight," but that preferably this information should be "concentrated in the (proposed) oversight committee." Clark Clifford urged that the law require notification of Congress prior to the execution of a covert action project. If the committee disapproves, he continued, the President would be notified. If "the President is determined to proceed on the project, then he may have the constitutional power to make that decision. Also, under the Constitution, the Congress could decide, on recommendation of the Joint Committee, to withhold funds necessary to finance the activity in question." Senator Thurmond argued that "prior restraints on Executive action contemplated will not only stay the President's hand in the conduct of our foreign affairs, but will intrude the legislators into the sphere of the Executive." Senator Church's viewpoint was that if the new committee were to perform its role, "then constitutionally we must remember that the Senate of the United States is to advise as well as to consent in foreign policy matters, and if it is to give its advice, it must have advance notice of significant operations of this kind."

Attorney General Edward H. Levi, testified that the FBI's counter-intelligence activities were directed towards law enforcement and its activities should be seen as different from those of the intelligence agencies.

He urged that FBI oversight and authorization activities not be placed within the jurisdiction of a new oversight committee.

1. S. Res. 400

On February 24, 1976, the Government Operations Committee voted 12-0 in favor of S. Res. 400, which would amend Rule XXV of the Senate to establish a standing Committee on Intelligence Activities with primary legislative, authorization, and oversight jurisdiction over Federal intelligence agencies and activities, including (1) the Central Intelligence Agency, (2) the Defense Intelligence Agency, (3) the National Security Agency, (4) other national intelligence activities of the Department of Defense, and (5) the intelligence activities of the Department of State and the Federal Bureau of Investigation. The standing committee would also have legislative and oversight jurisdiction over the "intelligence activities of all other departments and agencies of the government..."

The committee would be composed of 11 members, six from the majority and five from the minority parties, selected in the same manner as are other standing committees. Membership would rotate, with no member permitted to serve for more than six consecutive years. No professional staff member or consultant could serve the committee for a period totaling more than six years.

Agency heads would be required to keep the committee "fully and currently informed with respect to intelligence activities, including any significant anticipated activities" and to report immediately any violations of the constitutional rights of any person and any violations of law or executive order.

The resolution would establish procedures to control the disclosure of information within the Senate and to the public. These procedures would (1) prohibit the unauthorized disclosure of information and (2) permit disclosure of information, with Senate approval, over the written objection of the President. Alleged, unauthorized disclosure of intelligence information would be investigated by the Select Committee on Standards and Conduct upon request of five members of the committee or 16 members of the Senate. The Select Committee would "report its findings and recommendations to the Senate"

B. Judiciary Committee

S. Res. 400 was referred to the Judiciary Committee on March 18, 1976 and hearings were held on March 25 and 30. S. Res. 400 was interpreted by most members of the Committee as stripping it of its jurisdiction over the intelligence activities of the Department of Justice, particularly those of the FBI's Intelligence Division.

Attorney General Edward H. Levi testified that oversight of the FBI and the Department of Justice should be viewed as a whole and that their activities should be seen from a law enforcement perspective with its criminal investigations nexus. He favored retention by the Judiciary Committee of oversight over the Department of Justice. FBI Director Clarence Kelly concurred with the Attorney General's position and expressed concern about the possibility of "conflicting directives" if oversight of his Bureau were exercised by more than one committee.

Senator Walter Mondale, Chairman of the Subcommittee on Domestic Intelligence of the Senate Select Committee on Intelligence noted that his subcommittee's investigations revealed that FBI abuses had occurred primarily in the areas of intelligence and not law enforcement. He argued that if law enforcement officers had the right to go beyond traditional civil and criminal violations of the law exceptional vigilance was needed, and suggested that S. Res. 400 be amended to provide for concurrent oversight jurisdiction and joint referral of bills to both Judiciary and the proposed committee.

Senator Charles Mathias, a member of both the Judiciary Committee and the Select Committee on Intelligence, favored concurrent jurisdiction and pointed out that the two committees would be looking at Department of Justice intelligence activities from differing perspectives; the proposed oversight committee would be concerned primarily with the success and effectiveness of intelligence and the manner in which it was carried out whereas the Judiciary Committee would oversee from a law enforcement viewpoint.

On February 30, 1976, the Judiciary Committee favorably referred S. Res. 400 to the Committee on Rules and Administration after voting to delete those provision of the resolution which would grant jurisdiction over the intelligence activities of the Department of Justice, including the FBI, to the Committee on Intelligence Activities. The Committee earlier rejected by voice vote an amendment proposed by Senator Kennedy which would have provided for the sharing of jurisdiction between the Judiciary Committee and the proposed Committee.

C. Committee on Rules and Administration

The Senate Committee on Rules and Administration held four days of hearings on S. Res. 400, hearing testimony from the Director of Central Intelligence (DCI) George Bush and a number of Senators.

Chairman Cannon questioned the effect the resolution would have on certain rules and established procedures of the Senate, expressed doubt about the capability of the Armed Services Committee adequately to review the Department of Defense budget if authorization authority over DOD national

intelligence activities were granted to the new committee, noted that the Senate Legislative Counsel had advised that under a Senate Resolution (as opposed to a statute) the executive departments might not feel compelled to comply with the provision to keep the proposed committee "fully and currently informed" and wondered if a joint committee might not provide a better oversight arrangement.

Senator Byrd asserted that S. Res. 400 could not pass as written and suggested the alternative of creating a standing committee with subpoena power but without legislative or authorization jurisdiction in order to meet the political necessity for creating some kind of committee. "The oversight committee, if it has the power of subpoena, can get whatever information it needs," he argues.

Senator Stennis, Chairman of the Armed Services Committee and of its CIA Subcommittee, noted that his committee had discussed S. Res. 400 at two meetings and stated that "were the Armed Services Committee to be deprived of (its) legislative authority, the intelligence community could become a separate entity unresponsive to the needs of national defense." Stennis rejected any proposal that would deprive his committee of its legislative jurisdiction and authorization authority; instead he recommended creation of a Permanent Armed Services Subcommittee on Intelligence, separately funded and staffed, cooperating with the Foreign Relations Committee and including the elected leadership of the Senate.

Senator Byrd asked Senator Stennis how he would feel about creation of a joint committee, including as members the chairmen of the Armed Services,

Foreign Relations, and Government Operations Committees and appointees of the leadership. Senator Stennis found the idea of a joint committee with "some oversight and surveillance on a gentlemanly basis" acceptable but strongly rejected any transfer of jurisdiction because, although his committee would still be able to obtain intelligence information its "continuity of relationship" would be lost.

Senator Church, Chairman of the Senate Select Committee on Intelligence, supported S. Res. 400 and asserted that an intelligence oversight committee, in order to be an effective instrument, must have (1) jurisdiction over the entire national intelligence community, (2) jurisdiction over the national intelligence budget "authorized on an annual basis," and (3) access to information. "Neither the Armed Services Committee nor any other committee has the time, because of its other duties, or the necessary overall jurisdiction to attend to the nation's intelligence system" he stated, adding that "The Executive budgets for and organizes and directs the national intelligence effort in a way that draws together the various components, and unless the Congress establishes a committee that can do the same, it will continue to fail in its oversight responsibilities."

Senators Stennis, Tower and Taft argued that authorizations for DOD intelligence could not be separated from the overall Defense budget. Senator Stennis stated that it "won't work" to ask the Armed Services Committee to handle only the personnel and hardware of a \$100 billion dollar budget "much of it founded, bottomed on, intelligence" unless authorization jurisdiction over defense intelligence were retained by the Committee.

He added that Senate-House Armed Services Committee conferences on defense authorization bills would be a "procedural nightmare" if his committee lost authorization jurisdiction over DOD intelligence.

Senator Nunn, believing that meaningful interchange between the intelligence community and the Armed Services and Foreign Relations committees would be difficult if another committee had authorization authority, proposed creation of an Oversight Panel composed of members of the Armed Services, Foreign Relations and Appropriations Committees as an alternative to S. Res. 400.

George Bush, Director of Central Intelligence, testified in favor of strong, concentrated oversight, noting that it permitted the intelligence community to gain the advice and counsel of knowledgeable members and to maintain the trust and support of the American people. Such popular support was dependent upon a political structure which provided clear accountability. Provisions of S. Res. 400 which the DCI found it difficult to accept, however, were Section 7, which would permit the disclosure by the Senate of classified information over the objection of the President, and Section 11, which would require periodic authorization of appropriations. Bush felt that disclosure permitted under Section 7 might conflict with the statute requiring the DCI to "protect intelligence sources and methods," and he noted that the Central Intelligence Agency Act of 1949 provided for a continuing authorization for the CIA. On the latter point Bush stated, "We would not oppose a requirement to brief the proposed Committee on the CIA budget, and a requirement that the intelligence committee file a classified letter containing its CIA budget recommendations with the Appropriations Committee."

Senator Church explained that Section 7 represented an attempt to accommodate both the speech and debate clause of the Constitution (providing immunity to Senators from being questioned in any other place while performing legislative functions) and the security of legitimate secrets. (Section 7 also provides for sanctions against the unauthorized release of classified information.)

The Secretary of Defense, in a letter placed in the record by Chairman Cannon, pointed to two major problems his department foresaw with the granting of authority to the new committee; one--the visibility of the intelligence budget would create problems of confidentiality, and two--if the Senate and House had different authorizing systems different, and time consuming, DOD budget formulations would be required.

Senator Hruska testified that the Legislative Reorganization Act of 1946 had set standards controlling committee jurisdiction, which included the "coordination of the congressional committee system with the pattern of the administrative branch of the National Government" and that under this guideline the Judiciary Committee should continue to exercise jurisdiction over the Department of Justice, including the FBI.

Senator Ribicoff, chairman of the committee which drafted S. Res. 400, testified that a standing committee with legislative jurisdiction was necessary but suggested that the resolution be amended so that committees with jurisdiction over intelligence activities retain oversight on a concurrent basis with the proposed committee and that jurisdiction over FBI domestic intelligence be removed from the proposed committee's mandate.

1. S. Res. 400 (Cannon Amendment in the nature of substitute)

The Committee on Rules and Administration, in markup sessions April 27 and 28, amended S. Res. 400 as reported by the Government Operations Committee, but rather than report this amendment it voted 5-4 to report an amendment in the nature of a substitute which had been concurrently considered by the Committee.

The substitute, introduced by Senator Cannon, Chairman of the Committee,

would establish a Select Committee on Intelligence with 11 Members -- two each from the Armed Services, Foreign Relations, Appropriations, and Judiciary committees and three Members to be selected from other than those committees, all appointed by the President pro tempore of the Senate upon recommendation of the majority and minority leaders. The majority and minority leaders would be non-voting, ex officio Members of the Committee.

The Select Committee would be an oversight committee directed to study and review the intelligence activities of the government including, but not limited to, those of the CIA, the Department of State, the Department of Justice and the Department of Defense including NSA and DIA. The Select Committee would make a special study of the authorities, management, organization and activities of the intelligence community, would study the desirability of establishing a standing committee of the Senate or a joint committee of the Congress on intelligence activities, would examine the practices for the authorization of funds for intelligence activities, and would report to the Senate not later than July 1, 1977.

Members of the Select Committee would report to the standing committees from which they were appointed regarding matters within the jurisdiction of the standing committee.

Upon expiration the Select Committee on Governmental Operations with Respect to Intelligence Activities would transfer all records, files, documents, and other materials in its custody to the new Select Committee.

The new Select Committee would have subpoena power, but it would not have legislative or authorization jurisdiction as under the Government Operations Committee version of S. Res. 400.

2. S. Res. 400 (As Amended, but not reported)

Before voting to report out the Cannon amendment in the nature of a substitute, the Committee had adopted a number of amendments to S. Res. 400 as reported by the Government Operations Committee. Some of these amendments were designed to insure that the resolution conform to the Senate Rules; other amendments had the effect of sharply reducing the authority and powers of the proposed committee in that its proposed primary jurisdiction over intelligence activities was amended to grant it concurrent sequential jurisdiction with the committees then exercising jurisdiction and the requirement for annual authorizations was deleted.

S. Res. 400, as amended, would create a Select Committee on Intelligence Activities with 11 Members -- two each from the Armed Services, Foreign Relations, Appropriations and Judiciary committees and three members from other committees. One Member from each party would be appointed by the chairman of the named committees. Of the three remaining Members two would be appointed upon recommendation of the majority leader and one upon recommendation by the minority leader. The majority and minority leaders would be non-voting ex officio Members of the Committee. Membership on the committee would be restricted to six years of continuous service but no such restriction would apply to staff.

The Select Committee would have concurrent, sequential legislative jurisdiction over all intelligence activities, the Department of Defense including NSA and DIA, and the Departments of State, Justice and Treasury. The Select Committee would have concurrent sequential authorization jurisdiction over each of the above-named entities with the exception of the Treasury Department.

Any proposed legislation reported by either the Select Committee or the standing committees now exercising jurisdiction over intelligence activities could, upon request of the chairman of a committee with jurisdiction which had not reviewed the legislation, be referred to the committee of such chairman for consideration and report within a thirty day period in which the Senate is in session. Failure to report within thirty days would automatically discharge the committee from further consideration of the legislation unless the Senate provided otherwise. In effect, this would provide for concurrent sequential jurisdiction by which legislation would be referred initially to the committee with "predominance of subject matter" jurisdiction and subsequently, upon request, to any other committee with some jurisdiction over the matter.

S. Res. 400 as amended retained, in principle, the provisions of the original legislation relating to the disclosure of classified information over the President's objection, the requirement that agency heads keep the committee "fully and currently informed", and provision for transfer of files, etc. of the Church Committee to the new Select Committee on Intelligence Activities.

IV. S. Res. 400: Cannon Compromise

Committee action on the legislative proposals to create an intelligence oversight committee led to the development of the three versions of S. Res. 400 described above. The Committee on Rules and Administration, by voting to report out the version known as Cannon amendment in the nature of a substitute, rendered the other two versions "dead texts". S. Res. 400, the Cannon amendment in the nature of a substitute, was introduced in the Senate on May 10 but received little further consideration.

A fourth version of S. Res. 400, which came to be known as the "Cannon Compromise", was worked out informally through the efforts of the Majority Leader and other Senators on May 10 and 11. The "Cannon Compromise" was introduced in the Senate on May 12 and agreed to, as amended, on May 19, 1976.

Senator Cannon, in introducing the compromise, stated the following:

(Congressional Record, daily ed, v. 122, p. S7083.)

The committee is given investigatory and oversight authority which would allow it to study all intelligence activities and programs by the Government; it would also have legislative jurisdiction over matters enumerated in section 3, including authorizations therefor. This jurisdiction would be shared with the standing committees which already have jurisdiction over such subject matter except in the case of the Central Intelligence Agency and the Director of Central Intelligence, which would fall solely within the jurisdiction of the select committee—that is, except for the Central Intelligence Agency and the Director thereof, certain committees would be given sequential, concurrent jurisdiction over the intelligence community.

The existing committees of the Senate would in no way be restricted in making studies and reviews of matters which fall within their jurisdiction, respectively.

Regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies would be required. The committee would be directed to obtain annual reports from agencies participating in intelligence activities and make public such unclassified information—I repeat, unclassified information.

The committee would also be required to report on or before March 15 of each year to the Committee on the Budget of the Senate the views and estimates “described in section 301(c) of the Congressional Budget Act regarding matters within its jurisdiction.”

The committee would be authorized to make investigations, armed with subpoena power. It would be authorized a staff and funds to keep itself informed on the intelligence activities within its jurisdiction to insure effective oversight of the intelligence community.

Effort was made to assure security against divulging unlawful intelligence activities and to protect our national security. Reports on lawful, classified information by this group will be made to the Senate in closed session to determine if such information should be released. The formula for this protection is set forth in sections 6 through 8.

All of the records, files, documents, and other materials held by the Select Committee on Government Operations with Respect to Intelligence Activities will be transferred to this committee.

Section 11 expresses the sense of the Senate as to the responsibility of the departments and agencies of the Government to keep the select committee informed of all developments in intelligence activities by the respective departments and agencies.

Subjects to be studied by the select committee and on which the committee is directed to file a report not later than July 1, 1977, are set forth in section 13. These matters include, among other things, the question of whether a standing committee should be formed and the question of whether a joint committee should be formed, such as the Joint Committee on Atomic Energy. A proposal already has been made in the House to create a joint committee, between the

House and the Senate, on intelligence activities. Funds are authorized in the amount not to exceed \$275,000 through February 28, 1977, paid out of the contingent fund of the Senate.

I submit this compromise to the Senate for its decision and judgment. There is no question in my mind but that all Senators share with me the desire to strengthen and to improve the Government's role in the intelligence field. In that spirit, I submit the compromise for the approval of the Senate. I send to the desk an amendment in the nature of a substitute, to be considered as a substitute for the committee amendment.

In submitting this amendment, the Senate will be given an opportunity to vote on a compromise version between that reported by the Committee on Government Operations and the substitute amendments acted on by the Committee on Rules and Administration.

The compromise would establish a new select committee to be known as the Select Committee on Intelligence. It would be composed of 17 Senators—as now drafted, however, there is some controversy as to the size of the committee, which undoubtedly will be considered on the floor—two each from the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on the Judiciary, and 9 members from the Senate who are not members of these committees. No Senator would be permitted to serve more than 10 years, to be appointed so as to give them a rotating membership with one-third of the members to the greatest extent possible being appointed at the beginning of each Congress. All of the members are to be appointed by the President pro tempore on the recommendations of the majority and minority leaders, after consultation with the respective committee chairmen. The majority and minority leaders will be ex officio members but without a vote.

The chairman and vice chairman are to be elected at the beginning of each Congress by the members of their respective political parties. Senators appointed to this committee will be exempt from the limitations placed on the number of committee assignments to which a Senator is entitled.

A. Armed Services Committee.

On May 13, the day after the "Cannon Compromise" was introduced, the Senate Armed Services Committee held a day of hearings to examine the legislation. The Staff Director of the Committee, T. Edward Braswell, Jr., outlined his understanding of the two provisions of greatest concern to the Committee: (1) the proposed committee would have primary jurisdiction over the CIA, DOD, FBI and State Department intelligence, and (2) authorization by bill or joint resolution would be a condition precedent to an appropriation.

With respect to authorization Mr. Braswell noted that the statute creating the CIA provided a permanent authorization for the Agency. S. Res. 400, however, would give the proposed committee authorization authority which some members felt would reduce the flexibility and security required for intelligence appropriations.

Floyd Riddick, Professional Staff Member of the Committee on Rules and Administration, Parliamentarian Emeritus of the Senate, and a participant in the drafting of the legislation testified that the requirement for an annual authorization was, in the language of the compromise resolution "Subject to the Standing Rules of the Senate". This reference was to Senate Rule XVI which, according to Riddick, would permit an appropriation by resolution or on the motion of any committee "which after one day's reference to the Appropriations Committee could be brought up on the floor to provide funds for a new item not authorized, or to increase an item above (the) authorization that is in the bill. So you retain to the Appropriations

Committee..." added Riddick "the existing authority it has now to bring in funds for any purpose not authorized, not subject to a point of order."

The language "Subject to the Standing Rules of the Senate", stated Riddick could permit an appropriation not subject to approval by the proposed committee. Senator Symington observed that this would permit a "bypass" of the new committee. Riddick noted that this was not the "intent" and stated that if such a bypass were to occur the new committee could then act to prohibit the spending of such funds.

The following colloquy occurred on this point.

Mr. Riddick. My point is, under this as it is written, if there were no additional authorization, and the appropriations committee recommended funds for said purposes, it would not be subject to a point of order on the Senate floor. And therefore the Senate could go ahead and pass that appropriation bill, including those funds.

Mr. Braswell. I guess the issue that Mr. Riddick is making is that if the new select committee chose not to carry out this mandate under the rule in the form of an annual authorization, the action of the Appropriations Committee, the funds would not be subject to a point of order.

Mr. Riddick. That is right.

The Chairman. I think that clears it up.

Senator Nunn. This is such an important point that it seems to me that it is a very bad situation we are in. I am sure that most of the people that are for this substitute, probably part of their premise of being for it would be that they think there is going to be an annual authorization bill. And most of the people who are opposed to it are worried about the particular point for the same reason as those with opposite opinions. And what we are really finding out with it is that it is strictly up to the committee as to whether there is going to be an annual authorization bill or not.

Robert Ellsworth, Deputy Secretary of Defense, testified that the authorization provisions of the resolution would create problems for the Department of Defense in that having separate budgeting procedures for the

House and Senate would (1) impose the extra cost and burden of a double accounting system and (2) magnify the problem of "maintaining confidentiality".

With respect to the language of the resolution on the sequential referral of legislation from the proposed committee to the Armed Services Committee, Senator Taft contended that any such referral would be at the discretion of the Intelligence Committee. Senator Hart stated that his interpretation of the language of Section 4 (a) of the resolution was that referral was mandatory. Senator Taft indicated that he would introduce an amendment to insure mandatory referral.

V. Legislative History of Senate Floor Debate

The purpose of this section is to set forth a record of the debate on S. Res. 400 (Cannon Compromise) as considered and agreed to on the Senate floor, May 12 to 19, 1976. The record which follows takes up in each section of the resolution in turn and consists of:

- (1) the proposed legislation (Cannon Compromise),
- (2) a section-by-section analysis introduced into the RECORD by the floor manager of the resolution, Senator Abraham Ribicoff, and
- (3) other pertinent statements.

This material appeared in the Congressional Record, v. 122, daily edition. The proposed legislation appeared on pages 7083-7085 and the Ribicoff analysis on pages 7087-7089. Page numbers of other statements are cited in brackets after the name of the Senator making the statement.

Section 1. Statement of Purpose

AMENDMENT NO. 1643

S. Res. 400: The Senator from Nevada (Mr. Cannon) (for himself, Mr. Robert C. Byrd, Mr. Mansfield, Mr. Hugh Scott, Mr. Percy, Mr. Hatfield, Mr. Ribicoff, Mr. Church, Mr. Mondale, Mr. Baker, Mr. Cranston, Mr. Philip A. Hart, Mr. Huddleston, Mr. Morgan, Mr. Gary Hart, Mr. Mathias, Mr. Schweiker, Mr. Javits, Mr. Kennedy, Mr. Durkin, Mr. Roth, Mr. Stevenson, Mr. Brooke, Mr. Brock, Mr. Weicker, Mr. Humphrey, Mr. Clark, and Mr. Pell) proposes an amendment in the nature of a substitute; in lieu of the language intended to be substituted by the committee amendment insert the following:

That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

* * *

SENATE RESOLUTION 400 COMPROMISE - SECTION-BY-SECTION ANALYSIS

Ribicoff Analysis: SECTION 1 --STATEMENT OF PURPOSE

This section states that it is the purpose of the resolution to create a new select committee of the Senate with legislative jurisdiction to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government. This section obliges the committee to make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the nations. As the wording of the section suggests, one of the goals of the new committee should be to assure that other members and committees of the Senate receive directly from the agencies all the intelligence analysis they need to fulfill their responsibilities. It is further the purpose of the new committee to provide vigilant oversight of the intelligence activities of the United States

Section 2. Committee Structure

S. Res. 400:

Sec. 2 (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of seventeen members appointed as follows:

- (A) two members from the Committee on Appropriations;
- (B) two members from the Committee on Armed Services;
- (C) two members from the Committee on Foreign Relations;
- (D) two members from the Committee on the Judiciary; and
- (E) nine members from the Senate who are not members of any of the committees named in clauses (A) through (D).

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate after consultation with their chairman and ranking minority member. Five of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

* * *

SECTION 2 --COMMITTEE STRUCTURE

Ribicoff Analysis: Subsection (a) establishes the Select Committee on Intelligence Activities. It provides that the committee will be composed of 9 majority and 8 minority members. Two members will be drawn from each of the following committees: Appropriations, Armed Services, Foreign Relations, and Judiciary Committees. The other 9 members of the new committee may not be members of the above-named four committees.

Clause 2 of this subsection provides that members appointed from each of those four named committees will be evenly divided between the two major political parties and the Senate upon the recommendations of the majority and minority leaders of the Senate, respectively. Five of the remaining 9 at large members will be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and four will be appointed by the President pro tempore upon the recommendation of the minority leader.

The majority leader and minority leader of the Senate are to be ex officio members of the Select Committee but will have no vote on the committee.

On page 2, line 19, strike out "seventeen" and insert "fifteen"; on page 3, line 3, strike out lines 3 through 5 inclusive and insert in lieu thereof "seven members to be appointed from the Senate at large." On page 3, line 12, strike out "five" and insert "four"; on page 3, line 15, strike out "four" and insert "three."

* *
 or Percy: (printed summary)
 7092) -- 1) There is
 established a Select
 committee to be known
 as the Select Committee
 on Intelligence Activities.
 The Select Committee shall
 be composed of 17 members--
 7 members selected at large,
 4 members from the Armed
 Services Committee, 2 members
 from the Foreign Relations
 Committee and 2 members from the
 Judiciary Committee.

The Majority Leader of
 the Senate and the Minority
 Leader shall be ex officio
 members of the Committee and
 shall have no vote.

The members of the
 committee shall be appointed
 by the Majority and Minority
 Leaders of the Senate whose
 names shall be confirmed
 by the respective caucuses.

* *

Senator Cannon and others:
 7274-76)

Mr. CANNON. Mr. President, I send
 an amendment to the desk and ask for
 its immediate consideration.

The PRESIDING OFFICER. The
 amendment will be stated.

The assistant legislative clerk read as
 follows:

The Senator from Nevada (Mr. CANNON)
 proposes an amendment.

Mr. CANNON. Mr. President, I ask
 unanimous consent that further reading
 of the amendment be dispensed with.

The PRESIDING OFFICER. Without
 objection, it is so ordered.

The amendment is as follows:

Mr. CANNON. What this amendment
 does is change the membership of the
 committee from 17 to 15. It leaves the
 basic appointments the same: two mem-
 bers from the Committee on Appropria-
 tions, two members from the Commit-
 tee on Armed Services, two members
 from the Committee from the Commit-
 tee on the Judiciary. Then it says that
 the remaining seven members shall be
 appointed from the Senate at large. The
 manner of appointment is the same, four
 appointed under the clause E by the
 President pro tempore of the Senate
 upon recommendations of the majority
 leader, and three by the President pro
 tempore upon recommendations of the
 minority leader.

Mr. President, first with respect to the
 size of the committee: The Select Com-
 mittee on Intelligence, which did such
 a fine job for us, was composed of 11
 members, and they were able to do their
 job very well. This amendment would re-
 duce the proposal from 17 to 15.

Mr. President, I offer this amendment
 because it proposes to create a select
 committee composed of Senators selected
 on a basis that would not give due rep-
 resentation to the Senators who make up
 the standing committees on Appropria-
 tions, Armed Services, Foreign Relations,
 and the Judiciary. The formula as pro-
 posed in the amendment would allow only
 8 Senators to represent the members-
 ship on those 4 committees which now
 have jurisdiction over the intelligence
 activities of our Government which num-
 ber 61 of the total 100 Senators while 9
 would be appointed from among the other
 39 Senators.

It should be emphasized that a mem-
 bership of 17 tends to make a somewhat
 unwieldy committee. Compare this with
 the Joint Committee on Atomic Energy,
 for example, the most comparable situa-
 tion that we now have. That committee
 has only 18 members consisting of 9 from
 each House.

In the case of the Select Committee on
 Government Operations With Respect to
 Intelligence Activities, it had only a
 membership of 11; only 3 of that 11 were
 not members of the 4 standing commit-
 tees enumerated above. What we propose
 in the pending substitute would prohibit
 the Senate from appointing all of those
 illustrious Senators who made up the
 Senate Select Committee on Intelligence
 Activities which did a job which was so
 highly commended by the Senate. There-
 fore, it would appear to me that we should
 look at this situation very seriously with
 a view that with a smaller membership
 the committee could work more efficiently
 and reduce the possibility of sensitive or
 secret information from being improper-
 ly disclosed at the same time give the
 four standing committees concerned and
 the other Members of the Senate not on
 those committees a more equally bal-
 anced representation.

I point out that even the Joint Com-
 mittee on Atomic Energy, which is the
 joint committee going into investigative
 matters, is composed of only 18 members,
 9 from the Senate and 9 from the House
 of Representatives.

With respect to the other limitation
 provisions that we had in the original
 resolution, it was drafted so that only
 eight members of the committee could be
 from the four committees enumerated
 and nine members would be from the re-
 mainder of the Senate, exclusive of those
 four committees, which meant there
 were 59 Members of the Senate who are
 members of those four committees, so
 59 percent of the Members of the Sen-
 ate would make up eight members of the
 committee and 41 percent of the Senate
 would make up nine members of the
 committee. This gives a more equitable
 balance, but if the leadership in its wis-
 dom should happen to select a Senator
 for that committee who happened to be a
 third person on one of the other commit-
 tees, the leadership would not be pre-
 cluded by law from so doing.

I point out to the Senate that under
 the original language in the substitute,
 as it now exists, there are two members
 of the present Select Committee To Study
 Governmental Operation With Respect
 to Intelligence Activities who could not
 serve or be reappointed to the new com-
 mittee under that type of a ground rule.

I think we have reliance on our major-
 ity and minority leaders; and the
 amendment would remove the prohibi-
 tion, so we would not be in a position
 that we could not appoint, if the leader-
 ship so desired, three members from the
 Committee on Armed Services and three
 from the Committee on Appropriations,
 who served so well on this committee,
 simply because they were the third
 person.

I have cleared this amendment with
 Senator PERCY, Senator RIBICOFF, and
 Senator MANSFIELD.

Mr. RIBICOFF. Mr. President, the
 amendment is acceptable to me. I have
 talked with Senator MANSFIELD, Senator
 PERCY, and Senator CANNON, and it is ac-
 ceptable to them as well.

The PRESIDING OFFICER. The ques-
 tion is on agreeing to the amendment.

Mr. MORGAN. Mr. President, I desire
 to be heard on this amendment.

While I first heard about this proposed
 amendment only a few moments ago, it
 strikes me as an extremely dangerous
 amendment for the effectiveness of the
 resolution.

I do not wish to be the only Senator to
 object, but I feel strongly about this
 situation.

I agree with the distinguished Senator
 from Nevada that a committee of 17
 members is rather large, and while we
 were trying to reach some understanding
 with regard to the resolution I express
 my concern about this amendment, but
 I thought, in order to go along with the
 resolution and to have a resolution con-
 sidered and agreed to, it would be better
 to proceed, accomplish that, and have it
 over with.

But it seems to me that what we are
 doing now is we are giving control of

Intelligence Committee, that is being created for the purpose of oversight of intelligence agencies, back to the same committees that have had the oversight of these intelligence agencies during the period of time when so many of these abuses took place.

One of the compelling arguments for the creation of this committee was the fact that these very committees from which we are now proposing to select the majority, the Committees on Appropriations, Armed Services, Foreign Affairs, and the Judiciary, carry the heaviest load in the Senate, and one of the reasons that was given for the creation of a special committee was to create a committee that would have adequate time to devote to the oversight functions of the committee.

MR. CANNON. Mr. President, will the Senator yield for a question?

MR. MORGAN. I yield.

MR. CANNON. Was the Senator aware of the fact that the Intelligence Committee itself, made up of 11 members, was composed of 8 members from those 4 committees?

MR. MORGAN. I am very well aware of the fact. But the committee was created for a special purpose with an extremely large staff, a much larger staff than we are ever going to have, I certainly hope, in this oversight committee, but as it is set up we would have a majority of Senators from these same four committees that day after day, week after week, month after month, and year after year are going to have the responsibility of supervising legislation concerning the armed forces and the foreign affairs of the United States, and the appropriations, which affect every aspect of Government, including the judiciary, and the affairs of the country.

This does not strike me as being in the best interests of the Oversight Committee.

If we are going to place all the responsibility right back in the hands of those where it has been through all the period of time when the abuses took place, I am not sure we will have been punished very much.

MR. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MR. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Is there objection?

MR. MORGAN. Mr. President, there is no objection.

THE PRESIDING OFFICER. Objection sustained.

The call of the roll was continued.

MR. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

MR. CANNON. Mr. President, I modify my amendment by the addition of the following:

On page 3, line 11, strike commencing with the word "after" to and including the word "and ranking" on line 12.

The PRESIDING OFFICER. The amendment is so modified.

Will the Senator send the modification to the desk?

The modification is as follows:

On page 3, lines 11 and 12, strike the following "after consultation with their chairman and ranking minority member."

MR. CANNON. Mr. President, the part I have just stricken removes the provision limiting the appointment by the majority leader and the appointment by the President pro tempore upon recommendation of the majority and minority leaders, to after consultation with the chairmen and ranking minority members of the four committees concerned.

This gave some members a problem. However, I want to make it clear that we would certainly expect that the majority and minority leaders would consult the chairmen of the respective committees involved before naming Senators to the membership of the committee.

MR. PERCY. Mr. President, will the Senator yield?

MR. CANNON. I yield.

MR. PERCY. The Senator from Illinois addresses this question to the chairman of the Committee on Rules and Administration and to the distinguished majority and minority leaders.

It is the understanding of the Senator from Illinois that it would be the intention of the majority and minority leaders, in the case of membership to be drawn from these four named committees, to consult the chairman and the ranking minority member—not be bound by their judgment, but certainly discuss the issue with them. In the selection of the at-large members, they would make their selection, and then the entire slate would be submitted to the caucus, for the reaction of the caucus, on both the majority and minority sides.

The Senator from Illinois would appreciate a clarification as to how the majority and minority leaders would intend to act under the provisions of this particular section.

MR. HUGH SCOTT. Mr. President, if the Senator will yield, that would run counter to the rules of the Senate and the provision of the law, which require that when appointments are made by the majority and minority leaders, or by the President pro tempore on the recommendation of the majority and minority leaders, that is the way it is done. Therefore, it could not be further limited as the Senator from Illinois suggests.

MR. CANNON. In other words, those appointments are subject to the approval of the Senate as a whole but not required to be approved by the caucus, and there is no provision written into the law with respect to the caucus.

MR. PERCY. Could you clarify as to how the procedure actually is carried out?

MR. CANNON. I would have to yield to the majority and minority leaders to explain their position on that.

MR. HUGH SCOTT. If I may speak for the time I have remaining in this body, it would be obvious, I think, that the minority leader always consults with the ranking minority member. I cannot imagine a future minority leader putting at risk the further hazards of his job by

doing otherwise, and I am sure the majority leader has the same opinion.

MR. PERCY. With respect to those to be drawn at large—

MR. HUGH SCOTT. I am speaking of those to be drawn at large.

MR. PERCY. Then there would be presentation of those names to the—

MR. MANSFIELD. To the full Senate.

MR. HUGH SCOTT. That is in accordance with law.

MR. RIBICOFF. Will the Senator yield?

MR. CANNON. Yes, I yield.

MR. RIBICOFF. It is my understanding and has been my understanding throughout these discussions that the appointing authority ultimately and absolutely rests with the majority and minority leaders. Is that not correct?

MR. CANNON. That is correct.

MR. RIBICOFF. It is expected, as a basis of comity, that the majority and minority leaders will discuss the appointments with the chairmen and ranking minority members of these four committees. Is that not correct?

MR. CANNON. The Senator is correct.

MR. RIBICOFF. But is it not also true that there is no obligation on the part of the majority and minority leaders to take the recommendations of the chairmen and ranking minority members?

MR. CANNON. The Senator is correct.

MR. RIBICOFF. During all these discussions and at the hearings, and, as a matter of fact, questioning Senator MANSFIELD when he appeared before the Committee on Government Operations as to the makeup, Senator MANSFIELD—speaking for himself, of course, and not for Senator SCOTT—pointed out that in making these appointments, he would take into account the makeup of the entire Senate to reflect, for example, the sectional diversity of the Senate, the differences in seniority, and age, and the like. I have the utmost confidence in the appointing discretion of Senator MANSFIELD and his wisdom and judgment. No matter what we write in as formula, I am confident that Senator MANSFIELD and Senator SCOTT on this first committee will see to it that the first appointments to the committee reflect the composition and the philosophy of the entire Senate.

I am sure that whether this committee will be a success or a failure will depend upon the 15 Members chosen by the majority and minority leadership. I am also confident that they will exercise this responsibility to make sure that the Intelligence Committee will do the job it has been intended to do by the legislation before us.

MR. CANNON. I agree completely with the Senator.

I yield to the Senator from North Carolina.

MR. MORGAN. Mr. President, I would have, of course, preferred that the committee remain as it was constituted before, but I do think that the Senator's modification of the amendment makes it more acceptable. It may appear to some to be just a question of semantics, and I certainly agree that no majority leader would make an appointment to this committee from any given one of the four committees without first conferring

with the chairman or the ranking minority member. But it seems to me that when we write it into the statute or into the resolution, it carries an implication that could be drawn from it that it would be mandatory. You and I know that that is not what the language says. What gives me some concern is that, years down the road, after some of us are gone, or most of us are gone, it could be interpreted that way. So with the modification, Mr. President, I think the amendment, as I say, is more acceptable, and I shall vote for it in the interest of trying to get this resolution through, but, I would have to say reluctantly.

Mr. WEICKER. Mr. President, I rise to oppose the amendment. I think it is a bad amendment. I think it is a bad amendment in view of the history that we have before us.

When the compromise was worked out, I think it should be clearly stated that it was between those of us who felt there should be no designation at all from any committee and those who wanted to have a membership which was very heavily from the existing oversight committees. The compromise that was arrived at provided that those existing committees can still be represented in large measure, but there would be a majority in the hands of "outside members."

I do not see where the track record is deserving of any vote of confidence by this body in the existing committees. I am laying it right on the line. The job of oversight has always been within our powers as a body. We have failed to exercise those powers through the various committees responsible for oversight.

We are all human and finite. Nobody wants to say that those committees should not be entrusted with that responsibility, but I see no reason why they, once again, should be put in the driver's seat. They have been in the driver's seat and the track record is an unmitigated disaster.

I could probably guess, from those who are agreeing to this amendment, that it will pass, but I want to voice very strongly my objections to it. I think the initial compromise was a good one for all hands and, yes, I think there ought to be a committee which is controlled, in the main, by those who have not participated previously in the oversight process, but still having the expertise and the knowledge that can be afforded by our colleagues who have been dealing with these subjects over a long period of time.

I do not know if the yeas and nays have been requested on this amendment, but I feel so strongly on this point, that it goes to the essence of this whole matter before the Senate—I must confess I am quite surprised at having to rush in here and find that such a vital point, which is a key part of the negotiation, has just been blithely dealt off.

Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of

the Senator from Nevada, as modified. On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUE), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. HRUSKA) is absent on official business.

The result was announced—yeas 75, nays 17, as follows:

[Rollcall No. 176 Leg.]

YEAS—75

Allen	Hansen	Nunn
Bartlett	Hart, Gary	Packwood
Bayh	Hart, Philip A.	Pastore
Bellmon	Hartke	Pell
Bentsen	Hatfield	Percy
Brock	Helms	Proxmire
Buckley	Hollings	Randolph
Burdick	Huddleston	Ribicoff
Byrd,	Humphrey	Roth
Harry F., Jr.	Jackson	Scott, Hugh
Byrd, Robert C.	Javits	Scott,
Cannon	Johnston	William L.
Case	Leahy	Sparkman
Chiles	Long	Stafford
Church	Magnuson	Stennis
Curtis	Mansfield	Stevens
Dole	McClure	Stevenson
Domenici	McGee	Stone
Eastland	McGovern	Symington
Fannin	McIntyre	Taft
Ford	Metcalf	Talmadge
Garn	Mondale	Thurmond
Glenn	Montoya	Tower
Goldwater	Morgan	Williams
Gravel	Moss	Young
Griffin	Muskie	

NAYS—17

Abourezk	Cranston	Mathias
Beall	Culver	Nelson
Biden	Haakell	Pearson
Brooke	Hathaway	Schweiker
Bumpers	Kennedy	Weicker
Clark	Laxalt	

NOT VOTING—8

Baker	Fong	McClellan
Durkin	Hruska	Tunney
Eagleton	Inouye	

So Mr. CANNON's amendment, as modified, was agreed to.

Section 2 (b and c) Rotation of Members; Chairman

S. Res. 400: (b) No Senator may serve on the select committee for more than nine years of continuous service, exclusive of service by any Senator on such committee during the ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate

* * *

Ribicoff Analysis: Subsection (b) prohibits a Senator from serving on the committee for more than 9 consecutive years. It is expected that in each Congress approximately one-third of the 17-member committee will be new members.

This section also provides that, at the beginning of each Congress, the members of the full Senate who are members of the majority party will select a chairman and the minority members of the full Senate will select a vice chairman. The resolution expressly provides that neither the chairman nor the vice chairman may serve at the same time as a chairman or ranking minority member of any other permanent committee. The vice chairman is to act in the place of the chairman in the chairman's absence.

* * *

Senator Percy (printed summary)
(p. 7092)

The committee will be a bipartisan committee with nine members from the majority and eight members from the minority. The majority members of the Senate shall select the chairman for the Select Committee and the minority members of the Senate shall select the vice chairman for the committee.

Service in the Select Committee shall not count against a member's service on any other committee. In other words, this is an add-on committee.

2) The members of the Select Committee shall rotate with the maximum term being 9 years of membership on the committee; 1/3 of the committee will rotate each 3 years. The staff shall be permanent with no rotation.

Senator Ribicoff and
others:
(p. 7089)

Mr. RIBICOFF. Mr. President, I wish to make just one inquiry of the distinguished Senator from Nevada. In setting forth his understanding of the compromise proposal, I do not know whether it was just a slip of the tongue, but he mentioned the fact that there would be a limit of 10 years on the terms that Senators would serve. I have had the understanding that we had agreed on a 9-year term.

Mr. CANNON. Yes, we agreed in our meeting on 9 years. In working with the staff, the suggestion was made on the part of some of the staff members, and it was, I understand, cleared with staff members all around, that it would be better if it went either 8 or 10 so that it coincided with the terms of a particular Congress and we would not have a change in the middle of a Congress. That was reported back to me as having been cleared by staff members. I did say 10 deliberately and put that in the bill as a result of that discussion. I have no feeling for whether it is 8 or 10, but I think it makes sense to have it one or the other, rather than the 9-year term which we had discussed.

Mr. RIBICOFF. I understand the position of the Senator. The only thing is that our staff was not informed and Senator Percy and I heard it here for the first time. I am sure that before the bill is decided on, we shall have opportunity to discuss this during the next day or so and clarify it. I did want to call attention to the fact that the Senator's description of the bill is accurate, with that minor discrepancy.

Mr. PERCY. Will the Senator yield to me?

Mr. RIBICOFF. Yes.

Mr. PERCY. The Senator from Connecticut and I have confirmed with the acting majority leader (Mr. ROBERT C. BYRD) that 9 years was the agreement. But the Senator from Illinois would like Senator CANNON to know that if changing in the middle of a Congress does present a problem, and it certainly is a factor that we had not considered, the Senator from Illinois will be very pleased to change it to 8 years, but not 10. The Senator from Illinois preferred the 6-year period but receded in order to reach the compromise.

Mr. CANNON. Nine years was the figure we agreed on. It was drafted that way. But when the suggestions came back to me from staff, from discussion, after meetings by some staff with both the majority and minority members, that we ought to go to 10 or 8, I felt that would pose no problem. I am perfectly willing to go to 9. It does not pose any problem as far as I am concerned, but it may be better to go 8 or 10 rather than 9 because of the break in Congress.

Mr. RIBICOFF. I just wanted to clarify the record and some time tomorrow. I am sure we can straighten out that difference.

Mr. PERCY. If the Senator will yield further, because the distinguished Senator put in a compromise cosponsored by so many who attended that meeting, perhaps it would be best to leave that figure at nine, which did represent the agreement at that time. Then obviously, we

can change it to 8 or 10, as the Senate desires.

Mr. CANNON. The Senator makes a good point. I thought it had been cleared with all people.

Mr. President, I ask unanimous consent that where the figure 10 is inserted for the figure 9, it be changed to the figure 9.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

* * *

Senator Percy and others:

(p. 7271)

Mr. Percy. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. Percy) proposes an amendment on page 3, line 24, strike "nine" and insert "eight".

Mr. Percy. Mr. President, the amendment would simply do this: Under the agreement that had been reached in the compromise amendment, every member assigned to this committee would serve for a term of no longer than 9 years. Members of the staff pointed out to the distinguished chairman of the Committee on Rules and Administration that a 9-year maximum term would require the interruption of a Congress and that it would be better to have an even number of years. Therefore, the purpose of the present amendment is to reduce the maximum number of years that any Senator can serve on the Intelligence Oversight Committee from 9 to 8 years. Obviously, it could be 10. The Senator from Illinois prefers 8. I so offer this amendment.

I understand that it has the acceptance of the chairman of the Committee on Government Operations, the manager of the bill, and that the distinguished Senator from Nevada, the chairman of the Committee on Rules and Administration, may wish to comment on it. It was the impression of the Senator from Illinois that he concurred, as I do, with 8 or 10 years.

Mr. CANNON. Mr. President, I have no problem with the proposal. I do think it is better to have 8 to 10 than it is the 9-year period of limitation, because it would coincide with terms of Congress.

Mr. RIBICOFF. Mr. President, I accept the amendment of the Senator from Illinois as the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

* * *

Section 2 (d): Senate Rule XXV

S. Res. 400

(d) For the purposes of paragraph 6 (a) of rule XXV of the Standing Rules for the Senate, service of a Senator as a member of the select committee shall not be taken into account

* * *

Ribicoff Analysis:

Subsection (d) provides that membership on the new intelligence committee will not be taken into account for purposes of determining the number of committees a Senator may serve on. A Senator need not give up a seat on another committee in order to serve on the new intelligence committee.

Senator Taft and others:

(p. 7408-11) Mr. TAFT. Mr. President, we have before us amendment No. 1645 to the substitute

An aspect of Senate Resolution 400 that disturbs me greatly is the stipulation that the Select Committee on Intelligence be, in essence, a "B" committee with members limited to an 8-year term of service on the committee.

In fact, as every Senator knows, "B" committees do not always receive the attention from their members which they might deserve. This is fully understandable in terms of the severe constraint on time faced by every Member of the Senate. In recognition of this fact, we usually designate as a "B" committee those committees responsible for areas which, while vital are perhaps not as vital as certain other areas.

Extending this logic, by designating the select committee as a "B" committee, we state that its area of concern is not as vital as a number of other areas, and that it is recognized that members may not be able to give its committee business as much attention as they would like to. Can we do this in regard to the area of national intelligence? I strongly suggest we cannot. It is clear to me that national intelligence is one of the most critical areas for which the Congress has some responsibility.

In fact, is it not contradictory that the increasing awareness of the importance of the intelligence community has brought us to consider a bill, which implies strongly, by designating the proposed committee as a "B" committee, that the subject in question is comparatively a less important one? I do not think this aspect of the proposed legislation can be considered at all satisfactory or acceptable.

Mr. President, Members, particularly those with the greatest abilities, may tend to seek to avoid such a committee assignment because it is an uncompensated add-on to their primary committee responsibilities. Can we afford to have this committee regarded by the Membership as one of the "dogs," so to speak as far as committee assignments are concerned? Given the tremendously important nature of the national intelligence function, I do not believe we can afford that.

Merely doing the authorized housekeeping work annually, in itself, in my opinion, has to be a very considerable burden upon all Senators who serve on the committee, regardless of the continuing oversight functions which that

committee would be called upon to exercise continually. Not as any particular point in the calendar year, I emphasize to the Senate, but throughout the entire calendar year this intelligence committee would have a responsibility for its oversight function. The experience we have had would indicate that that oversight should continue on a very active basis at all times.

Mr. President, what about those diligent Senators who really become involved with the work of the select committee, as we would hope and expect. Will we not have a situation where other senatorial committee assignments and other necessary work will suffer because of the time and effort devoted to the select committee by such Senators?

Mr. President, this situation is unfair to Senators who rightfully assume responsibilities for work on the select committee as well as to those Senators who must, by virtue of time limitations, pick up the slack created on regular committee assignments.

We want our very best people to serve on this committee, if such a committee is established; and we want them to be motivated to devote their full attention to it. We must provide for an accommodation between the current requirements imposed by section 6(a) of rule XXV and the realities of our demanding work in the Senate in all areas. My amendment, No. 1645, would integrate the select committee into the normal functional work structure of the Senate and thereby recognize the realities of providing for a realistic opportunity to do our very best in this most critical area.

I shall mention one other danger I see involved here. I see it involved in any case, but I think it is multiplied by the approach we are taking with respect to permitting this committee to be an add-on, select, or "B" committee, whatever one wishes to call it. That is the propensity that already exists in many of these areas of Senators to rely on their committee staffs very heavily. That is likely to be magnified in this particular area. What we have here, very possibly, is the building up of a staff of so-called intelligence experts in this area who, unless the Senators have the time, in view of their other committee assignments, to devote a great deal of attention to the work of the committee, are going to become the actual, functional working committee. Instead of having one or more agencies in the executive branch with the final word in the intelligence field, I think we are very likely to see it centralized, as we have it in this committee, in the staff of this committee—a power in itself within the Senate but not subject to as much oversight or control as there should be and really becoming the dominant force in the intelligence activities of the United States.

For all these reasons, my feeling is that it would be far wiser if we, at the very outset, began by regarding this as a "B" committee or a select committee that under rule XXV would have the same requirements as to a limitation on membership as the other "B" and select and joint committees of the Senate have under the second sentence of rule XXV.

For that reason, I recommend the adoption of this amendment.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, the compromise substitute as presently written allows a Senator to serve on the new intelligence committee in addition to any other committee on which he already serves.

The amendment offered by Senator TAFT would change this. It would bar a member of the select committee from also serving on any other "B" committee. Paragraph 6(a) of rule 25 places in the category of "B" committees the following committees:

District of Columbia, Post Office and Civil Service, Rules and Administration, Veterans' Affairs, any permanent select or special committee, any joint committee of the Congress except the Joint Committees on the Library and Printing.

If the amendment offered by Senator TAFT was adopted, any Member going on the new intelligence committee would have to give up his present membership on any of these "B" committees.

The problem with the amendment offered by Senator TAFT is that it will make it more difficult to find a suitable cross-section of the Senate to serve on the committee.

Only 23 Members of the Senate are not now members of a B committee. Of the 40 Senators from whom the 7 at-large Members must be drawn, only 7 are not already on a "B" committee. Thus, it is clear that to get a true cross-section of the Senate, and meet the other membership requirements of the resolution, the leadership will have to find Senators now on other "B" committees willing to give up their present committee assignments.

This may be difficult if the proposed wording were approved in light of the provision in the resolution for rotating membership.

It will be difficult to get a Senator to give up his chance of seniority on another "B" committee to go on the new committee for more than 8 years. At the end of this period, he will have to start all over again on another "B" committee.

The proposed amendment will affect especially hard those Senators initially appointed to the committee who must get off the committee after only 4 years, in order to start the rotation process. These Senators may have to give up all their seniority on another committee to serve just 4 years on the new committee. It could very well be hard to find a Senator willing to do that.

The members of the present Select Committee on Intelligence were able to conduct their work on this committee as an add-on committee on top of all other committee assignments. Members of the new permanent committee could do so also.

It would seem to me that even without the proposed wording, the leadership could certainly take into account the overall problems of a Senator's other obligations in trying to find Senators to serve on the new select committee.

Consequently, and for these reasons, Mr. President, I oppose the amendment offered by the distinguished Senator from Ohio.

Mr. TAFT. I wonder if the distinguished Senator would yield for a moment for a question?

Mr. RIBICOFF. I am pleased to yield.

Mr. TAFT. I should like to know the rationale by which the committee arrived at the decision or the framework for the compromise which subsequently arrived at the decision to have an 8-year limitation on the term. I have not offered an amendment to strike that, but it does seem to me it raises exactly the same point. The Senator, indeed, has made the same point himself. What is that having a committee of this limited length seems to me to militate against members choosing it as a committee on which they want to serve and, thereby, downgrading the committee. If you know you are only going to be on it for 8 years, you cannot build up seniority on it as you might on another committee, and it seems to me you would think a long time before you would agree to go on this committee.

Is the Senator firm and are the compromisers firm in feeling that they want to keep the 8-year limitation of membership?

Mr. RIBICOFF. The Committee on Government Operations at first suggested only a 6-year term. It was our feeling that we wanted to make sure that the Senators on this committee would not get a vested interest in the intelligence community and find themselves apologists for the intelligence apparatus instead of doing their oversight job. When we sat in Senator MANSFIELD's office to try to work out a compromise between the proposals of the Committee on Rules and the Committee on Government Operations, the point was raised by Senator CANNON that he felt that it should be a longer term of years in order to give the members of this committee the necessary special knowledge and insights. Consequently, it was raised to 9 years.

When we started to think about the 9-year term, it became obvious that certain members would have to get off in the middle of a term, and, consequently, an amendment was offered on the floor changing it to 8 years. I think there is a basic wisdom in making sure that no member stays on this committee too long, and thereby loses his interest, becomes indifferent to the problems and an apologist for the intelligence community. That was the rationale behind limiting the term.

I say respectfully to the Senator from Ohio that I have a degree of sympathy for his point of view. It is my feeling that this committee is going to have a lot of hard work to do. It is my feeling that this committee is going to take a considerable amount of a member's time. We have before us a Senate resolution setting up a group of Senators to look over the entire committee structure. I believe they have to report back in the next session of Congress. At that time, the whole alignment of "A" and "B" committee will be gone into. At such time, the select committee will be in place.

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Consequently, and for these reasons, Mr. President, I oppose the amendment offered by the distinguished Senator from Ohio.

Mr. TAFT. I wonder if the distinguished Senator would yield for a moment for a question?

Mr. RIBICOFF. I am pleased to yield.

Mr. TAFT. I should like to know the rationale by which the committee arrived at the decision or the framework for the compromise which subsequently arrived at the decision to have an 8-year limitation on the term. I have not offered an amendment to strike that, but it does seem to me it raises exactly the same point. The Senator, indeed, has made the same point himself. That is that having a committee of this limited length seems to me to militate against members choosing it as a committee on which they want to serve and, thereby, downgrading the committee. If you know you are only going to be on it for 8 years, you cannot build up seniority on it as you might on another committee, and it seems to me you would think a long time before you would agree to go on this committee.

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Mr. RIBICOFF. The Committee on Government Operations at first suggested only a 6-year term. It was our feeling that we wanted to make sure that the Senators on this committee would not get a vested interest in the intelligence community and find themselves apologists for the intelligence apparatus instead of doing their oversight job. When we sat in Senator MANSFIELD's office to try to work out a compromise between the proposals of the Committee on Rules and the Committee on Government Operations, the point was raised by Senator CANNON that he felt that it should be a longer term of years in order to give the members of this committee the necessary special knowledge and insights. Consequently, it was raised to 9 years.

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I say frankly, I do not seek a place on this committee. If I were a member of

modify the amendment, and I send the modification to the desk.

The **PRESIDING OFFICER**. The modification will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) modifies his amendment to read as follows:

On page 4, line 18, strike lines 18-21 and substitute in lieu thereof:

"(d) Paragraph 6 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

(1) For purposes of the second sentence of subparagraph (a) membership on the Select Committee on Intelligence shall not be taken into account until that date occurring during the first session of the Ninety-Sixth Congress, upon which the appointment of the majority and minority party members of the standing Committee of the Senate is initially completed."

The **PRESIDING OFFICER**. The amendment is so modified.

Mr. **RIBICOFF**. Mr. President, I will have to oppose the modified amendment for the same reasons previously stated.

Mr. **TAFT**. Mr. President, it is my intention to call for the yeas and nays on the amendment, as modified, and I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **TAFT**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **TAFT**. Mr. President, I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **TAFT**. Mr. President, I yield back the remainder of my time.

Mr. **RIBICOFF**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Ohio, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **MANSFIELD**. Mr. President on this vote I have a pair with the distinguished Senator from Iowa (Mr. CULVER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." Therefore, I withhold my vote.

The **PRESIDING OFFICER**. The clerk will suspend. Let us have order in the Chamber. Will Senators please clear the well? Senators will please take their seats or return to the cloakroom.

Mr. **NELSON**. Mr. President, there is still not order in the Chamber.

The **PRESIDING OFFICER**. The point of the Senator from Wisconsin is well made. The well is not clear. Will Senators please take their seats? Let us have order in the Chamber. The clerk will suspend until we have order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. **ROBERT C. BYRD**. I announce

that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), the Senator from Wyoming (Mr. MCGEE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. **GRIFFIN**. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 38, nays 50, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—38

Allen	Haskell	Randolph
Bartlett	Hruska	Roth
Bellmon	Kennedy	Schweiker
Bentsen	Laxalt	Scott, Hugh
Biden	Leahy	Scott,
Brock	McClure	William L.
Curtis	Metcalf	Stafford
Dole	Moss	Stevens
Eastland	Nelson	Stone
Fannin	Packwood	Taft
Garn	Pastore	Thurmond
Griffin	Pell	Tower
Hansen	Proxmire	Young

NAYS—50

Abouresk	Glenn	McIntyre
Beall	Gravel	Mondale
Buckley	Hart, Gary	Montoya
Bumpers	Hartke	Morgan
Burdick	Hatfield	Muskie
Byrd, Robert C.	Hathaway	Nunn
Cannon	Hollings	Pearson
Case	Huddleston	Percy
Chiles	Humphrey	Ribicoff
Church	Jackson	Sparkman
Clark	Javits	Stennis
Cranston	Johnston	Stevenson
Domenici	Long	Symington
Durkin	Magnuson	TAMadge
Eagleton	Mathias	Weicker
Fong	McClellan	Williams
Ford	McGovern	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—11

Baker	Culver	McGee
Bayh	Goldwater	Tunney
Brooke	Hart, Philip A.	
Byrd,	Helms	
Harry F., Jr.	Inouye	

So Mr. TAFT's amendment, as modified, was rejected.

Section 3(a) Jurisdiction

S. Res. 400:

Sec. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence .

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C): and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

* * *

SECTION 3 --JURISDICTION

Ribicoff Analysis: This section defines the new committee's jurisdiction. Subsection (a) gives the committee legislative jurisdiction over the Central Intelligence, as well as over the intelligence activities of all other departments and agencies of the Government. These other agencies and departments include, but are not limited to, the intelligence activities of the Department of Defense, including the Defense Intelligence Agency, and the National Security Agency, and the intelligence activities of the Departments of State, Justice, and Treasury. The jurisdiction includes legislation reorganizing the intelligence community.

Subsection 3(a) also specifies that the intelligence committee will have jurisdiction over authorizations of budget authority for the chief intelligence agencies in the government; the Central Intelligence Agency; the intelligence activities of the Department of Defense (including the Defense Intelligence Agency and the National Security Agency); the intelligence activities of the Department of State; and the intelligence activities of the Federal Bureau of Investigation, specifically, all activities of the Bureau's Intelligence Division. The committee will continue to have jurisdiction over these parts of the intelligence community even if they are transferred to successor agencies.

Senator Church: The resolution now before the Senate provides that the oversight committee would have sole jurisdiction over the CIA, and concurrent jurisdiction over the NSA, the DIA, the "national intelligence" components in the Department of Defense budget, and the intelligence portions of the FBI. The Select Committee, over the past 15 months, has found that these agencies have worked so closely together, that unless there is the clear ability to look at all of them, oversight cannot be effectively carried out. The pending resolution would not exclude committees with existing jurisdictions over particular elements of the intelligence community that fall within their larger oversight duties. Obviously, it is necessary for the Armed Services Committee to know the requirements and, to some extent, the activities of the NSA and the DIA to be sure that the Department of Defense's activities are of a piece. On the other hand, the bulk of activities of the CIA, a civilian agency, are not concerned with military matters and require a different oversight focus than is now the case. For a variety of reasons, the counterintelligence activities of the FBI have not been the subject of adequate oversight in the past. The new oversight committee would create a new jurisdiction, which would bring together all these disparate elements of the national intelligence community which are now scattered among several Senate committees and some functions which are not covered by any committee.

Senator Kennedy: Mr. President, I would also like to point out for the record that while the Rules Committee report on Senate Resolution 400 contains what are called "recommendations of the Committee on the Judiciary," 7 of the 15 members of that committee dissented from those recommendations. Those 7 members joined in a letter to the Rules Committee, which was not reflected in its report, urging that the new Intelligence Committee retain concurrent legislative jurisdiction over FBI intelligence activities.

* * *

Senators Ribicoff and Nunn:

(pp. 7539-40) MR. NUNN.

I really have three separate lines of questioning, but I will start with the question of whether or not there is anything in the pending substitute to Senate Resolution 400 which would require public disclosure in any form of the amount spent on intelligence.

Mr. RIBICOFF. No. Senate Resolution 400 creates a new committee and defines its jurisdiction. It does not try to decide the important issue whether the intelligence budget should be disclosed publicly, and, if so, in what form. The new committee is encouraged by section 13(a) (8) to study this issue. I would expect the full Senate to give this difficult issue full consideration after the new committee submits any recommendations it may have on the matter no later than next July 1.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Another question along that line:

When the select committee reports an authorization bill for intelligence funds, how will the full Senate then consider the matter, assuming that the Senate has decided to continue to keep these figures secret?

Mr. RIBICOFF. If the Senate decided to continue to keep the overall figures secret, the process could work this way:

In the case of authorizations for defense-related intelligence activities, any bill reported by the new committee would be sequentially referred to the Armed Services Committee. As in the case of sequential referral of other legislation, there would be no need for full Senate debate prior to this sequential referral. The authorization figure would then be disguised in the DOD authorization bill approved by the Armed Services Committee, as is the case now.

In the case of an annual authorization for the CIA, after the select committee approves an authorization, I would expect that the figure would be disguised in some other authorization measure.

Mr. NUNN. I thank the Senator. I think that is extremely important, and clarifies a point that has been of considerable concern to the Senator from Georgia and I think many other Senators.

Another question along the same line: How would the new committee bring a matter involving the intelligence authorization figure to the attention of the full Senate, assuming the figures are still secret?

Mr. RIBICOFF. In that event, the Senate could invoke the same procedure for a secret session now available to the Senate. Under rule XXXV, the Senate could go into closed session and debate the matter in secrecy, just as they could debate the intelligence budget now in secret session.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on appropriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resolution 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Service Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Mr. NUNN. I thank the Senator. I have another line of questioning on this point: Under present law, the Committee on Armed Services has authorizing jurisdiction over all of the military personnel and all of the civilian personnel in the Department of Defense. The manpower requirements report indicates that there are 42,000 military personnel, 9,500 civilians, and 5,300 reservists in the overall manpower authorization for fiscal year

1976 for the intelligence and security category.

My question is, With the new Intelligence Committee having authorizing jurisdiction over Defense Department intelligence, how would the two committees handle the manpower authorization which relates to Defense Department personnel in general, but also includes intelligence personnel?

Mr. RIBICOFF. Let me respond to the distinguished Senator from Georgia and the distinguished Senators from Mississippi and North Dakota, who are so deeply involved in such matters: This is the type of situation where, in my opinion, it would first go to the Armed Services Committee and then, sequentially, to the Intelligence Committee. You would come first, in my opinion, where the bill is a general Defense Department manpower bill.

The Armed Services Committee would continue to have exclusive jurisdiction over all aspects of the legislation except for the portion affecting national intelligence. The portion of the legislation affecting national intelligence would be reviewed by both the Committee on Armed Services and the new committee, under section 3. It would be up to the new committee and the Armed Services Committee to work out the details on the procedure for actual consideration by both committees of the intelligence portion of this bill.

Mr. STENNIS. Mr. President, will the Senator yield to me and let me intervene on that same point?

If the Senator will yield, I appreciate the suggestion of the Senator from Connecticut, but the bill, as I understand it, provides to the contrary, that it would go to the Intelligence Committee first. Senators will understand that our hearings on manpower start in the fall of the year, before the budget even comes in.

Mr. RIBICOFF. Well, basically it is up to the Parliamentarian, in a sequential referral, on the basis of what is in the bill. If it is basically armed services, it goes to the Committee on Armed Services first. If it is basically intelligence, it goes to Intelligence first. It is my personal interpretation that if it provided for overall manpower, covering the entire Department of Defense, common-sense would dictate—and, of course, the Parliamentarian is the final judge—that that would go to armed services first.

The PRESIDING OFFICER (Mr. ALLEN). The allotted time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

It would go to Armed Services first, because intelligence would be only a part of the overall Department of Defense manpower authorization.

Then out of that would be carved out only the intelligence portion, which would then be referred sequentially to the Intelligence Committee.

May I say for the benefit of the Senate that it is my feeling that there are a lot of gray areas in this legislation. It is impossible to answer all the questions. We are going to have to work it out between all the committees and the In-

telligence Committee. All the interested committees will have to exercise a great deal of commonsense.

I would say much will depend upon the quality of that 15-member committee. Also, I think it should be pointed out that the reason why we have a resolution, and the advantage of the resolution, is that a resolution does not bind the executive branch. If this is to work, we will have to have comity between the executive branch and the Senate of the United States. I personally believe that the greatest problem America has today in the matter of foreign policy is not our problem with foreign governments or our prospective opponents, but the divisions between the executive branch and the legislative branch. I think the greatest problem we suffer as a nation in the field of foreign policy is the conflict, we have gone through in the last few years between the executive and legislative branches of the Government in the whole field of foreign policy.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

Here is an opportunity for the Senate and the executive branch to work closely together with the Intelligence Committee, to work out the problems of broad policy, for the executive branch to gain a sense of what the Senate is going to do, and what the sentiment of the Senate is. I can think of no greater blow to the executive branch in our foreign policy than to find our Nation embarrassed over a matter like Angola. If the executive branch had gone before a committee like the Intelligence Committee and had obtained the sense of this 15-member committee that it just would not fly, it would never have developed into such a matter of conflict, to the embarrassment of our Nation.

I have confidence in the majority and minority leaders, that the men they will choose will make this committee work in a way that benefits the Senate and the United States.

Mr. NUNN. Mr. President, may I ask one further question on that manpower matter?

Mr. RIBICOFF. I yield.

Mr. NUNN. It is my interpretation, from what the Senator from Connecticut has said, that the overall manpower authorization, as it is now, would be submitted to the Armed Services Committee, the Armed Services Committee would act on that manpower request, just as it acts on other requests, and then the portion of the manpower proposal dealing with intelligence would be referred to the intelligence committee for their review. Is that correct?

Mr. RIBICOFF. That is the way I interpret it.

Mr. NUNN. If there were a difference between, say, what the Committee on Armed Services authorized in terms of manpower and what the intelligence community authorized in terms of manpower how would that difference be brought to the Chamber?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I know the Senate would resolve it. But how would it be brought to the Chamber?

Mr. RIBICOFF. Mr. President, I yield myself 1 additional minute.

I suppose the Senate would have to resolve this as they resolve all other conflicts. There is no difference. The Senate eventually is going to decide, and they will have to make that decision. But again, looking at the makeup of the committee, with eight members coming from basic committees and seven from the remainder of the Senate, and the Committee on Armed Services being well represented by two members, personally I do not think we are going to have any problems. I do not think we are going to be that jealous or that shortsighted in this body.

Mr. NUNN. I thank the Senator from Connecticut.

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Senators Tower, Stennis and others:

(p. 7533-55) The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment offered by the Senator from Texas (Mr. Tower) and the Senator from Mississippi (Mr. Stennis), with a time limitation of 3 hours thereon, and with a vote thereon to occur at 2 p.m.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower), for himself, Mr. Stennis, Mr. Goldwater and Mr. Thurmond, proposes an amendment numbered 1649.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. Who has control of the time in favor of the time in opposition?

The PRESIDENT pro tempore. Senators Ribicoff and Stennis are in control of the time.

The amendment is as follows:

On page 5 strike out paragraphs (2) and (3) of section 3(a) of the amendment and insert in lieu thereof the following:

"(2) Intelligence activities of all other departments and agencies of the Government except the Defense Intelligence Agency, the National Security Agency, and other agencies and subdivisions of the Department of Defense.

"(3) The organization or reorganization of any department or agency of the Government, other than the Department of Defense, to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

Strike out clauses (B), (C), and (D) of paragraph (4) of section 3(a) of the amendment and redesignate clauses (E) and (F) as clauses (B) and (C), respectively.

Strike out clause (G) of paragraph (4) of section 3(a) of the amendment and insert in lieu thereof the following:

"(D) Any department, agency, or subdivision which is the successor to the agency named in clause (A); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in clause (B) or (C), to the extent the activities of such successor department, agency, or subdivision are described in clause (B) or (C)."

Strike out the period in section 4(c) and insert in lieu thereof "as specified in section 3(a)."

Strike out clauses (2), (3), and (4) of section 12 and redesignate clauses (5) and (6) as clauses (2) and (3), respectively.

Mr. TOWER. Mr. President, I ask unanimous consent that I may have control of the time, in the absence of Mr. Stennis.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, as a result of the investigation conducted by the Senate Select Committee on Intelligence Activities, there is one inescapable lesson that we in the Senate should have learned about the intelligence community—that is, that the entire community is a complex, fragile, and essential asset to the security of the United States.

While the committee's investigation revealed many abuses that occurred over the years, it also showed that such abuses were the exception rather than the rule in our intelligence agencies, and that more often than not the abuses that did occur were initiated by politicians who had authority over the agencies rather than by the agencies themselves. While the results of the select committee's investigation makes it clear that changes should be made in the manner in which Congress monitors the activities of the intelligence agencies, I feel that creation of a select committee on intelligence with legislative and authorization authority is the wrong way to do this.

Yesterday, my distinguished colleague, the Senator from Illinois (Mr. Percy), stated that he felt that the Department of Defense and all of the intelligence agencies should be subjected to oversight by one group of Senators who have the entire intelligence picture. While I do not totally agree that unified and centralized oversight is essential, I am certain that to give such an oversight committee the legislative and authorization

authority for appropriations would be a serious mistake. This is true, especially of the Department of Defense, where intelligence and the defense, generally, is so inextricably bound together.

Also, in the Department of Defense, tactical and national intelligence are impossible of separation; for what, in peacetime, is apparently purely tactical information, may certainly, in times of crisis or high tension, be of great national importance. In testimony before the select committee, as well as the Senate Armed Services Committee, it was revealed that the DCI, who is responsible for the national intelligence budget, as well as Defense officials, found it almost impossible and inconceivable to separate these two areas.

For the Senate to attempt in haste to separate a major part of the Defense intelligence budget from the committee with principal intelligence responsibility for the defense generally, will, in my opinion, create grave risk to the national security. This position is supported by the recent testimony of Deputy Secretary of Defense for Intelligence, Ellsworth, who, before the Armed Services Committee, on Thursday last, stated:

We operate our intelligence responsibility in a somewhat different world from the CIA or the FBI. We operate in an extremely highly technological world, which with our facilities is very sensitive and very delicate. And that is the basis for our first concern—from the standpoint of maintaining the overall confidentiality of our sensitive and expensive military and defense intelligence sources and methods and—you know what I mean, particularly our most modern collection systems. The visibility that is created by separate budget process would entail, as we see it, grave risk. That is our first concern about the creation of a committee with the authorization for appropriations jurisdiction over these matters.

Mr. President, I think that few Members of the Senate realize that section 12 of Senate Resolution 400 would, in its present form, require a separate bill or joint resolution to authorize appropriations for the various agencies and departments involved in intelligence activities. I am concerned that this section would create unworkable problems regarding public disclosure of the intelligence budgets of the intelligence agencies and departments. For instance, the highly classified activities of the National Security Agency, if revealed in such fashion to enemy intelligence forces could be disastrous to one of our most important national intelligence assets.

For these and other very important reasons, which will be discussed more fully by the distinguished chairman of the Committee on Armed Services and the distinguished ranking member of that committee, we urge the Senate to support this amendment.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CULVER). The Senator will state it.

Mr. STENNIS. Who has control of time on the bill?

The PRESIDING OFFICER. Under the previous order, 3 hours are allotted for debate, and the time is to be equally

divided between the Senator from Mississippi and the Senator from Texas and the opponents of the amendment.

Mr. STENNIS. Three hours for the so-called Tower-Stennis amendment?

The PRESIDING OFFICER. That is correct—equally divided, and the vote to occur at 2 p.m.

Mr. STENNIS. Mr. President, if I am in control of the time, I yield 10 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I support this amendment, but I shall speak in general about the proposed legislation.

While I believe we need more responsible oversight of all of our intelligence agencies, I just cannot support this Senate bill, which would set up a committee of this size, with an almost unlimited staff.

This new committee would have oversight jurisdiction of all our intelligence agencies, including the Federal Bureau of Investigation, FBI; Central Intelligence Agency, CIA; National Security Agency, NSA; the Defense Intelligence Agency, DIA; and other minor intelligence organizations.

My major reason for opposing this bill is the excessive number of members of the committee and the size of its staff.

The bill would establish a committee of 15 members, with practically no limit on the number of staff members.

Mr. President, as one who has long dealt with intelligence matters, as a member of the Senate Appropriations Subcommittee on Intelligence Operations, I have always felt there was no possible way to prevent leaks of the most sensitive and top secret information if you have a large committee and a big staff.

While our Appropriations Subcommittee does not have oversight responsibility, we do have the responsibility of getting all the information possible regarding CIA, DIA, NSA, and other intelligence operations, to justify the money being requested.

This Appropriations Subcommittee for years has been composed of only five Senators, and we have two staff members.

I think it is fair to say that almost every Senator who has served on this subcommittee felt that, because of the very sensitive information we must deal with, it should be a small committee. Most Members would be very reluctant or would even decline to serve on a committee with a much larger membership and an unlimited staff.

It is my understanding that on this new committee, the staff would have access to the most sensitive information. Mr. President, human nature is such that when too many people are given access to this sensitive, interesting information, someone is bound to leak parts or all of it to an ambitious and inquisitive press.

The press people who concentrate on the business of intelligence are uncanny in their ability to piece together bits of information here and there and come up with a pretty accurate story.

The Senate Select Intelligence Committee, which has been holding hearings for nearly a year and a half, has done a considerable amount of good. They have

disclosed some things that need to be covered. I cannot help but feel, however, that far too much information has been disclosed, especially as to how our intelligence agencies such as the CIA operate in foreign countries.

These disclosures have very adversely affected the operation of our intelligence system. They have seriously damaged our intelligence agencies in foreign countries. The best example is the disclosure that Richard Welch was our top CIA agent in Greece. Shortly after he was identified as a CIA agent, he was murdered.

Examples such as this cannot help but demoralize the spirit and dedication of other CIA agents, especially those operating in hostile foreign countries.

If the Soviet Union conducted similar investigations into their KGB operations and made public all the inside operations of their spy agencies, such information would be most valuable to us. To acquire this kind of information, we would have to spend hundreds of millions of dollars.

Mr. President, intelligence plays a tremendously important role not only in the security of this Nation, but it makes possible a very large saving in military expenditures.

The more we know about what the Soviet Union or any other potential enemy is doing militarily, especially in the development of new weapons, the better we are able to determine what countermeasures we should take.

Constant surveillance by our intelligence satellites gives us accurate information as to almost every phase of foreign military activities, including troop movements and the deployment of missiles.

The present Senate Select Intelligence Committee, during its year and a half of operation, composed of 11 members, did its utmost to do a good job and try to prevent leaks of highly classified information.

The very size of this committee, however, along with its more than 70 staff members, made it just impossible to prevent very damaging leaks.

Mr. President, let me give one example of how important it is to keep some sensitive information top secret.

During World War II, when we developed the atomic bomb—as far as I am able to ascertain—not more than five Members of Congress were aware of the nearly \$4 billion we secretly diverted into the development of the atomic bomb. This was one of the best kept secrets in our history. Had Hitler's Germany known early what we were doing, they might well have produced an atomic bomb before we did. They had the know-how.

Thus, world history, as we know it today, would have been changed.

With a 15-member Intelligence Committee and a staff of 60 or more having access to our top secrets of Government, no such projects involving our national security, such as the development of the atomic bomb, could ever again be realized.

Mr. President, I would favor a joint Senate-House intelligence oversight com-

mittee dealing with all intelligence matters, but I would want it to be a relatively small committee with a very limited staff. This is the kind of legislation I would support.

Mr. President, I cannot vote for this bill but I hope and pray that history will be wrong.

Mr. WEICKER. Will the distinguished prove my concern and apprehensions to Senator from North Dakota yield for a question, and I shall be glad to have it on our time.

Mr. STENNIS. Yes.

Mr. YOUNG. Yes, I yield.

Mr. WEICKER. I wonder if the distinguished Senator would tell me and my colleagues who divulged the information on Richard Welch? I ask the question since this has become a focal point as to whether or not Congress can be trusted with this type of oversight function. I would like to have the question answered: Who divulged that information? Did anybody in the Congress or any congressional committee divulge it?

Mr. YOUNG. I think it was directly associated with the investigation at that time.

Mr. WEICKER. No, I am afraid I am not going to let that point go unanswered, because it was used, as I say, as a focal point to turn around this whole investigation. It was not as the result of any information coming from the Congress of the United States. It was divulged by a foreign periodical. That is the very simple fact of the matter.

Mr. YOUNG. That he was a member of the CIA was published at the time of the CIA hearing and I do not think the Senator would deny that through the investigations, most people know how these intelligence agencies operate now.

Mr. MONDALE. Will the Senator yield just on that one point which the Senator from Connecticut raises?

Mr. WEICKER. Yes.

Mr. MONDALE. We never had Mr. Welch's name because we never wanted it. We never asked for any names of any foreign operatives, because it was not necessary to our investigation and we did not want it. In fact, the record discloses, as we looked into it later, that the CIA had urged Welch not to move into that house, because it had been known in the community that that house had been the residence of the previous head of the CIA in Greece. So when we look into the record, our committee and the House committee had absolutely nothing to do with the tragedy concerning Mr. Welch.

Mr. YOUNG. Did not the members of that committee and more than 70 staff members have access to all of this kind of information?

Mr. MONDALE. No, because we were very careful never to ask that kind of information, because we had anticipated that kind of problem.

For example, we often let CIA officials come in and testify under pseudonyms. We did not want to know their names. It was not important to our work. What we wanted to know were issues that went to the question of accountability and control.

Mr. HUDDLESTON. Will the Senator yield at that point?

Mr. YOUNG. I yield to the Senator from Mississippi first.

Mr. STENNIS. Mr. President, a parliamentary inquiry, if the Senator will yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. I understand that this comes on the time, now, of the other side?

The PRESIDING OFFICER. That is correct.

Mr. RIBICOFF. I yield some on our side.

Mr. HUDDLESTON. As a Member of the Senate committee that investigated our intelligence operations, I want to confirm what the distinguished Senator from Minnesota and the Senator from Connecticut have indicated regarding the tragic death of Richard Welch. I do this only because this matter has been brought up several times and has been used to try to denigrate the activity of the committee and the need for the oversight committee.

As Senator Mondale said, the investigating committee did not seek and did not have the identity of Mr. Welch. One further point that should be made is that it has never been established that the revelation of his identity had anything at all to do with that unfortunate occurrence. I think this matter should be put in proper perspective and that Members of the Senate should realize that that unfortunate occurrence really had no relationship to what we are discussing here today. As a matter of fact, proper oversight may very well help to eliminate or at least diminish prospects that situations similar to that of Richard Welch will occur again.

Mr. YOUNG. I am pleased to know that the committee feels there was no such leak. But the point I am trying to make is that there is no possible way to have a large intelligence committee with a staff of 60 or 70 and not have very damaging leaks such as this.

Mr. STENNIS. Mr. President, I yield myself 12 minutes. I agree to the alternating of speakers side to side, as far as that is concerned, but I do want to make these few remarks now.

Mr. President, I want to make clear that I have nothing except compliments for the select committee, the members of the special intelligence committee who have been investigating these matters. I not only assume, but I believe they acted in good faith. There are no charges to be made, by inference or otherwise.

Mr. President, we are dealing today with a problem that is not one of individuals; we are dealing with a major part of our foreign policy. We can simplify all of this greatly by just withdrawing and surrendering our position in international affairs. But if we are going to continue in the role of a world power, which I do not think we can abandon, we are going to have to have intelligence and we are going to have to adopt special rules and make concessions to handle it. That is what was done with the passage of the original CIA Act.

It was put into operation by the respective congressional committees on a kind of general understanding. The

Senator from North Dakota has been a part of that for some years, as have the Chairman of the Committees on Appropriations, Armed Services, and Foreign Relations, and others. It has been a special setup.

It was not perfect by any means. We cannot legislate an arrangement here today, or any day, that is perfect. But we did, by common consent, realize this had to be handled in a special way.

Now, this amendment, Mr. President, which we propose does not touch the CIA. It does not change the Cannon resolution as to what you are going to do about the CIA. It does not undertake anything of that kind to limit the new committee in its investigative oversight power, including power with respect to what I should call strictly military intelligence.

Having tried to state what it does not do, I want to refer now to what this amendment does do. But at the very threshold of this whole problem I want to say I do not think we can ever have a system that will work unless it jibes with and coordinates with the system of the House of Representatives. We are talking about legislation, dealing with legislative affairs, authorizations, appropriations, debates and sessions, and reports and staff work. All of those things we cannot possibly operate independently of the other body. Somewhere along the line this plan, however well motivated, will fail, I think, because it lacks that essential threshold requirement.

I have said before that a joint committee of the House and the Senate, a special joint committee, was, I thought, the route to go if we were going to have a special committee, and I believe we will have to come back to that.

What does this amendment do? It passes up all these matters that I have mentioned and merely takes out of the Cannon resolution as written now the matter of legislation and funds for the DIA and the NSA and other groups in the Department of Defense and within the services. Those items, under this amendment, would not have to go through this budget process. They would not have to be authorized as we use that term in legislation. I am one who favors authorizations, generally. But under this amendment funds for those strictly military operations would be excepted. They would not have to go through the process of authorization where the amount of money and the amount of manpower become involved. Now, these are the key points, gentlemen: An authorization, the amount of money, the amount of manpower, not only in totality but for some of these major divisions would have to be set forth and be binding on this body once the authorization process has been met as required by the resolution. It would be binding on this body in open or secret session, and then be binding on the Appropriations Committee and binding on this body when the appropriations bill came back for passage.

I am talking about the Department of Defense appropriation bill. The authorization will not be binding on the House of Representatives, not binding on their

committees, not binding on their representatives at the conference that it has always had on the Defense appropriation bill. Now, that is the basic condition that this resolution, whatever its virtues may be, does not solve. It creates this additional fatal defect, I respectfully say, that will keep this system, as proposed, from working.

Our amendment merely undertakes to take out of that process this authorization.

Now, just a word on this. By and large over the years the real foreign intelligence has been highly valuable to our Nation. The military intelligence has been highly valuable, and in all the things the select committee found—and I am ashamed of a lot of those facts—there was not much, Mr. President, that was attributable to the military services.

I do not come here to defend them. I just say it is a fact that, according to your record a very small percent of the wrongdoing, the evil things that were uncovered, were attributable to the services. There you have that military chain of command, there you have the military discipline, and I pray God we will always have that discipline; there you have their pride of service and responsibility.

Anyway, the part of this operation this amendment covers is limited solely to the armed services, and there are certainly not a great deal, a great number of things evil, in all of this proof that can be attributed to them. There are no dirty tricks that they pulled. They just were not in on these matters, except in a slight degree, and that was under some special orders more or less from the Presidents of the United States during unrest and turmoil and high uncertainty.

If I may just relate this incident, talking about uncertainty, I was on my way to Capitol Hill one morning, driving my own car. Down there, very near the White House I was literally stopped, bodily stopped, and these organized groups threw a blanket over my windshield so that it was impossible to move forward.

Well, I had the presence of mind enough to know that I had better stay in the car rather than get out, but they had effectively stopped the operation of the Government so far as one Member of this body was concerned, and that is what their purpose was. I think maybe it was some of that group, the then President had had some of the military looking in on, trying to find out their motives. I know the group was successful, and this body could not have convened that day had all Senators suffered the fate that I had suffered.

I was finally released. By whom? By one of their own, one of their own group, one of the group which was stopping the operations of the government, who came up there and pushed the others out of the way and said, "This is a damned shame." He pulled that blanket away and told me to drive forward. Well, I persuaded them to let me drive backward. But I got out.

That is just a little of the atmosphere prevailing here when some of these activities might have been carried on where some part of the army got a little over

the line. But of the evil about which we are also concerned, not much of it is attributable to this group.

If we have to make up a budget and any committee has to go through the process, the ordinary budget process, and bring an authorization in here and argue it, debate it, and then another committee, Appropriations, has to take it and operate under it and come back, and then if the Appropriations Committee goes over the line items subject to a point of order, all the debate back and forth could be day after day and time after time, and that is where some information will get out. I do not accuse anyone of intentionally leaking or telling anything, but it will get out. It is inevitable. It has before and it will now.

Then when we would go to the conference on the proposed authorization bill the other side is not bound by it anyway.

What kind of disclosure am I talking about?

Our friend here has already mentioned the Manhattan project that brought us the atomic bomb. I was not here then.

I refer to the U-2 which was the aircraft which became known as "the spy in the sky."

I can say on my responsibility that the activities of that group saved us billions of dollars by giving us information that caused us not to make mistakes as to the kind of weaponry we would build; I suggest that literally saved us billions of dollars.

I pass on to another. Take the efforts to raise the Soviet submarine. That went on over a period of 4 years.

By the way, I do not want to be a member of any new committee, whatever form it will be. I have been through, I believe, my share of sleepless hours about these projects.

For over 4 years we were on the verge there of getting from that sunken submarine a regular mine of information, to learn about codes and many, many other things. If there had ever been suspicion—no one had to tell it to kill it, if there had ever been suspicion—that we were carrying on that activity, that would have been the end of it because they would, naturally, have come in, and we would have had to go away.

It finally fell through for other reasons, as we know.

These are not imaginations, these are actual facts of life.

I do not support the resolution as a whole because of the defect I described in the beginning. I beg, beg even, because it is so important, that Senators reconsider the matter. Let us put in this amendment so as to have a special category.

THE PRESIDING OFFICER (Mr. NUNN). The Senator's 3 minutes have expired.

Mr. STENNIS. One minute.

Put in a special category on these highly important, necessary, unusually sensitive items, and just say as a fact of life that they cannot go through the ordinary process. We will find another way to be effective, because the budget

process, the authorization, the debates, and the point of order just cannot apply.

Mr. President, how much time is there on this amendment?

The PRESIDING OFFICER. Fifty-nine minutes.

Mr. STENNIS. I thank the Chair.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, I yield myself 10 minutes.

Mr. President, this amendment would deny the new committee any legislative, authorization, or oversight jurisdiction over the intelligence activities of the Department of Defense.

It would fundamentally alter the compromise language offered by Senator CANNON last Wednesday.

I must strongly oppose this proposed amendment.

The new committee must have concurrent legislative and authorization jurisdiction over the national intelligence activities of the Department of Defense for the following reasons:

The Department of Defense is the Nation's primary collector of intelligence information. It controls 80-90 percent of the Nation's spending on national intelligence programs, and most technical collection systems are developed, targeted, or operated by Department of Defense personnel. The Department also supplies a great deal of information to nonmilitary intelligence agencies. It provides critical information of national security policymakers on a multitude of issues including strategic arms limitations and peace in the Middle East.

Accordingly, the executive branch treats the DOD intelligence activities as an integral part of the entire national intelligence community. For example, in February, the President charged a new committee on Foreign Intelligence, chaired by the Director of Central Intelligence, with responsibility for overseeing and coordinating the Government's entire national foreign intelligence program, including DOD's intelligence program.

If the new committee did not have jurisdiction over the defense intelligence agencies, it would be denied jurisdiction over most of the intelligence community.

It is very important to achieve the proper relationship between the civilian intelligence agencies and the military intelligence agencies. The two different types of agencies must work closely together to assure as accurate and unbiased intelligence as possible for use by all military and civilian decisionmakers. It would be difficult to achieve this goal if responsibility in Congress for the intelligence community was split up so that one committee was responsible for the civilian intelligence agencies and one the military intelligence agencies.

The Department of Defense has an enormous technological capability that could be used to violate the rights of American citizens. Past disclosures of wrongdoing have included the DOD as well as the FBI, CIA, and other agencies. For example, the select committee has pointed to the following abuses:

First, Millions of private telegrams sent from, to, or through the United States were obtained by the National Sec-

urity Agency from 1947 to 1975 under a secret arrangement with three U.S. telegraph companies.

Second, An estimated 100,000 Americans were the subjects of U.S. Army intelligence files created between the mid-1960's and 1971.

Third, Army intelligence maintained files on Congressmen because of their participation in peaceful political meetings under surveillance by army agents.

Fourth, As part of their effort to collect information which related even remotely to people or groups in communities which had the potential for civil disorder, army intelligence agencies took such steps as: sending agents to a Halloween party for elementary school children in Washington, D.C. because they suspected a local dissident might be present; monitoring protest of welfare mothers' organizations in Milwaukee; infiltrating a coalition of church youth groups in Colorado, and sending agents to a priests' conference in Washington, D.C. held to discuss birth control measures.

Fifth, Army intelligence officers opened the private mail of American civilians in West Berlin and West Germany.

Sixth, The military joined other intelligence agencies in drafting the so-called Huston plan in 1970, and later participated in the Intelligence Evaluation Committee, an interdepartmental committee established by the Justice Department to analyze domestic intelligence information.

Just this past weekend the select committee released a 49-page report describing in detail abuses by the Defense Department intelligence activities. It describes how the DOD collected information about the political activities of private citizens and private organizations, monitored radio transmissions in the United States, investigated civilian groups considered threats to the military, and assisted law enforcement agencies in surveillance of private citizens and organizations.

The same expertise gained by the new committee through oversight of the CIA and FBI could and should be used to oversee the DOD's intelligence activities so that civil liberties are protected.

A committee with the necessary resources must closely examine the DOD intelligence agencies to avoid duplication and inefficiency and assure the best intelligence possible. The Defense Department spends billions on intelligence. Yet the Deputy Secretary of Defense, Mr. Ellsworth, testified before the Government Operations Committee in January that—

The problem that we have had with the Defense Intelligence Agency, as I see, is the same problem that we have generally with all intelligence in this Nation. That is, there are weaknesses in the quality of analysis and estimates that our intelligence community provides to us.

I do not think that there is anyone in the intelligence community that would take issue with that.

Our objective is, as far as the DIA is concerned, to very substantially improve the quality of the analysis and estimates that the DIA produces for the Secretary of Defense and the Joint Chiefs of Staff.

If we cannot achieve that objective, then we have got to think of some other way of structuring defense intelligence activity so that we can improve the quality of the finished intelligence product.

Problems with DIA exist despite the fact that DIA's problems have been recognized for a number of years. In 1970, the Fitzhugh report, containing the conclusions of a blue ribbon defense panel organized by the executive branch, criticized DIA's performance, concluding that "the principal problems of the DIA can be summarized as too many jobs and too many masters."

In order to avoid waste and duplication, and improve the quality of intelligence generally, the intelligence committee must have an overview of all national intelligence activities. It must be able to make choices between programs within and outside of DOD and to make changes in the way all the agencies operate and are organized. Without authority over DOD's national intelligence activities, the new intelligence committee's jurisdiction would be incomplete in a crucial respect.

The pending substitute to Senate Resolution 400 recognizes that, to be effective, the new committee must have legislative and authorization authority over the intelligence activities of the Defense Department. At the same time, it is written in such a way to protect fully the interest of the Armed Services Committee in intelligence matters.

Under section 3(b) the Armed Services Committee will share with the new committee legislative and authorization authority over bills involving DOD intelligence. Any legislation, including authorizations, reported by the new committee and involving DOD intelligence activities will be sequentially referred to the Armed Services Committee upon request of its chairman.

Section 3(c) of the resolution assures the Armed Services Committee the right to continue to investigate the national intelligence functions of DOD in order to make sure that the intelligence agencies are providing DOD the intelligence it must have to operate effectively.

Section 3(d) provides that the Armed Services Committee will continue to receive directly from all intelligence agencies the intelligence it must have to continue to carry out its other responsibilities. One of the responsibilities of the new committee will be in fact to make sure that the intelligence agencies are promptly providing the other committees of Congress the information they should have.

Section 4(a) requires the new committee to promptly call to the attention of other committees, such as the Armed Services Committee, any matters deemed by the select committee to require the immediate attention of such other committees. Section 8(c) provides the new select committee with the authority and responsibility to adopt regulations that will permit it to share sensitive information with other committees in a way that will protect the confidentiality of the information.

To assure that there is close cooperation between the new committee and the Armed Services Committee, the substi-

tute reserves two seats on the committee for members of the Armed Services Committee.

The substitute does not give the new committee any legislative, authorization, or oversight responsibility for tactical intelligence. Responsibility for this type of intelligence will remain solely within the jurisdiction of the Armed Services Committee.

The new committee will only have jurisdiction over that portion of DOD's intelligence activities which provides national intelligence that DOD, the State Department, the President, and others in the executive branch need to make broad national policy decisions. The definition of intelligence in section 14(a) of the substitute to Senate Resolution 400 specifically excludes from the committee's jurisdiction tactical foreign military intelligence. The new committee will not have jurisdiction over tactical intelligence which seeks to meet the more specific technical interests of the weapons developers and field commanders.

As a practical matter, the national intelligence portion of the DOD budget may be authorized by the new committee, in conjunction with the Armed Services Committee, apart from the rest of the DOD budget.

The distinction between national and tactical intelligence is an accepted one in the executive branch.

The Defense Department already prepares a consolidated defense intelligence program which includes expenditures for intelligence of the type covered by this resolution, but excludes "intelligence related activities which belong in the combat force and other major programs which they are designed to support." The Director of Central Intelligence already prepares a national intelligence budget. Indeed, President Ford's recent executive order gives the executive branch's Committee on Foreign Intelligence—CFI—headed by the Director of Central Intelligence, responsibility to control "budget preparation and resource allocation" for the national foreign intelligence program. The President's directive provides, however, that the Committee on Foreign Intelligence will not have responsibility for tactical intelligence.

The final report of the Church Committee on Foreign Military Intelligence similarly indicates that it also was able to separate national from tactical intelligence and to arrive at separate figures for each.

Distinction between the different types of intelligence are in fact already being made for Congress by the Department of Defense as part of the budgetary process.

In September 1975 the chairman of the House Appropriations Committee wrote the Secretary of Defense as follows:

The committee is concerned about apparent attempts to lessen the visibility of intelligence funding. Therefore, the committee directs that the 1977 budget presentations include manpower and dollar amounts for intelligence, direct support, and intelligence-related activities.

The committee insists that the total cost of intelligence be presented to the Congress, and by requiring submission of justifications for these programs the committee hopes to assure the accomplishment of this goal.

Mr. Ellsworth testified before the Government Operations Committee concerning this letter that,

The Defense Department and agencies are following this directive and are supplying to the committee a thorough justification of intelligence and intelligence-related activities in the fiscal year 1977 budget.

Mr. Ellsworth indicated that in the material being prepared for the House Appropriations Committee, the Defense Department was in fact attempting to distinguish between tactical and national intelligence despite, his testimony that the distinctions were difficult to make precisely.

In discussing Senate Resolution 400 before the Armed Services Committee last Thursday, Mr. Ellsworth did not argue that it was impossible to authorize separately the type of national intelligence activities covered by Senate Resolution 400.

There may be gray areas where it is difficult to decide whether a particular activity belongs to tactical or national intelligence. It may take the new committee several years to finally settle, in consultation with other interested committees and the executive branch, the precise dimensions of the budget.

But these technical budgetary issues can be removed. The Comptroller General wrote the House select committee November 10, that—

Once the Congress has outlined the activities which it wants identified and reported in the intelligence budget, it will be possible to establish guidelines for the executive branch to follow in developing and submitting the budget.

The responsible committees of Congress have every right to know as exactly as possible how much DOD spends on intelligence. To the extent that this information is not available now, it should be one of the first jobs of the new committee to work with the executive branch to make sure it is available in the future.

The fact that it may take some study and work to settle all the questions is no reason to deny the new committee the crucial authorization power it must have to exercise effective oversight.

In summary, the proposed substitute to Senate Resolution 400 will assure the Armed Services the ability to have access to intelligence information; and the ability to consider legislation, including authorization legislation, involving DOD intelligence. The resolution creates a new committee that can work with the Armed Services Committee in this area so that the time-consuming and difficult work necessary to oversee the intelligence committee will not have to fall on the Armed Services Committee alone.

Mr. TOWER. Will the Senator yield for a question?

Mr. RIBICOFF. I am pleased to yield.

Mr. TOWER. I would like to suggest to the Senator from Connecticut that the Stennis-Tower amendment does not touch the question of oversight, only the question of legislation. It is addressed only to the legislative section of the resolution and not on the question of oversight.

It does not take away the authority for oversight on the part of the new select committee.

Mr. RIBICOFF. That may be true.

Mr. TOWER. The power to subpoena or what have you.

Mr. RIBICOFF. But in order to do this job, and do it properly, we do believe that it is important that the new committee share with the Armed Services Committee the legislative functions involved, and I believe that this can be done. It should be kept in mind that we have provided for sequential review in such cases by both committees.

What puzzles the Senator from Connecticut is the hesitancy by the Armed Services Committees to really trust the remainder of the Senate in this way.

It has been provided in the Cannon substitute that 8 members of this committee will be taken from Armed Services, Foreign Relations, Appropriations, and Judiciary.

These are four committees that in the past have had jurisdiction—legislative jurisdiction, oversight jurisdiction, of the intelligence community.

What we are doing is adding seven more members to the committee, four from the majority and three from the minority. These seven men will be chosen by the majority and minority leaders. I, for one, have complete confidence and trust in the majority and minority leaders. My feeling is that these seven men will represent a cross section of the Senate, especially the younger men of the Senate, who have just as much of a stake, and whose integrity I have just as much confidence in, as I do the eight members from the other committees.

I have high respect for the distinguished Senator from Mississippi. There is not another Member of this 100, may I say to the Senator from Mississippi, for whom I have a higher respect and higher regard. I think the Senator from Mississippi appreciates that from the past experiences we both have had. I have complete faith in him.

On the other hand, I think the Senator from Mississippi and the Senator from Texas should realize that there are other Members who have arrived in recent years, some of the most able Members this body has ever had, and who are as deeply concerned and as deeply committed as the senior Members of this body.

Consequently, I think it is absolutely necessary, in order to have the complete support and complete confidence of the Senate in basic decisions that will be made in the future, that the committee have 15 members, with 7 members chosen from the Senate at large and 8 from Appropriations, Judiciary, Foreign Relations, and Armed Services.

Mr. President, at this time, on my time, I would like to accord the distinguished Senator from Georgia a colloquy on some problems that are bothering him as a member of the Armed Services Committee. I think the colloquy will clarify some of the questions that other members of the Armed Services Committee do have.

Mr. NUNN. I thank the Senator from Connecticut. I express my gratitude and appreciation as a Member of the Senate to the Senator from Connecticut and the Senator from Illinois, on the Government Operations Committee, and to the

Senator from Nevada and the Senator from West Virginia, on the Rules Committee, for all the diligent work which has gone into this.

I really have three separate lines of questioning, but I will start with the question of whether or not there is anything in the pending substitute to Senate Resolution 400 which would require public disclosure in any form of the amount spent on intelligence.

Mr. RIBICOFF. No. Senate Resolution 400 creates a new committee and defines its jurisdiction. It does not try to decide the important issue whether the intelligence budget should be disclosed publicly, and, if so, in what form. The new committee is encouraged by section 13(a) (8) to study this issue. I would expect the full Senate to give this difficult issue full consideration after the new committee submits any recommendations it may have on the matter no later than next July 1.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Another question along that line:

When the select committee reports an authorization bill for intelligence funds, how will the full Senate then consider the matter, assuming that the Senate has decided to continue to keep these figures secret?

Mr. RIBICOFF. If the Senate decided to continue to keep the overall figures secret, the process could work this way:

In the case of authorizations for defense-related intelligence activities, any bill reported by the new committee would be sequentially referred to the Armed Services Committee. As in the case of sequential referral of other legislation, there would be no need for full Senate debate prior to this sequential referral. The authorization figure would then be disguised in the DOD authorization bill approved by the Armed Services Committee, as is the case now.

In the case of an annual authorization for the CIA, after the select committee approves an authorization, I would expect that the figure would be disguised in some other authorization measure.

Mr. NUNN. I thank the Senator. I think that is extremely important, and clarifies a point that has been of considerable concern to the Senator from Georgia and I think many other Senators.

Another question along the same line: How would the new committee bring a matter involving the intelligence authorization figure to the attention of the full Senate, assuming the figures are still secret?

Mr. RIBICOFF. In that event, the Senate could invoke the same procedure for a secret session now available to the Senate. Under rule XXXV, the Senate could go into closed session and debate the matter in secrecy, just as they could debate the intelligence budget now in secret session.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on appropriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resolution 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Services Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Mr. NUNN. I thank the Senator. I have another line of questioning on this point: Under present law, the Committee on Armed Services has authorizing jurisdiction over all of the military personnel and all of the civilian personnel in the Department of Defense. The manpower requirements report indicates that there are 42,000 military personnel, 9,500 civilians, and 5,300 reservists in the overall manpower authorization for fiscal year

1976 for the intelligence and security category.

My question is, With the new Intelligence Committee having authorizing jurisdiction over Defense Department intelligence, how would the two committees handle the manpower authorization which relates to Defense Department personnel in general, but also includes intelligence personnel?

Mr. RIBICOFF. Let me respond to the distinguished Senator from Georgia and the distinguished Senators from Mississippi and North Dakota, who are so deeply involved in such matters: This is the type of situation where, in my opinion, it would first go to the Armed Services Committee and then, sequentially, to the Intelligence Committee. You would come first, in my opinion, where the bill is a general Defense Department manpower bill.

The Armed Services Committee would continue to have exclusive jurisdiction over all aspects of the legislation except for the portion affecting national intelligence. The portion of the legislation affecting national intelligence would be reviewed by both the Committee on Armed Services and the new committee, under section 3. It would be up to the new committee and the Armed Services Committee to work out the details on the procedure for actual consideration by both committees of the intelligence portion of this bill.

Mr. STENNIS. Mr. President, will the Senator yield to me and let me intervene on that same point?

If the Senator will yield, I appreciate the suggestion of the Senator from Connecticut, but the bill, as I understand it, provides to the contrary, that it would go to the Intelligence Committee first. Senators will understand that our hearings on manpower start in the fall of the year, before the budget even comes in.

Mr. RIBICOFF. Well, basically it is up to the Parliamentarian, in a sequential referral, on the basis of what is in the bill. If it is basically armed services, it goes to the Committee on Armed Services first. If it is basically intelligence, it goes to Intelligence first. It is my personal interpretation that if it provided for overall manpower, covering the entire Department of Defense, common sense would dictate—and, of course, the Parliamentarian is the final judge—that that would go to armed services first.

The PRESIDING OFFICER (Mr. ALLEN). The allotted time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

It would go to Armed Services first, because intelligence would be only a part of the overall Department of Defense manpower authorization.

Then out of that would be carved out only the intelligence portion, which would then be referred sequentially to the Intelligence Committee.

May I say for the benefit of the Senate that it is my feeling that there are a lot of gray areas in this legislation. It is impossible to answer all the questions. We are going to have to work it out between all the committees and the In-

Intelligence Committee. All the interested committees will have to exercise a great deal of commonsense.

I would say much will depend upon the quality of that 15-member committee. Also, I think it should be pointed out that the reason why we have a resolution, and the advantage of the resolution, is that a resolution does not bind the executive branch. If this is to work, we will have to have comity between the executive branch and the Senate of the United States. I personally believe that the greatest problem America has today in the matter of foreign policy is not our problem with foreign governments or our prospective opponents, but the divisions between the executive branch and the legislative branch. I think the greatest problem we suffer as a nation in the field of foreign policy is the conflict, we have gone through in the last few years between the executive and legislative branches of the Government in the whole field of foreign policy.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

Here is an opportunity for the Senate and the executive branch to work closely together with the Intelligence Committee, to work out the problems of broad policy, for the executive branch to gain a sense of what the Senate is going to do, and what the sentiment of the Senate is. I can think of no greater blow to the executive branch in our foreign policy than to find our Nation embarrassed over a matter like Angola. If the executive branch had gone before a committee like the Intelligence Committee and had obtained the sense of this 15-member committee that it just would not fly, it would never have developed into such a matter of conflict, to the embarrassment of our Nation.

I have confidence in the majority and minority leaders, that the men they will choose will make this committee work in a way that benefits the Senate and the United States.

Mr. NUNN. Mr. President, may I ask one further question on that manpower matter?

Mr. RIBICOFF. I yield.

Mr. NUNN. It is my interpretation, from what the Senator from Connecticut has said, that the overall manpower authorization, as it is now, would be submitted to the Armed Services Committee, the Armed Services Committee would act on that manpower request, just as it acts on other requests, and then the portion of the manpower proposal dealing with intelligence would be referred to the intelligence committee for their review. Is that correct?

Mr. RIBICOFF. That is the way I interpret it.

Mr. NUNN. If there were a difference between, say, what the Committee on Armed Services authorized in terms of manpower and what the intelligence community authorized in terms of manpower how would that difference be brought to the Chamber?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I know the Senate would resolve it. But how would it be brought to the Chamber?

Mr. RIBICOFF. Mr. President, I yield myself 1 additional minute.

I suppose the Senate would have to resolve this as they resolve all other conflicts. There is no difference. The Senate eventually is going to decide, and they will have to make that decision. But again, looking at the makeup of the committee, with eight members coming from basic committees and seven from the remainder of the Senate, and the Committee on Armed Services being well represented by two members, personally I do not think we are going to have any problems. I do not think we are going to be that jealous or that shortsighted in this body.

Mr. NUNN. I thank the Senator from Connecticut.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the distinguished Senator from Nevada, after which I yield to the Senator from Illinois.

The PRESIDING OFFICER. How much time is yielded?

Mr. CANNON. Will the Senator yield me 1 minute?

Mr. RIBICOFF. I yield the Senator 1 minute.

Mr. CANNON. Mr. President, on May 17, 1976, the hearings on Senate Resolution 400, having been concluded, the director of the National Legislative Commission of the American Legion, desiring to express its attitude toward Senate Resolution 400, sent me a letter setting forth a resolution adopted by the National Executive Committee of the American Legion on reaffirming "the American Legion support for a viable intelligence community." In light of the colloquy, just preceded, between Senator NUNN and Senator RIBICOFF, I think it appropriate at this point, and I, therefore, ask unanimous consent that the letter and resolution be printed in the RECORD.

There being no objection, the letter and resolution were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., May 17, 1976.

HON. HOWARD W. CANNON,
Chairman, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: It is my understanding that a floor vote to invoke cloture on S. Res. 400, to establish a Standing Committee of the Senate Intelligence Activities, will occur later this week.

The National Executive Committee of The American Legion recently met in Indianapolis, Indiana and adopted the enclosed resolution (Foreign Relations Res. No. 23) reaffirming our strong support for a viable intelligence community.

Mr. Chairman, the Legion hopes that you will keep our views and recommendations in mind when the measure is considered by the full Senate.

Your attention to this request is appreciated.

Sincerely,

MYLRO S. KRAJA,
Director, National Legislative Commission.

Resolution No. 23.

Committee: Foreign Relations.

Subject: Reaffirm American Legion support for a viable intelligence community.

Whereas, credible intelligence operations are indispensable to any nation's security and deterrence; and

Whereas, there is presently a massive and sustained attack on the American intelligence community which has the effect of discrediting all intelligence operations; and

Whereas, these continuing attacks have already seriously impaired the functioning of the CIA, hampering the collection of worthwhile intelligence by the Central Intelligence Agency, and the CIA is also experiencing great difficulty in gaining cooperation from some foreign intelligence agencies; and

Whereas, without credible intelligence operations, the United States becomes a blinded warrior incapable of insuring even its own survival; and

Whereas, at a time when America's intelligence community has been seriously impaired, the KGB has expanded to an estimated 300,000 agents, domestic and abroad, with close cooperation from intelligence services which it has trained in Romania, Hungary, Cuba and other nations; and

Whereas, leaks of legitimately classified information with profound impact on our national security have become commonplace; and

Whereas, no Congressional oversight of the intelligence community will be effective in the absence of specific statutes concerning the leakage of classified information which effects our national security; and

Whereas, the British Official Secrets Act of 1911, as amended by the Official Secrets Act of 1920, has effectively safeguarded classified information without infringement on civil rights in a free and democratic society; and

Whereas, the U.S. Supreme Court recognized the need for safeguarding classified information in the New York Times publication case when Justices Stewart and White concurred that "it is clear . . . that it is the constitutional duty of the executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense;" and

Whereas, it is obvious that executive orders and regulations alone can no longer control the unauthorized release of classified information; and

Whereas, the U.S. Congress faced and responded to similar situations, namely the enactment of 50 U.S.C. 783(b), 18 U.S.C. 798 and the Atomic Energy Act; and

Whereas, in the Scarbeck case, the Court of Appeals of the District of Columbia pointed out that the Congress fully intended to permit a prosecution without violating the same national security that 50 U.S.C. 783(b) was designed to protect; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 5-6, 1976, that we reaffirm our support for a viable intelligence community which adequately advises the U.S. Congress of its major activities and one which operates within the current statutes and safeguards; and, be it further

Resolved, that we support enactment of federal legislation which would clarify and strengthen the safeguarding of classified information, and would provide formidable penalties for violation of its provisions; and, be it further

Resolved, that this legislation must recognize fully the spirit of the Scarbeck case, namely that prosecution under the act should not violate the same national security that the statute was designed to protect; and, be it further

Resolved, that this legislation should clearly prohibit the classification of information which does not effect the national security of the United States.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent-request?

Mr. RIBICOFF. I had yielded to the Senator from Illinois.

Mr. PERCY. Mr. President, I am happy to yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Douglas Racine and Herbert Jolovitz of my office staff be accorded privilege of the floor during consideration and votes on Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the Senator from Connecticut wishes to have a 3-minute colloquy and ask a few questions at this point. The Senator from Illinois wishes about 10 minutes sometime before 1 p.m. I think we have held the floor, and the proponents of the amendment may wish to have time now.

I am happy to defer my comments until afterwards, depending on the wishes of the Senator from Mississippi.

Mr. RIBICOFF. Mr. President, I yield to the distinguished ranking minority member as much time as he wishes.

Mr. MUSKIE. Mr. President, will the Senator yield me 3 minutes?

Mr. RIBICOFF. I yield 3 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I have a more complete statement covering my support of the compromise resolution, but in light of the colloquy which has taken place between the distinguished Senator from Georgia (Mr. NUNN) and the distinguished floor manager of the bill, part of which related to the budget process, I shall make some brief observations on it from that point of view.

Mr. President, I rise and support the establishment of a new Senate committee with legislative jurisdiction over the national intelligence community.

Senate Resolution 400, as favorably reported by the Committee on Government Operations, would have created such a permanent committee. The substitute reported by the Committee on Rules and Administration would not have established the kind of committee that the times demand. The compromise amendment (No. 1643), proposed by the two committees, would set up a new select committee with sufficient authority to exercise those responsible uses of power that are required.

As the American people now know so well, Congress' 40-year informal method of overseeing the activities of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and other agencies involved in domestic and foreign intelligence has been careless and ineffective. Their host of intelligence agency abuses, violations of the law, covert operations, and infringements on civil liberties—

without the knowledge of Congress—has been revealed by the Rockefeller Commission and the Senate Select Committee on Intelligence Activities.

The Senate must take the lead to start anew in fulfilling the constitutional role of controlling the Nation's purse strings and formulating national policy. Vigilant legislative oversight over the intelligence activities of the United States is very much in order to assure that such activities are in conformity with the Constitution and the laws of the land.

From the Budget Committee's viewpoint, a new select committee with jurisdiction over the national intelligence budget on an annual basis fits right into the congressional process of analyzing and controlling the budget.

The aggregate outlay of the various intelligence agencies is significant. At this time, Senate committees deal with parts rather than the whole. Intelligence spending is not looked at in terms of national priorities or priorities within our foreign-defense policies. "Neither the Armed Services Committee nor any other committee has the time, because of its other duties, or the necessary overall jurisdiction to attend to the Nation's intelligence system," Senator CHURCH testified before the Committee on Rules and Administration. He added that—

The executive budgets for, and organizes and directs the national intelligence effort in a way that draws together the various components, and unless the Congress establishes a committee that can do the same, it will continue to fail in its oversight responsibilities.

Section 3 of Senate Resolution 400, as amended, would provide for periodic authorization of appropriations for the CIA and other intelligence agencies. Each March 15 that committee would submit a report on intelligence spending for the forthcoming fiscal year to the Senate Budget Committee. This is what every authorizing committee does now, in accordance with section 301(c) of the Congressional Budget Act of 1974. Section 4(c) of the compromise resolution reads:

On or before March 15 of each year, the select committee shall submit to the Committee on the Budget the Senate views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

Reports to the Committee on the Budget would be received and handled in a manner consistent with the protection of national security.

It seems to me that the colloquy between Senator RIBICOFF and Senator NUNN covers this point very well, from my point of view.

Another aspect of the legislative process involved here is helping to restore Congress role as a coequal branch of Government. I agree with the "Minority Views" statement set forth by Senator PELL, WILLIAMS, CLARK, and HATFIELD in the Rules Committee report:

In failing to adequately control the activities of the intelligence agencies abroad, Congress, in effect, has appropriated funds without knowing how they would be spent by the executive to carry out foreign policy objectives. Without the knowledge or approval

of the full Congress, the CIA has received funds to carry out paramilitary operations in Chile and Laos and assassination attempts against a number of foreign leaders. At the same time, Congress has refrained from demanding access to vital intelligence information concerning matters of foreign policy upon which it is called to act.

By establishing an effective oversight mechanism, Congress can assert its right to essential information and begin to define the proper limits of secrecy in a democratic society.

A Select Intelligence Committee in the Senate with authorizing powers is essential. This committee must have primary authority to consider and act on the annual budgets for the intelligence agencies within its jurisdiction. By controlling the purse strings, the select committee and Congress will have restored its rightful role in directing America's future intelligence activities—and America's future.

I thank my good friend from Connecticut for yielding me this time to support him in his efforts and to compliment him on the effective way in which he has handled this issue and the problems connected with it.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. WEICKER. Mr. President, I have a question which I intend to direct to the amendment.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I address myself to the amendment of the distinguished Senators from Texas and Mississippi.

In the "Dear Colleague" letter they sent out, they said:

The amendment would provide:

1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The rationale is twofold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot overstate the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

The difference I have with the Stennis-Tower amendment is that I think it is absolutely unconstitutional.

I bring to the attention of the distinguished Senators article I, section 9 and that clause which reads:

No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law; and a regular Statement of Account of the Receipts and Expenditures of all public Money shall be published from time to time.

What seems rather unsettling to me is that as men sworn to uphold the Constitution of the United States apparently we have some system or some procedure that de facto supersedes the very specific requirements of the Constitution. It does not say in the Constitution an account of the receipts and expenditures of all public money except those allotted to

intelligence activities. It says all public money, all money.

And as much as I appreciate the thrust of the comments in the Chamber, which is to try to keep these moneys from public view, it seems to me that, if that is what they desire to have accomplished, then I suggest a constitutional amendment. But to me the duty placed on us in this body, in the legislative branch, and the executive branch, is very clear, as mandated by the Constitution of the United States, regardless of what the process has been in the past, and the process has been a direct violation of the Constitution of the United States.

I ask either the Senator from Texas or the Senator from Mississippi as to whether or not they feel that the way matters have been handled in the past, in fact, is an exception to this requirement of article I, section 9?

Mr. TOWER. Mr. President, I shall respond to the Senator from Connecticut. Can he cite any decision of the Supreme Court of the United States that has held that our previous procedures in the matter of budgeting our intelligence activities are unconstitutional?

Mr. WEICKER. No, for the simple reason that everyone is perfectly willing to go along with the old system, and that is exactly what is under attack today and has been for many weeks. The old system did not work, it broke down. And that is exactly why the legislation is before the Senate now, and to go back to the old system—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. To go back to the old system invites the disasters that have been revealed during the course of the past year.

But I repeat, I do not care what was done; I am insisting, as I think others are, that the Constitution be explicitly followed, and to me it is not whether we want to obey it or do not want to obey it, the language is very specific:

... a regular Statement of Account of the Receipts and Expenditures of all public Money. ...

Is the Senator from Texas telling me: Yes; there should be an exception insofar as this public money is concerned? That is all I ask.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, as I read this provision of the Constitution, I see nothing that requires a line item disclosure of every expenditure of the Government of the United States. It is not done in other departments. In fact, we do publish these figures by generic category. We do not publish everything in a line item way. If we did, we would have to list the salaries of every individual hired by the Government of the United States and the Congress of the United States.

Mr. President, I think it is significant that there never has been a court case on this. Apparently, the people of the United

States are prepared to accept the fact that if this country is going to have an intelligence-gathering capability, some things must be kept secret.

The fact is that there is no public outcry for this oversight committee. There is not such an outcry outside of a 50-mile radius of Washington, D.C. We become so inundated when we read the Washington Post and the New York Times, and by what we hear from the network commentators, that we must have the impression that the American people are out there shivering in fear of the vast abuses of the intelligence-gathering community of the United States. Bunk.

There is an anti-Washington sentiment abroad in this land, but it is not focused on the FBI, the CIA, the DIA, or the NSA. It is focused on the fact that we have failed to exercise proper oversight over all agencies, departments, bureaus, boards, and what have you, that intrude themselves on the daily lives of our citizens. If there is a fear of a police state in this country, it is generated by the fact that every American's life is touched by the arbitrary acts of some bureaucrat operating under what he conceives to be or perhaps does not conceive to be a mandate from the Congress of the United States, which has delegated away its legislative authority.

Mr. WEICKER. If that is the response to the question I asked the Senator from Texas, it is a very effective presentation of his case, but it does not respond to the constitutional issues that I raise.

Nobody has asked for a line item budget, but I think the Senator from Texas is well aware that the total intelligence figure never has been released to the American people until the latest hearings came along; and even then, there is a tremendous disparity. The House thinks \$9.7 billion; the Senate committee thinks \$10 billion. But nobody in the Armed Services Committee has given to the American people the total—never mind line item—of moneys spent on intelligence. Have they or not?

Mr. TOWER. Mr. President, to begin with, there would be great difficulty in separating that which is purely intelligence and that which is not, because there are many agencies of Government that gather intelligence just as an ancillary function to what their line responsibility is. It cannot be separated. You cannot say that this Government employee has spent 1¼ hours in a 40-hour week on gathering intelligence; therefore, we must figure out what percentage of his salary goes into the intelligence budget.

The fact is that there never has been a test of the constitutionality of this. The fact that there is no precedent for holding this to be unconstitutional, in my view, means that what we have done in the past is constitutional, until there is such a test. Again, I think it is significant that there never has been such a test, because no citizen has ever questioned what we have done.

Mr. NUNN. Mr. President, will the Senator from Texas yield?

Mr. STENNIS. Mr. President, I yield myself 1 minute.

I know that the Senator from Connecticut is a mighty good lawyer; but

under a strict interpretation of the Constitution as he has advocated, we would have to publish everything every day, and we would not need all these precautions. That would kill the entire resolution, I say respectfully. All the unbroken custom is to the contrary: There are records of every appropriation. It is accounted for. But the law does not require it for the CIA.

Mr. NUNN. Mr. President, will the Senator yield me 1 minute?

Mr. STENNIS. I yield to the Senator from Georgia. The Senator from Connecticut has the floor. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, will the Senator yield me 30 seconds?

Mr. STENNIS. I yield 1 minute.

Mr. NUNN. We just went through a colloquy, a minute ago, on the question of revealing the overall budget. It is very plain in the committee bill and in the colloquy I just had with the Senator from Connecticut (Mr. RIBICOFF) that nothing in this bill requires the overall budget to be revealed.

One of the mandates for study by the new committee is to determine how to handle that very question. So under either the Tower amendment or the Cannon substitute, the same question, the constitutional question, that the Senator from Connecticut has raised applies, and it has no bearing, as I see it, on whether the Tower amendment should or should not be agreed to. It is a question that would apply to the Cannon substitute unamended or the Tower amendment if it is agreed to.

Mr. WEICKER. I think the answer is very clear that under the Cannon substitute, the question can be studied, and all our options are available to us; but under the Stennis-Tower amendment, that automatically, by virtue of what we are doing here, cuts us off from ever being able to get those figures and publishing them. So there is a definite difference between the two.

Mr. CANNON. Mr. President, will the Senator yield me 30 seconds?

Mr. WEICKER. I yield.

Mr. CANNON. I think we have to read article 1, section 9, clause 7, together with article 1, section 5, clause 3, which reads:

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy...

So the two have to be read together.

It is obvious that either House can require secrecy as to this part of the budget or other items that may require secrecy. We have to read both those provisions of the Constitution together, I believe.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, will the floor manager of the bill yield me 10 minutes?

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, first, I shall comment on the colloquy that the distinguished Senator from Connecticut (Mr. RIBICOFF) had with the Senator from Georgia. I found that colloquy extraordinarily reassuring.

The Senator from Illinois has been deeply concerned about unauthorized

public disclosure. Certainly, we have no intention or desire—and it is not in the national interest in any way—to have methods that we may use for intelligence gathering on various projects that are undertaken to be revealed publicly simply by someone being able to trace authorized amounts that have been made public.

On the basis of the colloquy that has been carried on, I have come to the conclusion that it is possible to authorize intelligence activities without public disclosure; that you can authorize such sums and explain it in a classified report; that differences can be debated in a closed Senate session and notes taken on a sense of the Senate resolution which can remain secret. The specifics will not have the force of law but will have the same impact as the Senate will be making its decision.

The Senator from Texas (Mr. TOWER) has indicated in his previous comments this morning—if my notes are correct—that the new committee still would have oversight authority even if stripped of legislative authority under the amendment. The point of the Senator from Illinois, in response to that, is simply this: A committee without legislative authority but only with oversight responsibility means that a committee's only recourse is public disclosure. It really has no legislative remedy.

In response to the comment of the distinguished Senator from Texas (Mr. TOWER) that no one outside a 50-mile radius of Washington cares about this matter, that no one cares about it other than those who read the New York Times and the Washington Post, I respond by saying that is not true in the State of Illinois. It is not true in the State of Indiana, where the Senator from Illinois has been recently. It is not true in a number of areas that can be testified to by the editorials that are available. The entire country is looking to Congress now to find a way to have effective oversight. They are counting on us.

Mr. President, I ask unanimous consent to have printed in the RECORD, as quickly as I can obtain it, an editorial from the Chicago Tribune, and the San Francisco Chronicle that evidences that deep concern with respect to the practices of the past and the expectation that the U.S. Senate is going to deal with this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARNESSING THE CIA

The essence of President Ford's reorganization of the foreign intelligence services lies in the focusing of responsibility on the President and on a three-member oversight board which will receive continuing reports on all intelligence activities and will report directly to the President.

The other changes and restrictions, sound though they may be, will be only an effective as the President and the oversight board make them. It is impossible, after all, to foresee all of the methods an intelligence agency might use. Mr. Ford's restrictions cover only a few of the more common or shocking tricks of the spy trade that surfaced during last year's hearings; planned assassination of foreign leaders, illegal opening of the U.S. mail, infiltration of domestic groups, and so on.

Next time it could be something entirely unforeseen.

The past time of the CIA were committed under a system of supervision so loose as to be nonexistent. Vague suggestions from the White House were translated into sinister plans and activities which, in many instances, the President didn't want to know about and would never have specifically approved. The new system will work only if the President and the oversight board use their judgment as well as the rules in determining what activities are justified and what are not.

The highly controversial question that remains is how deeply Congress will become involved. It is quite proper and indeed essential that Congress be represented in the mechanism for overseeing intelligence operations. It always has been, through the agency of certain committee chairmen. That things got out of hand under the old system was as much the fault of these congressmen as it was of the executive branch.

Mr. Ford's proposal is that Congress create a joint intelligence committee to be kept fully informed of all intelligence activities. This would be better than the old system in that it would provide a more formal and systematic means of supervision. The question is whether the committee members would have the necessary maturity and proved discretion, and whether the committee's activities could be kept totally free of politics, which would be essential if the haggling and leaks of the recent House Intelligence Committee are to be avoided.

These are big questions. Already some Democrats are referring to Mr. Ford's changes and proposals as a "first step" in the "reform" of our intelligence operations. What are the next steps? When some of them say "reform," we're afraid they really mean "emasculatation" by indiscriminately publicizing every activity that they happen to disapprove.

A good illustration is the decision of the House to consider holding CBS correspondent Daniel Schorr in contempt for the recent publication of the intelligence committee's report. We don't defend Mr. Schorr's behavior for a minute, as we've already made clear. But the duty to protect the secret information was not Mr. Schorr's; it belonged to the members and staff of the intelligence committee. It was they who violated their trust. It is they who should be identified and punished. Yet, so far, the House seems more interested in looking elsewhere for its villains.

Obviously Mr. Ford is right in wanting Congress to patch up its own leaks before it is made privy to any more secrets.

Most members and employees of Congress, we're sure, can be trusted. The trouble is that it takes only one leak to do the damage. So before scrambling for a place in the line to receive further CIA secrets, we suggest that congressmen move slowly—first by demonstrating a willingness to impose the same restraints on themselves that they want imposed on the CIA and that the President wants imposed on employees of the executive branch, and then by setting up a committee like the one Mr. Ford has proposed and making certain that its members and staff are of the highest caliber available.

NEW OVERSIGHT FOR THE CIA

A PERMANENT NEW committee with authority to oversee U.S. intelligence activities seems likely to come into being thanks to a compromise worked out in the U.S. Senate. The committee will have 17 members with a nine-year limit on length of tenure. Most importantly, it will have purse-string control over the CIA.

The whole question of placing a legislative rein on intelligence work is a touchy and debatable one due to the nature of covert activities. Spreading authority too widely

and allowing too many persons to be "in on the know" removes the essential element of secrecy, as has been shown by widespread leaks from congressional panels investigating our intelligence structure.

This power to limit the CIA's budget and thus its activities was a key element of the compromise worked out between the Senate's old guard and more reform-minded members. At one point Nevada Senator Howard W. Cannon's rules committee had voted to give the new committee no law-making or budgetary authority. Its present posture, however, gives it most of the policing powers originally recommended by the now-defunct Church committee that looked into illegal activities by our spies.

Everything will depend, of course, on the selection of Senators for the committee who can keep their eyes open for intelligence abuses but their mouths shut while they're being dealt with.

Mr. PERCY. Mr. President, the question comes up as to whether or not a consolidated committee is desirable and whether or not defense intelligence should be included. My point simply is that because of the interlocking character of intelligence, the President's Executive order puts the DCI over all intelligence, including national intelligence, but excluding tactical intelligence.

The compromise substitute offered by the distinguished Senator from Nevada (Mr. CANNON) does exactly the same thing. The administration, as I understand the testimony that witnesses gave, supports the concept of placing all intelligence in one committee. The administration made it clear that to avoid the proliferation of testimony which Mr. Colby said consumed, in 3 years, 60 percent of his time, leaving him only 40 percent of his time to administer the Central Intelligence Agency, it would prefer a joint committee. But they have made it clear that if it is the wisdom of the Senate and the House to decide on separate committees, that is our decision. And it is the decision of the Committee on Government Operations, the Committee on Rules, and the compromise group that have worked together that the Senate of the United States should establish its own committee.

I wish to read to my distinguished colleagues the words of Mr. George Bush, Director of the Central Intelligence Agency. Mr. Bush said:

The Central Intelligence Agency welcomes strong and effective congressional oversight. We have a great deal to gain from it. We gain the advice and counsel of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain the support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services, through effective executive and congressional oversight.

Good oversight will insure that the intelligence agencies operate as the government—and the Nation—wish them to. But in establishing this accountability, I believe the Congress must also insure that oversight enhances, rather than hinders, the vital operations of our intelligence agencies.

Certainly, the Senator from Illinois has been deeply concerned about this. I have been satisfied that the compromise resolution takes that into account.

I close the quotation from Mr. George Bush by quoting this sentence:

And so I urge concentrated oversight.

What he does not want is fractional oversight. The Director of Central Intelligence would like to have effective, meaningful oversight, but concentrated oversight.

I turn to the testimony given before the Committee on Government Operations. I wish to point out several prominent people who have testified, first from the Senate itself. Senator MANSFIELD emphatically believes in the creation of a new committee that would provide consolidated oversight. Senator CHURCH said:

We need a new committee. The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well-staffed committee directing all of its attention to the intelligence community.

Senator BAKER favors a new committee. He said:

The greater good would be the prompt creation of a new standing Senate committee on intelligence oversight, even if this leaves to another day resolving the questions of prior notification of sensitive operations and the authority of the Senate to disclose classified information.

In all fairness, I would like to point out that our distinguished colleague from Texas (Mr. Tower) did come in and testify. He opposed the creation of a new committee. Senator Tower made it clear that he wants to leave reforms to the existing standing committees. But certainly, the Committee on Rules and Administration and the Committee on Government Operations overwhelmingly decided that that course was not one that we would recommend that the Senate follow.

Secretary Rusk testified. He testified that he was shocked to find, as Secretary of State, how many things were being done by intelligence agencies, not under his direct, day-by-day jurisdiction, but that involved foreign policy. He was shocked later, when he left office, to find how much had been carried on. He also stated very clearly to us that he would like to see a committee as quickly as possible.

Former Attorney General Katzenbach favors a new committee.

David Phillips, the president of the Association of Retired Intelligence Officers, stated that 98 percent of his membership favors some form of a new committee.

Mr. Colby, the past Director of CIA, said that he is in favor of "a new committee with exclusive jurisdiction for the oversight of foreign intelligence."

McGeorge Bundy, former Assistant to the President for National Security, favors a new committee.

Mr. John McCone strongly urged a new committee.

Mr. Clark Clifford, former Secretary of Defense, favored a new committee.

Mr. Richard Helms said, "It is up to the Congress whether or not to have a new committee," but he thinks a committee would be an improvement.

So, overwhelmingly, it seemed to the Senator from Illinois, and unanimously to the members of the Committee on Government Operations, a new commit-

tee was needed and is necessary. On whether defense intelligence should be included or not, we came to the unanimous judgment in the Committee on Government Operations, on a vote of 16 to 0, that it should be included. DIA plays a role in covert actions—for example, the Schneider killing during the Chile Track II operation. Army counter-intelligence was found spying on innocent Americans, bugging, taping, and opening mail.

As I pointed out before, the 5th Army was discovered performing intelligence operations—following the activities and keeping dossiers on such distinguished Illinois citizens as my distinguished colleague, Mr. ADLAI STEVENSON, who I presume was just as shocked as anybody else to learn that he and many prominent people were being followed by the 5th Army and dossiers were being kept on them. Obviously, it has been revealed by our own intelligence committee how much spying on innocent Americans was engaged in without proper oversight.

Military clandestine intelligence activities were supervised by the CIA. When we consider that only half of what the CIA spends comes from its own appropriations—the other half comes out of Defense appropriations through transfers or advances—certainly, it is desirable and necessary, I think mandatory, to include defense intelligence.

The question can be raised, what would the compromise substitute do to the jurisdiction of the Committee on Armed Services? The compromise would give the new select committee concurrent jurisdiction over major intelligence agencies of national importance, NSA and DIA. It would also have concurrent jurisdiction over joint defense-CIA programs and over clandestine military intelligence activities now supervised by the CIA.

The Committee on Armed Services would continue to have jurisdiction in this area and would continue exclusive jurisdiction over the bulk of tactical military intelligence. It is not impossible, as has been pointed out, to sort out these national intelligence elements from the defense budget. We have identified the relevant program elements.

The new Committee on Foreign Intelligence is charged with this task and with the responsibility for a national intelligence budget.

Certainly, the members of the Committee on Armed Services have a perfect right to ask this question: Will they, in the grave responsibilities that they have assumed and undertaken and have so ably carried out for so many years for the defense and security of the United States of America, be able to fulfill that function if they do not have the legislative authority over defense intelligence?

Certainly, the bill that is before us, the compromise version before us, in every conceivable way guarantees and insures that the end product of intelligence shall always be available to the Committee on Armed Services. There are not any ifs, ands, or buts about that assertion. Everybody in this body will know and recognize that they must have that, and the concurrent responsibility that they have over the defense budget seems to have

been worked out in the compromise in such a way that I hope the majority of our colleagues today would defeat the pending amendment.

Mr. STENNIS. Mr. President, will the Senator yield briefly on this point?

Mr. PERCY. Would it be possible for this Senator to yield the floor to the distinguished Senator from Mississippi so he can speak on his own time?

Mr. STENNIS. I want to ask a question on my own time, if I may have 1 minute, Mr. President, on my time.

The Senator from Illinois used the term, "concurrent jurisdiction," and referred to the Armed Services Committee having concurrent jurisdiction. I do not believe the language will support saying that this resolution gives the Committee on Armed Services concurrent jurisdiction.

That means concurrent as to time, reference, and so forth. It permits the Armed Services Committee, as I see it, to obtain this matter, whatever the pending matter would be.

Mr. PERCY. I would like to have my distinguished colleague from Connecticut answer it, and then I would like to follow it with my own interpretation.

Mr. RIBICOFF. May I say to my distinguished colleague the word used is not entirely correct. It is not the intention by this resolution to put concurrent jurisdiction in the Intelligence Committee and the Armed Services Committee. We specifically call it sequential jurisdiction, not concurrent.

Mr. STENNIS. Mr. President, will the Senator define sequential as compared to concurrent.

Mr. RIBICOFF. Well, concurrent means both committees have jurisdiction at the same time. My understanding is depending on where the thrust is that one committee handles the matter first, as I discussed in my colloquy with the distinguished Senator from Georgia, and after the first committee completes action, it then goes to the other committee sequentially for a period of 30 days, to give them an opportunity to act on the matter that cuts across the jurisdiction of both committees.

Mr. STENNIS. Mr. President, if the Senator will yield 1 minute further on my time, the Senator's interpretation though would be to say the Parliamentarian would refer this matter first to the intelligence committee—

Mr. RIBICOFF. No, it depends—not necessarily.

Mr. STENNIS. No sequential reference.

Mr. RIBICOFF. If the matter is purely an intelligence matter it would go to the intelligence committee first. But if the matter is not predominantly an intelligence matter it would go to the Armed Services Committee, the Judiciary Committee or the Foreign Relations Committee, and it then, would be sequentially be referred to the intelligence oversight committee to consider only that portion that involved intelligence.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STENNIS. Yes, I yield to the Senator from Illinois. The Senator from Connecticut thinks concurrent jurisdiction is not the term that applies.

Mr. RIBICOFF. That is correct.

Mr. PERCY. The interpretation of the Senator from Illinois is exactly the same.

I would only like to add this comment: The Senator from Mississippi and the members of the Armed Services Committee are among the most overworked Senators in the Senate.

What the Senator from Illinois would hope would happen is that a tremendous burden of responsibility for a lot of follow-through on details in intelligence would now be taken over and assumed by the Select Committee on Intelligence Activities, providing to the members of the Armed Services Committee an assurance that the details of those programs have been looked to.

Thirty days would be available for another sequential look at it by the Armed Services Committee. But they have the assurance that 15 of their colleagues have spent months looking at these programs, and they can concentrate on their main job, which is providing for the national security of the United States, having available to them all the product of intelligence but not the necessity of over-seeing all details of these programs, the ramifications of which are now apparent for all of us to see.

Mr. PASTORE. Mr. President, if the Senator will yield 5 minutes to me on this bill—

Mr. RIBICOFF. I would be pleased to. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. There are 34 minutes remaining on the side of the Senator from Connecticut, and 52 minutes remaining on the side of the Senator from Mississippi.

Mr. RIBICOFF. I would hope that after the time taken by my distinguished colleague from Rhode Island, the Senator from Mississippi will use some time. I am very anxious to give some time to the Senator from Kentucky, but my time is running out fast.

Mr. PASTORE. Mr. President, first of all, I congratulate the chairman and the members of the committee for the expeditious way in which they have handled this very important legislation. My regret at the moment is that apparently we have drifted into the sensitive question of committee jurisdiction.

We must remember, Mr. President, that what we are dealing with here now is not the composition of the committees today or the sensitivities of the various Members. What we are dealing with here today is the matter of how do we resolve this very important question that now confronts the Congress of the United States in a way that is for the public benefit.

I realize that in an open society it is always difficult to justify secrecy, living in the kind of a world we live in today. Realizing that we do have strong adversaries who would take us over in a moment if they have a chance, who conduct themselves in a secret way that goes far beyond what we have ever exercised in this country, we had better beware of what we do.

Now, Mr. President, this question came up in 1945 when the first atomic weapon was exploded, and the serious question

was: What are you going to do about it? What are you going to do about it? Are you going to put it under civilian control or are you going to leave this destructive weapon under the sole control of the military?

The Congress of the United States went on record creating a joint committee.

It is regrettable that we cannot create a joint committee in this area, but maybe in time that will be accomplished. For the time being, something needs to be done, and there is not the concurrence at the moment between the Senate and the House that could bring about a joint committee, although ultimately that is the prime and the ultimate answer to this problem.

Now, what are we confronted with here? Under the Joint Committee on Atomic Energy it is written in the law that that committee must be fully and concurrently informed of all activities. If the decision of what the actions of the CIA should be will be left up to the Congress I would be against it. I would absolutely be against it because CIA comes under the jurisdiction of the National Security Council. But if all this amounts to is the fact that, like the Joint Committee on Atomic Energy, where we have not had one single leak from the time it was created, where we have been continuously, completely and currently informed by the military, by the civilians and by everybody else, if you are accomplishing this, I am all for it in this legislation, and that is the question I am going to direct to the chairman of the committee. If this legislation means that before the CIA can do anything they have to come up here and get permission of 5, 6, 10 or 15 Members of the Senate, I will be against it. But if it means that whatever they do from the moment they begin to do it they have to come up here and tell the committee, then I am all for it, and that is the question I would like to ask at this moment.

Is this putting the approval of the activities of the CIA in the control of Congress or is it merely giving Congress the authority, and mandatory upon the agency, to report everything that they do the minute they do it?

Mr. RIBICOFF. May I say that in devising this legislation we relied extensively and heavily on the experience of the Joint Committee on Atomic Energy. Under no circumstances is it the intention that this committee is going to tell the CIA or any other intelligence agency how to conduct its business on a day-by-day basis.

Section 41 says:

It is the sense of the Senate that the head of each department and agency of the United States should keep the Select Committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of or engaged in by such department or agency; provided, that this does not constitute a condition precedent to the implementation of any such anticipated intelligence activities.

Mr. PASTORE. That is taken out of section 211 of the Atomic Energy Act.

Mr. RIBICOFF. That is right. May I say we relied completely on the joint committee's experience.

Mr. PASTORE. Under that provision I cannot see how anybody can object to it because even in atomic energy or atomic matters the Armed Services Committee has a right to inquire. Actually they have a right to inquire and they do inquire. But, after all, there has to be a committee constituted by Congress to which these people are responsible, that the minute they undertake something they have to come up and tell the Congress.

Mr. PERCY. Mr. President, will the Senator from Rhode Island yield for a comment on his remarks?

Mr. PASTORE. I do not know how much time I have. I wish they had given me time to yield.

The PRESIDING OFFICER. The Senator has 1 more minute.

Mr. PERCY. One minute, if the Senator from Rhode Island will yield. The question he put was an extraordinarily good one, and one that perplexed the members of the Government Operations Committee throughout the course of the hearings. There was a body of feeling that this committee, if it were to be effective, should have prior approval, authority, and responsibility.

The Senator from Illinois from the outset was adamant that the Senator from Illinois would work against the creation of a new committee, and would fight it right down the line, if we started to move in and take over the responsibility of the executive branch of Government.

Mr. PASTORE. I am glad to hear that.

Mr. PERCY. We lose our oversight then.

Certainly, in discussing this with the President of the United States, he has agreed that the options, the problem and the various approaches would be committed to writing. It would be signed by a top officer. The President said, "by myself in extraordinary cases."

It would be available for oversight and for a study by the oversight committee, but we cannot become a part and parcel of the day-to-day decisions.

The PRESIDING OFFICER. The time has expired.

Mr. PERCY. And the judgment and experience of the Joint Atomic Energy Committee has been extraordinarily helpful.

Mr. PASTORE. I am glad to hear it.

Mr. STENNIS. Mr. President, I am glad to yield 15 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of amendment 1649, authored by the distinguished Senator from Texas, Mr. TOWER, and cosponsored by the chairman of the Senate Armed Services Committee, Mr. STENNIS, and myself, the ranking minority member of Armed Services.

This amendment would, in effect, remove from the proposed Select Committee on Intelligence the joint jurisdiction over the Department of Defense Intelligence Agencies. These would include the intelligence programs of the three separate services and the Defense Intelligence Agency and the National Security Agency.

It might be well to offer an initial and brief explanation of the activities of the agencies addressed in this amendment.

1. DEFENSE INTELLIGENCE AGENCY

The Defense Intelligence Agency is directly responsible to the Secretary of Defense and is the focal point of the military intelligence community. It maintains a balance in assimilating and analyzing the intelligence gathered by the separate military departments as well as its own efforts, all designed to enable the Secretary of Defense to act wisely on requests and programs of the military intelligence community.

2. NATIONAL SECURITY AGENCY

The National Security Agency deals with national or strategic intelligence and its collection and production apparatus serves not only the military, but other agencies of the Government such as the State Department and Treasury Department. The NSA is also the principal source for the National Security Council and ultimately the President because its work goes beyond strictly military applications. It is charged primarily with much of the electronic apparatus used in intelligence gathering.

3. SERVICE INTELLIGENCE

In addition, each of the three military departments has a limited intelligence apparatus which is directed primarily in those areas of concern to the particular department.

For instance, the intelligence service of the Air Force is targeted on foreign military aircraft and foreign activities related to the air power while the Navy's intelligence apparatus is concerned with intelligence gathering submarines and estimates of capability of the Soviet and other foreign navies.

Mr. President, the definition of the work of these military agencies shows this amendment is not a capricious effort to dilute the strength of the proposed select committee. It represents a well thought out proposal upon which I feel there is a solid basis for support. This amendment deals strictly with military intelligence by military or DOD agencies. It does not involve the Central Intelligence Agency. Therefore, I would like to list some points which I feel in support of adoption of amendment 1649.

1. OVERLAP WITH SERVICE BUDGETS

It will be extremely difficult to separate the expenses of the separate military departments from the defense budget and present it as a separate request to the select committee. It is now more an estimate, but if dealt with exclusively by a single committee, the problem of cost identification becomes most complex.

Practically all of the intelligence activities of the military departments are performed by military personnel. In any one fiscal year, an individual may be on an intelligence assignment for only a portion of that year. He may be in a school in which only a portion of that period of training involves his intelligence duties. How does one decide how much of his salary should go in the intelligence budget? How much of his training should be charged to the intelligence budget? How much of the support he receives in the way of vehicle use, air transportation, secretarial support would go into the intelligence budget?

These examples illustrate the difficulty in separating military intelligence activities from the defense budget.

Furthermore, there are certain intelligence support activities which do not require authorization, but are dealt with only as to appropriations. Here again we have the problem of separating these activities and in so doing, we come back to the often-stated problem of more disclosure and ultimately more danger to our intelligence people and the effectiveness of their missions. Before closing on that point, I would like to cite a few examples.

NAVY EXAMPLE

For instance, when a submarine goes out on a mission, a part of its work may involve intelligence gathering. However, it will have other missions and how DOD can separate the costs and expenses in such a situation is beyond my comprehension.

AIR FORCE EXAMPLE

As another example, one might take the case of a pilot flying an intelligence mission in a military aircraft. How much of the cost of the aircraft, his salary, or support costs would be charged to intelligence? This plane may be used once or twice a year on intelligence missions.

Also, our committee will still have authorization over research and development programs involving intelligence. Do we have to clear our actions with the select committee? The bill language is not clear on this point.

These are but some of the problems in separating such budgets. Others will reveal themselves if this separation is required by the Senate.

2. DISCLOSURE

Mr. President, there is no doubt in my mind that to support this new committee of 15 members and a staff whose size is not defined in this bill, will require much more disclosure on the simple basis the information is being spread among a greater number of people.

Here again we are putting another layer on top of the four responsible Defense committees and the very separation of the intelligence operations from defense operations is going to lead to much, much greater disclosure.

3. IMPROVING MILITARY INTELLIGENCE

Mr. President, this step, in my judgment, in no way improves military intelligence. It may well have just the opposite effect by making intelligence work less attractive for our more qualified people because of the threat of disclosure which results by proliferation of data.

There is nothing apparent to me in this bill which improves military intelligence. It merely inserts another layer of authority. The Senate must realize that those abuses in the past would be better corrected by passage of new laws rather than new layers of legislative oversight and authorization. I certainly favor strengthening the oversight of the past, but when a President tells the Army to augment the Secret Service at a political convention, the Army can hardly be blamed for obeying that order. Oddly enough, these orders were never revealed, even to the Joint Chiefs nor to the Con-

gress so it would appear to me that a law to control the Chief Executive would answer this issue if such is the will of Congress.

4. ADDITIONAL EXPENSES

Also, it seems every time some problem arises in Government the solution is to reorganize, insert another layer of supervision, add 50 more GS-18's in the executive branch, set up a new committee in Congress with a large staff, and in general, throw money at the problem.

The fact is that allowing the select committee authorization and legislative jurisdiction over the Defense intelligence activities will mean that these agencies will have to add to their personnel strength in order to respond to the requests for information and data which will be forthcoming from these new layers of supervision.

The Senate appears to ignore the point that the abuses and problems of the past few years in military intelligence agencies represent only possibly 2 or 3 percent of the entire intelligence effort. Yet we are restructuring the entire authorization program in an attempt to deal with a problem representing only 2 or 3 percent of the total effort. These problems could be dealt with by laws to prevent such abuses rather than an attempt to manage military defense intelligence agencies. Military intelligence will no longer be an arm of the executive branch, but rather an arm of the Congress.

5. COORDINATION WITH HOUSE

Mr. President, another point favoring this amendment is that the best information available to me indicates the House of Representatives plans to demand from the Executive that the intelligence budget be submitted as in the past. This raises another problem in establishing a select committee in the Senate, especially when DIA, NSA and other military intelligence activities are involved. The CIA, being a civilian agency not answerable to DOD, could possibly be separated from the defense budget, but I fail to see how the military agencies could be realistically separated.

In summary, Mr. President, this amendment should be approved by the Senate for any one of the reasons I have mentioned: First, there is the overlap of service budgets in the Defense request. Second, the problem of disclosure through proliferation. Third, the fact that this offers no improvement of military intelligence, but rather weakens it. Fourth, additional expenses will result with little promise of improved intelligence production. Fifth, the problem of coordination with the House is highly aggravated.

Mr. President, these are but a few of the reasons I am cosponsoring the proposed amendment. This amendment makes a great deal of sense and I urge my colleagues to give it their most careful consideration before casting their vote.

Mr. President, I yield back the remainder of my time.

Mr. STENNIS. I thank the Senator very much for his very timely remarks and very convincing argument.

Mr. President, the Senator did yield

back each time as he did not use, as I understand.

The PRESIDING OFFICER. The Senator is correct. Who yields time?

If neither side is yielding time, the time runs equally.

Mr. RIBICOFF. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 27 minutes and the Senator from Mississippi has 39 minutes.

Mr. STENNIS. Mr. President, the Senator from Arkansas (Mr. McCLELLAN) is to arrive later. There is such a slight attendance present, Mr. President, I ask unanimous consent that we have a quorum call for not over 4 minutes, to be equally divided, or 3 minutes.

Mr. RIBICOFF. I am also reluctant to have Senator HUDDLESTON or Senator Church talk to an empty Chamber. Senator CRANSTON has a colloquy. I would rather use 2 minutes in that fashion.

Mr. STENNIS. I withdraw my request.

Mr. CRANSTON. Mr. President, I am speaking primarily for purposes of legislative history, so I will be concise on this particular point.

Yesterday I suggested that certain language be added on page 12, line 7, of the pending substitute to clarify the standard which the President must apply in objecting to a committee determination to publicly disclose appropriately classified national security information submitted to the committee by the executive branch. Prior to raising this issue, I had discussed this clarification with the distinguished floor managers of the bill and the Senator from Connecticut (Mr. WEICKER). They were prepared to accept the clarifying language that I was prepared to offer. However, when it developed that my clarification raised some questions with other Senators, I decided not to pursue the matter.

Yesterday, the Senator from Michigan (Mr. GRIFFIN) stated on page S 7414 that the Senate had "rejected" that clarification. I think the record will show that this was not the case at all. Indeed, the record will show that I did not formally offer an amendment but only raised a suggested clarification. There was no action of any sort taken by the Senate.

Mr. RIBICOFF. If the Senator will allow me to respond, that is correct. There was no formal amendment offered. There was a general discussion, and the Senator from California, if I recall, talked about his language. But, after considerable discussion, the language was not adopted. Changes were made after a discussion between the Senator from Michigan, Senator WEICKER, and myself, and I believe the Senator from California was in on that discussion.

Mr. CRANSTON. I thank the Senator. As the Senator knows, and as all Senators know, one reason that some of us are reluctant to offer amendments when there is not an agreement is that we have been working together in the spirit of compromise on a compromise proposal introduced by the Senator from Nevada. I am one who has worked on this compromise and, therefore, I have restrained myself from proceeding where we have not had general agreement. I know other Senators have done the same thing.

In regard to the matter that I brought up yesterday, it must be understood that neither this resolution nor rule XXXV nor XXXVI in any way establish the standard which the committee or the full Senate is to use in deciding in a vote if particular classified national security information should be publicly disclosed. That is a determination which each Senator must make for himself in deciding how he would vote in such a matter, using the standard and balance of competing considerations which he deems appropriate.

I would like to ask the Senator from Connecticut, the distinguished floor manager of this bill, who has performed so magnificently in this effort, for his understanding of the restraints that would be upon a President in the light of all this in deciding when to seek to persuade the Senate not to release information publicly.

Mr. RIBICOFF. The Senator may recall that the distinguished minority whip, the Senator from Michigan, had raised a question on page 12, line 8, concerning the use of the word "vital."

After discussion with the Senator from Michigan, I suggested alternative language so it would read:

* * * and personally certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

So it is obviously our intention that the President would not act capriciously, but only act if it were a matter of gravity. Of course, none of us could tell the President of the United States what he considers to be a grave matter. I would assume, on the basis of comity, that the President certainly is not going to abuse his discretion. It is my feeling that the President will act responsibly, as I would expect the intelligent oversight committee would act responsibly, in determining whether a matter should be publicly disclosed.

I would imagine that the President would seldom issue a certification under this procedure, so as not to wear out his standing with the Senate. Yet I would not want to put into the definition what the President must consider a matter of gravity. I am confident the President will not act capriciously and that he will only act to certify that the matter should not be disclosed if he thinks that the threat to the national interest posed by such disclosure is of such gravity that it outweighs any public interest in disclosure.

Mr. CRANSTON. I thank the Senator. That clarifies this matter fully and adequately. Obviously, the Senate will always be able to make its own decision in its own way as to whether a matter is of such gravity or not.

I would like to ask the Senator just one other question.

Let us assume that the new committee on Intelligence receives information which is not classified under established security procedures. Let us also assume that the committee additionally has determined that the release of such classified information would not damage the national security of the United States. Is it the intent of this compromise ver-

sion that the new committee would be able to release such information without referring it to the full Senate for review?

Mr. RIBICOFF. Well, if it is the type of information the Senator mentions, yes, the committee could release such information without referring it to the full Senate, since the compromise version anticipates that the process of Presidential certification will only be operative when the information is the kind described by section 8(b)(1) of this resolution.

The compromise version permits this new committee to hold hearings and otherwise function like any other Senate committee, if the information is unclassified, and the committee has concluded its release would not damage national security.

Mr. CRANSTON. I thank the Senator very much.

Mr. ALLEN. Mr. President, will the distinguished Senator yield me 3 minutes for a unanimous-consent request and explanation?

Mr. RIBICOFF. I yield.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The PRESIDING OFFICER (Mr. STONE). Who yields time?

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

I ask unanimous consent that Mr. Braswell, Mr. McFadden, Mr. Sullivan, and Mr. Kenney of the staff of the Committee on Armed Services be permitted to be in the Chamber during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I want to make clear, since some other Senators have come in, that there has been no reference here to any Senator not being trustworthy, or any suggestion that any Senator would go out and leak a matter of consequence. No one charges that, and never has. This matter is related to trying to reduce to a minimum the opportunities for exposure in one way or another, with reference to some of these items which are so sensitive and so material.

I have been hounded for years—in a good way, and I do not blame anyone—because I just would not say how much, so far as I knew, was included in what we have called the budget for intelligence. As I say, I do not blame anyone.

Mr. STENNIS, may we have order? I can hear people talking there at the desk.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. So this is an effort not dealing with individuals, not a matter of who has what to do. We are talking about a system here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. I yield myself 3 additional minutes.

We are dealing with a system here that will afford the most protection.

I notice, according to the press reports—and the committee has done a lot of fine work—that when the motion was made that the Intelligence Committee publish the total amount of the intelligence budget this year, there was disagreement, and the committee voted 5 to 4 not to make that disclosure, but rather to refer it to the Senate.

I do not think there could possibly be a better illustration of the sensitiveness of this matter, and also of the differences of opinion about it. We all recognize there must be some protection, something less than total disclosure, and it shows that the more you get into it, the more you realize that that disclosure ought to be reduced to the very minimum.

Every time that the Senate has ever voted on this budget matter directly, it has refused to make this disclosure, whether in open session or in closed session. This conclusively proves, to my mind, the point that I have tried to make—the point that is reflected in the effort of the Senator from Texas, the Senator from South Carolina, and myself as the third author of this proposed amendment. It is just to make it more certain that we give these sensitive matters the maximum security.

When we kick a matter around through this Chamber and the various committees, with more staff, there are more opportunities for things to get out; not the substance, maybe, but matters from which inferences can be drawn. That is what Mr. Ellsworth says in his testimony, that the foreign countries which are not allied with us, our adversaries, have the most adept and most penetrating intelligence agents, and that from a mere morsel of information, or just an inference, they can piece things

together as they study our processes from year to year and from time to time; and that increases or decreases in budgetary items can put them on the right track.

In this subject matter that we are trying to protect in this amendment, there are included not only the satellite programs, what they find and what they transmit, but all kinds of activities with reference to codes and working on codes, our own as well as others, as an illustration. It includes electronics of all kinds; some of it is very sensitive, some not. Some of it stays in the research and development area for years and years, and maybe never does emerge into an instrument of some kind. Then some of it does break through in the most valuable kind of instrument, weapons system, or part of a system.

Many of those projects prove to be worthless, it is true; but at the same time some of them have proven to be of immeasurable value and of far-reaching consequences; and should some inference get out or some basis for discovery get out in the beginning, in the middle, or at the end of all this long laborious effort, the entire venture would be killed.

Mr. President, so it is as to matters of that nature.

Another point has been mentioned. No one has charged anything. This does not raise the issue about civilian control and military control. Not one iota of that issue is here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. Mr. President, I yield myself 2 additional minutes.

I personally always favored the two top officers of CIA, for instance, being nonmilitary so far as that point goes. But this is not an issue about civilian control or military control. This is in the field of intelligence that we regularly charge to the military. It is those funds to which we are trying to give the highest degree of protection and subject to the least amount of chance for exposure.

Mr. President, I say with emphasis that our amendment does not alter in any way the existing language of the Cannon substitute, so far as oversight of U.S. intelligence activities, including defense intelligence is concerned. This new committee, if the amended resolution is agreed to, will have full, unlimited oversight powers, with powers of subpoena, and power for investigations of all kinds and over all kinds of intelligence.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. Mr. President, I yield myself 1 additional minute.

The select committee will have access, as I repeat for emphasis, to all intelligence it makes and full investigatory and subpoena power over all intelligence activities.

I repeat for emphasis. Let us remember what we are trying to protect here are the very matters that have divided the committee and divided the Senate. It has always been in favor of nondisclosure as to these total amounts. There must be some basis for that position or the Senate would not have maintained that position all these years.

I yield the floor.

Mr. WEICKER. Mr. President, on the time of the distinguished Senator from Connecticut, I wish to ask a question of the distinguished Senator from Mississippi.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield the Senator 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 minute.

Mr. WEICKER. If the amendment of the distinguished Senator from Mississippi is agreed to, what will it do to this committee? The Senator has stated, in other words, what it will not do. What will it do?

Mr. STENNIS. I covered that when someone had distracted the attention of the Senator in some way. There are positive things, and I spelled them out in a brief memorandum, but I have it written out in more formal language.

It would remove from the proposed new select committee legislative jurisdiction over the Department of Defense. The rationale is, first, it would minimize the possible disclosures through the long and debated process of authorization of sensitive intelligence figures. Rather than being simply authorized by a bill or a joint resolution, passed by the Senate alone, as required by this substitute, defense intelligence figures would continue to be included in various parts of the military authorization and appropriations acts. I cannot overstate that. And so forth.

But that is the point the Senator very well raised.

Mr. WEICKER. It takes the power of the purse away from the committee, does it not?

Mr. STENNIS. Not entirely, but it gives defense intelligence matters back to the Committee on Armed Services rather than stripping the committee of that.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. I suggest to the Senator from Mississippi that the whole purpose of the committee is to give it not only oversight but also the necessary powers to go ahead and act on its oversight. We have had unfortunately an ineffective system. This is not laying this fault at the door of the Senator from Mississippi. The system itself obviously has not adequately handled the intelligence community.

Why should this committee have any less power than any other committee of the U.S. Senate?

Mr. STENNIS. This would retain in the Committee on Armed Services legislative jurisdiction, as I have described. It leaves with the other committee the oversight and access to everything included and the power to make recommendations also. We would simply give the Committee on Armed Services primary responsibility for dealing with

these kind of matters only, and they could recommend what they wished.

I thank the Senator from Connecticut who has made some good recommendations.

Mr. RIBICOFF. Mr. President, will the Chair please inform us concerning the amount of time remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 17 minutes remaining, and the Senator from Mississippi has 28 minutes remaining.

Mr. RIBICOFF. Mr. President, because of the disparity of time remaining, I hope the Senator from Mississippi would use some more of his time.

Mr. STENNIS. Mr. President, I think the point is well taken. I will ascertain if I can.

Let us have a 2-minute quorum call on the time of the Senator from Mississippi.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the quorum call for 2 minutes be charged to our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Under the previous order, the quorum call is rescinded.

Who yields time?

Mr. STENNIS. Mr. President, will the Chair indulge me for a minute?

Mr. President, I am glad to yield to the Senator from Georgia (Mr. NUNN) 5 minutes. He has a relevant matter to present. It is not on this amendment.

Mr. NUNN. Mr. President, is the Senator from Connecticut (Mr. RIBICOFF) in the Chamber? I see that he is present. He and I discussed this amendment.

Mr. President, section 8 of Senate Resolution 400, in the nature of a substitute, deals with a very important subject, and that is the right of Congress, in this case more particularly the Senate, to declassify information that the executive branch has classified.

Section 8, subsection (a), is very clear in its wording. Subsection (b) is also clear.

Section 2 of subsection (b) beginning on page 12, is also clear, and then we get down to section 3 of subsection 3 under (b) of section 8. This section reads:

If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

I have discussed this section with both Senator BYRD and Senator RIBICOFF, as well as Senator CANNON, and it is clear from my conversations with them that the last sentence makes reference to and is premised on the President notifying the select committee of his objections.

It is very clear in the conversations that the intent of the committee was that, once the President notified the committee that he objected to the release

of this information, the information would not then be released until the full Senate was consulted and gave approval.

However, that last sentence is in a position which follows number 2 on line 12, page 12, which says that "such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration," and then that clause is followed by the word "thereafter" in the last sentence. One could interpret this section as meaning that after the committee, by majority vote, referred it to the Senate, there would be no disclosure without consultation with the full Senate.

The structure of this section could lead to an interpretation that I do not think the committee intends. The unintended interpretation would be, in effect, that the select committee could declassify intelligence information over the President's objections, if it did not, by majority vote refer the question of disclosure to the Senate. I do not think that is what the committee intends, and I am going to submit an amendment, which I will call to the attention of the Senator from Connecticut. I believe my amendment will clarify and make very clear that once the President objects, the committee, if they recommend the release of classified information, in effect declassifying that information, would have to refer it to the full Senate, and the full Senate would have to give leave.

The Senator from Connecticut may wish to respond.

Mr. RIBICOFF. I think the Senator should present his amendment.

Mr. NUNN. Mr. President, I send the amendment to the desk. I do not know whether it is in order. I ask unanimous consent that it may be in order to take up this amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object on the merits of it—but the agreement is to vote at 2 p.m.; so we will be cut off in our debate if the amendment is not adopted in a short period of time.

Mr. NUNN. It is my understanding that the minority and the majority have agreed to this amendment.

Mr. STENNIS. All right. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, beginning with the word "such" on line 14 strike all through the word "Senate" on line 15 and insert in lieu thereof the following:

"The committee shall not publicly disclose such information without leave of the U.S. Senate."

Mr. RIBICOFF. Mr. President, as the manager of the bill, I am pleased to accept the amendment.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator have expired.

The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield 5 minutes to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished floor manager of the bill.

Mr. President, first, I want to reiterate my very strong support for the substitute version of Senate Resolution 400, creating a permanent oversight committee on the intelligence activities of this country. That support is predicated upon my experience during the past 15 months as a member of the Senate select committee investigating our intelligence activities.

It is based upon my firm belief that it is absolutely essential that this Nation have the strongest most effective, and most efficient intelligence organizations, both from the standpoint of collecting intelligence and the standpoint of processing and using that intelligence once it has been collected.

Second, it is based on my strong belief that it is essential that certain information be kept secret; that there is a necessity for this Nation to have secrets.

It is also my firm belief that the approach taken by the suggested compromise is the best way to insure that we have adequate intelligence, and adequate oversight.

I will have a further statement to make, or to place in the Record, as we approach final passage, regarding my support of the substitute amendment to Senate Resolution 400.

At this time, however, I offer my opposition to the amendment now pending. I oppose the amendment because it is contrary to the concept of national intelligence, a concept that has been embraced by the President of the United States in his own directive which establishes the Director of the Central Intelligence Agency as the supervisor and coordinator of all our intelligence operations. It is contrary to the recommendations of the select committee of the Senate that investigated intelligence, which makes a similar recommendation. More important, in fact, it is contrary to the facts of life as they apply to the intelligence community.

The amendment would take from the new oversight committee the legislative and authorization jurisdiction over Defense Department intelligence. That means that some 80 to 90 percent of both the collection and production of intelligence and the consumption of that intelligence would be outside the effective oversight responsibility of the new committee. I use the word "effective" because it already has been pointed out that to take legislative authority from an oversight committee would diminish tremendously its effectiveness so far as exercising the proper oversight responsibility is concerned. Oversight without legislative participation is toothless oversight, as all of us in this body know.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HUDDLESTON. Mr. President, will

the Senator yield me 2 additional minutes?

Mr. STENNIS. I yield.

Mr. HUDDLESTON. But, not only do the defense intelligence operations comprise some 80 to 90 percent of our collection, production, and use of intelligence, they are also entities which have had their share of the abuses that have occurred, and for that reason alone should be within the effective oversight and responsibility of the new committee.

Mr. President, I think that the compromise as written—although, as has been pointed out, there are areas in which accommodations will have to be made among various committees—can be put into effect, can provide the effective kind of oversight for which there has been a crying need for a long time in the operation of the intelligence organizations of this Nation.

The pending amendment should be rejected, so that this new committee can have the full authority, together with the full responsibility, to provide the kind of oversight that is necessary throughout the intelligence community.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I support the amendment.

I believe we have to divide intelligence, as we are discussing it here today, into many, many facets. The resolution that established the select committee, in my opinion, was a wise one. Our job, supposedly, was that of ferreting out wrongdoings so far as intelligence gathering was concerned with respect to the American citizen. That is one form of intelligence. We have intelligence gathered from embassies by tapping. We have intelligence gathered by mail.

Mr. President, I am anxious to support this amendment, and I call attention to the fact that the amendment would remove from the proposed new select committee legislative jurisdiction over the Department of Defense intelligence. Why is this important?

Last week, I read several books, with which hindsight always can provide us, as to what we actually knew about the intent of the Japanese before Pearl Harbor. It was amazing. Had we had a properly working intelligence agency at that time, with the information we had gathered from a number of sources, none related to the other, we almost could have predicted the attack on Pearl Harbor to the hour. We could have resisted it and defeated the Japanese without any trouble at all. But because we did not have an intelligence agency such as the CIA at that time, we depended upon the warring factions in the services and the civilians in the War Department and the President, himself. We got ourselves into a very costly war.

That is why I support this amendment—not to prevent the establishment of a committee to have so-called oversight, but to allow the Committee on Armed Services to have that sole jurisdiction because, Mr. President, I do not care if you have a committee of one, it is almost impossible to stop leaks. As hard as our special committee tried, we could not bottle them all up, and, of

course, the House was a sieve. It leaked, leaked, and leaked.

Under the Committee on Armed Services, we would handle just that intelligence that applies to the military, nothing else—no interest in the FBI, no interest in anything except the intelligence that the military has to gather.

Mr. President, I remind my colleagues in this body who have had experience in war or experience with the military that the estimate of the situation is a little formula that we are taught almost before we know what the rest of the service is about. The primary part of the estimate of the situation is intelligence: What does the enemy have, what does the enemy intend to do with what he has, what does he know about what we have, and what does he know about what we intend to do with out intelligence? Then, by working the two against each other, we come up with some possible lines of action. But if this information is made public, as we watched it be made public from the other body and from leaks downtown, then the estimate of the situation gets to be pretty much of a joke.

I know Members of this body are concerned about covert action. I know that Members feel that we should disclose, among the oversight function, any covert action. Well, Mr. President, this is dangerous. Those of us on the Committee on Armed Services, in spite of what our colleagues might think, know of many, many covert actions that were practiced during the years, many of which prevented wars between other countries, many of which prevented ourselves from getting into trouble. So, military intelligence, to me, is a most sacred item and we should look on it as such; create a full committee to take care of the abuses upon the American people, but allow military intelligence to go as it has in the past. We have developed a very fine intelligence-gathering system. In fact, I just read on the ticker tape this morning that our old friend, Averell Harriman, has recommended to the Democratic Platform Committee that covert action not be stopped, that it be encouraged because, by covert action, properly done, we prevent wars; we do not get into them.

I am afraid if a 15-member committee is ever created and given the handle on military intelligence, covert action will become something that will be very overt and we will be fighting the battles on the floor of the Senate instead of doing it in a round-about, backward, sneaky way. Call it what you want, but by doing it that way, we will prevent American men and, now, American women from being called into battle.

I hope my colleagues will support this amendment. It is not an Earth-shaking amendment. It is not going to destroy the concept of the substitute Senate Resolution 400. It will, in my opinion, protect the best interests of our country.

Mr. RIBICOFF. Mr. President, I yield 1 minute to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, as I understand the amendment offered by Senators STENNIS and TOWER, it eliminates from the jurisdiction of the new select

committee any jurisdiction over defense intelligence, which would include the Defense Intelligence Agency, the National Security Agency, and the intelligence activities of the three military departments.

Under the Cannon substitute, the new select committee would have jurisdiction over defense intelligence, except for "tactical foreign military intelligence serving no national policymaking function."

Those Senators supporting the Stennis/Tower amendment argue that it is impossible, as a practical matter, to separate, for purposes of oversight, tactical intelligence activities from national intelligence activities. They therefore would opt for the Armed Services Committee to retain sole jurisdiction over all defense intelligence activities.

While I have great respect and admiration for the distinguished chairman of the Armed Services Committee, the findings of the Select Committee on Intelligence lead me to disagree with him on this point. I think that it is possible to separate those intelligence programs carried out by the Department of Defense which contribute to the national intelligence picture from those carried out to support tactical military units. The Department of Defense already distinguishes between tactical intelligence programs and national intelligence programs for purposes of its annual budget submissions to the Congress.

Furthermore, we have seen that the President's Executive order of February 17, 1976, places within the Director of Central Intelligence managerial responsibility for all national intelligence activities, including those of the Department of Defense. We have here, then, the executive branch distinguishing between "tactical" and "national" intelligence activities carried out by the Department of Defense, for purposes of managing the intelligence community. Should Congress not do the same?

I know this is a cloudy issue for a lot of Senators who are unfamiliar with how DOD conducts its intelligence activities, but I think that insofar as oversight is concerned, the dividing line would be quite clear. The new select committee, as I see it, would have concurrent jurisdiction over all DOD agencies and programs which were created primarily to collect and produce intelligence for our national intelligence estimates. The Armed Services Committee would retain sole jurisdiction over those agencies and programs of the Department of Defense designed primarily to produce intelligence for use by military commanders in the field. To be sure, there may be national intelligence activities which produce information useful to the military commander in the field, and, by the same token, tactical intelligence activities may produce information useful to the national intelligence picture. But insofar as oversight of these activities is concerned, the select committee would have concurrent jurisdiction over those activities designed to provide national intelligence, and the Armed Services Committee would have sole jurisdiction over those activities designed to produce tactical intelligence.

Unless the proposed intelligence committee does share jurisdiction over the national intelligence activities of the Department of Defense, I think its effectiveness will be seriously jeopardized. I say this for several reasons.

First, as several Senators have pointed out already, between 80 and 90 percent of the intelligence budget goes to the Department of Defense. To eliminate such a sizable amount of intelligence expenditures from the scrutiny of the new intelligence committee would be to make a mockery of it.

Second, I think it will be impossible for the new committee to study the performance of the intelligence community as a whole without looking at DOD. How, for instance, can we make a judgment about the performance of the intelligence community during a Mideast war or an Angolan crisis, unless we have military intelligence in to explain its role? And how will we have their cooperation in these studies unless we have some type of oversight authority?

Third, I fear that if, in the future, the Committee on Armed Services proves to be more favorable than the proposed select committee to intelligence activities or intelligence expenditures, we will see the intelligence community decide to have military undertake more and more of its activities in order to avoid facing the tougher committee. In short, I think that the Stennis/Tower amendment will not result in even-handed oversight of the intelligence community.

Finally, I am concerned that leaving military intelligence in the exclusive hands of the Committee on Armed Services will not result in the type of oversight we need to protect the rights and privacy of our citizens. I remind my colleagues of the Church committee findings which showed that numerous activities of the Department of Defense resulted in violations of individual rights, none of which were ever investigated by the Committee on Armed Services. I point to the existence of the NSA's Watch List and Project Shamrock, and the domestic surveillance activities of the Army during the late 1960's. In this latter case, the investigation of Army surveillance was undertaken not by the Committee on Armed Services but by a Judiciary subcommittee.

The Church committee report also found that there are approximately 5,000 military investigators still in the United States. Can we be satisfied that these 5,000 investigators are staying within legitimate bounds by depending on the Committee on Armed Services?

In short, Mr. President, I do not think we will have an effective committee or effective oversight if Defense intelligence is left out of the committee's jurisdiction. I urge my colleagues to vote against the amendment offered by Senators STENNIS and TOWER.

Mr. RIBICOFF. Will the Presiding Officer please inform us concerning the remainder of the time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes; the Senator from Mississippi has 14 minutes.

Mr. RIBICOFF. I wonder if the Senator from Mississippi would take 4 minutes and give 10 minutes to the distinguished Senator from Idaho (Mr. CHURCH) from the last 10 minutes of the distinguished Senator from Mississippi?

Mr. STENNIS. Mr. President, I do not care just to repeat things that I have already said. I want to refer to what the Senator from Arizona said.

The major part of military intelligence is so sensitive, so far-reaching, that, should error be made, in my humble opinion, we could hardly do a worse thing than to subject all of it to the ordinary legislative process of this congressional body. That is just a matter of common-sense when we consider the subject matter with reasonable caution and not over-caution. I speak with great deference to all these men who have worked on it so much. This resolution is a unilateral thing. No one in the House is going to be bound by it in the legislative circle even if this process is adopted. Where we would have a budget, it would finally be debated here and finally agreed on and then carried to the Committee on Appropriations to let them do the best they could to live with it. The Lord only knows how they would be able to live with it. But we will say they will do their best, which I believe they will, and bring it back here on the floor, where it is subject to a point of order under the terms here and can be knocked out, debated and re-debated, and finally a bill is passed.

Then what happens to the appropriations bill? It goes over to the House of Representatives, and there is no one at home, no special subcommittee over there, no special Select Committee on Intelligence over there—I am talking about legislation now—no one to deal with. If you have ever been on a real appropriations conference committee with those gentlemen from the House, you know they are experts and they are not going to be compelled or bound by anything in the way of a ceiling that they had no part in fixing.

They are not going to be bound by anything that does not pertain to them, or at least that they had a part in making and legislating on—I mean in the House. It would be, I say with great deference, a great mistake. This unilateral committee will have to be redone and abandoned, or something happen to it before it has a chance to be effective in a legislative way. Unless the House comes to something in the neighborhood of the same pattern. I just can not see where it would have a chance.

Maybe I am not fair to the House. Maybe they should have gone on and gone into this thing. But they did not; they did not. All we are asking in this amendment—we are not touching the CIA, we are not touching all the others. All we are asking is just for the military intelligence to be given this routing through the Committee on Armed Services, which has the jurisdiction over all the rest of the military program, for their analysis, for their recommendation at the same time, so that the select committee can pass it, taking all the testimony they want in the whole intelli-

gence field, subpoena power undiminished and everything else.

So I hope, Mr. President, that on second thought the majority of this body will say we must call a halt, we must take another look, at least we will carve this out for the time being until we see what can be done with the House of Representatives.

I yield back the remainder of my time.

The PRESIDING OFFICER. Ten minutes remain per side.

Mr. RIBICOFF. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I am happy to yield 2 minutes to the distinguished senior Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SYMINGTON. Mr. President, as everyone knows, I have great respect for the distinguished chairman of the Armed Services Committee, but I just cannot agree with this proposed amendment. In my opinion, it will drown the CIA, the only civilian agency which in itself is a brake against the Defense Department having the exclusive right to describe the threat.

I am already worried about the executive branch reorganization of the Agency and I have so told Director Bush for whom I have the greatest respect.

I believe if this intelligence is assigned, the way it is planned under this amendment, to the Pentagon Building it would end any true civilian supervision of intelligence activities, 90 percent of which is a matter for the Foreign Relations Committee even though it is called military intelligence, unless we are at war with the country in question.

I thank my friend for yielding the time to me.

Mr. CHURCH. Mr. President, I thank the Senator very much for his remarks.

Mr. President, the Stennis amendment would strip the oversight committee of all legislative authority over strategic intelligence agencies which operate under the aegis of the Pentagon.

The resolution, the substitute resolution, does not take anything away from the Armed Services Committee. It does not in any way intrude upon the legislative authority that that committee possesses.

All this resolution does is to establish concurrent legislative authority so that the oversight committee might have adequate power to do its job.

But the Armed Services Committee, speaking through its distinguished chairman, opposed sharing any legislative authority with respect to those agencies that operate under the Defense Department.

It ought to be made clear, Mr. President, that we are speaking here only of those agencies within the Defense Department that are primarily concerned with strategic or sometimes what is called national intelligence. We are not at all concerned with, and we are not even reaching for, the Army intelligence, the Air Force intelligence, or the Naval intelligence, which is purely military and purely technical.

We are talking about those agencies within the Defense Department that deal with the collection, the dissemination, and the assessment of political and economic intelligence under the direction of the DCI, strategic intelligence, and that we must have if the oversight committee is to do its job.

Mr. President, I suggest that if this amendment is adopted it will deny the oversight committee the leverage it needs to deal effectively with those intelligence agencies which account for the great bulk of the spending. It has already been mentioned if this amendment is adopted what it means is that between 80 and 90 percent of the spending for intelligence is excluded from the legislative reach of the oversight committee, and I think that is no minor matter. In fact, instead of a club, the adoption of this amendment would leave the oversight committee with nothing more than a small stick, and would gut the committee.

Now, the substitute resolution, on the other hand, gives the oversight committee sufficient legislative reach to embrace the whole intelligence community. Thus, the oversight committee would be the congressional counterpart to the way the executive branch itself organizes and administers national intelligence.

This is a seamless web, Mr. President. If you look at the way the executive branch pulls it all together, you will see the so-called military agencies actually operate under the direction of the DCI; they operate under the direction of an overall intelligence board. This is all of a piece, and it has to be left of a piece, and if you do not give the oversight committee jurisdiction to handle as a piece then you, of course, deny the committee effective oversight authority.

Everyone who has served in the Senate knows that the power of the purse is the ultimate test. To deny the oversight committee the power of the purse where the intelligence community is concerned would be to effectively undermine its role.

Furthermore, Mr. President, if this amendment is adopted it gets us right back to the problem we are trying to solve. For years the problem has been there has been no committee in Congress that could reach out and embrace the entire intelligence community. Now we have one if this substitute resolution is adopted. But if the Stennis amendment is approved, we are right back to where we started from. The net, that seamless web, has been broken, and we are back to piecemeal jurisdiction distributed among several committees of Congress none of which can do the job.

So, Mr. President, I do hope that in consideration of the need that has been demonstrated during the past 15 months of investigation, and the abuse we found, some of which occurred within the Defense Department—the National Security Agency was one of those that, contrary to the laws of the land, intercepted hundreds of thousands of cables and read them in a massive fishing expedition for intelligence information, all contrary to the statutes of this country.

So these agencies need to be supervised, and the oversight committee needs

to have such reach so it may deal with the overall national strategic intelligence community the same way that the executive branch deals with it. Only then will you have effective senatorial oversight. Only then will you be assured that the abuses that we found in the course of this investigation can be prevented from reoccurring in the future.

So I do hope that the Senate, in its wisdom, will reject the amendment.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. CHURCH. Yes.

Mr. MONDALE. The argument was made today that not much of the scope of the abuses that were uncovered occurred in this area of defense intelligence. So I asked the staff to bring over just the copies of the reports that deal in detail with abuses occurring exclusively in the defense intelligence areas: One dealing with surveillance of private citizens, one dealing with the National Security Agency, and each of these going into detail showing over many years in a broad and deep scope the abuse of human rights and legal rights by these agencies.

If we proceed as this amendment proposes, to exempt these agencies, not only do we exempt 80 percent of the intelligence budget but we will be creating a situation where if they wanted to repeat what has happened in the past they would simply shift these activities over into the defense intelligence agencies because these agencies can do and have done, as this record shows, precisely the things that we seek to prevent.

Mr. CHURCH. I agree wholeheartedly with the Senator. He is correct in everything he said.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired. The time the Senator from Mississippi has left is 10 minutes.

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the issue here is not whether or not we should have oversight. I think everybody agrees that we should have oversight. The question is whether or not we are proceeding on the presumption that a committee set up specifically for that purpose can do a more perfect job than the other committees having jurisdiction over various elements of the intelligence-gathering communities.

I submit that it cannot.

Now, inherent in the proposal of this resolution is the suggestion that the Armed Services Committee has been derelict in its duties for lo these 25-plus years since the Central Intelligence Agency has been in existence.

I reject that notion. If there has been any dereliction, then the entire U.S. Senate and the House of Representatives must bear the responsibility because this was the accepted way of doing business for so many years. Then when abuses were brought to our attention, we reacted, and quite properly, in mandating a special investigation.

That brings up a point, the Senator from Idaho says that without legislative jurisdiction the oversight committee would not have sufficient authority and

power to deal with the business of oversight.

I reject that notion because the select committee which he so ably chaired actually got everything it wanted and it had absolutely no legislative authority. All it could do was make recommendations.

I submit that a better way to maintain oversight would be to allow the jurisdiction in terms of oversight of our various intelligence-gathering activities to continue to lodge in the committees that now exercise that jurisdiction.

I think that the process could be perfected by the creation of, in the case of the Armed Services Committee, a permanent subcommittee with a permanent professional staff required to report to the Senate on a regular basis.

The thing I fear about this oversight committee that is supposed to resolve all of our problems regarding the intelligence community is that it is going to create more problems than it solves. Certainly, it is going to create problems in terms of the effectiveness of our clandestine activities.

Now, already, the debate on this resolution preceding that investigation, the Senate-House committee, has undermined foreign confidence in the ability of the United States to carry on intelligence-related activities in a confidential way.

We have damaged our credibility with the intelligence services of allied nations and they feel less disposed to cooperate with us now, feeling that much might be disclosed about their own operations if they do cooperate with us.

So what we are doing here is engaging in an exercise that, in my view, has the potential for seriously undermining the intelligence-gathering capability of the United States.

I cannot see that the need for the creation of such a committee, whatever the merits in the proposal are, outweigh the potential dangers to the security of the United States in terms of the proliferation of disclosure of confidential, classified and sensitive information.

The fact of the matter is that in the creation of this new committee we do not solve the problem of the proliferation, we exacerbate that problem.

Now, we have a brand new committee of 15 members, we also have a staff, for every member plus the regular permanent staff, and this is an enormous undertaking, particularly when we consider all the security precautions this committee will have to take.

This means that the potential for disclosure of sensitive information increases geometrically rather than arithmetically and the potential is very much there.

Yes, the select committee had a pretty good record of not leaking that which it chose not to disclose. I think the committee chose to disclose more than it should have.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield the Senator a minute.

Mr. TOWER. But we can always expect this to be the case.

The experience in the House is that the

House committee, investigating intelligence committee, did not leak; it poured.

There is a vast potential for mischief here. This is not a committee that is being established on the basis of popular demand. The popular fear in this country, by citizens generally, is not that the CIA and the FBI are going to invade their rights, because most people being law-abiding, have no such fears. Their concern is that other agencies of the government have intruded much too much in their lives.

The preponderance of the American people believe, I feel, that we have disclosed too much, not too little, and the dangerous potential is here, that we shall disclose much more and that we will impact adversely against the security of the United States through such action.

Mr. STENNIS. Mr. President, I just have one point.

This effort about holding disclosure to a minimum, everyone understands that we are not trying to keep the information away from the Senators or from the American people. This means disclosures to our adversaries, those that are pitted against us, that are planning against us.

I am sorry that there has not been more said about better ways of getting intelligence. Everything here directed about disclosures, demand, everybody have access. Let us have some better ways of getting better intelligence, more accurate intelligence, better system, better method, better arrangement, better protection for our men and those we hire, better alternative methods, will bring better and more valuable results.

I hope that this little amendment—and it is small—for the protection of this part of the intelligence program will be passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order, with one show of hands, to order the yeas and nays on the pending Stennis-Tower amendment, the Cannon substitute, and Senate Resolution 400, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the pending matter now before the Senate?

The PRESIDING OFFICER. The amendment No. 1649 to amendment No. 1643 to Senate Resolution 400.

Mr. STENNIS. Is that the amendment that has been referred to here as the Tower-Stennis-Thurmond amendment?

The PRESIDING OFFICER. The Senator is correct, the Tower-Stennis amendment.

Mr. STENNIS. Mr. President, I intend to speak in support of the amendment by Senator TOWER, myself, and others to the pending substitute proposed by Senator CANNON. Before discussing the

amendment in detail, I shall address the substitute as a whole.

PRINCIPAL EFFECT OF THE PENDING SUBSTITUTE

I realize the pending substitute, which reverses the version reported by the Rules Committee, represents a good faith effort and hard-bargaining on the part of all those involved. For a number of basic reasons, however, I cannot support the substitute.

Although there are many provisions in the substitute on which I have reservations, I will limit my comments to the principal thrusts of the substitute.

The substitute would create a separate intelligence committee with legislative, oversight jurisdiction over all intelligence activities in the Federal Government. Defense intelligence activities would be broken out from the Defense budget. At the same time, any cognizant standing committee could request on a secondary and limited basis the referral of intelligence legislation except as to the CIA.

Of equal significance is the provision that no funds will be appropriated for U.S. intelligence activities after September 30, 1976 "unless such funds have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activities for such fiscal year". If intelligence funds have not been specifically authorized, appropriations for intelligence activities could be subject to a point of order.

OBJECTIONS TO THE PENDING SUBSTITUTE

Mr. President, any Senate arrangement for legislation and budget authority such as the pending substitute that does not include the House of Representatives is bound to fail in the Congress. Moreover, by creating a new and second budgetary process for intelligence, the substitute would increase the potential for disclosures. Whatever reform that is needed to improve U.S. intelligence should be undertaken through a unified approach between the House of Representatives and the Senate.

The pending substitute would also result in a proliferation of involvement by Senate committees in intelligence matters and would inevitably lead to greater disclosures on the nature and scope of U.S. intelligence activities.

Finally, the pending substitute would do nothing to improve U.S. intelligence; on the contrary, its effect could well be to weaken present U.S. intelligence-gathering capabilities.

ADVANTAGES OF THE TOWER AMENDMENT

I have joined Senator TOWER in sponsoring an amendment which would protect military intelligence from these two main hazards of the pending substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. The Tower amendment would do three things:

Keep the legislative jurisdiction over military intelligence with the Armed Services Committee while leaving the select committee with oversight jurisdiction for all military intelligence.

Avoid a report by the select committee of its views and estimates on military intelligence to the Budget Committee.

Eliminate the requirement for a separate authorization for military intelligence funds.

The effect of this amendment would be to reduce the risk of serious intelligence disclosures and preserve the integration and strength of military intelligence within the overall U.S. defense posture.

I fully support a strengthening of congressional oversight for intelligence and have endorsed the concept of a new "watchdog" committee for intelligence. The Tower amendment would in no way reduce the power of a select committee created by the pending substitute to guard against possible abuses in the U.S. intelligence community. The select committee would have undiminished oversight authority over all intelligence activities including CIA and military intelligence. It would have access to all military intelligence information, budgetary and otherwise. It would also have full investigatory powers, including subpoena power. Thus, the Tower amendment has neither the aim nor effect of restricting congressional vigilance over any U.S. intelligence activities.

Rather, the Tower amendment would preserve the regular authorization process for defense intelligence resources. In other words, the Armed Services Committee would continue to examine the merits of complex research and development, procurement, and construction associated with high technology intelligence equipment. The Armed Services Committee would continue to scrutinize military intelligence manpower through the authorization of overall military end strengths. These authorizations are studied initially by the various subcommittees of the Armed Services Committee such as the Research and Development Subcommittee, headed by Senator MCINTYRE, the Military Construction Subcommittee, headed by Senator SYMINGTON, and the Manpower and Personnel Subcommittee, headed by Senator NUNN, and so forth. Military intelligence matters would then be passed on by the full Armed Services Committee in conjunction with annual authorization for the budget of the Defense Department. It is this process that has served this Nation well over the years and has been responsible in large part for creating the most effective intelligence service in the world.

WHAT THE TOWER AMENDMENT WOULD NOT DO

There have been abuses of activities in the intelligence community, some quite serious and inexcusable. They have been spread out over the 30-year period which has recently been under review, but they cannot be justified, and I have been ashamed of the abuses which have been reported.

For the purposes of the amendment, I want to point out that most of the abuses have not been associated with defense intelligence. The uniformed military by and large has not engaged in covert operations and the so-called "dirty tricks." While certain surveillance operations, ordered by higher authority, have provoked criticism, the military agencies have engaged, for the most part, in collecting and analyzing intelligence infor-

mation. I believe they have done so skillfully and in the Nation's best interest.

In the exuberance to prevent abuses within the intelligence community, the Congress must not fail in its responsibility to give intelligence its proper emphasis and security for the defense of this country.

HOW THE PRESENT SYSTEM WORKS

At the present time there are no laws requiring that intelligence funds in the Federal Government be authorized annually as a condition for the appropriations of intelligence activities. There is a sound reason for not requiring a separate annual authorization law. The reason is to prevent disclosure of the amounts of these funds and the annual changes which would surely be revealed if a separate law were utilized.

Let me also emphasize that the appropriations for the various defense intelligence funds are now contained in 23 different defense accounts and are authorized in part by the annual military authorization bill. In addition, there presently is no separate budget for defense intelligence activities in the sense that there are separate accounts that can be audited for the Congress by the General Accounting Office. In other words, the military intelligence budget is composed of merely estimates of intelligence spending rather than strict budget accounts. For example, an Air Force mechanic may work part-time on fighter aircraft and part-time on intelligence-gathering aircraft. He is paid out of a general defense operation and maintenance account rather than any account for defense intelligence.

Thus, this substitute would force the creation of a completely new and unwieldy budget system for intelligence in the Senate while the House of Representatives would continue under the existing budget system.

SEPARATE AUTHORIZATION REQUIREMENT WOULD LEAD TO GREATER INTELLIGENCE DISCLOSURES

A requirement for separate authorization of military intelligence funds will inevitably result in serious disclosures on the nature and scope of U.S. intelligence activities. To meet the separate authorization, as contemplated by the pending substitute, would result in identifying crucial aggregates and components of military intelligence.

Such disclosures would not have to come from outright leaks. Instead, separate authorizing legislation and debate in the Senate would provide the basis for drawing inferences and reaching conclusions. These inferences could be enormously valuable to our adversaries. They could also shatter the confidence of allied nations and friendly individuals who might otherwise cooperate with U.S. intelligence efforts.

SEPARATE AUTHORIZATION WOULD PRECLUDE THE CONDUCT OF CERTAIN SENSITIVE PROJECTS

A brief historical review will show that several projects crucial to the national security could not have been accomplished under a congressional requirement for separate authorization. It would have been impossible for example to develop the atomic bomb in secrecy if the funds for the Manhattan project had to

have been annually authorized by the Senate as whole.

The development and use of the U-2 reconnaissance aircraft prior to the development of satellites would have been impossible had it been necessary to annually authorize funds for this purpose.

A more recent example was the so-called *Glomar Explorer* project. This was a highly secret effort to recover a sunken Soviet nuclear submarine with all its advanced technology and weaponry. It was a multimillion-dollar project that spanned several years. If the Senate had followed the separate authorization procedures for intelligence funds as set forth in the pending compromise, there would have been sufficient budgetary information made public from which clear inferences could have been drawn that the United States was engaged in an extraordinary intelligence project. From their suspicions—and all they needed were suspicions—the Soviets could have been right on the recovery spot in the Pacific Ocean, thereby foiling the entire project.

There are many other examples involving satellites, decoding systems, and other electronic technology, which would further underscore the importance of avoiding a separate authorization requirement for intelligence funds.

OTHER DRAWBACKS TO A SEPARATE AUTHORIZATION FOR DEFENSE INTELLIGENCE

An authorization requirement for defense intelligence activities would pose additional problems. There is no meaningful distinction between tactical or local intelligence and strategic or national intelligence.

A single intelligence collector such as an aircraft or satellite can provide simultaneously information that will be useful to force planners, weapons developers, and the national command headquarters.

The facilities, maintenance, logistics, and operations associated with an intelligence-gathering system cannot be separated in a budget sense from the general facilities, maintenance, logistics, and operations of the Defense Department. For example, a KC-135 intelligence aircraft uses a military airport, supplies and fuel from military stocks, military aircraft maintenance personnel and military pilots.

To segregate defense intelligence activities into a single budget would be administratively costly, requiring additional expenses, staff, and automation equipment. Furthermore, the mere compilation of such a new intelligence budget would substantially increase the risk of intelligence disclosures.

To the extent that defense intelligence activities must be separately authorized, the Defense Department would lose the flexibility to adjust quickly the level and type of defense intelligence activity. This would be especially damaging in a crisis situation.

DEFENSE INTELLIGENCE SHOULD NOT BE ISOLATED FROM THE OVERALL U.S. DEFENSE PROGRAM

In addition to using the product of the defense intelligence community, the Congress has a fundamental role in the

production of defense intelligence. All of the various elements of the defense program—such as intelligence, tactical air power, and strategic submarine forces—must be evaluated and balanced together in order to provide the most effective overall national defense. Valuable defense resources must go to the areas where they will make the maximum contribution to national defense. This requires that all of these elements be reviewed together in one place by a single committee.

Given its responsibility for the "common defense generally" the Armed Services Committee should be the one to weigh needs and priorities across the spectrum of defense activities so as to best channel resources into intelligence activities. Only the Armed Services Committee can review research and development, procurement, and manpower for intelligence activities in relation in airlift capabilities, command-and-control facilities, and so forth.

Defense intelligence must not become an end in itself. It must be designed to support and enhance U.S. defense efforts. Separating it from the Armed Services Committee will facilitate the development of intelligence as a separate activity operating independently of the Defense Department and U.S. national defense efforts.

Giving the select committee jurisdiction over defense intelligence would be like giving the Commerce Committee authority over military airlift or the Space Committee authority over strategic missile development. The result must inevitably be to fractionate and dilute U.S. national defense efforts.

CONCLUSION

For the reasons I have stated the Tower-Stennis amendment should be adopted. In that way we can avoid the long and cumbersome process of preparing, debating, and passing an authorization measure to cover military intelligence.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I sent to Senators on this matter dated today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 19, 1976.

DEAR COLLEAGUE: As you know, Amendment No. 1649 (the Tower-Stennis Amendment) to the pending Substitute to S. Res. 400 will be considered at 11:00 this morning. First, I would like to call your attention to what said Amendment No. 1649 does *not* do.

1. The amendment will not alter in any respect the Substitute as it relates to the Central Intelligence Agency.

2. The amendment in no way alters the existing language of the Substitute as it relates to oversight of U.S. intelligence activities including defense intelligence. The select committee will have access to all intelligence information as well as full investigatory and subpoena powers over all intelligence activities.

The amendment would provide:

1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The

rationale is two-fold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot over-stress the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

2. Intelligence activities, as carried on within the Department of Defense, are as much a part of national defense as the Strategic Air Command, Polaris submarine fleet, or any other vital defense element. The Senate should not fractionalize national defense by having a separate authorization for intelligence manpower, intelligence research and development, and intelligence procurement involving such matters as cryptology, satellites and other electronics. Intelligence is an inseparable element of national defense.

The new select committee, by retaining complete oversight, would be empowered to investigate and prevent any abuses. At the same time the necessary secrecy and strength of defense intelligence would be preserved.

One final comment. With the Senate acting alone, the entire proposal will ultimately fail. With the House continuing under the present system, with the basic differences in Congressional management of the intelligence program, legislative reconciliation becomes unmanageable and impossible to attain. The fate of national intelligence should not be left to chance.

I hope you will see fit to vote for the proposed Amendment No. 1649.

Most sincerely,

JOHN C. STENNIS.

ADDITIONAL STATEMENTS ON TOWER-STENNIS AMENDMENT

Mr. TAFT. Mr. President, I rise in support of the amendment offered by Senator Tower and others which would avoid a very serious problem created by the substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. This is one of the points I addressed in my testimony before the Rules Committee which unfortunately has not been resolved in the final compromise version of the resolution.

Furthermore, as I understand it, the Tower amendment would add constructively to the resolution by establishing the following things:

First, it would maintain the legislative jurisdiction over military intelligence within the Armed Services Committee, while preserving the select committee's oversight jurisdiction over military intelligence.

Second, it would obviate the requirement that the select committee report its estimates on military intelligence to the Senate Budget Committee.

Third, it would avoid the requirement that a separate authorization for military intelligence funding be employed.

The intent of the amendment is to alleviate the risk of disclosure of military intelligence and to provide for the continued coordination of military intelligence with our entire U.S. defense position.

Mr. President, in my opinion it is virtually impossible to separate the budget-

ing process for the intelligence function from the process of authorizing and appropriating funds for our national defense. It is clear to me from my work on the Armed Services Committee that intelligence is an integral part of the national defense. It can be analogized to a complex network that could not be unraveled without destroying its entire structure. For example, Navy ships and military bases carry intelligence gathering equipment, for both tactical and national defense purposes. My question is, how can these funds for these systems be separately authorized and appropriated? In practice, it is impossible to draw a distinction between national and tactical intelligence, much less say that one system gathers only national, and another only tactical intelligence. These differences exist only on paper, in Senate Resolution 400, and not in point of fact. Moreover, I believe Senator STENNIS has made a good point here when he said that Congress has a vital role in the production of defense intelligence. He stressed that all of the elements of our defense program, such as sealift capability, defense intelligence, air power, must be evaluated together in order to provide the most effective overall national defense capability. He urged that valuable defense resources must go to those areas where they will have a maximum contribution to national defense. I could not agree more. It is my conclusion that this requires all of the component elements to be reviewed together in one place by a single committee having the expertise to make such evaluations. I submit that this is properly an Armed Services Committee function.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Delaware (Mr. ROTH) in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ROTH

I regret that due to a long-standing speaking engagement in Delaware, I am unable to be present for the final votes on S. Res. 400, including the vote on the Tower amendment and on the Cannon substitute.

If present, I would vote against the Tower amendment and for the Cannon substitute.

The Tower amendment would exclude from the jurisdiction of the new Intelligence Committee all Defense Department intelligence programs, including the National Security Agency (NSA) and the Defense Intelligence Agency (DIA). Since these agencies are involved in preparing national intelligence information that is the basis for general foreign policy and defense policy decisions, I believe that it is essential that the new Intelligence Committee have jurisdiction over these programs along with the Armed Services Committee. This is necessary for the new committee to have a coherent and complete understanding of our national intelligence effort, to review the various programs to eliminate any unnecessary duplication and maximize efficiency as required by one of my amendments to S. Res. 400, and to perform basic oversight responsibilities. Under the Cannon substitute, the Armed Services Committee will have sequential jurisdiction, and, of course, that committee will also properly retain exclusive jurisdiction over tactical military intelligence, the kind of intelligence commanders in the field need in a battlefield situation.

The Cannon substitute to S. Res. 400 is the compromise worked out by members of the Government Operations and Rules Committees to establish a new permanent Intelligence Committee. I joined in introducing this substitute because I believe a new committee with legislative jurisdiction is needed to help restore public confidence in our intelligence services while providing effective oversight. Finally, the substitute incorporates the essential provisions of the amendments I introduced to protect national intelligence secrets and examine a number of problems, including the morale of intelligence personnel, the analytical quality of our foreign intelligence information, and the desirability of charters for each intelligence agency, which I believe have not yet been adequately addressed.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

On this vote, the Senator from North Carolina (Mr. HELMS) is paired with the Senator from Tennessee (Mr. BAKER). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Tennessee would vote "nay."

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—31

Allen	Fong	Scott, Hugh
Bartlett	Garn	Scott,
Bellmon	Goldwater	William L.
Brock	Hansen	Sparkman
Buckley	Hruska	Stennis
Byrd,	Johnston	Stevens
Harry F., Jr.	Laxalt	Taft
Cannon	Long	Talmadge
Curtis	McClellan	Thurmond
Eastland	McClure	Tower
Fannin	Nunn	Young

NAYS—63

Abourezk	Gravel	Montoya
Bayh	Griffin	Morgan
Beall	Hart, Gary	Moss
Bentsen	Haskell	Muskie
Biden	Hatfield	Nelson
Brooke	Hathaway	Packwood
Bumpers	Hollings	Pastore
Burdick	Huddleston	Pearson
Byrd, Robert C.	Humphrey	Pell
Case	Inouye	Percy
Chiles	Jackson	Proxmire
Church	Javits	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Schweiker
Culver	Magnuson	Stafford
Dole	Mansfield	Stevenson
Domenici	Mathias	Stone
Durkin	McGovern	Symington
Eagleton	McIntyre	Tunney
Ford	Metcalf	Welch
Glenn	Mondale	Williams

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So the Tower-Stennis amendment (No. 1649) was rejected.

Section 3(b) Joint Sequential Referral

S. Res. 400

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 30 days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within 30 days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

Ribicoff Analysis:

Subsection (b) provides that the intelligence committee will have exclusive legislation and authorization jurisdiction over the CIA and the Director of Central Intelligence. The subsection also provides, however, that if the select committee reports legislation, including authorization legislation, that affects agencies other than the CIA or the Director of Central Intelligence, the legislation may be sequentially referred for up to 30 days to the appropriate standing committee with general jurisdiction over that agency. Under similar procedures the intelligence committee chairman could ask for referral to his committee of legislation affecting any of the intelligence activities of the government which has been reported by another committee.

The original referral of any legislation will be to the intelligence committee if it predominately involves the intelligence activities of the government. If the legislation predominately involves non-intelligence matters and secondarily intelligence, the legislation will be referred to a standing committee, and then sequentially referred to the intelligence committee.

Senator Pell:
(p. 7097)

Although I support this amendment, I do have some questions relating to the effect of the amendment on the jurisdiction and activities of other interested committees, particularly the Foreign Relations Committee, of which I am a member. I would therefore appreciate it if the distinguished Senator from Connecticut who has done such a fine job in developing this compromise as the floor manager of Senate Resolution 400, would be so kind as to respond to the following questions:

The Committee on Rules, in its report, raised the possibility that the Hughes-Ryan amendment to the Foreign Assistance Act, which provides for Presidential reports to four standing committees of the Senate on covert actions, may be superseded if an intelligence committee is established. The report states that it is arguable that the Foreign Relations Committee could lose its statutory authority to receive Presidential reports on covert activity. I understand that it is not the intent of Senate Resolution 400 to affect the Hughes-Ryan amendment, but I do believe that it would be useful to clarify the matter in light of what has been said by the Rules Committee.

Mr. RIBICOFF. May I respond this way to the Senator from Rhode Island, who was deeply involved in the Committee on Rules hearings on these proposals: Senate Resolution 400 does not repeal the Hughes-Ryan Act. As a resolution, it could not do so. Accordingly, creation of a new committee will not repeal the requirement of the CIA to brief the Committee on Foreign Relations.

Mr. PELL. I thank the Senator.

Does the granting of exclusive jurisdiction to the proposed intelligence committee over the CIA mean that paragraph 1(d)(1) of Senate rule XXV, which states that the Committee on Foreign Relations has jurisdiction over "relations of the United States with foreign nations generally," should be taken to exclude jurisdiction over CIA activities which have foreign relations implications?

Mr. RIBICOFF. The jurisdiction of the Committee on Foreign Relations over legislation affecting the CIA is not changed by Senate Resolution 400. Legislation which now would go to the Committee on Foreign Relations because of its predominant foreign policy

implications, rather than intelligence implications, would continue to go to the Foreign Relations Committee, with the right of the new committee to ask for a sequential referral.

Mr. PELL. I thank my colleague. In section 3, paragraph (b) of the amendment it is stated that "any legislation reported by the select committee, except any legislation involving matters specified in clause (1)"—that is, the CIA—or (4) (A)—CIA budget—"of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration."

Does that mean that any legislation developed by the proposed intelligence committee relating to CIA activities having foreign policy implications would be referred upon request to the Foreign Relations Committee?

Mr. RIBICOFF. If the legislation reported by the Select Committee has significant foreign policy implications, the Committee on Foreign Relations would be able to ask for a sequential referral of the legislation.

Mr. PELL. I thank the Senator. Later on in that same paragraph, it is stated that—

Any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration.

Does that mean that the Committee on Foreign Relations could initiate legislation of its own on CIA activities having foreign policy implications as long as such legislation is referred subsequently to the proposed Intelligence Committee?

Mr. RIBICOFF. That is correct. As I said in response to your second question, such legislation would be sequentially referred to the Intelligence Committee.

Senator Taft:
(p. 7361-64)

AMENDMENT NO. 1646

Mr. TAFT. Mr. President, I call up my amendment No. 1646.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 12, delete paragraph (b) and substitute the following provision:

(b) Any proposed legislation or other intelligence matter considered by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall be communicated to the chairman and ranking member, respectively, of such standing committee, and at the request of the chairman of such standing committee any proposed legislation shall be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which any proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation

is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

Mr. TAFT. Mr. President, this amendment relates to section 3(b) of the proposed substitute, page 6 of that substitute, which sets up a procedure under which any proposed legislation reported by the select committee, except legislation relating to authorizations and legislation relating to the Central Intelligence Agency, or the Director of Central Intelligence, containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter.

Then it goes on to the procedural aspects of how this is handled requiring the standing committee to act within a specified period of time.

The PRESIDING OFFICER. The Chair inquires of the Senator if this is the amendment upon which 2 hours have been designated.

Mr. TAFT. No; this is a 1-hour amendment.

The PRESIDING OFFICER. I thank the Senator.

Mr. TAFT. Mr. President, the question that occurred to us in the hearings before the Armed Services Committee with regard to this amendment was whether there was any way in which the chairman of the standing committee could possibly know what matters were before the intelligence committee so that he could ask for jurisdiction to be asserted under this particular clause.

Let me read briefly from the transcript of the committee hearings before the Armed Services Committee in this regard, page 9 of that transcript:

Senator Taft. I must say I share some of the serious doubts about this already expressed by my colleagues, Senator Tower and Senator Thurmond. There are some practical things I would like to ask. Maybe Dr. Riddick or Mr. Ellsworth can comment on them.

But the question I have is that under the procedures involved, as I read them, the Armed Services Committee would be entitled to ask for a referral of a particular matter to the Armed Services Committee for a period of time, is that correct?

Mr. Riddick. For 30 days. It goes two ways, it is sequential concurrent referral, except for CIA. Now, the CIA project does not come to any committee except to the Select Committee.

Senator Taft. There is also in the bill a ban on the disclosure of information by any member of the committee to any other Senator outside of the committee of the classified information.

Mr. Riddick. There are two aspects in there. One is, until the committee has acted, you may not. After the committee has acted to divulge under certain circumstances, after this has been submitted to the Senate, they can pass it onto a committee or to a Senator. But the staffs are pretty well—

Senator Taft. Only after the committee has acted and there has been an appeal to the President and so forth.

Mr. Riddick. That is correct.

Senator Taft. The question that comes up to me, substantively, then is, how is the Armed Services Committee going to have enough jurisdiction?

Mr. RIDGICK. The Armed Services Committee also has a right to make investigations. The resolution specifically states that nothing given to the select committee shall prohibit any standing committee from making investigations within their respective jurisdictions that they already have.

Senator TAFT. But in order to find this out they are going to have to call in the various intelligence agencies, they can't go to the select committee and ask for it?

Mr. RIDGICK. This is a part of that compromise that Senator Hart was talking about there.

Senator TAFT. How are they going to know, unless they have an independent investigation? I do not know how they are going to know that they are going to get jurisdiction.

Mr. RIDGICK. That is what I was going to explain. Part of the reason that the committee got so large is the fact that they wanted two representatives from each of these committees.

Senator TAFT. But the ban on disclosure of information that is presently in the bill as I read it would apply even to a disclosure of information by the ex officio Armed Services Committee member to the chairman of the Armed Services Committee, if he is not a member.

Senator HART. If the Senator will yield, I think a portion of the bill may touch on that. Section 4(a) states:

"The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees."

Senator TAFT. Would that apply to classified information?

Senator HART. That is what it does apply to.

Senator TAFT. But the same question would remain, I think, because the judgment would then be made by the Armed Services Committee unless the select committee decided to turn the matter over to the Armed Services Committee; the Armed Services Committee would have no way to know whether or not there would be a referral.

Senator HART. I think it is mandatory language. They don't have a choice.

Senator TAFT. It says deem, and deem to me confers a choice. They have to make a judgment, the legislative committee make a judgment as to whether they think the Armed Services Committee ought to have this. If they decide that, then they have to defer it.

Senator HART. It is not an arbitrary kind of power that they have to decide whether to turn something over to the Armed Services Committee or not. If it is a defense-related matter, they have to. That is the way I read this language.

Senator TAFT. I don't read it that way, Senator. I think that is something that ought to be cleared up. I am thinking about an amendment, is why I am asking these questions along this line.

Senator HART. And you do have two members of the Armed Services Committee on this 17-member committee.

Senator TAFT. I understand that. I might comment that the 8 and 9 setup that you are advocating is that the 8 members involved are representing 61 Senators and with 9 Senators representing 39 Senators who aren't on the committee.

The point that I would make is that there is no way under which the Armed Services Committee can know what is before the Select Committee on Intelligence unless the Select Committee on In-

telligence itself makes a judgment that it wants to refer to the Armed Services Committee. If the select committee wants to leave the Armed Services Committee in the dark, they can leave them in the dark because they would deem it was not within their jurisdiction or area of interest.

So I think we have a real question here. I attempt, by this amendment, to clear it up by changing the language saying that any matter otherwise under the jurisdiction of any standing committee shall be communicated to the chairman and ranking minority member, respectively, outside the standing committee. Then we would go ahead with the same language for concurrent jurisdiction that is included in the substitute as it presently stands.

Mr. President, with regard to that, the committee never really did resolve the question. I would be interested in hearing from the distinguished chairman of the committee and the ranking minority member as to what their understanding is in this regard and how mechanics of this can work.

I reserve the remainder of my time.

Mr. RIBICOFF. I would be pleased to respond. Senator TAFT's amendment requires the new committee under section 4(a) to communicate to the appropriate standing committee any intelligence matter, as well as any legislation considered.

Section 4(a) already requires this new committee to promptly communicate with the appropriate standing committee any matter deemed by the select committee to require the immediate attention of such committee. What worries me is that the mandatory nature of the proposed language, in conjunction with its vague reference to the words "any matter," could unduly hamper the new committee's operations. If it requires disclosure of all the details of an intelligence activity, for example, it could be a burdensome requirement. The general language in 4(a) is preferable. Under section 3(d) on page 7 the other standing committees will be able to obtain directly from the intelligence committee the information they need.

I read:

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

And on page 7 is 3(c):

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

I would like to point out that last Thursday the distinguished Senator from Nevada (Mr. CANNON) introduced an amendment cutting down the size of the committee from 17 to 15. The pending substitute also mandates that two members on that committee be from Armed

Services, two from Foreign Relations, two from Appropriations and two from the Judiciary. So the standing committees that have jurisdiction generally over the agencies that engage in intelligence will have the majority of the 15 members on that committee.

Mr. TAFT. Will the Senator yield at that point?

Mr. RIBICOFF. I would be pleased to yield.

Mr. TAFT. What confused me is the fact that, as I understand the prohibition on communication of information by members of the Select Committee on Intelligence even though there are ex officio members on that committee from various other standing committees with concurrent jurisdictions, there would not be any authority on their part to even communicate to their own chairmen something before the Select Committee on Intelligence that they felt also would entitle the other standing committee with concurrent jurisdiction to receive it.

Mr. RIBICOFF. May I point out they are not ex officio. They are actual, voting members of that 15-member committee. There is a provision that at the request of the so-called parent committee there is a sequential referral for a period of 30 days. So the other committee can ask that it be referred on to them.

If this is going to work at all, there has to be comity between the standing committees, the select committee, and the executive branch of our Government. If there is not this comity, it is not going to work. It is inconceivable to me that any intelligence matter would be kept back from the parent committee.

Mr. TAFT. Will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. TAFT. Can the Senator answer specifically under the legislation as it is now proposed, without any amendment, whether the members of the Armed Services Committee, who also are Members of the Select Committee on Intelligence, have the right—never mind the duty—to communicate information that they get on the select committee to the chairman of the Armed Services Committee and the ranking minority member of the Armed Services Committee?

Mr. RIBICOFF. It is my understanding that when it comes to communications the communications will be in accordance with rules and regulations established by the select committee. We did not try to write into the legislation how they were going to communicate with one another. But the select committee, with eight members being from the four other committees, could sit down and make the rules and regulations of the select committee which could provide under what circumstances there would be communication from the select committee to the other standing committees. I am sure the eight members would see to it that they would be able to communicate to the so-called parent committee a matter that affects the standing committee and its operating functions.

I wonder if my distinguished colleague from Illinois interprets the resolution the same way that I have.

Mr. PERCY. Mr. President, if the

Senator will yield for just a comment, on line 22 on page 14, paragraph 2, the language says:

The Select Committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate.

It certainly seems that by our prescribing that two Members shall come from each of the four committees, the intent and purpose is to be certain that those committees, each of which do deal with one aspect of intelligence, are fully apprised, and that there shall be a member of both the majority and the minority.

Any time any member of that committee feels that certain matters are being discussed that the other cognizant committees should be aware of, there is adequate procedure for making certain that that information can be transmitted.

The problem I have with the pending amendment is that it would require a tremendous amount of reporting by the intelligence committee of a broad range of matters not requiring legislation, simply by those words "or other intelligence matter considered by the select committee." The burden of responsibility would be tremendous, and much of that material might be highly sensitive. That would seem to drastically reduce the independence of the intelligence committee, and place a burden upon it which hopefully the group working on the compromise in the Government Operations Committee have provided for by making certain that there is a broad-based representation on the intelligence committee itself, and that the four cognizant committees are fully represented on that committee at all times.

Mr. RIBICOFF. If I may add further, we were careful not to try to write all the rules and procedures in the legislation. You have to read 8(c) (2) on page 14 with section 3 (c) and (d) on page 7 and section 4(a) on page 7 together. I look at all these provisions to be taken together.

These provisions show that it is the intention of the resolution that the new committee keep informed all these other committees sharing responsibility. I do believe that we have, in 3 (c) and (d) and 4(a), combined with 8(c) (2) on page 14, the method by which to keep the Armed Services, Foreign Relations, Judiciary, and Appropriations Committees completely informed. I would be very disappointed in the intelligence of the Senate as a whole and the select committee if they were not able to prescribe rules to assure that the Armed Services, Foreign Relations, Judiciary, and Appropriations Committees could exercise their appropriate functions.

Mr. TAFT. Mr. President, I yield myself such time as I may consume.

I appreciate the good intentions of the distinguished Senator to discuss the fact that there would be good coordination under the regulations of the Select Committee on Intelligence. But I still have not received an answer to the basic question as to whether there is any legal

right under the resolution as drafted for a member of the Select Committee on Intelligence who is also a member of the Committee on Armed Services to go to the chairman of the Armed Services Committee, or the ranking minority member, if he be a member of the minority, and tell them about a matter that is being heard by the Select Committee on Intelligence which comes also within the concurrent jurisdiction of the Armed Services Committee.

I point out with regard to that the specific language included in section 8 (c) (1). We have been talking about section 2(c) (2), but I would call attention to section 8(c) (1), which is a flat prohibition, saying that no information in the possession of the select committee relating to the lawful intelligence activities, and so forth, which has been classified, can be disclosed to any other Member or anyone else.

MR. RIBICOFF. I would say it could not without action by a majority of the select committee.

MR. TAFT. So it would be up to the select committee to vote.

MR. RIBICOFF. To the select committee, by a majority vote; and the select committee may have regulations requiring a written record of who was disclosing what to whom.

MR. TAFT. Then I go on to point out—I do not really agree with the Senator in that statement, because it seems to me the prohibition in (c) (1) is so clear it is not even amended by (c) (2). The Senator says it is amended by (c) (2); I would take it this would be legislative history on that point. But it still does not leave to the control of the member of the Armed Services Committee the decision as to whether he talks with the chairman of the Armed Services Committee, which I think is an intolerable burden to put on the man, and he is in a conflict of interest position, basically.

MR. RIBICOFF. No, I would say that (c) (1) provides in line 21, "or as provided in paragraph (2)." If you go now to (c) (2), it gives the select committee the authority to make regulations to communicate this matter to the other committees.

I have complete confidence that the select committee will be able to make sure that they transfer from the select committee to the other committees the knowledge and information as provided under section 4(2).

I think we are making the legislative history right here today indicating how that would be achieved.

MR. TAFT. I would just say with regard to that I am afraid I cannot agree with the Senator on it. It seems to me that subsection (2) merely applies to the way the regulations of committees will operate. It does not really say what the individual member of the committee may or may not do with regard to his other standing committee. It gives me a good deal of pause about this. I do not see any way in which there is direct authority for a member of the select committee to refer a matter to the standing committee of which he is a member.

I feel we have a deficiency here, which I think is a rather serious one insofar as the committee referral is concerned, and

apparently it is an intended deficiency. Apparently the intention of the drafters of the substitute is that individual members of the select committee who are members of another standing committee which has concurrent jurisdiction may not communicate to the chairman or the ranking minority member of that committee information that they get with regard to a matter properly within the jurisdiction of the Armed Services Committee or the other standing committee.

This seems to me to put them in a direct conflict of interest position insofar as their position on the standing committee is concerned. The amendment is designed to correct that, and I do not see what harm the amendment does in correcting it. It merely says they have that authority. I am not attempting to take it one step farther than that.

But if the matter also comes before the Select Committee on Intelligence, I think the member of the select committee should be authorized to go before the chairman of the committee.

The matter might be solved if the only members of the select committee who are members of the standing committee were the chairman and the ranking minority member of the standing committee. That might resolve it, although then perhaps someone would even find within himself a conflict as to whether he could take that information and move with his committee.

MR. RIBICOFF. I wonder if the Senator would concur—and I would have to check also with the distinguished Senator from Nevada and the distinguished Senator from Illinois—if, on page 8, on line 5, we deleted the words "deemed by," crossing out the select committee, and then having "requiring," so as to make it read "such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the immediate attention of the Senate or such other committee or committees."

So anything of importance would immediately be sent over to the committee having sequential jurisdiction, without requiring such committee to take all the minutia that comes to it, and give it to the other committees, or all the details which would not concern the other committee. Does the Senator from Ohio think that would solve his problem?

MR. TAFT. It does solve my problem in some part anyway because it seems to me to go to matters requiring immediate attention. I do not know why it should be limited to those matters, but it is a step in the right direction certainly so if the matter does require immediate attention, of course, we have it all. What it would do practically is give the member of the Intelligence Committee, who is a member of the standing committee, a basis for raising the question and saying this is a matter requiring the immediate attention of the committee.

MR. RIBICOFF. I am even willing to take out the word "immediate" so then there would be no problem what our intention is. It is definitely our intention

if there is any matter of importance involving any other committee that that matter should go to this other committee for its attention. If we took out the word "immediate" that would indicate that it is the intention of this resolution that when a matter of substance comes before the Intelligence Committee it then goes over to the Committees on Armed Services, Foreign Relations, Judiciary, or Appropriations.

MR. TAFT. I think with that change it meets substantially the objections I have been raising.

MR. RIBICOFF. I would suggest the absence of a quorum so I could consult with the Senator from Illinois and the Senator from Nevada.

THE PRESIDING OFFICER. The clerk will call the roll. The time is to be equally charged against both sides.

The second assistant legislative clerk proceeded to call the roll.

MR. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. MANSFIELD. Mr. President, I yield myself 1 minute on the bill.

THE PRESIDING OFFICER. The Senator from Montana is recognized.

PROPOSED STANDING COMMITTEE
ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MANSFIELD. [Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll. The time is to be charged equally to the proponents and opponents of the Taft amendment.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask to modify my amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

On page 8, line 5, delete the words "deemed by the" and substitute the words, "requiring the".

On page 8, line 6, strike the words, "select committee to require the immediate".

Mr. TAFT. I appreciate the consideration this matter was given by the Senator from Connecticut and the Senator from Illinois.

I believe this largely does meet the problem that I have raised. I think, practically, with this language as modified that the intention will be clear that the individual members of the Select Committee on any matters affecting the other standing committee on which they serve will be in a position to ask the Select Committee to call the matter to the attention of the other standing committee for their possible assertion of concurrent jurisdiction.

Mr. RIBICOFF. Mr. President, the amendment offered by the distinguished Senator from Ohio is acceptable to me.

Mr. PERCY. Mr. President, a point of clarification.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Is the language substituted for the language offered before by the distinguished Senator from Ohio?

Mr. TAFT. Yes. That was the intention of the Senator from Ohio. The language is a substitute for the amendment previously offered.

The PRESIDING OFFICER. Does the Chair understand that the Senator from Ohio states this is a substitute for the entire language?

Mr. TAFT. It is a substitute for the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. PERCY. Mr. President, with that understanding and also taking into account the wording of the substitute, the objection the Senator from Illinois had before has now been fully taken satisfied. The concern that I had before was that it imposed a tremendous burden upon the committee to refer all other intelligence matters considered by the Select Committee to another committee whenever it involved their work. This clearly delineates the difference now between all matters, which might include minor matters, and matters of considerable importance. With that modification and substitution, it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment of the Senator from Ohio.

The amendment was agreed to.

* * *

Senator Stennis:
(p. 7544-45)

The Senator from Illinois used the term, "concurrent jurisdiction," and referred to the Armed Services Committee having concurrent jurisdiction. I do not believe the language will support saying that this resolution gives the Committee on Armed Services concurrent jurisdiction.

That means concurrent as to time, reference, and so forth. It permits the Armed Services Committee, as I see it, to obtain this matter, whatever the pending matter would be.

Mr. PERCY. I would like to have my distinguished colleague from Connecticut answer it, and then I would like to follow it with my own interpretation.

Mr. RIBICOFF. May I say to my distinguished colleague the word used is not entirely correct. It is not the intention by this resolution to put concurrent jurisdiction in the Intelligence Committee and the Armed Services Committee. We specifically call it sequential jurisdiction, not concurrent.

Mr. STENNIS. Mr. President, will the Senator define sequential as compared to concurrent.

Mr. RIBICOFF. Well, concurrent means both committees have jurisdiction at the same time. My understanding is depending on where the thrust is that one committee handles the matter first, as I discussed in my colloquy with the distinguished Senator from Georgia, and after the first committee completes action, it then goes to the other committee sequentially for a period of 30 days, to give them an opportunity to act on the matter that cuts across the jurisdiction of both committees.

Mr. STENNIS. Mr. President, if the Senator will yield 1 minute further on my time, the Senator's interpretation though would be to say the Parliamentarian would refer this matter first to the intelligence committee—

Mr. RIBICOFF. No, it depends—not necessarily.

Mr. STENNIS. No sequential reference.

Mr. RIBICOFF. If the matter is purely an intelligence matter it would go to the intelligence committee first. But if the matter is not predominantly an intelligence matter it would go to the Armed Services Committee, the Judiciary Committee or the Foreign Relations Committee, and it then, would be sequentially be referred to the intelligence oversight committee to consider only that portion that involved intelligence.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STENNIS. Yes, I yield to the Senator from Illinois. The Senator from Connecticut thinks concurrent jurisdiction is not the term that applies.

Mr. RIBICOFF. That is correct.

Mr. PERCY. The interpretation of the Senator from Illinois is exactly the same.

Section 3 (c and d) Not Limiting Other Committees Information or Review

S. Res. 400:

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

* * *

Ribicoff Analysis:

Subsection (c) makes it clear that nothing in the resolution prohibits or restricts the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of the committee. Any committee may conduct oversight hearings concerning an agency's intelligence activities and the effect of the intelligence activities on the ability of the agency to perform its overall mission.

Subsection (d) provides that nothing in the resolution limits or inhibits any other Senate committee from continuing to obtain full and direct access to the product of the intelligence agencies where that information is relevant to a matter otherwise within the jurisdiction of such committee. This provision specifically assures the right of any other committee, such as the Foreign Relations Committee, to receive briefings on the political situation in any part of the world.

* * *

Senators Pell and
Ribicoff:
(p. 7097)

Mr. PELL. Finally, section 3, paragraphs (c) and (d), state that other committees may "study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee" and that such committees would "obtain full and prompt access to the product of the intelligence activities of any department or agency of the government relevant to a matter otherwise within the jurisdiction of such committee." Do these provisions mean that the administration would be expected to provide all of the information, which the Committee on Foreign Relations requires, except of course raw data? I recall in this regard that, when I was conducting hearings several years ago on weather modification activities in Southeast Asia, I was denied information on the grounds that the "appropriate" committee—in this case, Armed Services—had been notified.

Mr. RIBICOFF. That is correct. Creation of the new committee should not be used by the intelligence agencies to deny the standing committee any information on any matter with which the committee is concerned, such as an investigation described by section 3(c) of the proposed substitute to Senate Resolution 400.

Section 4 (a and b) Committee Reports; Reports to and from Committees

S. Res. 400

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

Ribicoff Analysis:

SECTION 4—COMMITTEE REPORTS

Subsection (a) requires the new committee to make regular and periodic reports to the Senate on the nature and extent of the Government's intelligence activities. The committee must call to the attention of the Senate or any other appropriate committee any matters which require the immediate attention of the Senate or other committees. If, for example, the intelligence committee possesses information on intelligence activities that may have a significant affect on foreign policy, the intelligence committee should notify the Foreign Relations Committee. Any report the intelligence committee makes will be subject to the provision in section 8(c)(2) to protect national security.

Subsection (b) requires the intelligence committee to obtain a report each year from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for purposes of public dissemination. Each report should review the intelligence activities of the particular agency or department submitting the report. Included in this report should be a review of the intelligence activities directed against the United States or its interests by other countries. The reports by the four intelligence agencies and departments are to be made public in an unclassified form.

Senator Taft:
(p. 7349)

AMENDMENT NO. 1647, AS MODIFIED

Mr. TAFT. Mr. President, I call up my amendment No. 1647, and I send a modification to the desk.

The PRESIDING OFFICER. The amendment, as modified, will be stated. The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an amendment (No. 1647), as modified.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 8, lines 13 and 14, delete the term "for public dissemination".

On page 8, line 17, delete all after the period and delete all of line 18.

On page 8, line 22, before the period insert "or the amount of funds authorized to be appropriated for intelligence activities."

The PRESIDING OFFICER. May the Chair ask the Senator, is this the amendment which has the time limitation of 2 hours?

Mr. TAFT. Mr. President, this is not the amendment that I referred to in the consent agreement for 2 hours. It is merely a 1-hour amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself such time as I may consume.

Mr. President, first of all, let me say with regard to this entire measure that I have very serious reservations about it. I am glad that we are going to dispose of it. In delaying action on it last week, I did so because I thought that while the Senate ought to act on it, while I think we need some type of an institutionalization of the reporting process of our intelligence agencies, the one we have today being either nonexistent or at least wholly inadequate in my opinion, nevertheless the approach that was taken by the substitute which is before us at this time, amendment No. 1643, should be of great concern to all Members of the Senate. I am not sure whether I am going to vote for it or not. I am going to listen to the debate with interest and observe what happens with regard to the amendments before making up my mind whether I will support it or not.

I think it raises questions as to our security insofar as intelligence operations are concerned which give me serious pause.

The fact that we are going to have 15 Members of the Senate, and still the same reporting or some other reporting procedure on the House side, means that quite a few more people are going to be privy to the information than has been

true in the past, which is, I think, a very serious question.

I also believe there are very serious questions relating to the provisions of this bill which go toward the reports that the select committee is directed to make. In that regard, I want to go over some of the specific provisions in the substitute amendment with the Senate.

I am certain that there is no Senator who wants to see abuses of power or authority in or by any arm of the Government, and the control of abuse in intelligence matters is properly a function of the Congress which we should not avoid. But we must exercise control in a careful and deliberate manner to insure that our oversight activities do not undermine effective intelligence operations, to the advantage of our adversaries.

We have seen around the world too many cases where national security is used as a justification for domestic repression. Equally, we see cases where foreign intelligence services of various States, especially the Soviet Union, engage in practices on foreign soil that violate the rights and sovereignty of other States. We cannot and should not view any of these practices with equanimity or approval.

At the same time, I would hope that there is no member of this body who is not aware of the vital national need for adequate and accurate foreign intelligence. Our international opponents, particularly the Soviet Union, are closed societies. They do not publicize their capabilities or their intentions. I think the question of intentions is particularly acute for this country. We know that the ideology of the Soviet Union calls for the spread of communism worldwide. What we do not know is how seriously that ideology is taken, in terms of policy plans. We cannot obtain such knowledge without using covert intelligence collection; yet without it, how can we establish a policy toward the Soviet Union other than one based on general mistrust and suspicion of Soviet intentions?

This is, of course, only one example of the need for intelligence, but at a time when we are hotly debating the merits of détente, it is a timely example.

There are, Mr. President, many aspects to the problem of how to exercise adequate oversight over the intelligence community so as to prevent potential abuses, while at the same time not impairing our vital intelligence gathering capability.

In this respect, I see a number of ways in which amendment No. 1643 to Senate Resolution 400 may be improved. My amendment No. 1647 seeks to avoid one of the potential problems created by the resolution by prohibiting the public dissemination of annual reports required under section 4(B) of the substitute amendment. My colleagues will recall that the section 4(B) presently reads:

(B) The Select Committee shall obtain an annual report from the director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the

Agency or Department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the Select Committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

Mr. President, last week after this substitute had appeared on the scene, the Armed Services Committee, under Chairman STENNIS, called the Deputy Secretary of Defense, Mr. Robert Ellsworth, before that committee to testify on this subject. Secretary Ellsworth's testimony is now printed and available for study and we are making copies available to any Senators here today who would like to read that testimony.

I was concerned in this hearing about the effects of section 4(b) on foreign intelligence sources because of the requirement of annual public disclosure. In response to my questions about the effects of the section, Mr. Ellsworth had a good deal to say. I want to read specifically from some of his testimony before the committee just last week with reference to this particular section, section 4(b), appearing on page 8 of the bill.

Mr. President, at that time, I asked as follows:

Senator TAFT. I would like to ask Secretary Ellsworth, in section 4(b) is a provision that:

"The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information."

And so forth.

What in your opinion would be the effects on foreign intelligence sources to us of it being known that there will annually be such a report made public?

Mr. ELLSWORTH. I think that the effect of that report would be to apprise foreign nations of the extent of our familiarity with their operations against us, and would assist them in perfecting and strengthening their operations against us.

That appears on page 11 of the transcript.

On page 13, a question was asked by Senator STENNIS, the chairman of the committee:

Now, Mr. Secretary, are there any other points that you can think of? And I want you to answer questions here by our Chief of Staff, too. But make your points further.

Mr. ELLSWORTH. The only other point, Mr. Chairman, is a personal point that comes out of what some of my friends, for example, in the academic community have been saying for a couple of years, before I came into the Defense Department, to the effect that it is logical, if we are going to spend that amount of money on intelligence, to have a coherent, unitary budget for that, and logical therefore to give the jurisdiction for authorizing that budget and for overseeing its performance, and so forth and so on, into a separate

committee in the Congress. They use words like logical and coherent. But I want to stress again that notwithstanding the appeal of logic and coherence, the fact of the matter is that in real life this is going to give us tremendous problems in our responsibilities as far as the Defense Department is concerned, first of all, because naturally when you get things into a coherent, unitary picture in the intelligence field, foreign intelligence specialists and analysis—the analysts who work for foreign powers—are not so dumb that they can't figure out on the basis of a year-to-year comparison basis what is going on in our intelligence collection effort on a more effective and efficient basis than they are today.

THE CHAIRMAN. You mean intelligence from foreign nations?

MR. ELLSWORTH. That is right. A foreign analyst analyzing our program is going to have a tremendous edge when he can look at our unitary defense overall intelligence budget and compare it from year to year and put it together with other bits of information that he has assembled on the worldwide basis. It is going to be a tremendous help to him with his problem, figuring out what we are doing and how he can counter it.

That is one problem.

Another problem is a reflection of the point you yourself made, Mr. Chairman, and that is if the Senate has this process, it is just going to mean double accounting, it is going to mean double automation, and double staffing as far as we are concerned in presenting our budget to the two bodies.

So these are our points.

Senator THURMOND then asked the following question:

I might ask you this. Have you any thoughts or recommendations on the way you think intelligence might be handled by the Congress to provide the greatest protection to the Government?

MR. ELLSWORTH. Well, I would think—and speaking again for Secretary Rumsfeld—that it would be desirable as well as—it certainly would be desirable from the standpoint of the public confidence and support in intelligence operations, and completely acceptable to us, there could be either in the one body or in the other, or both, or on a joint basis, an oversight committee which would have an exercise a rigorous oversight function over the various intelligence activities of the Government, which would not imply involving itself in these other problems which I have mentioned; that is to say, the administrative problems and the unitary budget presentation problem which I have mentioned.

And it seems to me that that would be something that could be and would be handled to everybody in the Government and to everybody in the intelligence community because of the fact that it would improve and increase, presumably, the public's confidence and therefore support, for necessary information-gathering functions.

Then continuing on, Senator THURMOND asked the following question:

I believe Mr. Colby said he would welcome a small joint committee on the matter of surveillance. There would be no objection to that, could I see it. As the chairman mentioned, a joint committee would save intelligence officials from making so many appearances. They have to appear before the Armed Services and Appropriations Committees of the Senate, and the Armed Services and Appropriations Committees of the House. If you had a joint committee of both Houses, they could make one appearance instead of four.

And so forth. But I think the general impact of the testimony here by Mr. Ellsworth makes it perfectly clear that there is a real danger, even on an unclassified

basis, in making these annual reports to the public, reports that the committee is not even given the discretion of releasing or not.

I point out that the committee, if it is set up under this substitute amendment, could release information if it decided it wanted to do so in the public interest, but it would be mandated by the language of this section 4(b) to go ahead annually with an unclassified version of the report, and it would be required also to have this report, and I think to have it become public property, in effect, unless some matter in it were specifically classified; and I question whether it would be possible to segregate out the unclassified portion and have the report mean anything so far as the public is concerned; or, on the other hand, not face the alternative Secretary Ellsworth talked of, of providing a pattern of information as to how our intelligence gathering is proceeding and what kind of authorization we are giving to it.

My amendment would take out the requirement that such reports be made public, and take out the requirement that the unclassified version be made available to the public by the select committee, and this modification, which was added today, would also add at the end of section 4(b) the words "or the amount of funds authorized to be appropriated for intelligence activities," which is an attempt to help meet the last objection of which Secretary Ellsworth was speaking.

Mr. President, I urge the passage of the amendment, and reserve the remainder of my time.

THE PRESIDING OFFICER. Who yields time?

MR. RIBICOFF. Mr. President, let me respond briefly to the distinguished Senator from Ohio:

The part of the section that the Senator seeks to have stricken was put in the bill by the Senator from Tennessee (Mr. BROCK). We have sent for Mr. BROCK, and would like to have him here before we take further action.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged to either side.

THE PRESIDING OFFICER. Is there objection?

MR. PERCY. Mr. President, before we go into a quorum call, I should like to respond.

THE PRESIDING OFFICER. Does the Senator from Connecticut withdraw his request?

MR. RIBICOFF. I withdraw my request.

MR. PERCY. Mr. President, I would like to reserve final judgment until Senator Brock has taken the floor, but my initial reaction to the amendment of the Senator from Ohio (Mr. TAFT) is a favorable one. I really cannot imagine what value a report for public dissemination would really have. I am concerned that it might actually be misleading.

Certainly to have a report from the intelligence community to the committee on its activities would be highly valuable. It would be comprehensive in scope, and could be a useful document. Obviously the committee has available to it procedures, as provided for in the resolution,

for public dissemination of such information in that report as it feels is desirable and would not be contrary to the interests of the intelligence community in the United States. The resolution it would provide for coordination of release with the executive branch of the Government. But it does seem to me there is value in the amendment being offered. I would like to wait to hear a final argument by the author of this particular section, Senator Brock, because I feel he should have that privilege; but my initial reaction to the amendment is favorable.

MR. RIBICOFF. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time consumed by the quorum call not be charged to either side.

THE PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

MR. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. ALLEN. Mr. President, I ask unanimous consent that the pending amendment may be set aside temporarily in order that I might call up an amendment which the managers of the bill have agreed to accept, and which I believe we can dispose of in about a minute.

THE PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MR. ALLEN. I call up my amendment which is at the desk, and ask for its immediate consideration.

THE PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), from himself, Mr. PERCY, and Mr. CANNON, proposes an amendment to amendment No. 1643, as follows:

On page 8, line 21 between the words "or" and "the" add the following: "the divulging of intelligence methods employed or"

THE PRESIDING OFFICER. Who yields time?

MR. ALLEN. Mr. President, I yield myself such time as I may use.

Mr. President, the resolution calls for the select committee to obtain an annual report from the Director of Central Intelligence, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. It provides also that:

Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

The language of the resolution does not cover the leaving out of the report the matter of divulging intelligence methods employed.

Without an amendment, it could be construed that all that could be withheld from the report would be the matters listed in section 4(b) of the resolution, that is, that the report did not

ve to include the names of the individuals engaged in intelligence activities for the United States, or the sources of information on which such reports are based.

This amendment would add a third bit of information that would not have to be disclosed, and that would be the intelligence methods employed by the agencies. Otherwise, if they were required to disclose the intelligence methods employed, the methods, of course, would be made available to adversaries and would become common knowledge. The amendment does is to provide that, in addition to not disclosing the names of the individuals carrying on intelligence activities, or the sources of information, they should not be required to give information as to their methods of operation.

So the manager of the bill, the distinguished Senator from Illinois (Mr. PERCY), and the distinguished chairman of the Committee on Rules and Administration (Mr. CANNON) have approved the amendment, and I hope that the Senate will accept the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, as the manager of the bill, the amendment offered by the distinguished Senator from Alabama is acceptable.

Mr. PERCY. Mr. President, speaking on behalf of the minority I know of no objection on this side and certainly the amendment is acceptable to the Senator from Illinois. Just looking at a technical point—

Mr. ALLEN. I wish to touch that.

Mr. PERCY. Have the two "ors" been eliminated?

Mr. ALLEN. Yes.

Mr. PERCY. Fine.

I have no further comment.

The PRESIDING OFFICER. The amendment was agreed to.

Mr. RIBICOFF. Mr. President, May I have the attention of the distinguished Senator from Ohio?

I have just noted that the distinguished Senator from Ohio changed the printed amendment 1647:

On page 8, line 22, before the period, insert the following: "or the amount of funds authorized to be appropriated for intelligence activities."

What concerns me is that, while it is not the intention of the resolution to require that the amounts appropriated be made public, yet there is provision in the legislation providing that, under rule XXXV, any two Senators in a closed session, could debate the question of the amount of funds. The Senate then by majority vote could make the decision to make public the amount appropriated. This would be the Senate's decision in that case. What concerns me is that the additional language might foreclose the Senate itself by majority vote in making public the amount of the appropriation. This is what concerns me.

Mr. TAFT. Mr. President, if the Senator will yield on that point, I do not think the Senator's fears would be justified here.

The additional clause that would be added at the end of that sentence on line 22 would still be governed entirely by the language in line 19. The language in line 19 says that "nothing herein shall be construed as requiring the disclosure in such reports of * * *", and then referring to the language I added, "the amount of funds authorized to be appropriated for intelligence activities." In other words, it would relate only to a requirement that it be disclosed. If the committee decided it wanted to disclose it, or if the Senate overruling the committee decided it wanted to disclose the amount of funds authorized to be appropriated, it could do so and there would be nothing in the language that would prevent it. I would like to go on to say, however, that this is the very point on which Secretary Ellsworth was, I think, abundantly clear. He made the point that the disclosure of the authorization of appropriations was very likely to be helpful to possible adversaries in interpreting our intelligence activities.

So I think a specific indication that there is no authorization or no requirement that such a disclosure be made would be desirable at this point. It is only that.

Mr. RIBICOFF. Will the Senator agree that it is not his intention, and he does not interpret the language to foreclose, the Senate after meeting in executive session to vote by majority vote to disclose the amount of authorization?

Mr. TAFT. I certainly take that interpretation, again saying I would hope, if the Senate ever gets to that point, it would take a very careful look at it because of the danger I have just outlined.

Mr. RIBICOFF. But we do have to have faith and trust in the Senate as a whole to make the decision and not to foreclose the Senate from making it.

Mr. TAFT. There is no question about it. As I indicated, I do not think the language forecloses the committee from making the disclosure if it decided it wanted to do so. I think it would be unwise to do so, but if it wanted to do so, it could do so under the language of the amendment.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time allotted to the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, will the Senator from Ohio yield me about 5 minutes on the amendment?

Mr. TAFT. How much time do I have remaining on the amendment, Mr. President?

The PRESIDING OFFICER. The Senator from Ohio has 15 minutes remaining.

Mr. TAFT. I yield 5 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the Senator.

Mr. President, I support the amendment offered by the distinguished Senator from Ohio.

The resolution calls for the annual report that the committee obtains from the intelligence agencies to be obtained for public dissemination and would seem to contemplate that possibly it could be classified and unclassified information, from the language of the resolution; because farther down in the section it says that an unclassified version of each report shall be made available to the public by the select committee.

Obviously, there is no need, then, for the first phrase that the distinguished Senator from Ohio is seeking to strike, to eliminate the "for public dissemination" of the annual report.

So the report can be obtained; but what the first phase of the Senator's amendment does is to eliminate the "for public dissemination." That would leave, then, the unclassified version being made available to the public by the select committee.

The second phase of the amendment would strike that out, because the committee has authority, under other sections, to divulge information, if it sees fit to do so, subject to an appeal to the Senate. So a method is provided, without this sentence, for this disclosure of information.

Further, the sentence which the Senator seeks to delete provides that it shall be made available, which is directory and mandatory; and by eliminating this sentence, it would be discretionary with the committee to take the necessary steps to divulge the information. So that sentence is not needed.

Also, the third phase of the amendment provides that this section shall not be construed as requiring a report on the amount of the appropriation to the intelligence agency. Obviously, a disclosure of the amount of the appropriation would give much valuable information to adversaries as to the extent of our intelligence activities.

The colloquy that just occurred between the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Ohio (Mr. TAFT) indicates that if the committee wished to divulge this information, it could do so if it were allowed to do so by the Senate.

So the amendment in all three of its aspects, it seems to me, is a constructive amendment, and I hope it will be agreed to by the Senate.

I yield back the remainder of the time allotted to me.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed by the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proposed to call the roll.

MR. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. RUBINOFF. Mr. President, I yield all time as he may require to the distinguished Senator from Tennessee.

MR. BROCK. I thank the Senator from Connecticut.

THE PRESIDENT. I should like to discuss the proposed amendment with the Senator from Ohio and be sure that we are on the same track.

I wish to explain, first of all, the purpose of the language as it was inserted into the committee. What we hoped to obtain by this language was at least, on an annual basis, some sort of general overview of our intelligence operations to be made available to the American people so that they could understand the need for maintenance of a high intelligence capability.

I understand what the Senator is trying to do. I just want to be certain that I leave us the opportunity to present to the American people, in a completely unclassified sense, a report on why we need an FBI, a CIA, and so forth. I think most people know, but I am not sure that we are reminded of it in a tangible fashion, on a regular basis. These two agencies particularly have come under massive assault in recent months—for some valid reasons on occasion, but generally the assault has extended the crime, in my opinion.

I think we have done a great deal of damage to our capacity for national security. In that sense, then, I was hoping that this report would afford the agencies an opportunity to present their side of the case to the American people and to justify the foundation for their actions, not only with regard to their intelligence activities, but with regard to the intelligence activities directed against the interest of this country and its people. That was the purpose of the language.

I am not so sure that the language is perfect. I certainly have no pride of ownership in it. But I do think it is important that we provide an opportunity for the American people to see just what abuses are being raised against this country and what we are trying to do to deal with these threats.

MR. TAFT. I yield myself 2 minutes.

THE PRESIDENT. I appreciate the position taken by the Senator from Tennessee. Frankly, I do not think I have any disagreement with him. It does seem to me that the public should have from the committee and from Congress a general indication as to the need for our intelligence activities. The difficulty I have is in going into a formal report of going and setting out exactly what we are doing anywhere. As Secretary Ellsworth pointed out in the testimony I referred to earlier, there is a substantial danger that adversaries, looking at that information, may be able to detect major intelligence activities.

I will go on and read another part of the report of the same hearings before the Committee on Armed Services. I shall

ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

I cite the question raised by Senator NUNN, to which Secretary Ellsworth replied later by a letter at the end of the testimony. Senator NUNN pointed out that, for instance, with the *Giomar Explorer*, the U-2, and other similar situations, the nature and size of those very activities could show a bulge in intelligence activities that might be of some use to those who are making a constant analysis of any information they can get as to what we are doing in the intelligence agencies. I do not disagree with the Senator at all. The committee, if it decides to do so, can make available general information if it becomes convinced that it is not going to be detrimental from the point of view I am concerned with.

I tell the Senator one thing: The American people are deeply concerned with the whole problem of intelligence. They are deeply concerned with the abuses that have been described by the committee that the Senator from Minnesota was talking about earlier. They are even more concerned about the possibility that some of this information that is classified or information that can be of use to those who are our adversaries in the international intelligence community might become available to them. The American people are in an uproar about that. Everywhere I go, people are concerned about it. They want to see Congress do something to try to tighten up this entire area. I hope the legislation that we pass eventually will have that effect. I do not want anything counterproductive to that in the language here. I had the feeling, reading this language in the bill, that it might be so interpreted.

MR. BROCK. The President has expressed a concern, and I share it. I am disgusted, frankly, with some of the machinations with regard to this investigation. There clearly were abuses; they must be cleared up. But, there clearly have been excesses in reporting those abuses. I think that is a tragedy for Congress and for the American people. I want no part of that kind of action.

What I am reaching for, and may be the Senator can help me find a better way to do it, is an opportunity for these agencies to demonstrate to the American people in some fashion why we need an intelligence capability. I should like for them to have an opportunity to present their side of the case. That is all I am reaching for. If the Senator finds the words, "for public dissemination" on line 13 excessive or unnecessary, then, that is fine to strike that.

I am not trying to give the committee an opportunity to make a report on why we need an agency; I am trying to get the agencies a chance to present their case. What I am asking is that the committee get the full report and that an unclassified summary or synopsis be made available so that we can at least make some judgment as to protecting that national interest.

Maybe that is not necessary, but I do not know how else to do it, I say to my colleague from Ohio. I know that he and

I seek exactly the same objectives with regard to this total bill. We are not in disagreement.

MR. TAFT. I reply to the Senator by saying that with the amendment I am proposing, we still would have language under which reports would be made by the various agencies involved and going for a review of the intelligence activities or department concerned and intelligence activities of foreign countries directed at the United States. It would take out "for public dissemination" and would leave that entirely up to the committee or the Senate.

As I discussed earlier with the distinguished chairman of the committee, the Senator from Connecticut, there is nothing in the language of the amendment that would prevent the committee or prevent the Senate, either with the committee or without the committee, from going ahead and making public such aspects of any reports from the various departments that they think it is desirable to make public. I do not intend to cut off that right at all. In fact, I think it would be a mistake to cut it off.

MR. BROCK. But by striking the language, I think—let us just talk about some future Senate with some future different composition. Reading the legislative history in which we simply strike the language on lines 17 and 18, the second part of the amendment, it would read that the committee could write its own report or could not issue any report at all. I almost would rather, if the Senator wants to allow them the privilege of passing on this report—because I think this is a passthrough thing. I do not want it completely rewritten or turned around by the committee. I think the agencies ought to have the right to present their own case.

I wonder if the Senator would allow me to keep lines 17 and 18 and, instead of the word "shall," write "may." That would allow the committee to release it but that still leaves the decision with the committee. It still implies that they are releasing a report which came to them and not writing their own.

MR. TAFT. I do not think I would have any objection to that. I think that would leave it optional to the committee still and not mandatory. I must say, however that I would rather expect, from any knowledge I have of the intelligence agencies involved, that the last thing in the world they are going to want done is to have a copy of their reports made public.

MR. BROCK. It may be. It is quite possible that the committee would agree with that and say no report at all.

You see, there is not any reason for this whole paragraph on page 8, subparagraph b, without the report, though, because the rest of the bill deals with requiring the CIA and the FBI to come before the committee and testify as to what they are doing and why. We might be better off just to eliminate the whole paragraph, because that annual report is part and parcel of the whole bill. If the Senator wants to do that, fine.

Alternatively, we could strike the word "shall" and substitute "may" and leave it to the discretion of the committee.

I think the Senator can see what I

am reaching for. I am a little reluctant to deny these agencies an opportunity for presentation of their own case to the American people at large without—

Mr. TAFT. I can understand the Senator's feeling. The only thing I would say about it is if there is a report of that kind made, I think it ought to come from the President of the United States to the people of the United States, anyway.

Mr. RIBICOFF. Will the Senator yield?

Mr. TAFT. Yes.

Mr. RIBICOFF. I wonder if we could reconcile the differences in emphasis here? If on line 17, we struck the word "shall" and substituted "may" and on line 18, after the word "public," "at the discretion of" the select committee, would that satisfy the Senator from Tennessee and the Senator from Ohio?

Mr. BROCK. It would be all right with me.

Mr. TAFT. I think that would satisfy our need in what we have here. Mr. President, I move to modify the amendment by deleting lines 3 and 4 of the amendment and on page 8, line 17 that the word "shall" be stricken, and that the word "may" be substituted for it; and in line 18 after the word "public" strike the word "by" and insert the words "at the discretion of."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. RIBICOFF. Another question arises, if I may have the attention of the distinguished Senator from Ohio, on line 19, page 8, after the word "the" and the word "disclosure" insert the word "public" because we have now added the question of methods of gathering information and the amount of authorization. While this information should not be made public by Senate Resolution 400, we should not deprive the select committee of the information.

Mr. TAFT. I think that suggestion is proper, and I agree to that modification.

Mr. RIBICOFF. I wonder if the Senator would modify it to insert the word "public" at that point?

Mr. TAFT. Mr. President, I move to modify the amendment to insert the word "public" in line 19 before the word "disclosure."

The PRESIDING OFFICER. The amendment is so modified.

The modifications are as follows:

Delete lines 3 and 4 of the amendment (No. 1647).

On page 8, line 17 strike "shall" and insert in lieu thereof "may".

On page 8, line 18 strike "by" and insert in lieu thereof "at the discretion of".

On page 8, line 19, after "the" insert "public".

Mr. RIBICOFF. Mr. President, under these circumstances the amendment of the distinguished Senator from Ohio, as modified, is acceptable by the manager of the bill.

Mr. PERCY. Mr. President, I should like to commend both the Senator from Ohio and the Senator from Tennessee, who originally wrote this section, for further clarification of its intent and purpose.

The Senator from Illinois is delighted to learn the objective is exactly the same, and I think the compromise language

that has been worked out with the manager of the bill is entirely acceptable.

Mr. BROCK. Mr. President, may I say that I too appreciate the efforts of the Senator from Ohio. I think we have an absolutely common purpose in this debate, and I appreciate his pointing out the possible dangers as the wording was originally. I could not more thoroughly agree with his concern about the releasing of any classified material that would damage our security and our intelligence activities. I appreciate the fact that he brought it up, and I shall support the amendment, as modified.

Mr. TAFT. I thank the Senator.

Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Ohio.

The amendment, as modified, was agreed to.

Section 4 (c) Reports to Congressional Budget Office

S. Res. 400
p. 7083)

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

* * *

Ribicoff Analysis: Subsection (c) makes it clear that the new committee must comply, like any other committee, with the reporting requirements of the Budget Act of 1974.

* * *

Senator Muskie:
(p. 7541)

As a member of the Budget Committee, I urged, in the work of the compromising negotiations which led to introduction of the pending bill, that the new Intelligence Committee be required to submit--on or before March 15 of each year--the views and estimates described in section 301(c) of the Budget Act regarding matters within its jurisdiction. This requirement must be met by all the standing committees. Observance of it by the Intelligence Committee will push along the goal of making the intelligence agencies fiscally accountable, and I am glad that an appropriate provision is included in the bill.

* * *

Senator Cranston:
(p. 7268)

From the Budget Committee's viewpoint, a new select committee with jurisdiction over the national intelligence budget on an annual basis fits right into the congressional process of analyzing and controlling the budget.

The aggregate outlay of the various intelligence agencies is significant. At this time, Senate committees deal with parts rather than the whole. Intelligence spending is not looked at in terms of national priorities or priorities within our foreign-defense policies. "Neither the Armed Services Committee nor any other committee has the time because of its other duties, or the necessary overall jurisdiction to attend to the Nation's intelligence system," Senator Church testified before the Committee on Rules and Administration. He added that--

The executive budgets for, and organizes and directs the national intelligence effort in a way that draws together the various components and unless the Congress establishes a committee that can do the same it will continue to fail in its oversight responsibilities.

Section 3 of Senate Resolution 400, as amended, would provide for periodic authorization of appropriations for the CIA and other intelligence agencies. Each March 15 that committee would submit a report on intelligence spending for the forthcoming fiscal year to the Senate Budget Committee. This is what every authorizing committee does now, in accordance with section 301 of the Congressional Budget Act of 1974. Section 4(c) of the compromise resolution reads:

On or before March 15 of each year, the select committee shall submit to the Committee on the Budget the Senate views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

Reports to the Committee on the Budget would be received and handled in a manner consistent with the protection of national security.

* * *

Section 5 Incidental Powers

S. Res. 400. **Sec. 5. (a)** For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

Ribicoff Analysis:

SECTION 5—INCIDENTAL POWERS

Subsection (a) gives the new committee all the incidental powers it must have to operate effectively as a committee. The powers spelled out in this subsection include the power to investigate, to issue subpoenas and take depositions, and to exercise the normal administrative and financial powers of a committee. Subsection (b) authorizes the chairman of the committee or any member thereof to administer oaths. Subsection (c) provides that the chairman, vice chairman, or any other member designated by the chairman may issue a subpoena and specifies the procedure for serving the subpoena.

Section 6 Committee Staff

S. Res. 400:

Sec. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, with the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

Ribicoff Analysis:

SECTION 6 -- COMMITTEE STAFF

This section specifies the security provisions applicable to committee staff. It requires staff to pledge in writing, and under oath, to observe the security rules of the Senate and of the new committee both while employed by the new committee and afterwards. Staff must receive a security clearance under a system directed by the new committee, but developed in consultation with the Director of Central Intelligence.

Section 7 Individual Privacy

S. Res. 400:

Sec. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SECTION 7 -- INDIVIDUAL PRIVACY

Ribicoff Analysis:

The section requires the committee to formulate and carry out rules and procedures to prevent the disclosure of information which unnecessarily infringes upon anyone's privacy. The committee may disclose information if it determines that the national interest in the disclosure of the information outweighs any privacy concerns.

Section 8 Disclosure of Information

S. Res. 400:

Sec. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notified the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may--

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed.

(B) disapprove the public disclosure of all of any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) and (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information by a member, officer, or employee of the Senate in violation of subsection (c) and to report thereon to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

Ribicoff Analysis:

SECTION 8--DISCLOSURE OF INFORMATION

Subsection (a) establishes the basic rule that the committee may disclose information where disclosure is in the public interest. It also establishes basic rules governing those instances, which will certainly not occur in every case; where the committee must vote on whether to disclose particular information such as classified information governed by subsection (b). In those instances, the committee must vote on the matter within five days if any member requests a meeting for such purpose. When such a meeting is necessary, a committee member may not publicly disclose the information until the committee votes to do so, and then only in accordance with the procedures established by the rest of this section, as well as any other procedures established by the committee.

Subsection 7(b) governs the public disclosure of information which the executive branch has classified under established security procedures. If the committee wishes to disclose such classified information it must inform the President and give him five days to respond. If the President does not object, the committee may disclose. If the President does object, and certifies that disclosure would threaten vital national interests, the committee may determine that disclosure should occur despite the President's objections. The committee may then refer the matter to the full Senate for its determination pursuant to the expedited procedures spelled out in the remainder of the subsection.

Under this expedited procedure the committee must refer the matter within a day to the Senate. After the matter lays over a maximum of three days, it would then automatically become the pending order of business and the Senate would have up to 5 days to discuss in closed session whether or not there should be public disclosure. No later than the close of the fifth day after the matter is taken up the Senate must vote in open session either to disclose, not to disclose, or to refer the matter back to the committee for its final determination.

Subsection 8(c) governs the disclosure by the committee to other Senators of information classified under established security provisions relating to the lawful intelligence activities of the government which the committee has determined should not be disclosed.

Any such disclosure may only occur in a closed session of the Senate, or pursuant to the rules of the committees and the procedures described in this subsection. Under these procedures the committee must keep a written record in each case, showing which committee or member received the information. The subsection contains a prohibition against any Member of the Senate, or any committee, which receives the information from the select committee disclosing the information to any other person. In addition to these protections, disclosure of such sensitive information will be subject to whatever additional rules the committee adopts on its own to protect the confidentiality of such information.

Subsection (d) requires the Select Committee on Standards and Conduct to investigate any alleged disclosure of classified information in violation of the provisions of this section. Subsection (e) states that if the Select Committee on Standards and Conduct decides at the conclusion of its investigations that any Member, officer, or employee of the Senate has committed a significant breach of confidentiality it must report its findings to the Senate and recommend appropriate action. In the case of a Senator this may be censure, removal from committee membership, or expulsion. In the case of an officer or employee, it may be removal from employment or punishment for contempt.

Senator Percy (printed summary)
(p. 7092)

5) On disclosure, if the new committee votes to release any information which has been classified and submitted to it by the executive branch, the committee shall notify the President of such vote. The Select Committee may then publicly release such information after 5 days unless during that intervening period of time the President notifies the Committee that he objects to the disclosure of such information. After review of the President's objections, if the Committee still wishes to release the information it may refer the question of disclosure to the full Senate for consideration. The Senate will then make the final decision in closed session, and may take any one of the following three courses of action: (1) approve the public disclosure of any or all of the information in question; or (2) disapprove the public disclosure of any or all of the information in question; or (3) refer any or all of the information in question back to the Committee, in which case the Committee shall make the final determination with respect to the public disclosure of the information in question.

There is a provision in the resolution which requires that the final vote on the question of whether or not to release shall not occur later than the close of the ninth day on which the Senate is in session following the day on which such question was reported to the Senate.

6) No information in the possession of the Select Committee which the Committee has determined should not be disclosed shall be made available to any person except in a closed session of the Senate or, information can be made available by the Select Committee to another committee or another member of the Senate according to rules the Select Committee lays down. No member of the Senate receiving such information can disclose such information to any other parties except in a closed session of the Senate or with the permission of the Select Committee.

Senator Church:
(p. 7263)

Another important provision in the pending resolution is the procedure which should be followed in the event that the committee wishes to disclose information obtained from the executive branch which the President wishes to keep concealed. The Select Committee has been involved in a number of instances over the past year in which there has been a dispute between the committee and the executive branch.

Almost all of these points of disagreements were resolved in a manner agreeable to both sides. However, there were a few instances in which agreement could not be reached. One such example was the question of the release of the assassination report. But in working toward the creation of a constitutional procedure for dealing with issues of a secret character, the larger question of the proper role secrecy should play in our democratic society must be carefully addressed. The constitutional system of the United States is best suited to make national decisions through open discussion, debate and the airing of different points of view. Those who advocate that a particular secret must be kept should have the burden of proof placed upon them. They must show why a secret should be withheld from public scrutiny. Inevitably, there will be differences between the Executive and the Legislature as to whether the national interest is served by maintaining secrecy in particular cases or whether the usual constitutional process of open debate and public scrutiny should prevail. It is my view that important questions of this kind should be brought to the full Senate for decision.

The resolution now before the Senate prescribes the following procedure: If the oversight committee decided that it would be in the national interest to disclose some information received from the executive branch, it would be required to inform the executive branch of its intention. It would then be required to enter into a full and considered consultation concerning the problems raised by disclosure. If, after such full and considered consultation, the oversight committee decided to disclose any information requested to be kept confidential by the President, the committee would be required to notify the President of that decision. The committee could then, after 5 days, disclose the information unless the President, in writing, informed the Senate through the committee that he opposed such disclosure and gave his views why he opposed the disclosure of such information. The oversight committee, after receiving the President's objections, and if it decided that the President's reasons did not outweigh the reasons for disclosure, may refer the question to the full Senate in closed session for a decision.

In my view, once the Senate accepts the kind of process set forth in this resolution, it would respect the injunction of secrecy. We must recognize that at this time there is no agreement as to what

a valid national security secret is, and that the Senate does not now have the procedural means to make decisions concerning matters classified secret by the executive branch.

One further step is set forth in this resolution—sanctions for improper disclosure. In my view, if any member of the Senate or staff disclosed sensitive information of the committee outside of the committee, except in closed session of the Senate, such disclosure should be referred to the Committee on Standards and Conduct to investigate and recommend appropriate action including, but not limited to, censure or removal from office.

The Senate has never addressed this issue squarely. It is my firm belief that it should do so now. Once the Senate comes to agreement as to how secret material should be handled, it should also impose upon itself rules to assure that improper disclosure, as defined by the Senate, will be properly dealt with.

We have learned enough from the past 30 years of secret Government activity to realize that our legislative structures and procedures are inadequate for the task. We cannot shy away from the necessity to develop effective procedures to make legislative decisions concerning necessarily secret activities of the United States, but such decisions must be done in ways consistent with the Constitution.

Mr. Huddleston and Others
(p. 7273-7274)

MR. HUDDLESTON. Mr. President, on behalf of Senator Roth, Senator Javits, and myself I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUMMEL) for himself and Mr. ROY and Mr. JAVITS proposes an amendment:

On page 15, line 9 strike section 3(d) and insert in lieu thereof:

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

Mr. HUDDLESTON. Mr. President, one of the major concerns of many of us interested in developing an oversight committee for our intelligence operations has been that such a committee be responsible in its handling of secret and sensitive information.

Many of us felt from the beginning that the Senate should be willing to impose upon itself a certain restraint—a certain discipline—with regard to the manner in which such information is handled.

This particular section of the substitute represents an effort to set out a procedure for handling any unauthorized disclosure of information that the committee had determined should not be disclosed. That procedure envisions an investigation by the Select Committee on standards and conduct and recommendations from that Committee in cases where the allegation is substantiated.

The amendment that is before the Senate at this time is designed to clarify section (d), which is found on page 15 of the bill—to make it clear that the Select Committee has the duty to investigate unauthorized disclosures but also to provide flexibility so that unsubstantiated or frivolous matters would not have to be reported back to the Senate.

The other sections of the so-called sanctions provision which are not being modified seek to delineate what information is to be protected and to suggest procedures which should be followed when an investigation is pursued.

It is my judgment that the amendment I have just offered does clarify this matter and does provide a viable and workable procedure whereby we can exercise the proper discipline and the proper restraint upon Members of the Senate, members of the Select Committee on Intelligence, and staff so that the new committee can enjoy the confidence that will be necessary if it is to carry out its duties in a responsible way.

I move that the amendment be adopted, and I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this is a subject in which I am deeply interested myself. I was a party to the proceedings before the Government Operations Committee respecting it. I worked out the provision which is now in the bill.

I share completely the sentiments and disquiets voiced by my colleague from Kentucky and my colleague from Delaware.

I consider this, as Senator Cannon said, a key element—perhaps the key element—in the bill. Are we worthy of this trust?

I am deeply indebted to both my colleagues for the intelligent way they have worked out the ultimate purpose of their amendment.

I felt, Mr. President, just to present my remarks of record, that if we could—I emphasize this—if we could, we should avoid any appearance of pitting Member against Member or of any appearance of indictment. I believe that what we have worked out admirably does this.

I hope very much that the managers of the bill will agree.

Mr. ROTH. Mr. President, I am pleased to join the two Senators in sponsoring this compromise. I would like to point out that in the Government Operations Committee I was particularly concerned about assuring that sensitive information supplied to the oversight committee would be held in confidence and, in the event of any violation of that confidence, the Senate would discipline any Member of the Senate or any employee according to its own rules.

I think the only way we can be certain that the Oversight Committee is going to secure the information from the executive branch that it needs to provide effective oversight is to make certain that the executive branch believe that we will exercise the self-discipline that is necessary. I am pleased that the compromise legislation essentially adopts the language that I sponsored in the Government Operations Committee.

I think the final proposal that Senator HUDDLESTON just suggested is a reasonable compromise as to how we initiate action to require an investigation of unauthorized disclosures.

We want to assure that the Ethics Committee will take action any time a serious charge is made.

I find in my home State that many people are concerned whether or not Congress is exercising the same discipline on itself that it expects from the private sector and executive branch. For this reason, I think it is very important that we show that we are deadly serious that the Senate and its Members, like everyone else, must abide by any secrecy that we have ourselves established on this information. For that reason, I am happy to join in sponsoring the compromise.

Mr. PERCY. Mr. President, I commend Senator HUDDLESTON, Senator JAVITS and Senator ROY for this amendment. I ask unanimous consent that I be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. PEARSON). Without objection, it is so ordered.

Mr. PERCY. I think the heart of a cooperative relationship between the intelligence community in the executive branch of Government and the Congress is a feeling of confidence on the part of the intelligence community that information transmitted to the Congress and its appropriate committees will be treated in confidence. There can be no relationship of mutual confidence established if there is a feeling that whatever is given in classified form is going to be dispersed without adequate checking procedure, and that if any member does breach confidentiality no action would be taken.

There is a cynical feeling that the Congress is reluctant to discipline its own membership, that it is a sort of inside club where sometimes indiscretions are overlooked.

This amendment specifically addresses itself to the fact that it is the duty of the Committee on Ethics and Conduct to investigate, look into, and take action with respect to a breach of confidentiality in intelligence matters.

I believe the amendment is sound. It not only is needed and necessary, but it will help establish the kind of a relationship which can, should, and must exist between the executive branch of Government and Congress, if the Congress is to fulfill and carry out its duties and obligations. It will be reassuring in that respect.

Mr. CANNON. Mr. President, I find no difficulty with the amendment as proposed.

I would say to my colleague from Illinois, however, when he pointed out it would be the duty of the committee to investigate, we have rules within the committee which we have defined to say when we will investigate matters and when we will not, so that we do not go on witch hunts into unsubstantiated information.

I want to make it clear to the Senator that, as chairman of the committee, if I am still chairman, we would consider it our duty but we would still require that any allegation comply with the rules the committee has adopted, so that we would not necessarily be investigating on the basis of anonymous complaints or a statement someone has made, and things of that sort, without having some kind of substantiation.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. PERCY. As a further clarifying comment, as I read the amendment which has been worked out now and agreed to by the authors, a duty is imposed upon the Select Committee on Standards and Conduct to make an investigation of any unauthorized disclosure of intelligence information.

In conversations about this, there was a proposal, and it was discussed at great length in the Government Operations

Committee, as to whether it would be necessary before an investigation was made for any Member of the Senate or a group of Members of the Senate to actually make charges and request that such an investigation be made. It was felt, and I believe very wisely so, by the distinguished Senator from New York (Mr. JAVITS), that that might, in itself, almost constitute an indictment.

If the committee had that duty, and it is the duty of the committee to make such an investigation, it is up to it to determine whether, in fact, there has been an unauthorized disclosure of intelligence information. Then it automatically is their duty to follow through. No other Member of the Senate need take action other than the members of that committee.

Mr. JAVITS. Mr. President, will the Senator yield to me so the intent will be clear?

Mr. CANNON. Certainly.

Mr. JAVITS. There is nothing in here which interferes with the internal administration of the committee and its rulings. In short, it is like an appellate court, which might meet in confidence on a particular decision. The committee will decide whether it is frivolous, whether it is unauthorized, and an additional factor, whether it is substantiated. Then they are required to report to the Senate. The responsibility is in their hands but we give them the guidelines. As to how they discharge that responsibility is internal to the committee.

Mr. CANNON. I thank the Senator.

Mr. HUDDLESTON. Mr. President, will the Senator yield at that point?

Mr. CANNON. I yield.

Mr. HUDDLESTON. I wanted to confirm the position taken by the distinguished Senator from New York. I point out that one of the important aspects of the responsibility of the Select Committee on Standards and Conduct would be to eliminate frivolous charges which might be made. I believe we ought to be aware that one way to harass the committee in the performance of its duty, regardless of what the source might be, whether it be an agency downtown, the White House, the press, or Members of the Senate, would be a series of charges regarding release of information which should not be disclosed.

This does impose on the Select Committee on Standards and Conduct a considerable responsibility in reviewing these charges, of examining the information which comes to them, and reporting back to the Senate on those which seem to be substantiated. But, it also seeks to make it clear that the committee is to have the flexibility, the discretion, to dismiss frivolous and unwarranted allegations.

Mr. RIBICOFF. Mr. President, this is an excellent amendment, and as manager of the bill I find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Senator Huddleston:

(p. 7562) I would like to discuss briefly, in the so-called Roth-Huddleston amendment regarding sanctions. Senator Roth and I presented our proposal to the Government Operations Committee on which he serves; we have discussed this provision with numerous Senators; and we both testified before the Rules Committee regarding it.

Basically, the Roth-Huddleston amendment is designed to provide a practical, workable system of sanctions which could be utilized should we have the unfortunate experience of an unauthorized disclosure of intelligence information which either the new Intelligence Committee or the full Senate has determined should be kept secret pursuant to procedures recognized in Senate Resolution 400. Under our amendment, any sensitive information which the committee or the Senate had determined should be kept secret would have to be kept secret. It could not be publicly disclosed. Should there be an unauthorized disclosure, either by a Member or by a staff aide, that person would be subject to sanctions. The responsibility to investigate alleged unauthorized disclosures and recommend sanctions would be placed in the Senate Select Committee on Standards and Conduct. The Committee on Standards and Conduct would, of course, be free to recommend a range of sanctions—or even no sanctions—depending upon what its investigation indicated was appropriate. In order for sanctions to be imposed, they would have to be approved by the full Senate.

Certainly our jobs as legislators and policymakers in a number of areas would be easier if we had access to the tremendous amount of information which our intelligence agencies collect from a variety of sources about a wide scope of subjects. There is no doubt in my mind that more of the information—more of the

material which informs, evaluates and assesses—can be made available to Members of Congress and to the public.

But, it also seems obvious that it is not only counterproductive but irresponsible to release information which could endanger the lives of those who collect and assemble our intelligence information, which could alert unfriendly nations to our methods of collecting information so that they could render those methods ineffective, which could reveal certain technological capabilities which we have, or which could seriously harm our society. To determine when such information would have these results is not an easy task. A cursory reading of material may not reveal the implications which one with expertise in the field could glean. The way material is presented or the perspective can often give hints as to where the information was obtained. The proposed committee will have to deal with this matter. Indeed, along with oversight, the distinguishing between what information should be released and what should be closely held will certainly be one of its prime concerns.

Thus, if we in Congress are to prove that we are capable of handling this information in a responsible manner, if we are to demonstrate that we can release that which should be released and protect that which must be protected, we must have viable and effective processes.

The Roth-Huddleston amendment seeks to provide such a process with regard to sanctions.

Our amendment is based on the constitutional right of each body of Congress to discipline its own Members. It does nothing to infringe upon the speech and debate clause of the Constitution which specifies that Members shall not be held accountable for their speeches, debates or deliberations "in any other place" than the Chamber in which they serve. This provision of the Constitution was designed to protect against intimidation by the executive branch or a hostile judiciary, not to prohibit Congress from disciplining its own membership. It has its precedence in the long-standing rule 36 which provides similar sanctions for the disclosure of "the secret or confidential business of the Senate."

In summary, Mr. President, our responsibility during consideration of this legislation has, at its most basic, been to balance the legitimate and unquestioned need to secure and protect that intelligence information upon which our Nation's well-being depends against the need of legislators for information necessary to perform their tasks and the need of the people in a free and open society to know and understand the policies which their government takes in their name.

Senator Baker:
(p. 7261)

First, with respect to section 8 of the Resolution I would have preferred not to have included within that section the debate limitation contained in subsection (c). Section 8(c) limits debate to nine days on the question of whether classified information should be released to the public by the Senate over the objection of the President. As my colleagues know, the Resolution as written was the result of a compromise effort. Thus, I would have preferred to have the disclosure section provide that once the matter was referred to the Senate it would be acted upon by the Senate in accord with its normal procedure. I believe that in a matter as serious as the United States Senate releasing classified information over the objection of the President of the United States that the Senate should have the full and complete opportunity to debate such a weighty decision.

I would not have provided a specific limitation upon the debate of this serious question within the Senate and would have allowed the standard cloture rules to apply. Nevertheless, I am pleased that the section provides that if the oversight committee does not agree with the President with regard to the release of the classified information the matter must come to and be voted upon by the Senate as a whole. This is the provision which I have long urged be placed in the oversight resolution because I think it is terribly important that if there is going to be a disagreement between two branches of our government that that disagreement be decided upon by the Senate as a whole and not by a mere committee of the Senate.

Senator Cranston:
(p. 7413-15)

Mr. CRANSTON. Mr. President, I have a matter that I have discussed with the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY), the ranking Republican member handling this bill, and now with Senator WEICKER.

On page 12, in line 7, I suggest that where we are discussing information being made public—

The PRESIDING OFFICER. Is the Senator from California discussing a possible amendment to the amendment in the nature of a substitute of the Senator from Nevada?

Mr. CRANSTON. Beg pardon?

The PRESIDING OFFICER. Is the amendment to the amendment offered as a substitute by the Senator from Nevada? Is the Chair correct in that assumption?

Mr. CRANSTON. No; I am just going to discuss with the floor manager adding three words, which could be done by their accepting those words, I believe, at this point.

The PRESIDING OFFICER. The Chair wishes to know whether or not it is to the amendment in the nature of a substitute.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Or to the original resolution.

Mr. CRANSTON. It is to the amendment in the nature of a substitute.

The PRESIDING OFFICER. The one offered by the Senator from Nevada?

Mr. CRANSTON. Right.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CRANSTON. On line 7, where we are discussing information and the release of that information, the present language is that the President—

Certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

I suggest that the word "security" be inserted after the word "national" and before the word "interest" in line 7, just to stress that national security is involved. I understand that language is acceptable to the Senators from Connecticut.

Mr. RIBICOFF. Mr. President, the language is satisfactory to the manager of the bill. . . .

MR. CRANSTON: Mr. President.

I turn to another suggestion on the same page of the Cannon substitute, line 5 on page 12 and line 10 on page 13, I suggest that after the word "President" the word "personally" be inserted in both places.

The PRESIDING OFFICER. The Chair informs the Senator that there is a pending amendment earlier offered by the Senator from California which has not been acted upon.

Mr. CRANSTON. I did not actually offer that as an amendment, so I am not discussing that.

The PRESIDING OFFICER. Does the Senator move to modify his amendment?

Mr. CRANSTON. I move to modify that amendment to suggest that the word "personally" be inserted therein.

The PRESIDING OFFICER. The Chair suggests to the Senator that he withdraw his earlier amendment.

Mr. CRANSTON. I withdraw my earlier amendment.

The PRESIDING OFFICER. The amendment is withdrawn. . . .

The PRESIDING OFFICER. The Chair asks the Senator from California if he will repeat his current amendment.

Mr. CRANSTON. Yes.

This amendment has been discussed with the leadership on both sides of the aisle just now. The proposal is this: on line 5, after the word "President" the word "personally" be inserted, and on line 10, after the word "President" the word "personally" be inserted.

The purpose of the amendment is to insure that this will in all cases be a Presidential notification and not done through delegation to some other official without the President's knowledge of the request.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield.

Mr. TOWER. It is my understanding that the Senator's intent here is simply to insure that this is a personal communication from the President, that it does not require that he appear personally.

Mr. CRANSTON. Absolutely.

Mr. TOWER. And that the notification come over his signature.

Mr. CRANSTON. That is correct.

Mr. GRIFFIN. Mr. President, reserving the right to object, looking at the language on line 10, although the legislative

history which has just been made would help, it seems to me that if we are going to insert the word "personally," we ought to add the words "in writing."

Mr. CRANSTON. That is fine.

Mr. GRIFFIN. "Notifies the select committee in writing of his objections."

Mr. CRANSTON. I so move to modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The Chair inquires: Is the modification to occur in both places?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. It is in both places.

Is time yielded back?

Mr. CRANSTON. Mr. President, I yield back any remaining time on the amendment.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from California.

The amendment as modified was agreed to.

Mr. CRANSTON. I thank all Senators involved.

Mr. GRIFFIN. Mr. President, I call to the attention of the managers of the bill line 8 on page 12, specifically the words "is vital."

The President here is required to certify "that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure."

I frankly wonder about the use of the word "vital." It does not have a very precise meaning in this context, as far as I am concerned.

We have just discussed and rejected the insertion of the word "security," recognizing that there might be economic or diplomatic information, not national security in character, which nevertheless should not be disclosed. By the same token it seems to me that there might be information, not perhaps "vital" to the survival of the Nation, which also should not be disclosed. Perhaps we should try to determine what the word "vital" means in this context since we are setting up a standard with this language.

I would like to read the definition of the word "vital" from Webster's New Collegiate Dictionary:

Akin to life, existing as a manifestation of life, concerned with or necessary to the maintenance of life, fundamentally concerned with or affecting life, tending to renew or refresh the living, destructive to life.

My question is: Is that what we really mean? Are we going to limit it to that kind of a situation, where the life of the Nation has to be involved?

So what I am suggesting is that we strike the words "is vital" in line 8.

Mr. RIBICOFF. Mr. President, I shall respond to the distinguished minority whip.

This language comes from the original Church committee bill. I wonder whether the Senator from Michigan will be satisfied with these words: "of such gravity that it outweighs any public interest in disclosure."

Mr. GRIFFIN. I think that is much

better. In other words, it is a very serious matter. I think that is what we are really talking about.

Mr. RIBICOFF. That is acceptable to me, if it is satisfactory to the Senator from Michigan.

Mr. GRIFFIN. It would be. I think that is a very good suggestion.

Mr. RIBICOFF. My suggestion is this: On line 8, strike out the words "vital and" and insert in lieu thereof the words "of such gravity that it outweighs any public interest in disclosure".

The PRESIDING OFFICER. Is the Senator suggesting that in the form of a modification of the amendment?

Mr. RIBICOFF. I think it should be done by the Senator, and I accept it.

Mr. GRIFFIN. I propose the modification.

The PRESIDING OFFICER. The Senator from Michigan so modifies the amendment.

Mr. GRIFFIN. On page 12, line 8, strike the words "vital and" and insert, as has been suggested, the words "of such gravity that it".

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. Mr. President, I should like the distinguished Senator from Nevada to have an opportunity to look at the wording.

The PRESIDING OFFICER. Does the Senator from Michigan or the Senator from Connecticut suggest the absence of a quorum?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan, as modified.

The amendment, as modified, was agreed to.

* * *

Senator Abourezk:
(p. 7277-80)

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, lines 10 and 16 strike sections 8(b) 3 and 4 and, insert the following:

"8(b) (3) If the President notifies the Select Committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may decide, by majority vote, to disclose such information or not to disclose such information. If within 3 days of the committee vote, 5 or more members of the Select Committee file a request with the chairman that the decision be referred to the Senate for consideration, such information shall not thereafter be publicly disclosed without leave of the Senate."

"(4), whenever the Select Committee refers the matter to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration."

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. This amendment would modify section 8 of Senate Resolution 400 so that the new Intelligence Committee would have greater discretion over the release of sensitive information.

May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK. Section 8, as it now stands, would encroach upon congressional prerogatives and skew the balance of powers. This amendment corrects this imbalance in favor of the Executive by permitting the committee, by majority vote, to disclose or to keep confidential, information to whose disclosure the President objects. Once the committee makes its decision, five or more members of the committee may appeal the vote, by directing the chairman to refer the question of disclosure to the full Senate for resolution.

Section 8(b) (3) provides that if the President properly notifies the committee of his objections to the disclosure of information, the committee "may, by majority vote, refer the question of the dis-

closure of such information to the Senate for consideration." If the question is referred, the information may not be publicly disclosed without leave of the Senate. The principal problem with this provision is that it is ambiguous: it provides that the committee "may" refer the question to the Senate. What happens if it does not? May it decide on its own, by majority vote, to disclose information? Is referral to the Senate the only procedure by which information can be disclosed, or is it only the procedure to be followed when the committee feels that the issue is so controversial that it requires consideration by the full body?

I fear that the reading intended by the drafters is that referral to the Senate is the only procedure by which information can be disclosed. If that is so, adoption of the provision will have momentous consequences. Do we even know what those consequences are? I think we will be creating two dangerous precedents.

For the first time the executive branch classification system will be applied to Congress. The classification system was not established by an act of Congress. It was promulgated without consultation with, or approval of, Congress by a series of Presidents in executive orders that properly apply to members of the executive branch. My enacting legislation that recognizes the application of the classification system to Congress, we could surrender our independent power to classify or declassify sensitive information. And once this procedure is adopted for the new intelligence committee, what will prevent the President from requiring that every Senate committee adopt the same procedure for use of sensitive information? If the Foreign Relations Committee had been subject to this procedure, we might never have known the contents of the Sinai accords that were published by the committee over executive protest. Are the members of committees, such as Foreign Relations, Appropriations, and Armed Services prepared to sacrifice to Presidential prerogative the independence they have to negotiate questions of disclosure of sensitive information? Are the Members aware of the precedent that this procedure sets for every committee of Congress?

The classification system is both abused and overused. It is estimated that there are well over 100 million pages of classified records and that over 3,000 officials have top secret classification authority. Former Supreme Court Justice Arthur Goldberg has said:

Seventy-five percent of classified documents should never have been classified in the first place, another 15 percent quickly outlive the need for secrecy; and only about 10 percent genuinely require restricted access over any significant period of time.

Do we want to ratify this system inadvertently, without devoting to it the attention it deserves? The distinguished senior Senator from Maine (Mr. MUSKIE) has already devoted considerable time to remedying the problem of executive overclassification. We should not undercut his efforts by acting hastily today.

Second, one reading of the ambiguous provision would establish a formal procedure for Presidential veto of committee

actions. This, I believe, is the most devastating provision of the resolution. We abdicate our legislative responsibilities and destroy the doctrine of separation of powers if we permit the President to control decisions that are properly within the scope of the legislative function. Do we wish to establish such a precedent one which robs the Senate of its freedom to operate, through this unprecedented involvement by the President in the day-to-day operations of a Senate committee? Suppose, for example, that President Nixon had had such a power over the Watergate committee. Would we ever have learned what was discovered through that committee's inquiries? Should we ever permit a President to hold such power? And is it not an unconstitutional delegation of authority for us to legislate such a usurpation of power.

There is absolutely no need to institute a provision like this. The two branches of Government ought to be able to accommodate conflicting policies through cooperative negotiation. The Church committee itself is a fine example of how the executive and legislative branches can come to a solution if each side respects and trusts the legitimate demands of the other. Why should we establish formal procedures that abolish proper Senate prerogatives when we are able to operate effectively with our own procedures?

Rather than fostering cooperation, institution of such a formal procedure would provide incentive for the President not to negotiate with the committee. Simply by making the required certification he removes the decision from the committee and moves the controversy to the Senate. I can only presume that the drafters of the compromise have more confidence in the judgment of the President than they do in the judgment of their own colleagues who will serve on the new committee. I would have thought that a hard-working committee that is well acquainted with the issues before it could be trusted to make responsible decisions as to what information could be disclosed without endangering the Nation. Instead, the new committee will be saddled with formal procedures for declassifying information buttressed by sanctions in contrast to the President who is free to declassify in an ad hoc manner as it suits his political needs.

While I recognize the concerns which lead to the inclusion of this provision, this procedure is the wrong remedy. The procedure is ostensibly directed to the problem of declassification of information by Senate committees, but the real concern behind it is the leaking of sensitive information by individual members. Therefore, a procedure to preclude the committee's release of information is simply not a remedy for the problem that prompts it.

What is more, it is not clear that the problem of leaking of sensitive information by individual members is really the pernicious problem it is made out to be. The administration has engineered a public relations campaign designed to show that sensitive information in possession of the executive branch is always protected, but always leaks in the hands

of Congress. This campaign has met with success primarily because leaks by the executive branch go by different names: written leaks are "declassifications," verbal leaks are "backgrounders."

Examples of self-serving executive department leaks abound. It is well known that Pentagon officials reveal classified information about new weapons systems, particularly at budget time, in order to obtain public and congressional support for them. And a few months ago it was revealed that the Henry Kissinger who excoriated the Pike committee for leaking information unflatteringly to himself was the source of the classified information Edward R. F. Sheehan used in an article in *Foreign Policy* that was complimentary to the Secretary of State.

The Senate must also face the issue whether as a policy matter it wants the full body continually to turn its attention to the daily affairs of the committee. Such a situation necessarily envisions the prospect of the full Senate making decisions about matters on which it is not informed because of the difficulty of keeping the full body apprised of the details of the issues, and because of the restrictions that section 8(c)(2) of the compromise imposes upon communication between Members of the Senate. Under that provision no Member of the Senate who is in receipt of sensitive information from a member of the committee is permitted to communicate the information to a fellow Member. This restriction can only have a chilling effect on full and robust discussion of profoundly important issues. Aside from the constitutional considerations, we should be reluctant to place obligations upon the full Senate that it is prevented from fulfilling in a responsible fashion.

Moreover, this continual resort to the full Senate for decision on matters formerly reserved for committee determination undercuts the entire committee system. It is only the first assault upon the integrity of Senate committees when we suggest that they are not to be entrusted to carry out fully the duties that we have delegated to them.

I reserve the remainder of my time.

Mr. MANSFIELD. I yield.

Mr. CANNON. The amendment that is now pending is obviously a very controversial amendment. This relates to the question of secrecy and whether we are going to disclose secrets that may best be kept undisclosed in the interest of the United States.

We will have considerable discussion on this amendment, and if at the conclusion my motion to table is not agreed to, then I would not be in a position to agree to any unanimous consent request with respect to this particular amendment. I have no problem with the remainder of the provisions.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. MANSFIELD. It is my intention to support the Senator's motion to table, because I do not think that this amendment has any place in this compromise, which a lot of us worked awfully hard to achieve and to bring about the greatest degree of unanimity therein.

So I wish to assure the Senator and the Senate that I will vote in support of the Senator's motion to table because we have other things to do, and I want to see something done which will bring about a change in the situation affecting the intelligence community which has been ignored by too many in this Chamber for too long.

Mr. RIBICOFF. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. RIBICOFF. The amendment by the distinguished Senator from South Dakota is taken practically verbatim from the original proposal of the Committee on Government Operations. It was one of the main items that was involved in the compromise worked out by representatives of the Committee on Government Operations and the Committee on Rules and Administration. We do believe that we have protected the rights of the Senate by assuring that rule XXXV still will be applicable so that any two Senators would have the opportunity of bringing to a closed session of the Senate any differences with the President of the United States over the disclosure of information. The Senate then in closed session would have an opportunity of making its will known.

Mr. MANSFIELD. Mr. President, will the Senator yield right there?

Mr. RIBICOFF. I am pleased to yield to the majority leader.

Mr. MANSFIELD. And that was discussed by the combination that considered the substitute offered by the Senator from Nevada which is now before us.

Mr. RIBICOFF. That is absolutely correct. It was cleared with, we thought, almost every element involved in this entire problem, including Senator Church, with whom I was in constant contact during his absence from the Senate.

I would be reluctant to see the Cannon substitute in jeopardy. I would oppose the distinguished Senator from Mississippi, because that, too, would invade the compromise. Consequently, I will support the distinguished Senator from Nevada and vote with him to table the Abouzeck amendment.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. I have a similar comment, for the identical reasons, but also because I think the amendment of the Senator from South Dakota would really destroy the relationship of cooperation that must be established between the intelligence community and Congress. I certainly would support the tabling motion of the Senator from Nevada. . . .

Mr. ABOUREZK. Mr. President, reserving the right to object, I do not want to let 2 or 3 minutes pass without objection to the announcement by the distinguished majority leader, the distinguished chairman of the Committee on Rules and Administration, and the distinguished Senator from Illinois that the Abourezk amendment is outside some compromise that a great many Members of the Senate, including myself, did not sit in on.

Mr. MANSFIELD. There were many other Members who did not sit in on it, but we could not bring in all 100, so do not feel too bad about it.

Mr. ABOUREZK. I do not feel bad about it. I just do not want the majority leader to imply that there is some unanimous-consent agreement not to accept any amendments in order to defeat this amendment. I want to respond very briefly, if I may, Mr. President.

Mr. MANSFIELD. The Senator may, but the Senator has misquoted me.

Mr. ABOUREZK. I shall be happy to correct that misquote.

Mr. MANSFIELD. Well, the record will speak for itself. I did not say that there should be no amendments offered, because amendments have been offered and have been accepted.

Mr. ABOUREZK. At any rate, the impression was given by the majority leader that this amendment was outside of some strange agreement that a lot of us did not sit in on, including myself.

Mr. President, this particular section of the bill, compromise or no compromise, does one thing. That is, it compromises the power of the U.S. Senate to the President. If there was one thing that the 18 months of hearings brought out, it was that the anger of the country is directed toward Congress, and toward Washington in general, because, over all of those months and the years preceding them, we did not fulfill our responsibility to the people who elected us to the U.S. Senate. Instead we handed over too much of our power to the President, especially to President Nixon.

We are seeking by voluntary action to do the same thing today, by giving the President the power to regulate our

schedule, our agenda, and to regulate what is to be disclosed and not disclosed.

Mr. President, if I may, I want to read the existing language of section 8(b)(3):

If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

The folly of this language can be illustrated by the example of the Pike committee report. The Pike committee itself, which knew the contents of that report, voted to disclose the report publicly. By a parliamentary maneuver, it was brought to the floor of the House, and the Members who had not read the report and did not know the contents of it, voted, under pressure by the Executive to withhold the report from the public.

The amendment that I am offering precisely addresses this problem. It will allow the Intelligence Committee, which ought to know its business and ought to know the contents of the information and ought to know what is in the interest of the United States, to vote one way or the other, to disclose or withhold. There is a procedure in the amendment to allow any five members of the committee to refer the vote in the committee, whichever way it goes, to the full body of the Senate. That means that the Senate itself decides what its schedule will be and what its agenda will be, and not the President of the United States.

How many times have we seen the President exerting pressure upon Congress to withhold information? How many times has the executive put out news stories and wrongly attacked Congress for leaks and unauthorized disclosures of information? How much longer are we going to stand for it? This is the question I am asking.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. MANSFIELD. Yes, I yield.

Mr. CANNON. Mr. President, reserving the right to object, and I shall object in a moment and make a motion to table the Abourezk amendment, I say to the majority leader that if the motion to lay on the table carries, I shall then have no objection to proceeding.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I move to table the Abourezk amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. ABOUREZK. Is there a time agreement on this amendment?

The PRESIDING OFFICER. There is not. And the motion to table shuts off debate.

Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUE), the Senator from Arkansas (Mr. McCLELLAN), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. McGovern), and the Senator from New Mexico (Mr. MONTROYA) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

Mr. GRIFFITH. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. HRUSKA) is absent on official business.

I further announce that, if present and voting, the Senator from Nebraska (Mr. HRUSKA), would vote yea.

The result was announced—yeas 77, nays 13, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—77

Allen	Griffin	Pastore
Bartlett	Hansen	Pearson
Beall	Hart, Gary	Pell
Bellmon	Hartke	Percy
Bentsen	Haskell	Randolph
Biden	Hatfield	Ribicoff
Brock	Hathaway	Roth
Buckley	Helms	Schweiker
Bumpers	Hollings	Scott, Hugh
Burdick	Huddleston	Scott,
Byrd,	Humphrey	William L.
Harry F., Jr.	Jackson	Sparkman
Byrd, Robert C.	Javits	Stafford
Cannon	Johnston	Stennis
Chiles	Laxalt	Stevens
Church	Long	Stevenson
Cranston	Magnuson	Stone
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClure	Talmadge
Eastland	McGee	Thurmond
Fannin	McIntyre	Tower
Ford	Mondale	Weicker
Garn	Morgan	Williams
Glenn	Moss	Young
Goldwater	Nunn	
Gravel	Packwood	

NAYS—13

Abourezk	Culver	Muskie
Bayh	Hart, Philip A.	Nelson
Brooke	Kennedy	Proxmire
Case	Leahy	
Clark	Metcalf	

NOT VOTING—10

Baker	Hruska	Montoya
Durkin	Inouye	Tunney
Eagleton	McClellan	
Fong	McGovern	

So the motion to lay on the table was agreed to.

Section 9 Presidential Representative at Committee Meeting

S. Res. 400: Sec. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

Ribicoff Analysis: Section 9 -- PRESIDENTIAL REPRESENTATIVE AT COMMITTEE MEETING

This section authorizes the committee to permit, under rules established by the committee, a personal representative of the President to attend the closed meetings. The provisions do not require the new committee to invite a representative of the executive branch to attend closed meetings, or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend committee deliberations if the committee finds such representation helpful in conducting its duties. Because of the special nature of the new committees work, however, it may find this procedure especially useful.

* * *

Senator Cranston
(p. 7268):

There is a separate section in the resolution authorizing the Intelligence Committee to permit, under rules established by the committee, a personal representative of the President to attend closed meetings of the committee. This provision is totally unnecessary, Mr. President. Any committee can invite such a representative at any time, in its discretion. By formalizing the process, however, I fear that we are establishing a bad precedent that reflects adversely on the independence of the Senate. Members of Congress are not invited to sit on the National Security Council, or with the U.S. Intelligence Board--for example.

I note the wording of the Government Operations Committee report on Senate Resolution 400 in respect to this matter, and I urge other Senators to heed the interpretation contained therein. The provision for permitting a Presidential representative to attend Intelligence Committee meetings "does not require the new committee to invite a representative of the executive branch to attend closed meetings or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend committee deliberations if the committee finds such representation helpful in conducting its duties."

Section 10 Disposition of the Material of the Select Committee on Intelligence

S. Res. 400: Sec. 10. Upon expiration of the Select Committee on Government Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

Ribicoff Analysis: Section 10 -- DISPOSITION OF THE MATERIAL OF THE
SELECT COMMITTEE ON INTELLIGENCE

This section provides for the transfer of documents, records, files and other materials from the Select Committee on Governmental Operations with Respect to Intelligence Activities to the new committee.

Since its inception, the Church Committee has reached certain understandings with the CIA and other intelligence agencies concerning the ultimate disposition of written material provided to the select committee. Under these agreements, some material provided to the select committee was to be returned to the appropriate agencies. Other materials were not to have been returned. This section respects those agreements.

The new committee will obtain possession of all the material the Church Committee has except in those instances where there is an express agreement that the material should be returned to the executive branch.

Section 11 Committee Access to Information

S. Res. 400: Sec. 11 (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: Provided, That this does not constitute a condition precedent to the implementation of any such anticipated activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee, any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency

should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies which respect to such violations.

Ribicoff Analysis: SECTION 11 -- COMMITTEE ACCESS TO INFORMATION

Subsection (a) governs the information which the intelligence agencies must provide on their own initiative to the new committee. The subsection expresses the sense of the Senate that the intelligence agencies should keep the committee fully and currently informed about its activities. This requirement does not apply to the myriad details of day-to-day intelligence operations, but only to information which the committee needs to make informed judgements on policy questions.

The requirement extends to briefing the committee in advance of any significant anticipated activities, such as covert operations. An anticipated activity may be significant because it is financially costly, or because it may affect this country's diplomatic, political, or military relations with other countries or groups. The Proviso clause makes it clear that while the agencies are expected to brief the intelligence committee in advance on proposed covert operations, implementation of the covert action is not dependent upon the committee in turn approving the proposed activity. Affirmative action by the committee is not a condition precedent to implementation of the activity.

Subsection (b) expresses the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should make available to the committee any person paid by the agency to provide any information the committee requests, and to furnish upon request any document or information which the department or agency has in its possession, custody, or control. Independent of this provision, the committee will, of course, have the subpoena power to enforce its requests for information.

Subsection (c) expresses the sense of the Senate that each department and agency report any intelligence activity that may violate the constitutional rights of any person, or may violate any law, Executive order, Presidential directive, or departmental or agency rule or regulation.

Such reports should be made to the intelligence committee immediately upon discovery of the wrongdoing. Each department or agency should further report to the committee what action is taken or expected to be taken by the department or agency with respect to such violations.

Senator Baker:
(p. 7261)

Secondly, with regard to section 11 of the Resolution, I would have preferred the language to read:

It is the sense of the Senate that the head of each department and agency of the United States should keep the Select Committee fully and currently informed with respect to intelligence activities which are the responsibility or engaged in by such department or agency.

As I have stated on many occasions in the past, it was my preference to use the "fully and currently informed" language which has served us so well in the Joint Committee on Atomic Energy. "Fully and currently informed" carries with it a body of established precedent as to exactly what it means. As part of the compromise agreement, however, I am supporting section 11 as written which requires the intelligence community to keep the Select Committee "fully and currently informed with respect to intelligence activities, including any significant anticipated activities."

The present section 11, however, also contains the following language:

Provided, That this does not constitute a condition precedent to the implementation of any anticipated intelligence activity.

I would like the *Record* to reflect that I requested this language be added to section 11 to make absolutely clear that the inclusion of the words "including any significant anticipated activities" did not constitute a requirement that the Select Committee either give its consent or approval before any covert action or intelligence activity could be implemented by the Executive branch. Rather, the intent of section 11 as written in the present resolution is to require prior consultation between the Committee and the intelligence community but not prior consent or approval. I am adding these remarks with regard to section 11 to insure that our legislative history clarifies any doubt with respect to the meaning of the present language of section 11. I note that others during the debate have similarly described section 11 and I am confident that there will be no doubt remaining as to its exact meaning.

only "significant" ones. In short, section 13(c) was not drawn to infringe upon the Executive's constitutional duties or responsibilities, or to hamper the effectiveness of the CIA. The sole intent of section 13(c) was to allow Congress to advise the Executive before significant CIA covert operations are begun.

The committee chose the word "significant" carefully. During the course of the select committee's investigation, we found that, since 1961, the CIA has conducted some 900 major or sensitive covert action projects and several thousand smaller ones. Most of the CIA's covert action projects are approved internally. Those that are considered politically risky or involve large sums of money go to a National Security Council Subcommittee, known until recently as the 40 Committee, for review and policy approval. As a general rule, the 40 Committee reviewed political and propaganda programs, including support for political parties, groups, or specific political or military leaders; economic action programs; paramilitary operations; and counterinsurgency programs. These are "significant" covert activities. They are the type that go to the NSC Subcommittee for policy approval. They are the type that would require prior notice to the Senate oversight committee.

The Government Operations Committee, to which the select committee's oversight proposal was referred, also endorsed the concept of prior notification. Section 10(a) of the committee's oversight proposal, Senate Resolution 400, stated that the new Intelligence Oversight Committee should be kept "fully and currently informed with respect to intelligence activities, including any significant anticipated activities." I ask unanimous consent that Senate Resolution 400, as reported out by the Government Operations Committee, be included at the end of my remarks.

The Government Operations Committee defined "any significant anticipated activities" as those activities which are "particularly costly financially" and those which have "any potential for affecting this country's diplomatic, political, or military relations with other countries or groups." In short, the Government Operations Committee defined significant activities as those which have policy implications.

In its report on Senate Resolution 400, the Government Operations Committee explained that advance notice of "significant anticipated activities" was not equivalent to a veto of these activities. According to the committee report:

The committee will not be able formally to "veto" by a veto of its members any proposed significant activity it learns about in advance. As a number of present and former Government officials point out, however, including Secretary Kissinger, Mr. Rusk, Mr. Phillips, Mr. Colby, Mr. McCone, Mr. Clifford, and Mr. Helms, it would be in the interest of sound national policy for the President to be appraised in advance if the committee is strongly opposed to any particular proposed activity. In making his final decision, the President should have the benefit of knowing the view of the committee on such important matters.

Neither the original language of Senate Resolution 400, as offered by the

Government Operations Committee, nor the language contained in the compromise resolution before us today would legally bind the Executive to notify the oversight committee in advance of significant covert operations. Only a statute can do that. A resolution only expresses the "sense of the Senate." The Select Committee on Intelligence took this into account when it issued its foreign intelligence final report on April 26. In that report, the committee recommended that, by statute, the Director of Central Intelligence keep the new intelligence oversight committee fully informed of each covert action prior to its initiation.

The only statute we now have relating to notification of Congress by the Executive of covert operations is the Hughes-Ryan amendment to the 1974 Foreign Assistance Act. That amendment requires the President to certify that covert operations in foreign countries, other than those intended solely for obtaining necessary intelligence, are "important to the national security of the United States" and to report, "in a timely fashion," a description and scope of these operations to the appropriate committees of Congress.

This has meant, in practice, reporting to the Armed Services, Foreign Relations, and Appropriations Committees of both Houses as well as two select intelligence committees. The Senate select committee recommended that the Hughes-Ryan amendment be amended, once the Senate established an intelligence oversight committee with authorization authority, to provide that the covert action notifications and Presidential certifications to the Senate be consolidated in the new oversight committee. I support this recommendation, although I will propose that prior notification be a part of any amendment to Hughes-Ryan.

The Senate must have prior notification of significant CIA covert operations. The Senate must know about and be able to advise the President if he intends to mount a paramilitary operation—such as in the Congo, Laos, or Angola, promote a military coup—as in Chile between September 15 and October 24, 1970, or wage economic warfare—such as operation Mongoose, directed against Cuba. Covert activities are too dangerous—and too controversial—to be a tool used by the President without congressional consultation.

Prior notification is essential for another reason. The select committee found that the secrecy and compartmentation which surrounds covert operations contributes to a temptation on the part of the Executive to resort to covert operations to avoid bureaucratic, congressional, and public debate. The select committee found that the Executive has used the CIA to conduct covert operations because it is less accountable than other government agencies. Further, the committee found that the temptation of the Executive to use covert action as a "convenience" and as a substitute for publicly accountable policies has been strengthened by the hesitancy of the Congress to use its powers to oversee CIA covert action. Prior notice will help

Senator Hart:
(p. 7270-71)

The intelligence oversight resolution currently before us is unclear on one very important point. It does not contain unambiguous language with respect to prior notification by the Executive to the Senate Oversight Committee of significant CIA covert operations. Section 11(a) of the resolution states:

It is the sense of the Senate that the head of each Department and Agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

It is my understanding that the intent of this language, offered by Senator BAKER, is to preclude prior consent or approval of CIA covert operations by the Senate oversight committee, not to preclude prior notification. Given this intent, the wording of section 11(a) is ambiguous. Congressional intent is unclear. I propose that we make it clear today just what our intent is with respect to prior notification. First, let me trace the legislative history of the prior notice provision.

Over 3 months ago, on January 29, the chairman of the Senate Select Committee on Intelligence, Senator CHURCH, introduced the Intelligence Oversight Act of 1976. That bill, S. 2893, was the committee's best judgment as to the responsibilities and authority of a new standing Senate intelligence oversight committee. It was cosponsored by 8 of the 11 members of the committee, including myself. Section 13(c) of S. 2893 called for the Executive to notify the Senate Oversight Committee of "significant" covert operations—prior to their implementation. I ask unanimous consent that S. 2893 be included in the RECORD following my remarks.

In S. 2893, the select committee did not call for prior approval of CIA covert operations, only prior notice. It did not call upon the Executive to notify the committee of all CIA covert activities,

to alleviate, if not solve, many of these problems.

The select committee and the Government Operations Committee have not been alone in calling for prior notification. For example, former Secretary of Defense Clark Clifford told the select committee:

With reference to covert activities, I believe it would be appropriate for this committee to be informed in advance by the executive branch of the Government before a covert project is launched. The committee should be briefed and, if it approves, then the activity can go forward. If the committee disapproves, it should inform the President of its disapproval so that he will have the benefit of the Joint Committee's reaction. If necessary, the President and the committee can confer, after which the President may decide to abandon the project or possibly modify it. If he persists in going ahead despite the committee's disapproval, then the committee might wish to withhold funds necessary to finance the activity in question. It is my feeling that the importance of the decisionmaking process in this very delicate field is such that there should be a joint effort by the executive and legislative branches.

Cyrus Vance, a former Deputy Secretary of Defense and a member of the predecessor to the 40 Committee—the 303 Committee—had this to say about prior notice:

I would recommend that the President be required to give his approval in writing, certifying that he believes the proposed [covert] action is essential to the national security. After the President's approval, I would suggest that a full and complete description of the proposed action be communicated immediately to a joint congressional oversight committee . . . I believe that such a step would then put the committee or any of its members in a position to express their disapproval or concerns about the proposed action, and communicate them to the President of the United States.

I am not suggesting that the committee should have a veto. I do not believe that is necessary. I am suggesting that the committee or its individual members would be able to communicate with the President, thus giving him the benefit of the committee's advice or of the advice of individual members.

Finally, former CIA Director Richard Helms has also come out in support of prior notice. In an exchange with Senator RUBICOFF of the Government Operations Committee, Mr. HELMS stated:

Senator RUBICOFF. At what stage should an oversight committee be brought into the covert activity, or the covert planning? . . . which should be the relationship between the Intelligence Agency and the Oversight Committee?

Mr. HELMS. It seems to me that on this question of oversight, one should be able to come to the committee and sit down and discuss a proposed operation to find out whether or not this was something that was going to be supported by the committee.

I say this for a very simple and practical reason. That is, if you are going to embark on some covert action which involves money, relationships, assets and all the rest of it, it seems hardly sensible to embark on some ambitious program like that, if your leg is going to be cut out from under you two or three months later when you are in mid-stream.

Therefore, if there is going to be congressional oversight and the Congress is going to work with the executive branch in these matters then it seems to me that it has to

go along hand in hand, for practical, if not legal, reasons.

Mr. HELMS concluded by saying that as a practical matter, "if there is going to be an Oversight Committee I think they ought to be in on the takeoff."

The Senate must have prior notification of significant CIA covert operations. The resolution before us does not state that explicitly. Although the resolution, if passed, will not bind the Executive, I believe it is important to place the Executive on notice that it is the clear intent of the Senate that it be given advance notice of approved CIA covert operations before they are implemented.

In closing, I quote from the select committee's final report on foreign intelligence:

The committee's review of covert action has underscored the necessity for a thoroughgoing strengthening of the Executive's internal review process for covert action and for the establishment of a realistic system of accountability, both within the Executive, and to Congress and to the American people. The requirement for a rigorous and credible system of control and accountability is complicated, however, by the shield of secrecy which must necessarily be imposed on any covert activity if it is to remain covert. The challenge is to find a substitute for the public scrutiny through congressional debate and press action that normally attends Government decisions.

I believe this challenge can be met. But Congress and the Executive must work together. It is for this reason that I believe prior notification is essential.

I think the feeling on the part of the members of the Select Committee is that those who will have the responsibility of watchdogging intelligence gathering through agencies of our Government should have cooperation and timely notice of the activities being undertaken by those agencies on behalf of the American people.

I join my colleagues in congratulating not only the leadership of the various committees, but Members of the Senate who have seen fit to support this measure as a sound, reasonable, thoughtful, and intelligent approach to this kind of peculiar problem in this country. I think that history will have to judge whether we have done the right thing or the wrong thing, but I believe that the facts speak for themselves: that we have taken the steps that have to be taken to preserve and protect our own liberties and safeguard the future of this country.

I thank the Chair.

Senator Percy -
 (Statement printed in Record:)
 (p. 7092)

8) The head of any department or agency of the United States engaged in intelligence activities shall keep the Select Committee fully and currently informed, including any significant anticipated activities which are the responsibility of such department or agency. It is the mandate of the agency or department to keep the committee informed. In no way is this requiring committee approval before engaging in such activities. In other words, there is a mandate to keep the committee fully and currently informed but the committee does not have a veto power over activities of such agency or department.

Senator Percy:
 (p. 7091)

I have resisted mightily every effort to have oversight by the Congress in such a way that Congress would be part and parcel of the decisionmaking process.

How can we exercise oversight activity, as a we should, and be in on the day-by-day decisions for, say, covert operations?

Those operations belong in the jurisdiction of the executive branch of Government, so long as they are committed to writing, so long as there is a top official responsible, and for a major activity the President of the United States must be responsible. President Ford has said to me, the Senator from Illinois, that he would personally sign in writing the options placed before him, the problem being faced up to, and the decision made.

The congressional oversight can be fully informed, can be kept up to date, but should not be in the position where it is being asked for prior approval which might jeopardize the intelligence activity and which might then put the Congress in a position where it truly could not perform an oversight function because Members of Congress have been part and parcel of the original decision-making process.

The Senator from Illinois has been extraordinarily concerned that the Congress, in a reaction to Watergate, to Lockheed, to the CIA, FBI, and Internal Revenue revelations, is going to overreact and, really, in a sense, assume unto itself executive branch responsibility.

Clearly, we must exercise oversight. But clearly, we cannot run the Government by a committee of 535 people. That is why the executive branch of Government was conceived, to have a chief executive officer who could react to all of the arguments and had the authority to say that this is what we are going to do or not to do, subject always to our appropriation process, subject always to our oversight responsibilities.

Senator Cranston:
(p. 7268)

the new committee is to be fully and currently informed with respect to "any significant anticipated activities." This, of course, refers to covert operations. While this does not constitute a condition precedent to "the implementation of any such anticipated intelligence activity," the Intelligence Committee would be informed about covert operations and could consider whether or not to bring these to the attention of the Senate in closed session.

When seen in combination with the 1974 Hughes-Ryan amendment to the Foreign Assistance Act—which provided that no funds might be expended by the CIA for operations not intended solely for obtaining necessary intelligence, in the absence of a Presidential finding that the operation is important to the national security of the United States, and a timely report to six committees of Congress—this access to information by the Intelligence Committee should provide a meaningful check on clandestine operations abroad without congressional knowledge, advice, or consent.

And it will still be possible for the Senate and Congress as a whole to bar funds for covert operations in a particular part of the world—as we did in Angola under the Tunney amendment last December.

Finally, on this point, I draw attention to the final section of the substitute resolution:

Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

This is to prevent the CIA or other intelligence agencies from citing Senate Resolution 400 as authority to conduct covert operations.

Senator Schweicker:
(p. 7269)

Crucial to the new committee is access to information. The resolution expresses the sense of the Senate that the committee must be kept "fully and currently informed" about intelligence activities. This language, suggested by Senator BAKER was drawn from the Joint Committee on Atomic Energy where it has proven effective in guaranteeing the Congress access to necessary information.

The resolution also notes that the committee should be informed about "any significant anticipated activities." While the committee's consent would not be required before covert actions could be implemented, it is clear that the committee must be provided advance notice about significant activities. As the Government Operations Committee wrote:

It would be in the interest of sound national policy for the President to be apprised in advance if the committee is strongly opposed to any particular proposed activity.

Senator Church:
(p. 7262)

The second legislative power required by an oversight committee to function effectively, is the right to acquire necessary information. It is absolutely vital that the oversight committee be kept "fully and currently informed" on all matters pertaining to its jurisdiction. The executive branch should also be obligated to answer any requests made by the Committee for information within its jurisdiction. In my view, the right to information provisions of the resolution which are based upon the existing language of the Atomic Energy Act, section 202(d), have served Congress well for more than a quarter century. The resolution has added a provision that, consistent with the intent of section 202(d) of the Atomic Energy Act, the oversight committee should also have the power to require information concerning activities of the intelligence community that the committee believes it should be informed of prior to the initiation of any such activity.

The effect of such a provision would be to require prior legislative authorization of intelligence activities in the normal way. This authority lies at the heart of vigilant legislative oversight. It is the power of the purse operating in full conformity with the Constitution.

Without full knowledge obtained in sufficient time, meaningful oversight cannot be exercised. It is clear from present concerns and recent history that the country would have been well-served had a committee of the Congress known in advance of certain actions, so that the advice of the Congress might have been given, and foolish, costly, and harmful courses of action might have been averted.

Section 12 Annual Authorizations

S. Res. 400:

Sec. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year-

- (1) The activities of the Central Intelligence Agency.
- (2) The activities of the Defense Intelligence Agency.
- (3) The activities of the National Security Agency.
- (4) The intelligence activities of other agencies and subdivisions of the Department of Defense.
- (5) The intelligence activities of the Department of State.
- (6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

Ribicoff Analysis: SECTION 12 -- ANNUAL AUTHORIZATIONS

This section insures an annual or biannual authorization of funds for the intelligence agencies over which the new committee had jurisdiction beginning September 30, 1976. In the past some of the intelligence activities have been governed by openended authorizations. The section places clearly upon the record a decision by the Senate that in the future this will no longer be the case and that, instead, there will be annual or biannual authorizations. The section recognizes, however, that as in the case of other agencies, the intelligence agencies may have to be funded in an emergency by continuing resolutions pending adoption of the authorization. It also recognizes that the funding of the intelligence agencies will be subject to the standing rules of the Senate.

Periodic authorizations of the intelligence agencies will constitute a very important aspect of the committee's oversight over the agencies. It should assure a regular review of each agency's intelligence activities, its efficiency, and its priorities.

Senator Church
(p. 7263)

Senators Nunn and Ribicoff:
(p. 7539)
Mr. Ribicoff.

National intelligence includes the collection, analysis, production, and dissemination and use of political, military, and economic information affecting the relations of the U.S. with foreign governments, and other activity which is in support of or supported by a collection, analysis, production, dissemination and use of such information. National intelligence also includes, but is not limited to clandestine activities such as covert action and some activities that take place within the United States such as counterintelligence. In general, these are the activities that would be supervised.

The main legislative tool required to effectively carry out oversight is annual authorization authority for the CIA, and the national intelligence portions of the NSA, DIA, the counterintelligence portion of the FBI, and some other national intelligence groups found in various departments and agencies. The power of the purse is the most effective means that the Legislature can have to assure that the will of Congress is observed. There has never been an annual authorization of the intelligence community budget. The proposed oversight committee, for the first time, under appropriate security safeguards, would be able to consider all budgetary requests of the national intelligence community on an annual basis.

Senator Percy: Statement printed in
Record (p. 7092)

4) The budgets for the covered intelligence agencies shall be annually authorized by the new Intelligence Committee. In the case of the CIA, exclusively; in the case of other agencies, on the concurrent basis. However, language will be written into the resolution to assure that a point of order cannot be raised against a continuing resolution should an authorization not be approved prior to the appropriations process.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on appropriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resolution 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Service Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Section 13 Committee Studies

S. Res. 400:

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on Intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

Ribicoff Analysis:

SECTION 13—COMMITTEE STUDIES

This section sets forth important subject matter areas which the new committee would be required to study and report on by July 1, 1977 and from time to time thereafter as is deemed appropriate. Those study areas are as follows:

(1) the quality of the analysis of foreign intelligence information and the use of analysis in policymaking;

(2) the authority of each agency to engage in intelligence activities and the desirability of developing legislative charters for the agencies;

(3) the organization of the executive branch to maximize oversight, efficiency and morale;

(4) the conduct of covert and clandestine activities and the process of informing the Congress of such activities;

(5) the desirability of changing laws and rules to protect necessary secrets and to publicly disclose information that should be disclosed;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint Senate-House committee on intelligence activities;

(8) the procedures under which funds for intelligence activities are authorized and whether disclosure of the amounts of funding is in the public interest;

(9) the development of a common set of terms to be used by the executive and legislative branches in policy statements and guidelines it issues in the intelligence area.

Subsection (b) specifically provides that the new committee may omit from its study any matter which the committee feels the Church committee has already adequately studied.

Section 14 Definitions

S. Res. 400

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

Ribicoff Analysis:

SECTION 14—DEFINITIONS

Subsection (a) defines four aspects of the term "intelligence activities." They are: national or foreign intelligence, counterintelligence, foreign covert or clandestine activities, and domestic intelligence.

National or foreign intelligence covers intelligence which is relevant to the government's national decision-making.

The definition of domestic intelligence does not cover the normal investigatory work that all enforcement agencies engage in as a part of their normal responsibilities to enforce the law. The only domestic intelligence activities that are covered by the term intelligence are those activities that focus on the political and related activities of Americans because of the threat those activities pose, or are alleged to pose, to the internal security (i.e., fundamental interests) of the United States.

The definition of intelligence activities does not include tactical foreign military intelligence serving no national policymaking function.

Section 15 Finding For the New Committee

S. Res. 400

Sec. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed \$275,000, of which amount not to exceed \$30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(1) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Sec. 16. Nothing in this resolution shall be construed as constituting acquiescence

* * *

Ribicoff Analysis:
(p. 7089)

SECTION 15—FUNDING FOR THE NEW COMMITTEE

This section authorizes start up funds for the select committee. It provides up to \$275,000 for the period between the time the new committee is created and February 28, 1977.

Section 16 Effect on Other Laws * * *

S. Res. 400

Sec. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

* * *

Ribicoff Analysis:

SECTION 16—EFFECT ON OTHER LAWS

Section 16 states that nothing in the resolution is intended to imply approval by the Senate in any activity or practice not otherwise authorized by law. The section is intended to make it clear that by assigning the new committee jurisdiction over a particular activity, such as covert or clandestine activities, or the domestic intelligence activities of the Federal Bureau of Investigation, the Senate does not thereby intend to express any view as to the legality of any such activity.

* * *

Senator Cranston:
(p. 7268)

I draw attention to the final section of the substitute resolution:

Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

This is to prevent the CIA or other intelligence agencies from citing Senate Resolution 400 as authority to conduct covert operations.

S. Res. 400: As Enacted

So the resolution (S. Res. 400) was agreed to, as follows:

S. RES. 400

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a) (1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of fifteen members appointed as follows:

- (A) two members from the Committee on Appropriations;
- (B) two members from the Committee on Armed Services;
- (C) two members from the Committee on Foreign Relations;
- (D) two members from the Committee on the Judiciary; and
- (E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.

(d) For the purposes of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4) (A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects

a matter within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

Sec. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301 (c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

Sec. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of consultants or organizations thereof, in accordance with the provisions of section 202(1) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

Sec. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the

request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

Sec. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

Sec. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session

following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of sub-

section (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

Sec. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

Sec. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

Sec. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

Sec. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

Sec. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

Sec. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or

related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

Sec. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed \$275,000, of which amount not to exceed \$30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Sec. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

The title was amended so as to read: "A resolution establishing a Select Committee on Intelligence."

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

94TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 94-675SENATE COMMITTEE ON
INTELLIGENCE ACTIVITIES

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE

TO ACCOMPANY

S. Res. 400

RESOLUTION TO ESTABLISH A STANDING COMMITTEE OF
THE SENATE ON INTELLIGENCE ACTIVITIES, AND FOR
OTHER PURPOSES

MARCH 1, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

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CONTENTS

	Page
I. Summary of resolution.....	1
II. History of legislation.....	2
III. Background of legislation.....	3
IV. Nature and purpose of Senate intelligence committee.....	6
V. Section-by-section analysis.....	11
VI. Changes in the Standing Rules of the Senate.....	32
VII. Rollcall votes in committee.....	34
VIII. Text of Senate Resolution 400, as reported.....	35

(iii)

SENATE COMMITTEE ON INTELLIGENCE ACTIVITIES

MARCH 1, 1976.—Ordered to be printed

Mr. MANSFIELD (for Mr. RIBICOFF), from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. Res. 400]

The Committee on Government Operations, to which was referred the resolution (S. Res. 400), having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

I. SUMMARY OF RESOLUTION

The resolution reported by the Government Operations Committee creates a permanent 11-member Senate Committee on Intelligence Activities with legislative jurisdiction, including authorization authority, over the intelligence activities of the Government.

The Senate's oversight of the intelligence community will be centered in this new committee.

The chief intelligence agencies it will have jurisdiction over are the Central Intelligence Agency, and the intelligence activities of the Department of State, Department of Defense, and the Federal Bureau of Investigation, including its domestic intelligence activities.

The committee will have all necessary authority to exercise effective oversight over the intelligence agencies. The executive branch will be expected to keep the new committee fully and currently informed about its activities, including advanced notice of significant anticipated activities, including any significant covert operations.

The resolution also establishes procedures controlling the disclosure of information by the committee to the public and to other com-

mittees, or to other Members of the Senate in order to safeguard the unauthorized disclosure of information that the committee, or the Senate, has determined should not be publicly disclosed.

II. HISTORY OF LEGISLATION

During the 93rd Congress four bills or resolutions were referred to the Government Operations Committee creating a new intelligence oversight committee. In December 1974, 2 days of subcommittee hearings were held by Senator Muskie on the proposals but no further committee action was taken.

At the outset of the 94th Congress three bills or resolutions were referred to the committee establishing a permanent new unit of Congress to oversee the government's intelligence activities. These proposals were S. 189, S. 317, and S. Con. Res. 4. In 1976 three additional bills to create a new intelligence committee were introduced and referred to this committee. S. 2865 was referred to this committee on January 26; S. 2893 on January 29; and S. 2983 on February 17. S. 2893, introduced by Senator Church and seven other members of the Select Committee on Intelligence Oversight, was referred to the Government Operations Committee pursuant to a unanimous consent agreement with instructions that this committee report back to the full Senate on the legislation by March 1, 1976.

The committee held 9 days of hearings on proposals to create a new intelligence oversight committee in January and February of this year. The following is a list of the 26 witnesses who certified at these hearings, in order of their appearance:

Senator Mike Mansfield, Democrat of Montana.
 Senator Frank Church, Democrat of Idaho.
 Senator John G. Tower, Republican of Texas.
 Senator Howard H. Baker, Jr., Republican of Tennessee.
 Dean Rusk, former Secretary of State.
 Nicholas Katzenbach, former Attorney General of the United States, and Under Secretary of State.
 David Phillips, President, Association of Retired Intelligence Officers.
 William Colby, Director of the Central Intelligence Agency.
 McGeorge Bundy, former Special Assistant to the President for National Security Affairs.
 Clarence Kelley, Director of the Federal Bureau of Investigation.
 John McCone, former Director of the Central Intelligence Agency.
 Clark Clifford, former Secretary of Defense.
 Ambassador Richard Helms, former Director of the Central Intelligence Agency.
 Robert F. Ellsworth, Deputy Secretary of Defense.
 Senator Gaylord Nelson, Democrat of Wisconsin.
 Senator Alan Cranston, Democrat of California.
 Morton H. Halperin, Director of the Project on National Security and Civil Liberties.
 Raymond S. Calamaro, Executive Director, Committee for Public Justice.
 Senator Barry M. Goldwater, Republican of Arizona.
 Senator Ernest F. Hollings, Democrat of South Carolina.

Congressman Michael Harrington, Democrat of Massachusetts.
Congressman Robin L. Beard, Republican of Tennessee.
Senator Strom Thurmond, Republican of South Carolina.
Dr. Henry A. Kissinger, Secretary of State.
Senator Walter D. Huddleston, Democrat of Kentucky.
Attorney General Edward H. Levi.

Following completion of these hearings, the committee met on February 19, 20, and 24. The committee completed action on this legislation on February 24 and voted unanimously to approve this resolution.

III. BACKGROUND OF THE LEGISLATION

BRIEF HISTORY OF CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE AGENCIES

Since the passage of the National Security Act of 1947, establishing the National Security Council and the Central Intelligence Agency, Congress has tried in a number of different ways to achieve close congressional supervision of the intelligence activities of the Government.

Congressional efforts to restructure congressional oversight of the intelligence community, either through creation of a joint committee or a special intelligence committee in each House, began as early as 1948. In that year Representative Devitt introduced legislation to establish a Joint Committee on Intelligence. This effort was the first of nearly 200 bills introduced in both Houses since 1948.

Soon after the creation of the CIA, an informal arrangement in the Senate was worked out with Senators Vandenburg and Russell whereby small subcommittees of the Armed Services and Appropriations Committees assumed responsibility for the oversight of the CIA. By the early 1950's, congressional oversight was routinely conducted by separate subcommittees of the House and Senate Armed Services and Appropriations Committees.

Subsequently, the Senate Foreign Relations and House Foreign Affairs Committees expressed growing interest in participating in congressional oversight of the intelligence community because of the possible effect on this country's foreign relations.

In January 1955, Senator Mansfield introduced S. Con. Res. 2, which would have established a 12-member Joint Committee on Central Intelligence. It gave the new committee legislative authority over the agency and required that the CIA keep the new committee "fully and currently informed with respect to its activities." The Mansfield resolution, originally co-sponsored by 32 other Senators, was defeated by the full Senate.

In July 1966, the Foreign Relations Committee reported out Senate Resolution 283, calling for the creation of a new Committee on Intelligence Operations in the Senate. However, after floor debate, the Senate failed to take final action on the proposal.

In 1967, the chairman of the Senate Armed Services Subcommittee on Intelligence invited three members of the Foreign Relations Committee to attend the CIA oversight sessions of his committee. This ad hoc arrangement was discontinued in the early 1970's.

The recurring need for reexamining the way Congress monitors the activities of the intelligence agencies was again highlighted during the investigations in 1973 of the Senate Select Committee on Presidential Campaign Activities when questions were raised about the legality or propriety of certain intelligence activities of the Central Intelligence Agency, the Federal Bureau of Investigation, and other agencies.

In 1974 the chairman of the Senate Armed Services Subcommittee invited the majority and minority leaders to attend CIA oversight sessions of the subcommittee as nonvoting members.

The House took action in 1974 (H. Res. 988) to give "special oversight (of) intelligence activities relating to foreign policy" to its Foreign Affairs Committee. In 1975 the committee, renamed the International Relations Committee, created a Subcommittee on Investigations to handle its oversight responsibilities under H. Res. 988.

In December 1974 the New York Times charged that the Central Intelligence Agency, in direct violation of its statutory charter, conducted a "massive, illegal domestic intelligence operation during the Nixon Administration against the antiwar movement and other dissident groups in the United States." The article also charged that "intelligence files on at least 10,000 American citizens" had been maintained by the CIA and that the agency had engaged in "dozens of other illegal activities," starting in the 1950's "including break-ins, wiretapping and the surreptitious inspection of mail."

On January 15, 1975, testifying before the Senate Appropriations Committee, Mr. William Colby, Director of the Central Intelligence Agency, stated that officers of the CIA had spied on American journalists and political dissidents, placed informants within domestic protest groups, opened the mail of U.S. citizens, and assembled secret files on more than 10,000 American citizens.

In response to public allegations of abuses by the Central Intelligence Agency, in particular, both the Senate and the House moved rapidly in 1975 to create temporary committees to investigate possible abuses by the intelligence agencies.

On January 28, 1975 the Senate agreed to S. Res. 21, as amended, to establish a Select Committee to Study Governmental Operations with Respect to Intelligence Activities. On February 19, 1975 the House established a Select Committee on Intelligence by agreeing to H. Res. 138. On July 17, 1975 the House agreed to H. Res. 591, which replaced that committee with another having the same name and functions. Both Senate and House committees were temporary study committees, ordered to report finally by February 29, 1976, and January 31, 1976, respectively.

RECOMMENDATIONS OF COMMITTEES AND COMMISSIONS

The committees of Congress, as well as the special executive commissions, that have examined the matter of congressional oversight of the intelligence community have consistently concluded that a new intelligence committee should be established.

As long ago as 1955 the Hoover Commission recommended creation of a new congressional oversight committee.

The recommendation climaxed a period of 6 years during which special executive commissions studied the Central Intelligence Agency

four times. The studies voiced criticisms of the agency and its failure to correct inadequacies and poor organization.

When recommending creation of a new congressional unit in 1956, the Senate Rules Committee stated that creation of a new committee would:

Insure the existence of a trained, specialized, and dedicated staff to gather information and make independent checks and appraisals of CIA activities pursuant to the committee's directives and supervision. The effect should be to allay much of the suspicion already expressed in Congress concerning the activities and efficiency of CIA operations. (S. Rept. No. 1570. 84th Congress, 2d sess.)

When explaining the resolution reported by the Foreign Relations Committee in 1966 to create a new congressional unit, Chairman Fulbright stated that a new committee would bring about "a more efficient coordination of the various intelligence activities of the Government." He added that creation of a new committee "would contribute to the quieting of criticism, the allaying of public fears, and the restoring of confidence in the Agency." (Cong. Rec., July 14, 1966, at p. 15673.)

In recent years, as the activities of the intelligence agencies have become the subject of increased public scrutiny, recommendations for a new congressional oversight committee have been renewed. In June 1975 the Commission on the Organization of the Government for the conduct of Foreign Policy (the Murphy Commission), after an extensive study lasting almost 2 years, recommended that Congress create a new structure for overseeing the intelligence community.

In June 1975 the President's Commission on CIA Activities Within the United States recommended in its final report that a new intelligence committee be established in order to improve the operations of the intelligence agencies and help prevent abuses in the future. This special commission, under the direction of Vice President Rockefeller, was created by the President in January 1975 to investigate allegations of abuses committed by the CIA within this country.

The Commission noted "Congress has established special procedures for review of the CIA and its secret budget within four small subcommittees. Historically, these subcommittees have been composed of Members of Congress with many other demands on their time. The CIA has not as a general rule received detailed scrutiny by the Congress." (Report of the President's Commission on CIA Activities Within the United States, p. 14.)

Although the Senate Select Committee on Intelligence has not yet completed its final report and recommendations, Chairman Church and other members of the committee introduced legislation to create a permanent intelligence committee in the Senate. At the time Chairman Church introduced the legislation he commented, "The present situation is clearly inadequate and even verging upon the chaotic. Restructuring is clearly needed."

The House Select Committee on Intelligence recommended, upon completion of its study creation of a separate House committee similar in scope and nature to the Senate Committee on Intelligence pro-

posed by most of the Senate select committee. (H. Report No. 94-833, 94th Cong., 2d sess.).

This resolution is thus preceded by years of debate and study concerning congressional oversight of the intelligence agencies. It is preceded by a substantial number of proposals that have been made over the years for creation of a new committee.

IV. NATURE AND PURPOSE OF THE RESOLUTION

NEED FOR A NEW COMMITTEE

The work during the last year of the Senate select committee and the Rockefeller Commission, and the abuses that have been discovered or alleged, have served to reemphasize the long-standing need for Congress to act in the area of intelligence oversight. But proposals for a new intelligence committee first began to be made only a few years after the Central Intelligence Agency was created. Concern over the activities of the intelligence agencies and congressional control over them clearly predates the events of the last few years.

The need and advisability of a new intelligence committee rests on a few basic facts.

A new intelligence committee can mark a new start. It can provide a forum to begin restoring the trust and confidence the intelligence agencies must have to operate effectively. It can formalize in an open and definitive manner the Senate's intention to exercise close oversight over a very important part of the Government's activities. Oversight by Congress is essential under our constitutional system. By its actions it can help assure the public that the abuses of the past will not be repeated in the future. Until full trust and confidence in our intelligence agencies is restored, the country will be unable to conduct a fully effective intelligence program.

The intelligence functions of this Government are unique in their importance to this Nation's security. At the same time, however, executive branch responsibility for intelligence is now spread among a number of organizations whose primary responsibilities involve diplomatic, military, economic or other matters. No one agency or department is solely responsible for our intelligence program. Direction and evaluation comes from interagency committees, and ultimately the National Security Council and the President.

Jurisdiction in the Senate over intelligence matters is correspondingly spread between a number of committees. No one committee is able to bring together through its oversight or legislative functions all the divergent portions of the intelligence community. For instance, the Director of Central Intelligence, the intelligence arms of the three military services, the Treasury Department, the Bureau of Intelligence and Research in the Department of State, the National Security Agency, the Defense Intelligence Agency, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Energy Research and Development Administration all have representatives on the U.S. Intelligence Board. In the Senate responsibility for the 11 agencies that sit on the board and for their intelligence activities is shared by five legislative committees—the Armed Services Committee, the Foreign Relations Committee, the Finance Committee, the

Judiciary Committee, and the Joint Committee on Atomic Energy. Because responsibility for the intelligence community is distributed among a number of different committees, it is not the prime focus of any single committee. The committees with responsibility in the area cannot devote time, or develop the staff, necessary to oversee fully the Government's intelligence activities. Because the area of intelligence is so important and complex, effective congressional oversight requires that any oversight committee devote a large proportion of its time and resources to the subject.

The Senate's present organization for oversight of intelligence also means that when the executive branch wishes to brief the Congress, on its own initiative, or in response to general congressional interest in a matter, it must brief a number of committees. This may place unnecessary burdens on the time of agency officials. Centralizing oversight responsibilities in a single Senate committee will provide a more orderly working relationship between Congress and the executive branch.

Centralizing oversight of the intelligence community will also help to assure the preservation of necessary security of sensitive information. Inevitably, the security of sensitive information is sacrificed whenever a substantial number of people have access to it. A single committee will help alleviate this problem by establishing a single body to receive most of the information on intelligence provided by the executive branch.

Congress itself can never run the intelligence agencies. Day-by-day oversight and direction must come from within the executive branch. Congress must exercise oversight, however, over the agencies and their activities, including covert operations and make sure that before the President initiates important new activities or programs he knows the attitude Congress is likely to take towards them. Congress must examine the economy and efficiencies of the intelligence programs which cost billions of dollars each year, and eliminate any unnecessary duplication or fragmentation among the maze of agencies now involved in intelligence.

As Senator Church, chairman of the Select Committee on Intelligence, testified before this committee:

The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well-staffed committee directing all of its attention to the intelligence community.

A wide range of other witnesses who testified during the nine days of hearings held by the committee also supported the need for a new committee. Present or former Government officials who supported a new intelligence oversight committee included Dr. Kissinger, who stated that creation of a new committee would be in the interests of national security, and Mr. Colby. Additional officials who supported creation of a new oversight committee included two other former directors of the Central Intelligence Agency, Mr. John McCone and Mr. Richard Helms; Mr. Clark Clifford, former Secretary of Defense; and Mr. McGeorge Bundy, former National Security Adviser to the

President. Mr. David Phillips, President of the Association of Retired Intelligence Officers, stated that 98 percent of the members of the association polled by him favored creation of a new oversight committee.

SCOPE OF NEW COMMITTEE'S AUTHORITY AND RESPONSIBILITIES

It is the intent of this committee to create a committee with the necessary power to exercise full and diligent oversight.

An essential part of the new committee's jurisdiction will be authorization authority over the intelligence activities of the Department of Defense, the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency. Without this authority the new committee would not be assured the practical ability to monitor the activities of these agencies, to obtain full access to information which the committee must have, to exercise control over the budgets of the agencies in order to reduce waste and inefficiency, and to impose changes in agency practices.

The resolution expressly provides that the Senate does not expect the intelligence community just to respond to inquiries or proposals made by the new committee. To be effective the intelligence community must take an active part in initiating the exchange of views and information between Congress and the executive branch. The resolution accordingly provides that the intelligence agencies should on their own take whatever steps necessary to keep the new committee fully and currently informed of their activities. This includes informing the new committee of significant anticipated activities, including covert and clandestine activities, before they are initiated so that there may be a meaningful exchange of views before any final decision is reached. It is expected that the President will fully consider such views and reassess the wisdom of any proposed programs which is strongly oppose by the committee. By creating a new committee that consults frequently with the executive branch, the committee hopes that Congress, the President, and the public can be spared future instances where covert activities initiated by the executive branch are subsequently rejected by Congress.

The scope of the new committee's jurisdiction is intended to include both foreign and domestic intelligence.

Without jurisdiction over both the domestic and foreign intelligence activities of the government, the new committee could not act in the comprehensive way it must. Many domestic and foreign intelligence activities are now closely related. For example, responsibility for the covert collection of intelligence from foreign sources residing within the United States may be shared by the Central Intelligence Agency and the Federal Bureau of Investigation. These same agencies may both be involved as well in gathering information on whether domestic groups in the United States are under foreign control.

The new committee must be able to review such relationship and consider, where necessary, legislation readjusting the division of responsibility among agencies for domestic and foreign intelligence. Past abuses in the intelligence area have in part involved a confusion between the proper role and function of domestic and foreign intelligence agencies.

STRUCTURE OF NEW COMMITTEE

The resolution establishes a permanent standing committee of the Senate consisting of 11 members. The committee concluded that at this time there were a number of advantages to a Senate committee, rather than a joint committee, and that on balance, there were no compelling reasons requiring Congress to depart from the normal practice of creating separate Senate and House legislative committees.

A Senate committee is more consistent with the bicameral nature of the Nation's legislative system. The new committee will in all likelihood be considering very important legislation concerning the nature and effectiveness of the Government's entire intelligence community. A single joint committee should not write legislation for both Houses.

A Senate committee will give better recognition of the unique role the U.S. Senate plays under its constitutional advise and consent powers in the area of foreign relations.

Separate Senate and House committees will better assure that each House is able to conduct its oversight of the intelligence community in the manner that seems most appropriate to that House, its concerns, its rules, and its existing committee structure.

Separate Senate and House committees will better promote coordination between the new committee and the other committees in each House with interests in the intelligence area.

Separate Senate and House committees will help reduce the danger that a single joint committee, by overlooking certain practices or becoming too wedded to a particular point of view, will miss important abuses or fail to consider important legislative reform proposals.

Because the very nature of the committee's work will require the committee to act without informing the full Senate in many instances, the resolution contains special provisions to assure that the committee membership remain representative of the Senate as a whole. No member will be able to serve on the new committee for longer than 6 years at a time. This will assure a continual rotation of members, new viewpoints, and new interests.

In creating a new Senate intelligence committee, the committee was also very aware of the need to reduce the proliferation of committees.

The resolution has been drafted with this concern in mind. In order to reduce the proliferation of committees now involved in overseeing the Government's intelligence activities, the new committee is given jurisdiction over the entire intelligence community. It will have authorization authority over all major expenditures for intelligence. The resolution expressly provides that other committees in the Senate will no longer have jurisdiction in these areas. The number of legislative or select committees involved in this area in the Senate will be reduced from four to one.

It is expected that after creation of the new committee, the Senate may also want to review the effect of other relevant laws with the possible aim of further reordering Senate oversight of the intelligence agencies. This could include, for example, the present law requiring the President to brief all appropriate committees on covert operations conducted by the Central Intelligence Agency, or the present division of responsibilities between the legislative committees and the appropria-

tions committee. The new committee is required by this resolution to study some of these questions itself, and report its conclusions to the full Senate no later than July, 1977.

PROCEDURES FOR PROTECTING CONFIDENTIAL INFORMATION

The committee devoted considerable discussion to how best to assure that the new committee would protect the confidentiality of some of the information that will be in its possession, while assuring that the Senate and the public have access to information on intelligence in a manner consistent with the public interest. A very delicate balance must be struck between the right of the people in a democracy to know what their government is doing, and the need to protect some information in the interests of national security.

Both the Senate Select Committee on Intelligence and the standing committees of the Senate that have been extensively involved in the intelligence area in the past have had an excellent record in protecting the confidentiality of information. The past experience of these committees is evidence that the Senate can exercise effective congressional oversight without the unauthorized disclosure of sensitive information occurring. In order to assure that this continues in the future, the new committee will have all the authority it needs to establish necessary security and clearance procedures. The new committee will be expected, for example, to make special physical arrangements to safeguard material.

Provisions in the resolution will assure the full Senate the opportunity to determine whether in particular instances information should be disclosed if the President objects. Other security procedures established by the resolution will apply when the new committee provides other Senators information which the committee, or the Senate, has determined should not be made public. Finally, the resolution creates a special procedure requiring the Select Committee on Standards and Conduct to investigate allegations made by a certain number of Senators that a Member, officer, or employee of the Senate has engaged in the unauthorized disclosure of information.

The resolution requires the staff to receive appropriate security clearances from the committee before they are hired and to agree in writing, before beginning to work for the committee, that they will not divulge any information either during or after their employment, unless authorized by the committee.

The ability of the new committee to obtain the information it needs to do an effective job of oversight will depend in large part on its ability to protect information which should not be disclosed to the public. The committee is confident that the new intelligence committee will strike the necessary balance between the necessity of protecting the confidentiality of certain information, and the need to provide the public the information it must have in a democracy to participate in the basic policy discussions about the nature of this country's intelligence program.

V. SECTION-BY-SECTION ANALYSIS

SECTION 1—STATEMENT OF PURPOSE

This section states that it is the purpose of the resolution to create a new standing committee of the Senate with legislative jurisdiction to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government. The new committee, called the Committee on Intelligence Activities, would have the duty to report to the Senate appropriate proposals for legislation concerning intelligence activities and programs. This section obliges the committee to make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the nation. It is further the purpose of the new committee to provide vigilant oversight over the intelligence activities of the United States so as to assure that the intelligence activities of the Government are in conformity with the Constitution and the laws of the United States.

Nothing in the resolution is intended to inhibit the full access of other committees and other Senators to the product of the intelligence agencies. As the wording of this section suggests, one of the goals of the new committee should be to assure that other members and committees of the Senate receive directly from the agencies all the intelligence analysis they need to fulfill their responsibilities.

SECTION 2—COMMITTEE MEMBERSHIP

Section 2 of the resolution amends Rule XXIV of the Standing Rules of the Senate to provide for the appointment of members to the intelligence committees. It provides that six members of the Committee on Intelligence Activities will be members from the majority party and five members of the committee will be from the minority party of the Senate. Members would be selected for these committees in the same way as for other standing committees.

This section also provides that, at the beginning of each Congress, the majority members on the committee would select a chairman and the minority members would select a vice chairman. The resolution expressly provides that neither the chairman nor the vice chairman may serve at the same time as a chairman or ranking minority member of any other permanent committee. The vice chairman is to act in the place of the chairman in the chairman's absence. This wording, which is consistent with the bipartisan nature of the committee, will help expedite the business of the committee by permitting the vice chairman to preside over hearings which the chairman cannot himself attend.

The provisions for a set majority-minority ratio and election of a minority vice chairman underline the importance that the new committee act in a fully bipartisan way. The unique importance and nature of the matters the committee will consider make such bipartisanship

essential. The existence of trust and confidence between the executive branch and the committee will enable the committee to exercise more effective oversight. This trust and confidence will only be achieved if the committee does act in a fully bipartisan manner.

Subsection (b) prohibits a Senator from serving on the committee for more than 6 consecutive years. After 6 years of continuous service a Senator must leave the intelligence committee. In an extraordinary case it may be consistent with the general concept of rotating membership for a member who has served 6 years to serve again on the committee after a period of years. This might be a member who did not serve a full 6 years originally, or who did, but who subsequently gains special expertise which makes additional service on the committee especially appropriate. It is expected that in each Congress approximately one-third of the 11-member committee will be new members in order to assure continuity, as well as the addition of new members on a regular basis. Thus, to the extent practicable, between three and four new members are to be chosen at the beginning of the 96th Congress and each Congress thereafter. It is expected that in order to initiate such a system of rotating membership, those Senators who are appointed to serve on the new committee beginning with the 95th Congress will be divided into three categories, with approximately one-third serving 2 more years, one-third 4 more years, and one-third 6 more years.

The resolution reserves no seats on the Committee on Intelligence Activities for members of particular standing committees. Existing committees such as Armed Services, Foreign Relations, and Judiciary will continue, of course, to have an interest in the work of the intelligence committee. It is expected that some members of those committees will be chosen to serve on the new intelligence committee. By so doing, the experience of these members might be shared, and coordination between Senate committees facilitated.

The intelligence committee should reflect the membership of the Senate-at-large. To give the committee a broad base it is expected that many members of the intelligence committee will come from committees other than Armed Services, Judiciary, and Foreign Relations. Whatever the exact ratio between members from these three committees and other committees, it should be consistent with the overall goal to create a committee that truly reflects the divergent views and interests of the entire Senate.

SECTION 3—COMMITTEE JURISDICTION

Section 3 establishes the Senate Committee on Intelligence Activities by amending Rule XXV of the Senate Rules.

Subsection (a) defines the new committee's jurisdiction. The resolution gives the committee legislative jurisdiction over the Central Intelligence Agency and the Director of Central Intelligence, as well as over the intelligence activities of all other departments and agencies of the Government. These other agencies and departments include, but are not limited to, the intelligence activities of the Department of Defense, including the Defense Intelligence Agency, and the National Security Agency, and the intelligence activities of the Departments of State, Justice, and Treasury.

Any activities of these agencies which are not intelligence activities will fall outside the committee's jurisdiction. Jurisdiction over the Department of Defense's weapons development programs, for example, would remain with the Armed Services Committee. "Intelligence activities" is defined in section 13 to include (1) foreign intelligence; (2) counterintelligence; (3) clandestine and covert activities; and (4) domestic intelligence. The term specifically does not include tactical foreign military intelligence, serving no national policymaking function.

LEGISLATIVE JURISDICTION OVER FOREIGN INTELLIGENCE

The following is a brief description of some of the major agencies or departments that are publicly known to engage in foreign intelligence activities. The new committee would have jurisdiction over the intelligence activities of these agencies or departments. Since a complete list of intelligence agencies, and their activities, is secret, this description can not fully describe the total extent of the committee's jurisdiction.

DIRECTOR OF CENTRAL INTELLIGENCE

The DCI is intended to be the President's principal adviser on national intelligence matters and to coordinate the allocation of resources within the intelligence community. He is also charged by the National Security Act of 1947 with the responsibility "for protecting intelligence sources and methods from unauthorized disclosures." He serves in several functions, including the head of the Central Intelligence Agency, the U.S. Intelligence Board, and the U.S. Intelligence Resource Advisory Committee. Under the changes announced by the President on February 17, 1976, the DCI is specifically charged with, among other responsibilities, developing national intelligence requirements and priorities, directing covert operations, reviewing White House requests for service from the intelligence community, and ensuring the existence of a strong inspector general's office in the intelligence agencies.

CENTRAL INTELLIGENCE AGENCY

According to the 1947 Act which created it, it is the function of the CIA to—

- (a) Advise the National Security Council as to the intelligence activities of the departments and agencies;
- (b) Make recommendations to the National Security Council on ways to coordinate these activities;
- (c) To correlate and evaluate intelligence relating to national security; It is specifically prohibited from exercising, in connection with this authority, police, subpoena, or law-enforcement powers, or internal security functions;
- (d) To perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally; and
- (e) To perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

DEFENSE DEPARTMENT

The Defense Department accounts for approximately 85 percent of the intelligence community's manpower and budget. The following components of DOD are among those actively involved in national intelligence:

Defense Intelligence Agency

The Director of DIA is the principal intelligence staff officer to the Secretary of Defense, to whom he reports through the Joint Chiefs of Staff. The agency was established in 1961 by a DOD directive to rationalize and unify the national intelligence activities of the entire military.

National Security Agency

This agency is responsible for communications security, including cryptographic work, and the development of techniques for the secret transmission of information. The agency was established in 1952 by Presidential directive.

Army Intelligence (G-2)

Under the Office of Assistant Chief of Staff for Intelligence, Army Intelligence is responsible for the national intelligence and counter-intelligence activities of the Army. The responsibilities of the Army intelligence units are largely defined and authorized by internal DOD directives.

Air Force Intelligence

This unit is headed by the Office of Assistant Chief of Staff for Intelligence, Department of the Air Force. It collects information relevant to military threats to the United States and its allies. It is one of the chief consumers of, and contributors to, the national intelligence product.

Naval Intelligence

National intelligence and counter-intelligence for the Navy is under the direction of the Office of Naval Intelligence. It collects, processes, evaluates, and disseminates intelligence of naval interest.

DEPARTMENT OF STATE, BUREAU OF INTELLIGENCE AND RESEARCH

The Bureau provides the Secretary of State with research and analyses. It is also charged with responsibility for ensuring that the Government's overall intelligence effort is consistent with U.S. foreign policy objectives. It does not engage in the covert collection of intelligence information.

TREASURY DEPARTMENT

The Department's intelligence work is the direct responsibility of the Office of National Security, its chief responsibility being in the foreign economic area. The Department engages in no covert collection of intelligence.

FEDERAL BUREAU OF INVESTIGATION, INTELLIGENCE DIVISION

The FBI is the agency chiefly responsible for intelligence activities in this country. The work is the responsibility of the Bureau's In-

telligence Division. Its primary national intelligence responsibility involves investigation in this country of espionage, sabotage, treason, and other crimes affecting the country's internal security. In addition to gathering intelligence in this country, it has liaison posts in 16 foreign countries. Through its domestic and foreign operations, the FBI provides the remainder of the intelligence community with information it discovers as part of its other responsibilities.

LEGISLATIVE JURISDICTION OVER DOMESTIC INTELLIGENCE

The committee's legislative jurisdiction extends to domestic intelligence agencies as well. This is in recognition of the fact that it is difficult, and probably unwise, to separate jurisdiction over domestic intelligence from foreign intelligence activities, for, as discussed above, foreign and domestic intelligence activities have been inextricably linked. Domestic intelligence is defined by section 13, clause (4), to it is the politically sensitive kind which may give rise to political abuses. The new committee's jurisdiction will not cover the normal criminal or civil investigations of agencies, related to their regular law enforcement functions, which do not focus on the political and related activities of groups.

The Internal Security Branch of the FBI's Intelligence Division is the primary domestic intelligence organization included within the committee's jurisdiction. The fact that the FBI has already placed these domestic intelligence activities within a special branch will facilitate the separation of the FBI's domestic intelligence activities from the rest of the Bureau's operations. The Internal Security Branch is responsible under FBI guidelines and procedures for domestic security investigations conducted where there is a likelihood that domestic groups or individuals will engage in acts of violence in connection with activities designed (1) to overthrow the Government of the United States or of a State, (2) to impair the functioning of Federal or State Government, or interstate commerce, in order to influence governmental policies, (3) to interfere within the United States with the activities of a foreign government, (4) to deprive persons of their civil rights, or (5) to create widespread domestic violence or rioting necessitating the use of Federal militia or other armed forces.

The committee would also have jurisdiction should other agencies in the future engage in domestic intelligence activities. If, for example, the Postal Service again undertakes "mail covers," one form of intelligence gathering, such activity would be within the purview of the new committee.

JURISDICTION OVER AUTHORIZATION AND REORGANIZATION LEGISLATION

Subsection 3(a) also specifies that the intelligence committee will have jurisdiction over authorizations of budget authority for the chief intelligence agencies in the government: the Central Intelligence Agency; the intelligence activities of the Department of Defense (including the Defense Intelligence Agency and the National Security Agency); the intelligence activities of the Department of State; and the intelligence activities of the Federal Bureau of Investigation, specifically, all activities of the Bureau's Intelligence Division. The committee will continue to have jurisdiction over these parts of the intelligence community even if they are transferred to successor agencies.

These four agencies account for almost all the money spent by the Government on intelligence. The new committee will not have authorization jurisdiction over the other agencies that engage in intelligence activities, such as the Energy Research and Development Administration. The small size of the expenditure by these agencies on intelligence does not justify giving the new committee authorization authority over them.

This committee expects that to the extent that any practical budgetary problems do arise out of the division of authorization of an agency between two committees, the new committee will work with the other existing committees to resolve these problems as soon as possible.

The intelligence committee would also have jurisdiction over any organization or reorganization of a department or agency of the Government to the extent that it relates to a function or activity involving intelligence activities.

SIZE AND TYPE OF COMMITTEE

Subsection (b) of section 3 amends paragraph 3 of Rule XXV by making the intelligence committee a "B" committee, and specifying that the new committee will have 11 members. The committee felt that an 11 member committee was large enough to permit it to be truly representative, while small enough to facilitate the protection of information that may not be disclosed publicly. The Senate Select Committee on Intelligence also had 11 members.

As a "B" committee, described in paragraph 3 of Rule XXV, membership on the committee will be subject to paragraph 6 of Senate Rule XXV. In general, no member of the intelligence committee will also be able to serve on any of the other following committees: the Committee on the District of Columbia, the Post Office and Civil Service Committee, the Committee on Rules and Administration, the Committee on Veterans' Affairs, or any select, special, or joint committee. The committee felt no special exception should be made to paragraph 6(a) of Rule XXV of the Senate, limiting Senators as general rule to membership on only one of these committees. The work of the intelligence committee will require considerable time and attention. A member of the Senate should not be expected to take on the demands of the new committee simply as an addition to all his other committee responsibilities.

JURISDICTION OF OTHER COMMITTEES

Subsection (c) is a conforming amendment, amending the jurisdiction of certain other committees to simply reflect the fact that the other committees that formerly had jurisdiction over the intelligence agencies would not continue to have jurisdiction. The four committees whose jurisdictional wording is amended to account for the jurisdiction of the new committee are the Armed Services Committee, the Government Operations Committee, the Foreign Relations Committee, and the Judiciary Committee. The amendment is necessary simply to assure that the general wording for these other committees does not

appear to include the specific jurisdiction given the new committee by subsection (a).

As in the case of any other committee in the Senate, there will unavoidably be instances where both the new committee and other committees will have jurisdiction over some portions of the bill, but not others. When an authorization bill is introduced for an agency that engages in intelligence, as well as other activities, a separate bill should be introduced covering only the authorization for the agency's intelligence activities. The latter bill would go exclusively to the intelligence committee, while the remainder of the agency's authorization bill would go to another, appropriate committee. Or the same bill may be referred to both committees under an agreement whereby the new intelligence committee alone is responsible for the portion of the legislation dealing with intelligence, and the other committee is alone responsible for the remaining portions. In situations where the intelligence matters are inextricably intertwined with other matters not under the new committee's jurisdiction, the legislation should go primarily to the committee whose jurisdiction predominates.

For example, a bill that involved the Justice Department's general investigative techniques, such as the constitutionality of its surveillance or investigative policies in general, would be referred to the Judiciary Committee, even though it also affected the FBI's Intelligence Division. The opposite would be the case with legislation whose purpose was to reorganize the FBI's Intelligence Division.

The committee of course expects that, in fact, instances of overlapping jurisdiction will in practice be resolved, as in the past, on the basis of comity and mutual accommodation.

SECTION 4—COMMITTEE REPORTS

Subsection (a) requires the new committee to make regular and periodic reports to the Senate on the nature and extent of the Government's intelligence activities. This committee expects that at a minimum this will require an annual report by the new committee to the Senate. The committee must call to the attention of the Senate or any other appropriate committee any matters which require the immediate attention of the Senate or other committees. If, for example, the intelligence committee possesses information on intelligence activities that may have a significant affect on foreign policy, the intelligence committee should notify the Foreign Relations Committee. In addition to these reports, the Committee on Intelligence Activities, as a standing committee of the Senate, will also be required to make a report on March 15 of each year in accordance with section 310(c) of the Congressional Budget and Impoundment Control Act of 1974. Any report the intelligence committee makes will be subject to the provision in section 7 governing the disclosure of information. The report should be made in a manner necessary to protect national security.

Subsection (b) requires the intelligence committee to obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Each report should review the intelligence activities of the particular agency or department submit-

ting the report. Included in this report should be a review of the intelligence activities directed against the United States or its interests by other countries. The intent of these reports is to give Congress and the public a greater understanding of the intelligence activities of other countries, which may be inimical to the United States, as well as a greater understanding of the intelligence activities of the United States.

The reports by the four intelligence agencies and departments are to be made to the intelligence committee in an unclassified form. The Committee on Intelligence Activities shall then make them available to the public. In preparing these public reports, the agencies should not disclose the names of individuals engaged in intelligence activities for the United States, or the sources of information on which the reports are based, where to do so would be contrary to the public interest.

SECTION 5—COMMITTEE STAFF

Subsection 5(a) provides for the rotation of committee staff. The maximum term for a professional staff member is a total of 6 years, equal to the maximum term for committee members. Unlike a member of the committee, however, no employee who leaves the staff at the end of 6 years may rejoin the staff later under any circumstances. The 6-year limitation applies to committee consultants and any others who perform professional services for or at the request of such committee. It does not apply, however, to nonprofessional staff members. In order to maintain an experienced staff, approximately one-third of the staff should be hired every 2 years.

Subsection 5(b) requires that intelligence committee staff members with access to classified material have security clearances, the standards for which will be determined by the committee in consultation with the Director of Central Intelligence. This provision prescribes for the new committee the same procedure that was followed by the Senate Select Committee on Intelligence. Under the select committee procedure, the executive branch conducted background investigations, but the decisions on clearances rested with the select committee. The new intelligence committee should consult with the Director of Central Intelligence concerning clearances. The Director of Central Intelligence may offer advice, but will not have authority to grant or deny clearance to any committee employee. The committee will have the final say on such matters. The type of security clearance required should be commensurate with the sensitivity of the information to which an employee has access.

A second provision in subsection 5(b) requires staff members with access to classified information to agree, in writing, to be bound by the Rules of the Senate and the intelligence committee governing the disclosure of information during and after their employment with the committee. The purposes of such an agreement is to insure that former staff members, no longer subject to the sanction of discharge, will be bound in contract not to disclose information made available to them in the course of committee employment which the committee, or the Senate, has determined should not be made public. If any per-

son engages in the unauthorized disclosure of information in violation of the agreement while still employed by the committee, the committee would be expected to terminate the person's employment.

SECTION 6—INDIVIDUAL PRIVACY

Section 6 imposes upon the intelligence committee a responsibility to establish rules and procedures to protect the privacy of individuals. These rules and procedures should be designed to prevent the disclosure, without the consent of the person involved, of information which unduly infringes on the person's privacy or violates his constitutional rights.

The committee's duty to protect against disclosure of information which infringes upon the privacy of an individual is not absolute. This section limits its prohibition on disclosure to those which unduly infringe on privacy. The section explicitly states that privacy considerations shall not prevent the committee from publicly disclosing information in any case in which the committee determines that the public interest in disclosure clearly outweighs any infringement on any person's privacy. This might occur, for example, when the conduct of an employee of an intelligence agency raises serious questions about the lawfulness of the agency's activities, or the adequacies of its procedures to protect classified information. An individual may not cloak himself in the protection of this section simply to avoid the disclosure of embarrassing or incriminating information if the committee finds that the balance clearly weighs in favor of public disclosure. The final determination in each case is intended to remain within the committee's full discretion.

SECTION 7—DISCLOSURE OF INFORMATION

Section 7 establishes formal procedures governing the disclosure of certain information to the public and to other Members of the Senate, provides a special procedure to safeguard information made available only to other Senators, and requires the Select Committee on Standards and Conduct to investigate violations of these procedures. This section should provide for the necessary safeguarding of information which the committee or the Senate has determined should not be disclosed to the public, while providing for as much public disclosure as possible, consistent with the public interest.

Committee Authority to Disclose Information

Subsection (a) establishes the basic rule that the Committee on Intelligence Activities may disclose publicly any information in its possession after the committee determines that the public interest would be served by such disclosure. Subsection (a) also assures that any member of the committee would have an opportunity to have the committee vote on a disclosure question whenever he desires to bring such a question before the committee.

The provision covers all information which the committee has gained from any source. The new committee will have the greatest experience in such matters and in most cases it is appropriate that the

committee, as an agent of the Senate, will play the primary role, in consultation with the executive branch, in controlling access to information in its possession. At the same time, the ability of the committee under this section to disclose information to the public is subject to the procedures described in subsection (b). The provisions of subsection (b) gives the full Senate the opportunity to vote on the matter of disclosure whenever the committee and the President are formally and explicitly in disagreement about the wisdom of disclosing certain information provided the committee by the executive branch, and three members of the committee request full Senate consideration of the matter. This committee expects that such a disagreement will occur only rarely. Normally the committee and the executive branch should be able to resolve any differences on such matters. However, subsection (b) does provide an important check on the committee's powers, should such a disagreement occur.

Full Senate Review of Committee Action

Subsection (b) preserves the right of the full Senate to decide whether or not information should be disclosed over the objection of the President. It also preserves the right of the full Senate to consider the desirability of disclosing information when at least three members dissent from a decision of the committee *not* to disclose certain information. Thus the procedures providing the opportunity for full Senate involvement is an even-handed one, applicable whether the committee is inclined toward disclosing, or toward not disclosing, the information.

This subsection is intended to include all executive branch information which the committee possesses, whether the information was submitted by the executive branch directly to the committee, or whether it came from the executive branch to the committee indirectly, through the full Senate. The request that information not be disclosed may consist simply of a restrictive security classification attached to a document at the time it was provided to the committee, or it may consist of a specific request to the committee in response to an inquiry from it. The word "information" is not necessarily synonymous with "document." The committee is, of course, free to consider separately a portion of an executive branch document which the executive branch has requested not be disclosed, and to disclose any such portion of the entire document which it deems appropriate. Similarly, if the executive branch has requested that only a portion of the document not be disclosed, the committee will be free, of course, to disclose the remainder of the material without following the procedures of this subsection. Paragraph (b) (1) requires the committee to notify the President of any vote to disclose publicly any information submitted to it by the executive branch which the executive branch has requested be kept secret.

Paragraph (b) (2) requires the committee to wait 5 calendar days following the day on which notice of the vote is transmitted to the President before the committee may disclose the information. If, prior to the expiration of the 5-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons for his objections, and certifies that the threat to the na-

tional interest of the United States posed by such disclosure is vital and outweighs any public interest in disclosure, the committee may not then disclose without following the procedures described in the remainder of subsection (b). If the President fails to object, the committee may publicly disclose the information at the end of the 5-day period. The President's objections and reasons supporting those objections, as well as his certification concerning the threat to the national interest, should be in writing. In light of the formal nature of this procedure, and the fact that the full Senate will want to study the President's position with care if it is required to review the matter, it is expected that the President will set forth his reasons with sufficient specificity and detail to aid the committee and the entire Senate in making a final determination of the matter in a manner consistent with the public interest.

If the President objects to the disclosure of the information, paragraph (3) requires the committee to wait 3 calendar days following the day on which it receives the President's objection before disclosing. If, during this period of 3 days, three or more members of the intelligence committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision, the committee must refer the matter to the full Senate.

Paragraph (4) applies to instances where the committee votes not to disclose. The procedure the committee must follow in such instances is reviewed below, following the discussion of the procedures applicable to a committee decision in favor of disclosure.

Paragraph (5) specifies that when three or more members of the committee file a request with the chairman of the committee to refer the committee decision to disclose to the full Senate, the chairman must report the matter to the Senate for its consideration. The Chairman must make his report not later than the first day on which the Senate is in session following the day on which the request of three members of the committee is filed with the chairman.

Paragraph (6) provides that the matter of disclosure shall be taken up by the Senate one hour after the Senate convenes on the first day on which the Senate is in session following the day on which the chairman of the Committee on Intelligence Activities reported the matter to the Senate. The matter must be heard in closed session of the Senate.

In considering the matter in closed session, the Senate has three options. First, it may approve the public disclosure of the information in question, in which case the committee must publicly disclose such information. Second, the Senate may disapprove the public disclosure of the information in question, in which case the committee must not publicly disclose the information. Third, the Senate may decide to refer the matter back to the committee, with instructions that the committee make the final determination with respect to the public disclosure of the information in question. The Senate need not treat all the information which it is considering the same way. For example, it may decide to disclose a portion of the information and decide against the disclosure of other portions.

Paragraph (6) requires that the Senate act in one or more of these three ways within 5 days after the matter is referred to it. The Senate may vote, for example, to disclose a portion of the information and vote not disclose another portion of the same material. The vote on the matter must be in open session. If a dispositive vote has not already been taken in open session prior to the fifth day, the closed session of the Senate shall be automatically dissolved at the end of this period and a vote must then be immediately taken in public session on the matter.

Section 7 also provides a procedure for Senate review of a committee decision not to publicly disclose information. The procedure is essentially the same as outlined above for review of a committee decision to publicly disclose information. The only difference is that where the committee initially votes not to disclose the information the provisions requiring a Presidential certification are no longer applicable.

If the intelligence committee votes not to disclose publicly any information submitted to it by the executive branch which the executive branch has requested be kept secret, that information may not be disclosed unless three or more members file a written request with the chairman that the question of public disclosure be referred to the Senate for decision. As in the case of the review of a committee decision to disclose information, the written request to the chairman must be made within 3 calendar days after the vote of the committee disapproving the public disclosure of the information. Following this written request the Senate must consider the matter according to the same procedures applicable to Senate review of a committee decision to disclose certain information.

Information that May Not Be Disclosed Publicly

Subsection (c) prohibits the public disclosure of certain information by any member, officer, or employee of the Senate. It also regulates access of other Members of the Senate, and other committees, to information which the intelligence committee, or the Senate, has determined should not be disclosed to the public.

Paragraph (c) (1) of section 7 prohibits the public disclosure by any member of the intelligence committee of classified information in the possession of the intelligence committee relating to this country's lawful intelligence activities which the committee or the Senate has determined should not be disclosed publicly. Paragraph (c) (1) also applies to any other Member, officer or employee of the Senate to whom the intelligence committee provides information relating to the lawful intelligence activities of the government. Any Member, officer, or employee of the Senate who is provided such information by the intelligence committee, whether in closed session or individually, is prohibited as well from disclosing the information to the public as long as the committee or the Senate has determined that the information should not be disclosed. The subsection also requires the committee to make the information available to other Senators, or other committees, only in the manner provided in paragraph (c) (2).

The committee will receive a considerable amount of information from the executive branch with a restrictive executive branch classification on it. It is this committee's intention that the new intelligence

committee will adopt rules establishing a regular procedure for the automatic review of the material as soon as it arrives so that an immediate, initial determination will be made whether the material may be disclosed to the public. If the initial determination of the committee is against disclosure, the prohibition of subsection (c) would apply until the committee or the Senate reconsiders the matter pursuant to paragraph 7(b).

Paragraph (c) (2) regulates the access of other committees, or other Senators, not members of the intelligence committee, to information which may not be disclosed publicly. The intelligence committee, or any member of the committee, may make such information available to other State committees or other Members of the Senate. Whenever the intelligence committee, or a member of the committee makes this information available to another committee or another Member of the Senate, the intelligence committee must keep a written record of the communication. The written record must show the specific information that was transmitted, and which committee or members of the Senate received the information. This requirement of a written record applies to oral as well as to written communications. The adoption of other rules further governing access of other committees and Senators to information that may not be made public is left to the discretion of the new committee. The committee might decide it would be appropriate, for example, that when a Senator reviews a written document that may not be disclosed to the public, the Senator would have to read that document in a secure room and without making any copies of it.

No committee that in turn receives information pursuant to this procedure may disclose such information to any other person. A Member who receives information under this subsection may make the information available in a closed session of the Senate. He may also make the information available to another Member of the Senate provided that the Senator communicating the information promptly informs the Committee on Intelligence Activities. The intelligence committee will then record the substance of the information conveyed, the name of the Senator or committee who transmitted the information, and the name of the Senator that received the information. In this way, the intelligence committee will have a record of each Senator and each committee who has received the information.

Subsection (c) does not affect the right of any Senator under Rule XXXV to request a closed session of the Senate at which to discuss any matter he wishes. The requirement that a record be kept of the names of any Member of the Senate, or any committee, that receives information from the intelligence committee would not apply during a closed session.

Subsection (d) permits the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). The second sentence of subsection (d) places special responsibilities on the Select Committee on Standards and Conduct to make an investigation and report its findings whenever five members of the intelligence committee, or 16 members of the Senate, file a written request with the committee that it investigate any alleged un-

authorized disclosure of intelligence information by a member or employee of the intelligence committee or by a member, officer or employee of the Senate who obtained the information from the intelligence committee. The request should refer, where known, to the Senator, officer, or employee by name. Subsection (e) provides that the select committee shall recommend appropriate action be taken against the individual in the case of any significant breach of confidentiality or significant unauthorized disclosure.

The substantial number of Senators required to file such a charge should assure that the charge will not be lightly made. Only a violation of the provisions of this section which results in substantial damage to the Nation's security should warrant the filing of the request with the Select Committee on Standards and Conduct.

It is anticipated that in the event of such a serious disclosure of intelligence information in violation of subsection (c), the intelligence committee will conduct its own investigation, or that the Select Committee on Standards and Conduct will make an investigation on its own initiative. But in the event that neither committee takes action, subsection (d) provides that either a minority of the intelligence committee or a minority of the Senate—but a fairly substantial minority in either case—can mandate an investigation by the Select Committee on Standards and Conduct.

In the event the required number of Senators do file a request for an investigation, the Select Committee on Standards and Conduct must conduct an appropriate investigation and report its findings and recommendations to the Senate. Such findings and recommendations may be submitted in confidence to the Senate whenever the committee deems it appropriate.

Subsection (e) provides that if the subject of the investigation so requests, the Select Committee on Standards and Conduct, shall release to him at the conclusion of its investigation, a summary of its investigation together with its findings. The person who is the subject of the investigation may then determine whether he wishes to make this summary public.

The Select Committee on Standards and Conduct may recommend appropriate sanctions only if it determines that there has been a significant breach of confidentiality or a significant unauthorized disclosure of information relating to the lawful intelligence activities of the government by a Member, officer, or employee of the Senate. A significant breach of confidentiality or a significant unauthorized disclosure of information is one which substantially harms the effective conduct of foreign policy, reveals important confidential defense information, places in jeopardy the life of a named intelligence agent, or otherwise causes substantial injury to the public interest.

Possible sanctions include, in the case of a Senator, censure, removal from the committee membership, or expulsion from the Senate. In the case of an officer or employee of the Senate, it may include loss of employment. These sanctions are meant to be illustrative only. The Select Committee on Standards and Conduct will be free to consider a wide range of sanctions according to the seriousness of the unauthorized disclosure. In deciding what sanction may be appropriate, the Select Committee on Standards and Conduct should take into

consideration the nature of the information disclosed, the intent of the person in acting as he did, whether or not the violation was deliberate, and the impact of the disclosure on the public interest, including the conduct of foreign relations or national defense. If the committee concludes that there was a public interest in disclosure which outweighed any damage to the national defense or foreign policy, the Select Committee on Standards and Conduct will in all likelihood, recommend no sanction.

The rules and procedures established by section 7 apply only to the control of information by the intelligence committee since the only matter that was before this committee was the creation of a new intelligence committee. It is the feeling of this committee, however, that it would be desirable to apply the same provisions to all other Senate committees. It is hoped that other, appropriate committees of the Senate will consider making these provisions applicable to the entire Senate.

SECTION 8—PRESIDENTIAL REPRESENTATIVE AT COMMITTEE MEETING

Section 8 authorizes the Committee on Intelligence Activities to permit, under rules established by the committee, a personal representative of the President to attend closed meetings of the committee. The provision does not require the new committee to invite a representative of the executive branch to attend closed meetings or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend committee deliberations if the committee finds such representation helpful in conducting its duties. Because of the special nature of the new committee's work, however, it may find this procedure especially useful.

SECTION 9—DISPOSITION OF THE MATERIAL OF THE SELECT COMMITTEE ON INTELLIGENCE

Section 9 provides for the transfer of documents, records, files, and other materials from the Select Committee on Governmental Operations with Respect to Intelligence Activities to the new Committee on Intelligence Activities.

This committee has been informed that, since its inception, the select committee has reached certain understandings with the CIA and other intelligence agencies concerning the ultimate disposition of written material provided to the select committee. Under these agreements, some material provided to the select committee was to be returned to the appropriate agencies. Other materials were not to have been returned. This section respects those agreements. Thus, the new intelligence committee will receive all the material in the possession of the select committee except in those cases where there is explicit agreement that the material should be returned to the executive branch. It is expected that before the Select Committee on Intelligence concludes its work it will reduce its understanding with the executive branch on these matters to writing. This will assist the new committee in understanding the nature of any material that is transferred to it pursuant

to this section. It would also be helpful if the new intelligence committee receives an index from the select committee of the material the latter returns to the intelligence agencies.

SECTION 10—COMMITTEE ACCESS TO INFORMATION

Section 10 concerns the access the committee will have to information in the possession of the Executive Branch.

COMMITTEE FULLY AND CURRENTLY INFORMED

Subsection (a) provides that it is the sense of the Senate that the head of each department and agency of the United States should keep the intelligence committee fully and currently informed with respect to intelligence activities which are the responsibility of, or engaged in by, such agency. The provision specifies that the information with respect to intelligence activities that should be provided to the committee include information concerning any significant anticipated activities of each department or agency. Effective access to information is the most important ingredient of effective oversight. Under this provision the departments and agencies of the government are under an affirmative obligation to provide the committee all the information it needs to do an effective job of oversight.

The reference in the section to agencies keeping the committee "fully and currently informed" is similar to the requirement contained in section 202 of the Atomic Energy Act. For over 30 years this requirement has assured the Joint Committee on Atomic Energy complete and timely notice of actions and policies of the Federal Government in the field of atomic energy. The language in subsection 10(a) of the resolution means that the Committee on Intelligence Activities should similarly receive full and complete information on matters within its jurisdiction. The obligation imposed is not legally binding on the agencies since it is in the form of a Senate resolution. Nevertheless, it is fully expected that the departments and agencies of government will recognize the Senate's intent concerning this matter and act accordingly.

The obligation is not limited simply to providing full and complete information when requested by the committee. It also includes regular briefings at the agency's initiative so that the committee is completely apprised of all aspects of intelligence functions. Although the head of each department or agency will remain responsible for keeping the committee fully and currently informed, briefings may be undertaken by persons delegated such authority by the head of the agency or department. Insuring that the committee is fully and currently informed will not require an agency to provide the committee with myriad details of day-to-day intelligence operations. The committee should not and need not engage in the management of intelligence operations. The committee should, however, have all the information it needs to make informed judgments on policy questions.

The language in subsection 10(a) specifically provides that the expectation that the committee will be "fully and currently informed" includes information concerning "any significant anticipated activities." This language covers proposed covert and clandestine operations, as well as any other significant proposed activities. An anticipated

activity should be considered significant if it has policy implications. This would include, for example, activities which are particularly costly financially, as well as those which are not necessarily costly, but which have any potential for affecting this country's diplomatic, political, or military relations with other countries or groups. For example, government paramilitary operations and covert political actions designed to influence political situations in foreign countries, including providing aid to political parties, would be covered. It excludes day-to-day implementation of previously adapted policies or programs.

The new committee could not be kept fully and currently informed unless it receives notification of significant activities before they occurred. It is the committee's understanding that the requirement that the Joint Committee on Atomic Energy be kept fully and currently informed has also resulted in many cases in the committee receiving briefings on significant actions before they are implemented. The same broad interpretation should be given the phrase "fully and currently" in this provision as well.

The committee will not be able formally to "veto" by a veto of its members any proposed significant activity it learns about in advance. As a number of present and former government officials pointed out, however, including Secretary Kissinger, Mr. Rusk, Mr. Phillips, Mr. Colby, Mr. McCone, Mr. Clifford, and Mr. Helms, it would be in the interest of sound national policy for the President to be apprised in advance if the committee is strongly opposed to any particular proposed activity. In making his final decision, the President should have the benefit of knowing the views of the committee on such important matters.

Committee requests for information

Subsection (b) of section 10 expresses the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish upon request any document or information which the department or agency has in its possession, custody, or control. An agency or department should also make available any person in its employ the committee desires to have testify as a witness. Independent of this provision, the committee will, of course, have the usual subpoena power possessed by any standing committee of the Senate.

Reports of unlawful activities

Subsection (c) expresses the sense of the Senate that each department and agency report any intelligence activity that violates the constitutional rights of any person, or violates any law, Executive order, Presidential directive, or departmental or agency rule or regulation. Such reports should be made to the intelligence committee immediately upon discovery of the wrongdoing. Each department or agency should further report to the committee what action is taken or expected to be taken by the department or agency with respect to such violations.

SECTION 11—AUTHORIZATIONS

Section 11 requires periodic authorizations for appropriations for those intelligence activities over which the intelligence committee has authorization jurisdiction. It will be out of order for the Senate to

consider any bill, resolution, amendment, or conference report which appropriates funds for any activity listed in this section unless the Congress has already authorized funds for the activity for that fiscal year. Section 11 applies to authorizations for the Central Intelligence Agency, the intelligence activities of the FBI, and the intelligence activities of the Departments of State and Defense, including the Defense Intelligence Agency and the National Security Agency. The section will apply to all appropriations beginning with September 30, 1976.

This requirement will constitute a very important aspect of the committee's oversight over the agencies. It should assure a regular review of each agency's intelligence activities, its efficiency, and its priorities

SECTION 12—COMMITTEE STUDIES

In the course of its consideration of this legislation, this committee identified a number of other issues which, though important, should more appropriately be deferred until after the actual creation of a new intelligence committee. This committee believes, however, that these issues are of such importance that the Committee on Intelligence Activities should be required to give them specific study and to report back to the Senate by July 1, 1977. By that time the new committee will have had an opportunity to explore some of these issues, seek practical answers to other questions on the basis of comity with the executive branch, and to become familiar generally with its responsibilities. The recommendations the intelligence committee reaches at the conclusion of this period should be especially helpful to the Senate.

In addressing these specific issues, the Committee on Intelligence Activities should give careful consideration wherever relevant to how its recommendations will help improve each aspect of the country's intelligence activities. The separate aspects of intelligence, which should be considered, wherever relevant, in connection with the review of each of these issues, are the planning, gathering, use, security, and dissemination of intelligence. An effective intelligence operation requires careful planning to determine what information should be gathered, how the intelligence collected is used, to whom it is disseminated, and how it is kept secure are interrelated and essential aspects of any intelligence function.

The specific issues to be addressed are the following:

(1) The quality of the analysis of foreign intelligence information and the use of analysis in policymaking. In addressing this question, the committee may wish to compare the analytical capability and techniques of the personnel of U.S. intelligence agencies, as well as the recruitment policies and methods of the intelligence agencies in other countries.

(2) The extent and nature of the authority of each agency and department to engage in intelligence activities and the desirability of developing legislative charters to govern the intelligence activities of intelligence agencies. Some agencies, such as the FBI, do not now have charters that precisely and authoritatively define the scope of each agency's legitimate intelligence activities. Others are governed only by exceedingly broad statutes, and Executive orders or Presidential directives implementing the statutes.

(3) The effectiveness of the organization of the executive branch in maximizing the conduct, oversight, and accountability of intelligence activities, in maintaining a high level of morale among intelligence personnel, and in minimizing duplication and overlap.

(4) The legality and appropriateness of the conduct of covert and clandestine activities by intelligence agencies and the adequacy and nature of procedures by which Congress is informed of such activities. This should include a review of the effectiveness and desirability of the Foreign Assistance Act of 1974, under which the President must inform the appropriate committees in a timely fashion of any covert activities by the Central Intelligence Agency.

(5) The desirability of making changes in laws, Senate rules and procedures, or Executive orders, rules and regulations to improve the protection of intelligence secrets and to facilitate the disclosure of information where, on balance, the public interest would be served by disclosure.

(6) The desirability of establishing a joint intelligence committee, and, in the event a joint committee is not established, the desirability of establishing procedures whereby the separate committees on intelligence in the two Houses would, at their discretion, receive joint briefings and coordinate their policies with respect to the safeguarding of information. Coordination between House and Senate intelligence committees would help assure that the creation of separate intelligence committees will not place unreasonable demands on the time of intelligence officials.

It will also assure that the policies of the two committees on the disclosure of information will be consistent with each other and with the interests of national security.

(7) The procedures under which funds for intelligence activities are authorized, and whether disclosure of the amounts of funding is in the public interest. This should include an examination of whether or not the budget figures for the intelligence agencies should be made public in some form. It should also determine what procedures should be established to coordinate the authorization functions of the new committee with the budgetary responsibilities of the Armed Services Committee, the Appropriations Committees, and the other committees, as well as the House of Representatives.

(8) In view of the vagueness and ambiguity of such terms as "covert operations," the Committee on Intelligence Activities should examine ways to develop, for use in policies and guidelines, a common set of terms that both the executive branch and the Congress will find helpful in governing, clarifying, and strengthening the operation of intelligence activities.

It is not the intent of the committee that the study divert the Committee on Intelligence Activities from its other important legislative and oversight functions. If necessary the committee should retain additional staff for a period in order to expedite completion of the study. It is anticipated, however, that the Committee on Intelligence Activities should be in a position to report its initial findings on each of these

issues by July 1, 1977, together with any legislative recommendations it finds desirable. Since the President has already submitted recommendations on some of these matters, and the final report of the Select Committee on Intelligence should help the committee's study of these matters, it is hoped that the Committee on Intelligence Activities may be able to report its recommendations and legislation on some aspects sooner than July 1, 1977.

SECTION 13—DEFINITIONS

Section 13 defines terms used throughout the resolution.

Subsection (a) defines the four aspects of the term "intelligence activities." Clause (a)(1) concerns foreign or national intelligence. This includes the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in a foreign country. In order to fall within this provision, the intelligence activity must also relate to the defense, foreign policy, national security, or related policies of the United States. In other words, there must be a relationship between the intelligence and this country's defense, foreign policy, national security, or related policies. If, for example, the Department of Health, Education, and Welfare were to analyze reports of drug treatment programs in Europe, so as to compare them to this country's policy on drugs, such an activity would not be considered a foreign intelligence activity. While such a program may be important to this government's drug treatment program, it does not relate to the defense, foreign policy, national security, or similar policies of the United States. Activities may also be included within the purview of clause (a)(1) if they are in support of the activities mentioned above. For example, activities undertaken in order to collect national intelligence information would be covered as well.

Clause (a)(2) covers counterintelligence. Under this provision, activities taken to counter a foreign nation's intelligence operations directed against the United States are deemed to be "intelligence activities." The counterintelligence activities of the Federal Bureau of Investigation's Intelligence Division are included within this definition.

Clause (a)(3) provides that covert or clandestine activities which could affect the relations of the United States with any foreign government, political group, party, military force, movement or other association are also "intelligence activities." The phrase "covert and clandestine activities" includes but is not limited to, covert political actions designed to exercise influence on political situations in foreign countries, including support for political parties or economic action programs; covert propaganda or the covert use of foreign media to disseminate information helpful to the United States; intelligence deception operations involving the calculated feeding of information to a foreign government for the purpose of influencing it to act in a certain way; and covert paramilitary actions, including the provision of covert military assistance and advice to foreign military forces or organizations, and counterinsurgency programs. All these activities are intended to affect the relations of this country with a foreign government, political group, party, military force, movement or other association and thus come within the meaning of the term. It is not, of

course, necessary to come within this definition that the covert operation actually succeed, or that this country's relations with a foreign country are actually affected as a result of such operation.

Clause (a)(4) covers the Federal Government's domestic intelligence activities. It includes the collection, analysis, production, dissemination, or use of information about activities of persons within the United States whose political and related activities pose, or may be considered by any government instrumentality to pose, a threat to the internal security of the United States. This definition is not intended to cover the investigatory work that all law enforcement agencies engage in as part of their normal responsibilities to enforce the criminal or civil laws. For example, if the Drug Enforcement Agency kept dossiers on suspected smugglers, and engaged in surveillance of suspected drug pushers, for the purpose of enforcing the drug laws, those activities would not come within clause 5 of subsection 13(a).

The only intelligence activities covered are those that center on the political and related activities of Americans, including activities designed to deprive people of their civil rights on racial or religious grounds, because of the threat such activities pose, or are believed to pose, to the fundamental interests of the United States.

The Federal Bureau of Investigation recognizes the distinction between its normal criminal investigatory and its domestic intelligence activities. The latter are the responsibility of the Internal Security Branch of the Bureau's Intelligence Division pursuant to specific guidelines that the Bureau has developed on the basis of its experience. It is this special type of intelligence activities now conducted by the Internal Security Branch that this definition is intended to cover. If in the future other organizational units within the FBI, or other agencies or departments, engage in this activity, their activities would also be covered by this definition.

The entire definition of intelligence activities is subject to the general statement that it does not include tactical foreign military intelligence serving no national policymaking function. This is intended to exclude the established budgetary and programatic categories in the Department of Defense for tactical, rather than national intelligence. The new committee will not have jurisdiction over tactical intelligence.

Subsection (b) of section 13 defines the term "department or agency". The term includes any organization, committee, council, establishment, or office within the Federal Government. Any ad hoc interagency committee or government corporation is included within this definition.

Subsection (c) states that any reference in the resolution to any particular department or agency of the government, or to departments and agencies generally, is also intended to include any other department or agency that assumes the intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in the resolution. If, for example, the CIA were to be reorganized and renamed, this wording assures that the intelligence committee would have jurisdiction over the new agency. The scope of the committee's jurisdiction over a new agency would be the same as its jurisdiction over the predecessor agency.

SECTION 14—EFFECT ON OTHER LAWS

Section 14 states that nothing in the resolution is intended to imply approval by the Senate in any activity or practice not otherwise authorized by law. This section is intended to make it clear that by assigning the new committee jurisdiction over a particular activity, such as covert or clandestine activities, or the domestic intelligence activities of the Federal Bureau of Investigation, the Senate does not thereby intend to express any view as to the legality of such activity. Such reference is also not meant to imply acquiescence in the legality of any practices an agency now follows, as for example, the manner in which the CIA briefs Congress on covert operations.

VI. CHANGES IN THE STANDING RULES OF THE SENATE

Changes made by Senate Resolution 400, as reported by the Committee on Government Operations, are shown as follows (existing portions of the rules proposed to be omitted are enclosed in black brackets, new proposals are printed in italic, and existing portions in which no change is proposed are shown in roman) :

STANDING RULES OF THE SENATE

RULE XXIV

APPOINTMENT OF COMMITTEES

1. * * *

* * * * *

3. (a) *Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.*

(b) *No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.*

(c) *At the beginning of each Congress, the members of the Committee on Intelligence Activities, who are members of the majority party of the Senate, shall select a chairman and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 1(f) of rule XXV of the Standing Rules of the Senate.*

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise:

(a) * * *

* * * * *

(d) Committee on Armed Services, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * *

(i) Committee on Foreign Relations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * *

(j)(1) Committee on Government Operations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * *

(l) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * *

(s) *Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:*

(A) *The Central Intelligence Agency and the Director of Central Intelligence.*

(B) *Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.*

(C) *The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.*

(D) *Authorizations for appropriations for the following:*

(i) *The Central Intelligence Agency.*

(ii) *The Defense Intelligence Agency.*

(iii) *The National Security Agency.*

(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(v) The intelligence activities of the Department of State.

(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor of any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).

* * * * *

3. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

<i>Committee</i>	<i>Members</i>
District of Columbia.....	7
Intelligence Activities.....	11
Post Office and Civil Service.....	9
Rules and Administration.....	8
Veterans' Affairs.....	9

VII. ROLLCALL VOTES IN COMMITTEE

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall votes taken during committee consideration of this legislation are as follows:

Section 7, as amended:

Yeas: (7)

Chiles
Nunn
Glenn
Ribicoff
Percy
Javits
Roth

(Proxy)

McClellan
Muskie
Metcalf
Allen

Nays: (1)

Weicker

Roth amendment to require an investigation by the Select Committee on Standards and Conduct if so requested by 5 members of the intelligence committee or 16 members of the Senate:

Yeas (6)	Nays: (2)
Chiles	Javits
Nunn	Weicker
Glenn	
Ribicoff	
Percy	
Roth	
(Proxy)	
McClellan	
Muskie	
Allen	

Final passage: Ordered Reported: 8 yeas—0 nays.

Yeas (8)	Nays: (0)
Chiles	
Nunn	
Glenn	
Ribicoff	
Percy	
Javits	
Roth	
Weicker	
(Proxy)	
McClellan	
Muskie	
Metcalf	
Allen	

VIII. TEXT OF SENATE RESOLUTION 400, AS REPORTED

[S. Res. 400, 94th Cong., 2d sess.]

REPORT NO. 94-675

RESOLUTION

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes

Resolved, That is is the purpose of this resolution to establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs. In carrying out this purpose, the Committee on Intelligence Activities shall make every effort to assure that the appropriate departments and agencies

of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. Rule XXIV of the Standing Rules of the Senate is amended by adding at the end thereof a new paragraph as follows:

"3. (a) Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.

"(b) No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous services, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

"(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities who are members of the majority party of the Senate shall select a chairman, and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate."

SEC. 3. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"(A) The Central Intelligence Agency and the Director of Central Intelligence.

"(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

"(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

"(D) Authorizations for appropriations for the following:

"(i) The Central Intelligence Agency.

"(ii) The Defense Intelligence Agency.

"(iii) The National Security Agency.

“(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

“(v) The intelligence activities of the Department of State.

“(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

“(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).”.

(b) Paragraph 3 of rule XXV of the Standing Rules of the Senate is amended by inserting:

“Intelligence Activities----- 11”

Immediately below

“District of Columbia----- 7”.

(c) (1) Subparagraph (d) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by inserting “(except matters specified in subparagraph (s))” immediately after the word “matters” in the language preceding item 1.

(2) Subparagraph (i) of paragraph 1 of such rule is amended by inserting “(except matters specified in subparagraph (s))” immediately after the word “matters” in the language preceding item 1.

(3) Subparagraph (j) (1) of paragraph 1 of such rule is amended by inserting “(except matters specified in subparagraph (s))” immediately after the word “matters” in the language preceding item (A).

(4) Subparagraph (l) of paragraph 1 of such rule is amended by inserting “(except matters specified in subparagraphs (s))” immediately after the word “matters” in the language preceding item 1.

SEC. 4. (a) The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the Committee on Intelligence Activities to require the immediate attention of the Senate or such other committee or committees. In making such reports, the committee shall proceed in a manner consistent with paragraph 7(c)(2) to protect national security.

(b) The Committee on Intelligence Activities of the Senate shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such report shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. Such report shall be unclassified and shall be made available to the public by the Committee on Intelligence

Activities. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

Sec. 5. (a) No person may be employed as a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling more than six years.

(b) No employee of such committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

Sec. 6. The Committee on Intelligence Activities of the Senate shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

Sec. 7. (a) The Committee on Intelligence Activities of the Senate may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote.

(b)(1) In any case in which the Committee on Intelligence Activities of the Senate votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) The Committee on Intelligence Activities may disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President pursuant to paragraph (2), unless, prior to the expiration of such three days, three or more members of such committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

(4) In any case in which the Committee on Intelligence Activities votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information shall not be publicly disclosed unless three or more members of such committee file, within three days after the vote of such committee disapproving the public disclosure of such information, a request in writing with the chairman of such committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized as provided in paragraph (5) or (6).

(5) Whenever three or more members of the Committee on Intelligence Activities file a request with the chairman of such committee pursuant to paragraph (3) or (4), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration.

(6) One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of the information in question, in which case the committee shall publicly disclose such information.

(B) disapprove the public disclosure of the information in question, in which case the committee shall not publicly disclose such information, or

(C) refer the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate, the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph.

(c) (1) No classified information in the possession of the Committee on Intelligence Activities relating to the lawful intelligence activities of any department or agency of the United States which the committee or the Senate, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The Committee on Intelligence Activities, or any member of such committee, may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the Committee on Intelligence Activities, or any member of such committee, makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee, which, receives any information under this subsection, shall make the information available to any other person, except that a Senator may make such information available either in a closed session of the Senate, or to another Member of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee shall promptly inform the Committee on Intelligence Activities.

(d) The Select Committee on Standards and Conduct may investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). At the request of five of the members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct shall investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment, in the case of an officer or employee.

Sec. 8. The Committee on Intelligence Activities of the Senate is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

Sec. 9. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by S. Res. 21, Ninety-fourth Congress, all records, files, documents and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the Committee on Intelligence Activities.

Sec. 10. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities

should furnish any information or document in the possession, custody, or control of the department or agency, or witness in its employ, whenever requested by the Committee on Intelligence Activities of the Senate with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the Committee on Intelligence Activities of the Senate any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 11. It shall not be in order in the Senate to consider any bill or resolution, or amendment thereto, or conference report thereon, which appropriates funds for any fiscal year beginning after September 30, 1976, to, or for the use of, any department or agency of the United States to carry out any of the following activities, unless such funds have been previously authorized by law to carry out such activity for such fiscal year—

- (1) The activities of the Central Intelligence Agency.
- (2) The activities of the Defense Intelligence Agency.
- (3) The activities of the National Security Agency.
- (4) The intelligence activities of other agencies and subdivisions of the Department of Defense.
- (5) The intelligence activities of the Department of State.
- (6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 12. (a) The Committee on Intelligence Activities shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

- (1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;
- (2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;
- (3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;
- (4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;
- (5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;
- (6) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities

in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguard of sensitive intelligence information;

(7) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(8) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The Committee on Intelligence Activities of the Senate shall report the results of the study provided for under subsection (a) to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 13. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 14. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

ndix II. Committee on Rules and Administration Report and
Recommendations of the Committee on the Judiciary

Calendar No. 728

94TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 94-770

PROPOSED STANDING COMMITTEE ON
INTELLIGENCE ACTIVITIES

REPORT

OF THE

COMMITTEE ON
RULES AND ADMINISTRATION

Together With

MINORITY VIEWS

and

RECOMMENDATIONS OF THE
COMMITTEE ON THE JUDICIARY

TO ACCOMPANY

S. Res. 400

TO ESTABLISH A STANDING COMMITTEE OF THE SENATE
ON INTELLIGENCE ACTIVITIES, AND FOR OTHER PURPOSES



APRIL 29, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

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(II)

CONTENTS

	Page
Introductory	1
Rules Committee amendment to S. Res. 400	2
Summary of S. Res. 400	3
Proposed Select Committee on Intelligence	4
Explanation of Rules Committee action	8
Rollcall votes in committee	13
Minority views of Messrs. Clark, Hatfield, Pell, and Williams	15

APPENDIX

EXHIBIT 1.—Recommendations of the Committee on the Judiciary	19
EXHIBIT 2.—Explanation of S. Res. 400	40
EXHIBIT 3.—Text of S. Res. 400 as amended by the Committee on Rules and Administration prior to its adoption of an amendment in the nature of a substitute	49
EXHIBIT 4.—Senate Oversight of Intelligence, compiled by William N. Raiford, Analyst in Foreign Affairs, Library of Congress:	
Previous practice	73
Legislative proposals	74
Committee action:	
Government Operations Committee	77
Judiciary Committee	79
Rules and Administration Committee	79

(iii)

*CRS Note: Exhibits 2, 3 and 4 of Appendix omitted

Calendar No. 728

94TH CONGRESS	}	SENATE	}	REPORT
<i>2d Session</i>	}		}	No. 94-770

PROPOSED STANDING COMMITTEE ON INTELLIGENCE
ACTIVITIES

APRIL 29, 1976.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration,
submitted the following

REPORT

together with

MINORITY VIEWS

and

RECOMMENDATIONS OF THE
COMMITTEE ON THE JUDICIARY

[To accompany S. Res. 400]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute), and recommends that the resolution as amended be agreed to.

Senate Resolution 400 was reported by the Committee on Government Operations on March 1, 1976, and on the same day was referred to the Committee on Rules and Administration for a period extending no later than March 20, 1976. Subsequently, on March 18, 1976, Senate Resolution 400 was referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations¹ to the Committee on Rules and Administration no later than March 29, 1976, and that the Committee on Rules and Administration file its report on Senate Resolution 400 no later than April 5, 1976. By unanimous consent agreement on March 25, 1976, those reporting dates were extended three days, to April 1, 1976, and April 8, 1976, respectively. On April 1, 1976, by unanimous consent, the reporting date of the Rules Committee was further extended, to April 30, 1976.

¹ For the recommendations of the Committee on the Judiciary, see Exhibit 1 in the Appendix to this report.

RULES COMMITTEE AMENDMENT TO SENATE RESOLUTION 400

The Committee on Rules and Administration is reporting Senate Resolution 400 with an amendment in the nature of a substitute.

The Committee amendment would establish a Senate Select Committee on Intelligence with oversight jurisdiction over the intelligence community, but would leave within the Standing Committees on Armed Services, Foreign Relations, and the Judiciary their existing legislative jurisdictions in respect to intelligence activities. (For a description of the Select Committee as proposed by the Rules Committee amendment see second section below.)

This Committee believes a separate oversight committee, fully and currently informed and armed with subpoena power, can provide effective oversight for the intelligence community without a grant of legislative jurisdiction. No such legislative authority was necessary for the select Senate and House Intelligence Committees which exposed certain abuses. Nor did the Senate "Watergate" Committee have such authority.

SUMMARY OF SENATE RESOLUTION 400

Senate Resolution 400, as reported by the Committee on Government Operations on March 1, 1976, and on the same day referred to the Committee on Rules and Administration, would establish a new standing Committee of the Senate on Intelligence Activities to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government, and to submit to the Senate appropriate proposals for legislation concerning such activities. The new committee would have 11 members, 6 majority and 5 minority. Continuous service on the committee would be limited to 6 years. The majority members would select the committee chairman, and the minority members would select its vice chairman.

The proposed committee would have legislative jurisdiction over the Central Intelligence Agency and the intelligence activities of all other departments and agencies of the Government, including, but not limited to the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense, the Department of State, the Department of Justice, and the Department of the Treasury. Also, the proposed committee would have authorization authority in respect to the strictly intelligence agencies, and in respect to the intelligence activities of the other departments and agencies listed above.

The jurisdiction of the standing Committees on Armed Services, Foreign Relations, Government Operations, and Judiciary would be accordingly modified or qualified.

Service by staff members of the proposed Committee on Intelligence Activities would be strictly limited to 6 years, and such employees would require strict security clearance.

The resolution contains lengthy provisions relating to disclosure by the committee of intelligence information it receives from the executive agencies, including procedures in case of objection by the President to any such disclosure.

The Select Committee on Standards and Conduct would investigate any alleged unauthorized disclosure of intelligence information by a Member or employee of the Senate, and recommend appropriate action to the Senate.

The records of the Select Committee on Governmental Operations With Respect to Intelligence Activities would be transferred to the new standing committee.

In addition, the proposed standing committee would be directed to engage in a study of a wide variety of subjects bearing on intelligence information and report back to the Senate thereon no later than July 1, 1977.

(For a detailed explanation of Senate Resolution 400, see exhibit 2 in the appendix to this report.)

[NOTE.—Prior to its adoption of the amendment to Senate Resolution 400 in the nature of a substitute, the Committee on Rules and Administration had amended the resolution in several respects. For informational purposes a committee print showing those amendments—later superseded—is included herein. See exhibit 3 in the appendix to this report.]

PROPOSED SELECT COMMITTEE ON INTELLIGENCE

ESTABLISHMENT OF THE SELECT COMMITTEE

Section 1 would establish a select committee of the Senate to be known as the Select Committee on Intelligence.

COMPOSITION OF THE SELECT COMMITTEE

Section 2 would provide that the select committee would be composed of eleven members appointed as follows:

- (A) two members from the Committee on Appropriations;
- (B) two members from the Committee on Armed Services;
- (C) two members from the Committee on Foreign Relations;
- (D) two members from the Committee on the Judiciary; and
- (E) three members from the Senate who are not members of any of the committees named in clauses (A) through (D).

Members appointed from each committee named in clauses (A) through (D) would be appointed by the chairman of each such committee, one member to be appointed from the majority party of the Senate and one member to be appointed from the minority party of the Senate upon recommendation of the ranking minority member of each such committee. Two of the members appointed under clause (E) would be appointed by the President *pro tempore* of the Senate upon the recommendation of the majority leader of the Senate and one would be appointed by the President *pro tempore* of the Senate upon the recommendation of the minority leader of the Senate.

The majority leader of the Senate and the minority leader of the Senate would be ex officio members of the select committee but would have no vote in the committee and would not be counted for purposes of determining a quorum.

The chairman of the select committee would be elected by the members of such committee.

DUTIES OF THE SELECT COMMITTEE

Section 3 would pose in the Select Committee the duty to study and review, on a continuing basis, the intelligence activities and programs of the Director of Central Intelligence and the intelligence activities and programs of all departments and agencies of the Government, including, but not limited to, those specified below, for the purpose of (1) analyzing, appraising, and evaluating such activities and programs, (2) determining whether such programs and activities are in conformity with the Constitution and laws of the United States, and (3) keeping the Senate and the appropriate standing committees of the Senate informed regarding intelligence matters it deems should be called to the attention of the Senate and such committees.

The departments and agencies of the Government referred to above are:

- (1) the Central Intelligence Agency;
- (2) the Department of Defense, including: the Defense Intelligence Agency, the National Security Agency, and the intelligence elements of the military departments;
- (3) the Department of State; and
- (4) the Department of Justice.

The Select Committee would also have the duty to study and review the organization and reorganization of any department or agency of the Government to the extent that that organization or reorganization would relate to a function or activity involving intelligence activities.

SPECIAL STUDY BY THE SELECT COMMITTEE

Section 4 would direct the Select Committee to make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

- (1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;
- (2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;
- (3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;
- (4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;
- (5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;
- (6) the desirability of establishing a standing committee of the Senate on intelligence activities;
- (7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;
- (8) the procedures and practices for the authorization of funds for the intelligence activities of the government and whether such practices and procedures should be modified, including consideration of whether the disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

The select committee could in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

The Select Committee would report the results of the study provided for under this section to the Senate, together with such comments and recommendations as it deems appropriate, not later than July 1, 1977.

REPORTS OF THE SELECT COMMITTEE

Section 5 relates to reports of the Select Committee.

Reports Containing Sensitive Information.—Any report submitted to the Senate by the Select Committee, including the special report provided for in section 4, if such report contains information submitted to the Senate or Select Committee by the executive branch requesting that such information be kept secret, would first be submitted to the Senate in closed session if the Select Committee determines that such report contains information which, if publicly disclosed, might adversely affect the national security. The Senate would determine whether or not such information would be publicly disclosed.

Reports to Standing Committees.—Members of the Select Committee would report from time to time to the standing committees from which they were appointed regarding intelligence matters disclosed to the Select Committee and which would be within the respective jurisdictions of such standing committees.

Security of Information.—The Select Committee would adopt and follow such procedures as may be necessary to appropriately insure the security of all records, data, charts, files, and other materials in its possession.

POWERS OF THE SELECT COMMITTEE

Section 6 would authorize the Select Committee in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

The Chairman of the Select Committee or any member thereof could administer oaths to witnesses.

Subpoenas authorized by the Select Committee could be issued over the signature of the Chairman or any member of the Select Committee designated by him, and could be served by any person designated by the Chairman or member signing the subpoena.

EXEMPTION OF SELECT COMMITTEE FROM CERTAIN RULES OF THE
SENATE

Section 7 would exempt the Select Committee from certain Standing Rules of the Senate.

For the purposes of paragraph 6 (a) and (f) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the Select Committee would not be taken into account.

Any meeting of the Select Committee would be exempted from the provisions of paragraph 7(b) of rule XXV of the Standing Rules of the Senate if such committee determines it will be considering matter or receiving testimony or evidence at such meeting the public disclosure of which might adversely affect the national security of the United States.

TRANSFER OF RECORDS

Section 8 would provide that upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody or control of such committee, under appropriate conditions established by it, would be transferred to the Select Committee proposed herein.

AUTHORIZATION FOR EXPENDITURES

Section 9 would provide that for the period from the date this proposal is agreed to through February 28, 1977, the expenses of the Select Committee would not exceed \$275,000, of which amount not to exceed \$30,000 would be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended.

EXPLANATION OF RULES COMMITTEE ACTION

The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate and unwise, and constitute an overreaction to the recently disclosed and certainly undesired illegal and unauthorized activities within certain agencies of the Federal intelligence community. Also, should the Senate ultimately in its wisdom determine to establish a Standing Committee on Intelligence Activities, such new committee, in this Committee's judgment, should be much more in line with the format and procedures of the existing standing committees than is contemplated under Senate Resolution 400. A discussion of these and other points follows.

TIME FACTOR

The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking and should not be engaged in, if at all, until all implications of the action are thoroughly explored over a considerable period of time. In this Committee's judgment the time frame for such an important determination has not been available, especially in view of the Senate's direction to this Committee to report Senate Resolution 400 by April 30, 1976.

Two other factors have influenced the Committee's position in this respect. First, it would certainly appear unwise to rush into the creation of a new Standing Committee on Intelligence Activities before the Members of the Senate had an opportunity to study and digest the findings of the present Select Committee to Study Governmental Operations With Respect to Intelligence Activities, whose final report is in the process of being released. Secondly, since the Senate has just created a new Select Committee to Study the Senate Committee System, with a mandate to report to the Senate by February 28, 1977, it would certainly appear logical that any proposal to create a Standing Committee on Intelligence Activities should receive consideration by that Select Committee in conjunction with its overall study of committee jurisdictions.

THE JURISDICTION ISSUE

The overriding question posed by Senate Resolution 400 is this: Shall the jurisdictions of the existing Standing Committees on Armed Services, Foreign Relations, and the Judiciary over intelligence activities of the Departments or agencies within their respective legislative areas be stripped therefrom and collectively be posed in a new Standing Committee of the Senate on Intelligence Activities? Admittedly, the concept of gathering legislative responsibility for all intelligence

activities of the Federal Government within one Legislative entity has a nice ring to it and would appear to be a logical concept. Also, it would be more convenient for the officials of the intelligence agencies in the Executive branch who presently report to Congress. In the Senate they could reduce the number of committees they brief from four to two—Intelligence and Appropriations. However, if legislation were to be considered which provided for concurrent jurisdiction between a new committee and the existing oversight committees, the Departments of Defense, Justice and State and the CIA could be subject to conflicting directives from their oversight committees which could seriously hamper their management and efficiency.

The Committee on Rules and Administration has carefully weighed this proposal, which is the heart of Senate Resolution 400, and found it to be completely unsatisfactory—at least until there has been a complete review of the jurisdictional structure of Senate committees. To strip away the present jurisdictions of the Armed Services, Foreign Relations, and Judiciary Committees over intelligence activities within their present legislative areas of concern would seriously damage the abilities of those committees to adequately perform the overall duties the Senate has assigned to them. It would remove from those vitally important committees the means of access to information which is necessary for their proper functioning.

Armed Services Committee.—The Committee on Rules and Administration believes that legislative jurisdiction, including authorizations, for the Central Intelligence Agency and for the Defense Department agencies concerned with intelligence should remain with the Committee on Armed Services. National intelligence is and should continue to be an integral part of the “common defense generally” for which the Committee on Armed Services has long been responsible.

In its appraisal of military threats against the United States and its consideration of U.S. military preparedness, the Committee on Armed Services is a major “user” of national intelligence from the CIA and the intelligence agencies in the Department of Defense. The Committee on Armed Services has a continuing need for the best intelligence available with respect to the capabilities and intentions of other nations.

In addition to its use of foreign intelligence, the Armed Services Committee has a fundamental role in the production of foreign intelligence. The Armed Services Committee must channel resources to the U.S. foreign intelligence community so as to ensure that authorized intelligence activities will make the most valuable contribution to our national defense. Foreign intelligence should not become an end in itself. On the contrary, it should serve the national defense.

The Armed Services Committee must evaluate and balance U.S. intelligence activities with other defense activities.

For example, research and development for satellite intelligence must be evaluated in conjunction with the research and development for a variety of U.S. missile programs. The procurement of sophisticated equipment for ocean surveillance must be judged in relation to procurement for anti-submarine warfare and sealift capabilities. The number of people engaged in collecting and analyzing intelligence must be assessed against the number of personnel devoted to other defense activities such as strategic forces, command and control, etc.

Eighty-five percent of all foreign intelligence resources are contained within the Defense Department. The majority of the remaining intelligence resources, such as the CIA itself, are deeply involved in producing defense intelligence. Thus, it would be impractical as well as unwise to attempt to separate foreign intelligence efforts from national defense efforts.

In recent months the attention of the Senate and House has been drawn to a number of disturbing abuses which have occurred, over the years, in the intelligence community. It should be noted, however, that covert action abroad, domestic intelligence in the United States, and the other intelligence programs which have lent themselves to abuses, make up only a small fraction of the total intelligence effort. Certainly it is vitally important to prevent further abuses. But steps to prevent further abuses need not interfere with sound congressional authorization and direction of intelligence programs as an integral element of the national defense effort.

Committee on Foreign Relations.—Like the Armed Services Committee, the Foreign Relations Committee is vitally dependent on foreign intelligence. Accurate and timely information about foreign countries is indispensable to approving treaties, evaluating U.S. foreign policies, and authorizing economic and military assistance and sales. The Committee on Rules and Administration believes that any diminution in this capability could seriously hamper the ability of the Committee to fulfill its jurisdictional responsibility over matters concerning "Relations of the United States with foreign nations generally."

In addition, the Foreign Relations Committee must authorize on an annual basis, the level and distribution of the budget for the Department of State. This authorization provides funding for the Bureau of Intelligence and Research which has among its responsibilities a mandate to make certain that the Department's views are taken into consideration in decisions on intelligence policy. It is important that this Bureau be funded as an integral part of the Department of State rather than being primarily considered as a part of the intelligence community in order that its independence as a State Department entity capable of serving a positive critical role within that community be maintained. The Bureau of Intelligence and Research is an integral part of the Department of State and should remain under the jurisdiction of the Foreign Relations Committee.

Other intelligence activities, such as covert operations, can have a profound effect on U.S. foreign relations. Although such non-intelligence gathering activities are a small fraction of U.S. foreign intelligence efforts, in certain situations they can be a primary component of U.S. foreign relations. If the Foreign Relations Committee is to be responsible for the state of U.S. foreign relations, it must not be totally divorced from such intelligence operations. Thus, the Foreign Relations Committee must not be deprived of its existing legislative jurisdiction over the intelligence community.

Moreover, legislative proposals which would give a new intelligence oversight committee primary jurisdiction over all U.S. intelligence activities are possibly in conflict with Public Law 93-559, Sec. 662 of which provides that presidential reports on covert actions be provided to the "appropriate committees . . . and the Foreign Relations Committee of the Senate . . ." It is arguable under the doctrine "one

Congress cannot bind its successors except by Constitutional amendment" that legislation which would alter the Rules of the Senate—as does S. Res. 400 as reported by the Government Operations Committee—would take precedence over a law passed in a preceding Congress. Under this doctrine, as derived from the Constitution—Article 1, Section 5, clause 2, of the Constitution states that "each House may determine the rules of its proceedings . . ."—it is arguable that the Foreign Relations Committee could lose its statutory authority to receive presidential reports on covert actions. If this were the case, the Foreign Relations Committee would be deprived of providing its "advice and consent" on this critical aspect of American foreign policy.

Committee on the Judiciary.—For similar reasons the Committee on Rules and Administration believes that legislative authority over the functions of the Justice Department, including those of the Federal Bureau of Investigation, should remain within the exclusive jurisdiction of the Committee on the Judiciary.

The Committee believes that the intelligence activities of the Department of Justice are so intertwined with its law enforcement function that a splitting of congressional jurisdiction over these activities between the Committee on the Judiciary and the proposed Standing Committee on Intelligence Activities would create confusing and conflicting congressional guidance to the agency.

Unlike other intelligence gathering agencies, the FBI is primarily a law enforcement agency. The intelligence activity of the FBI is a means by which it detects and investigates violations of federal criminal laws. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is the belief of the Committee that all legislative authority should be continued to be dealt with as a unit within the jurisdiction of the Committee on the Judiciary.

SUMMARY OF COMMITTEE POSITION

The Committee on Rules and Administration believes that under the existing circumstances the action it has taken in respect to Senate Resolution 400 is a rational and practical solution to a problem which needs to be faced by the Senate—how to establish a more effective procedure in discharging its responsibilities in respect to Federal intelligence activities. In this Committee's judgment the establishment of a Standing Committee on Intelligence Activities at this time would be premature, and, as expressed above, constitute an overreaction to the undesirable situation within the Federal intelligence community which has recently become exposed to public view.

The Rules Committee believes the way to meet this problem is not to precipitously tear away from the Standing Committees on Armed Services, Foreign Relations, and the Judiciary their existing jurisdictions over the intelligence activities within their purview and pose such jurisdictions collectively in a new standing committee. Perhaps ultimately such action will prove to be the most desirable. But it should await the serious and considered judgment of the new Select Committee which the Senate has just created to study and review its entire committee jurisdictional set-up.

In the meantime, the Select Committee on Intelligence proposed in this Committee's substitute for Senate Resolution 400 can immediately

proceed with oversight of all Federal intelligence activities—in effect continuing the excellent work commenced and accomplished by the present Select Committee on Intelligence Activities (which will soon cease to exist), but with overall consideration as opposed to the exposure of abuses within the system. At the same time, the new Select Committee would be giving serious consideration and study to the desirability of the ultimate establishment of either a standing committee of the Senate on intelligence or a joint committee on the same subject (in the nature of the Joint Committee on Atomic Energy).

There is no intention by the Committee on Rules and Administration that this new select committee would be temporary or ad hoc in nature. Rather it is envisioned to operate in a manner similar to the operation of the Senate Select Committee on Small Business, which for many years has served a useful and beneficial purpose in the area of small business interests and the Senate's responsibilities therewith. In other words, the proposed Select Committee on Intelligence advocated by this Committee would terminate only when and if the Senate in its wisdom ultimately decided upon either the standing-committee or the joint-committee approach.

Finally, the more cautious, limited, and in its judgment more reasoned approach advocated by the Committee on Rules and Administration should not be construed by the proponents of Senate Resolution 400 as introduced, or by others, as indicating any lesser concern by a majority of this Committee with the intelligence problem the Senate must face up to. Any differences in viewpoint relate only to the means to be employed and not to the desired end to be achieved.

ROLLCALL VOTES IN COMMITTEE

In compliance with sections 133 (b) and (d) of the Legislative Reorganization Act of 1946, as amended, the record of rollcall votes in the Committee on Rules and Administration during its consideration of Senate Resolution 400 is as follows:

1. Motion by Senator Allen to strike the words "other than the matters specified in clause A or D," from Senator Clark's proposed substitute for section 3(c): Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon
Mr. Robert C. Byrd
Mr. Allen
Mr. Hugh Scott
Mr. Griffin

NAYS—4

Mr. Pell
Mr. Williams
Mr. Clark
Mr. Hatfield ¹

2. Motion by Senator Clark to insert the clause "subject to the provisions of Rule XVI of the Standing Rules of the Senate" at the commencement of Section 11. Rejected: 3 yeas; 5 nays.

YEAS—3

Mr. Williams
Mr. Clark
Mr. Hatfield ¹

NAYS—5

Mr. Cannon
Mr. Robert C. Byrd
Mr. Allen
Mr. Hugh Scott ¹
Mr. Griffin

3. Question of approving Senator Cannon's amendment in the nature of a substitute (establishment of a select rather than a standing committee): Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon
Mr. Robert C. Byrd
Mr. Allen
Mr. Hugh Scott ¹
Mr. Griffin

NAYS—4

Mr. Pell
Mr. Williams
Mr. Clark
Mr. Hatfield ¹

4. Question of reporting Senate Resolution 400 favorably to the Senate with the amendment in the nature of a substitute: Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon
Mr. Robert C. Byrd
Mr. Allen
Mr. Hugh Scott ¹
Mr. Griffin

NAYS—4

Mr. Pell
Mr. Williams
Mr. Clark
Mr. Hatfield ¹

¹ Proxy.

MINORITY VIEWS OF MR. CLARK, MR. HATFIELD,
MR. PELL, AND MR. WILLIAMS

The Committee on Rules and Administration has made a conscientious effort to report a measure creating a new Senate Committee with jurisdiction over the national intelligence community. In our judgment, however, the Rules Committee substitute to Senate Resolution 400, adopted by a 5-4 vote, would not grant this new Committee sufficient authority to properly carry out this important function.

Both the Rockefeller Commission and the Senate Select Committee on Intelligence Activities concluded from their extensive investigations that Congress has failed to exercise effective oversight of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and other agencies involved in intelligence activities. Both the Commission and the Select Committee called for the establishment of permanent standing committees on intelligence with legislative jurisdiction to provide such oversight in the future.

As originally proposed by the Select Committee, and as reported by the Committee on Government Operations, S. Res. 400 would create a new committee vested with the necessary powers for adequate oversight—most importantly, legislative and budgetary authority. We believe there are a number of compelling reasons to create such a committee:

1. *To insure that the intelligence community shall be accountable to Congress.*—With a new committee primarily responsible for national intelligence activities, the agencies involved in such activities would be brought under continuing scrutiny by the Congress. Under the present system, no single committee has jurisdiction over all segments of the intelligence communities. Responsibility for intelligence agencies rests with committees such as Armed Services, Judiciary, and Foreign Relations, whose primary focus is not in intelligence activity. Heavily occupied with other vital matters, these committees are unable to devote adequate attention to the intelligence community. As Senator Frank Church, Chairman of the Select Committee, has emphasized:

The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well staffed committee directing all of its attention to the intelligence community.

2. *To prevent the violation of the rights of citizens.*—We strongly believe that national intelligence is vital to the security of the nation. However, the power of the intelligence community is easily abused if not held to account, and such abuse unquestionably has occurred. We have learned that, without the knowledge of Congress, the CIA and the FBI conducted a 20-year mail cover program; that the CIA, in violation of its charter, collected information on thousands of citizens opposed to the Vietnam War (the CHAOS program); that the NSA,

without judicial warrant, intercepted the cables and international communications of citizens; and that the FBI conducted COINTELPRO operations to disrupt the activities of groups expressing political dissent, and carried out a program to discredit Dr. Martin Luther King, Jr. As the Select Committee has observed, many of these illegal activities would have been impossible if Congress had exercised effective oversight of these agencies.

3. *To help restore the role of Congress as a co-equal branch of Government.*—In failing to adequately control the activities of the intelligence agencies abroad, Congress, in effect, has appropriated funds without knowing how they would be spent by the Executive to carry out foreign policy objectives. Without the knowledge or approval of the full Congress, the CIA has received funds to carry out paramilitary operations in Chile and Laos and assassination attempts against a number of foreign leaders. At the same time, Congress has refrained from demanding access to vital intelligence information concerning matters of foreign policy upon which it is called to act.

By establishing an effective oversight mechanism, Congress can assert its right to essential information and begin to define the proper limits of secrecy in a democratic society.

4. *To improve the capability of our intelligence agencies.*—Contrary to the views of some critics, oversight does not threaten to destroy our intelligence capability. As we know from the Select Committee's Final Report, there is much duplication, waste, and inefficiency in the intelligence community. Proper oversight would enable Congress to develop and implement the means by which intelligence could be made more cost effective and more reliable.

5. *To redefine the roles of the intelligence agencies.*—As the recent investigations have shown, the intelligence agencies need new statutory guidelines or charters. The National Security Act of 1947 has been interpreted by the Executive to allow CIA domestic intelligence gathering. The FBI has no statutory authority for its intelligence mission, and the Charter of the NSA is a classified document. Through oversight, the Congress can begin to frame appropriate new charters for the agencies and new guidelines for their activities. As the Select Committee's Final Report emphasizes:

It is clear that a primary task for any successor oversight committee, and the Congress as a whole, will be to frame basic statutes necessary under the Constitution within which the intelligence agencies of the United States can function efficiently under clear guidelines.

6. *To restore public trust in Government institutions.*—The revelation of intelligence agency abuses, violations of law, covert operations, and infringements on civil liberties has contributed greatly to the erosion of confidence in the Federal Government. The Senate can help to restore lost confidence by demonstrating its willingness to fulfill its constitutional role in the conduct of intelligence activities. As the Report of the Committee on Government Operations states:

A new intelligence committee can mark a new start. It can provide a forum to begin restoring the trust and confidence the intelligence agencies must have to operate effectively. It can formalize in an open and definitive manner the Senate's intention to exercise close oversight over a very important

part of the Government's activities. Oversight by Congress is essential under our constitutional system. By its actions it can help assure the public that the abuses of the past will not be repeated in the future. Until full trust and confidence in our intelligence agencies are restored, the country will be unable to conduct a fully effective intelligence program.

We believe that the Rules Committee substitute amendment does not do enough to change the way the Senate operates in the area of intelligence activities. In our judgment, the substitute would fall short in the effort to reassure the country that the United States will continue to have an effective intelligence community in which the public can have confidence.

We believe that the Committee substitute suffers from the following serious deficiencies:

1. It would create a new select committee with authority to study the intelligence agencies and report to the Senate and to the other committees, but which would have no legislative authority. It might uncover abuses, inefficiencies, or inadequacies in our intelligence agencies but it would be unable to do anything about them. It could take no legislative action to remedy past abuses or to prevent abuses from occurring in the future. It would be unable to take action to change the size or nature of the budgets of the intelligence agencies.

The Select Committee on Intelligence has just released a report based on its 15 month study of the intelligence community. Its final report contains over 170 recommendations, including many requiring legislation. Now is the time for the Senate to consider these legislative recommendations. Instead of creating a new committee with the proper legislative jurisdiction to consider and act on these proposals, in a comprehensive way, the proposed select committee would be limited to conducting further investigations and making more recommendations. What is needed is legislative action, not further study.

2. Creation of a select committee without legislative or authorizing jurisdiction would add still another committee to the committees now concerned with segments of the intelligence community. The Senate should be seeking to reduce, as much as possible, the proliferation of committees involved in the highly sensitive area of intelligence activities.

Mr. George Bush, Director of the Central Intelligence Agency, wrote this Committee on April 24, 1976, concerning S. Res. 400. In that letter he stated:

I share the President's view stated in his 18 February message to Congress that the nation's foreign intelligence effort would be best served by centralizing the responsibility for oversight of our foreign intelligence community. As the President stated, "The more committees and subcommittees dealing with highly sensitive secrets, the greater the risks of disclosure." Such concentrated jurisdiction would give one committee an overall, rather than parochial, view of the intelligence community.

The action taken by the Committee is in conflict with this goal.

3. The substitute does not provide for annual authorization of the intelligence budget. Thus the present process, which does not include

periodic and formal review of intelligence community expenditures by an authorizing committee, could continue.

4. The substitute would not require that the intelligence agencies keep the new committee fully and currently informed, or that they inform the committee in advance of significant anticipated activities. The committee must be so informed if it is to do an effective job of oversight. In the past, the Senate has not received, in a timely fashion, the information it needs to properly oversee the intelligence community. As a result, abuses have been permitted to occur. As a result, the United States has been seriously damaged when the Executive secretly entered into policies and engaged in actions which, when disclosed, were rejected by the Congress and the country. The Committee substitute would fail to place the Senate clearly on record as saying that, henceforth, it must be informed in a more complete and more timely manner.

5. The substitute's procedure for selecting members of the new committee would insure that the new committee will, in effect, be an extension of the committees or subcommittees that have been solely responsible for Congressional oversight of the intelligence community in the past. Eight of the eleven members of the new committee would have to be chosen from among the members of the Armed Services, Judiciary, Foreign Relations, and the Appropriations Committees. While in the case of every other permanent committee members are selected by the entire Senate, these eight members are to be selected by the Chairmen of the respective committees.

In short, the proposed substitute does not create the right kind of Committee with the right kind of powers and jurisdiction. In our view, the substitute would fail to reassure the Executive Branch and the public that the Senate is ready to take decisive action to remedy the mistakes of the past and prevent the mistakes of the future.

We believe the essential components of any effective Senate intelligence committee would be as follows:

1. Primary authority to consider and act on the budgets for the agencies within its jurisdiction;
2. A requirement that such budgets be authorized on an annual basis;
3. Legislative authority with respect to the principal elements of the U.S. intelligence community—the C.I.A., N.S.A., D.I.A., and the intelligence divisions of the F.B.I. and the Department of State;
4. Establishment on a permanent basis, with all powers currently accorded standing committees of the Senate;
5. The right to be fully and currently informed on all significant intelligence activities; and
6. Membership appointed according to the regular procedures from the Senate at large, including representatives from the committees directly affected by the activities of the intelligence agencies, and serving on a rotating basis.

When this matter comes to the Senate floor, we shall oppose the Committee substitute and seek a final product which will incorporate these elements.

DICK CLARK,
MARK O. HATFIELD,
CLAIBORNE PELL,
HARRISON A. WILLIAMS, JR.

APPENDIX

EXHIBIT 1

RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY

On March 18, 1976, Senate Resolution 400 was referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations to the Committee on Rules and Administration no later than March 29, 1976 (subsequently extended by unanimous consent to April 1, 1976). The Committee on the Judiciary has so reported its recommendations, which are included here as part of the report of the Committee on Rules and Administration to accompany Senate Resolution 400, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 30, 1976.

HON. HOWARD W. CANNON,
*Chairman, Senate Rules Committee,
Senate Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the March 18, 1976 order of the Senate referring Senate Resolution 400 to the Committee on the Judiciary with instructions to make recommendations to the Committee on Rules and Administration, I wish to advise you that the Committee on the Judiciary met on March 30, 1976, and recommends the resolution favorably with amendments.

The effect of the amendments approved by the Committee on the Judiciary would be to delete from Senate Resolution 400 the grant of jurisdiction to the proposed Committee on Intelligence Activities over the intelligence activities of the Department of Justice, including the Federal Bureau of Investigation.

The amendments would retain in the Committee on the Judiciary its historic jurisdiction over the Department of Justice, including the FBI.

A Judiciary Committee print of Senate Resolution 400, as amended, is attached.

With best wishes and kindest regards, I am
Sincerely yours,

JAMES O. EASTLAND,
Chairman.

PURPOSE OF AMENDMENTS TO S. RES. 400 CONTAINED IN COMMITTEE
PRINT NO. 1

The total effect of the various amendments contained in committee print number one is to retain the present jurisdiction of the Committee on the Judiciary over all functions of the Federal Bureau of Investigation and to strike from Senate Resolution 400 all grants of jurisdiction to the contemplated Committee on Intelligence Activities over the FBI.

The intelligence activities of the Department of Justice are exempted from the grant of jurisdiction of the contemplated Committee on Intelligence Activities to be contained in proposed subparagraph (s) of rule XXV of the Standing Rules of the Senate by striking out "the Department of Justice" on page 4, line 8 of the bill.

Since the proposed subparagraph (s) of rule XXV states, in lines 4 and 5 on page 4 that the provisions are applicable not only to the enumerated departments and agencies, "but not limited to" those listed, the language of page 4, lines 9 and 10 is amended by striking the period, inserting in lieu thereof a semicolon and the words: "but not including the Department of Justice."

The inclusion of jurisdiction in the proposed Committee on Intelligence Activities over authorizing legislation concerning the intelligence activities of the FBI is removed by striking line 24 on page 4 through line 2 on page 5.

The reference to "bureau" in line 7 of page 5 is removed since the Federal Bureau of Investigation would not be included within the jurisdiction of the proposed committee.

The language of Senate Resolution 400 which takes away the jurisdiction of the Committee on the Judiciary over the intelligence activities of the Department of Justice by amending subparagraph (1) of paragraph 1 of rule XXV of the Standing Rules of the Senate is deleted by striking out lines 5 through 8 of page 6 of the bill.

The intelligence activities of the FBI are exempted from the mandatory authorizing language of section 11 of Senate Resolution 400 by striking out lines 3 through 5 on page 16 of the bill.

Other technical amendments redesignate sections of the bill to conform to the changes made by the amendments.

Appendix III. Hughes-Ryan Amendment

Amendment 1948. Mr. Hughes; Oct. 1, 1974 (Senate Floor)
(Amendment to S. 3394) (See next entry)

Amendment 1948 amended by Mr. Hughes; Oct. 2, 1974 (Senate Floor)

Amendment (as amended) "Sec. 661. Limitations Upon Intelligence Activities.--(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency or any other agency of the United States Government for the conduct of covert action operations, other than operations intended solely for obtaining necessary intelligence. Notwithstanding the foregoing limitation, the President may authorize and direct that any covert action operation be resumed, or that any other covert action operation be initiated; and funds may be expended therefor, if, but not before, he (1) finds that such operation is vital to the defense of the United States, and (2) transmits an appropriate report of his finding, together with an appropriate description of the nature and scope of such operation, to the committees of the Congress presently having jurisdiction to monitor and review the intelligence activities of the United States Government."

(b) Notwithstanding the provisions of subsection (a) of this section, the President may authorize and direct the conduct of such covert action operations as he deems of immediate need and urgency during military operations initiated by the United States under a declaration of war by Congress or any exercise of powers by the President under the War Powers Resolution (Public Law 93-148).

(Note--Original Amendment 1948 did not contain clause "but not before."
In the Conference Report--H.Rept. 93-610--the Senate receded from this amendment in favor of the Ryan amendment. See below.)

Action: Oct. 2, 1974: Introduced, considered, amended, and passed
Senate: CR, v. 120, Oct. 2, 1974: 18062-18065.

Oct. 2, 1974: S. 3394 recommitted to Committee on Foreign Relations.

Oct. 9, 1974: Representative Ryan introduced the following amendment in a meeting of the House Foreign Affairs Committee (Amendment to H.R. 17234) which, as modified (the House added by floor amendment the bracketed words [and until], was enacted into law (PL 93-559, Dec. 30, 1974).

"Sec. 659. Limitation on Intelligence Activities. -- (a) No funds appropriated under the authority of this or any other act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless [and until] the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Affairs of the United States House of Representatives.

(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution (PL 93-148)."

Oct. 25, 1974: H.R. 17234 reported in House. House Report 93-1471.

Nov. 27, 1974: S. 3394 reported in Senate: Senate Report 93-1299.

Dec. 4, 1974: S. 3394 considered and passed in Senate:
CR, v. 120, Dec. 4, 1974: 20604.

Dec. 11, 1974: S. 3394 considered and passed House, in lieu of
H.R. 17234: CR, v. 120, Dec. 11, 1974: 11622, 11627, 11639-
11640.

Dec. 17, 1974: Conference Report. House Report 93-1610. This
report contained the Ryan amendment, as modified, which was
enacted into law.

Dec. 17, 1974: Senate agreed to Conference Report. CR, v. 120,
Dec. 17, 1974: 21795.

Dec. 18, 1974: House agreed to Conference Report. CR, v. 120,
Dec. 18, 1974: 12214-12215.

Dec. 30, 1974: PL 93-559 signed by President.

Appendix IV. Documents

A. Hearings

- U.S. Congress. Senate. Committee on Government Operations. Subcommittee on Intergovernmental Relations. Legislative proposals to strengthen congressional oversight of nation's intelligence agencies. Hearings, 93d Congress, 2d session, on S. 4019, S. 2738, S. Res. 419. S. 1547, Washington, U.S. Govt. Print. Off., 1975. 205 p.
- U.S. Congress. Senate. Committee on Government Operations. Oversight of U.S. Government Intelligence Functions. Hearings, 94th Congress, 2d session, on S. 317, S. 189, S. Con. Res. 4, S. 2893, S. 2865, Washington, U.S. Govt. Print. Off., 1976. 535 p.
- U.S. Congress. Senate. Committee on Rules and Administration. Proposed standing committee on intelligence. Hearings, 94th Congress, 2d session, on S. Res. 400. Washington, U.S. Govt. Print. Off., 1976. 228 p.
- U.S. Congress. Senate. Committee on Armed Services. Establish a Senate Select Committee on Intelligence. Hearings, 94th Congress, 2d session, on S. Res. 400. Washington, U.S. Govt. Print. Off., 1976. 26p.
- U.S. Congress. Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities. (Vol. 1 - Unauthorized Storage of Toxic Agents, Vol. 2 - Huston Plan, Vol. 3 - Internal Revenue Service, Vol. 4 - Mail Opening, Vol. 5 - The National Security Agency and Fourth Amendment Rights, Vol. 6 - Federal Bureau of Investigation, Vol. 7 - Covert Action) Hearings, 94th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1976.
- B. Reports
- U.S. Congress. Senate. Committee on Rules and Administration Report to accompany S. Res. 400: Proposed Standing Committee on Intelligence Activities. Washington, U.S. Govt. Print. Off., Apr. 29, 1976. 81 p. (94th Congress, 2d session. Senate. Report no. 94-770)
- U.S. Congress. Senate. Committee on Government Operations. Report to accompany S. Res. 400: Resolution to establish a standing committee of the Senate on Intelligence Activities. Washington, U.S. Govt. Print. Off. March 1, 1976. 42 p. (94th Congress, 2d session. Senate. Report no. 94-675)
- U.S. Congress. Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities. Aileged assassination plots involving foreign leaders; reported together with additional, supplemental, and separate views pursuant to S. Res. 21. Washington, U.S. Govt. Print. Off., 1975. 349 p. (94th Congress, 1st session. Senate. Report no. 94-465)
- Covert action in Chile, 1963-73, Staff report pursuant to S. Res. 21, 94th Congress. 1st session. Washington, U.S. Govt. Print. Off., 1975. 62 p.

----- Final Report: (Book I - Foreign and Military Intelligence, Book II - Intelligence Activities and the Rights of Americans, Book III - Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans, Book IV - Supplementary Detailed Staff Reports on Foreign and Military Intelligence, Book V - The Investigation of the Assassination of President John F. Kennedy: reported together with additional, supplemental, and separate views pursuant to S. Res. 21. Washington, U.S. Govt. Print. Off., 1976. 651 and 396 p. (94th Congress, 2d session. Senate. Report no. 94-675)

U.S. Congress. Senate. Committee on Foreign Relations. Reports to accompany S. Res. 283: Committee on Intelligence Operations. Washington, U.S. Govt. Print. Off., July 14, 1966. 3 p. (89th Congress, 2d session. Senate. Report No. 89-1374)

U.S. Congress. Senate. Committee on Rules and Administration. Report to accompany S. Con. Res. 2: Joint Committee on Central Intelligence Agency. Washington, U.S. Govt. Print. Off. Feb. 23, 1956. 28 p. (89th Congress, 2d session. Senate. Report No. 84-1570.)

C. Floor Debate

To establish a Select Committee on Intelligence. Debate and vote in the Senate. Congressional record [daily ed.] v. 122, May 10, 1976: S6767-S6769; May 11, 1976: S6961; May 12, 1976: S7059 and S7081-S7098; May 13, 1976: S7254-S7283; May 17, 1976: S7339-S7364; May 18, 1976: S7408-S7415; May 19, 1976: S7533-S7569.

To create a Committee on Intelligence Operations. Debate and vote in the Senate. Congressional Record, v. 112, July 14, 1966: S15672-S15699.

To establish a Joint Committee on Central Intelligence. Remarks by Sponsors. Congressional Record, v. 101, January 14, 1955: H354-H355; Debate and vote in Senate. Congressional Record, v. 102, April 9, 1956: 5890-5891, 5922-5939; April 11, 1956: 6047-6063, 6065, 6067-6068.

Appendix V. Chronology

- April 11, 1956 -- S. Con. Res. 2 "To Create a Joint Committee on Central Intelligence" defeated in the Senate by a roll call vote of 27 yeas to 59 nays.
- July 14, 1966 -- S. Res. 283 referred to Armed Services Committee on a point of order by a vote of 61 yeas to 28 nays.
- December 9 and 10, 1974 -- Hearings held by the Senate Governmental Operations Subcommittee on Intergovernmental Relations on "Legislative Proposals to Strengthen Congressional Oversight of the Nation's Intelligence Agencies."
- December 30, 1974 -- President Ford signed P.L. 93-559 thereby enacting the Hughes-Ryan Amendment which required that reports on covert operations be submitted to specified congressional committees.
- January 27, 1975 -- The Senate passed S. Res. 21, 92-4, thereby establishing a Select Committee to Study Government Operations With Respect to Intelligence Activities.
- January 21, 1976 -- The Senate Government Operations Committee opened nine days of hearings on legislation to improve congressional oversight of the intelligence community.
- March 1, 1976 -- S. Res. 400 reported by the Government Operations Committee.
- March 1, 1976 -- S. Res. 400 referred to the Committee on Rules and Administration.
- March 18, 1976 -- S. Res. 400 referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration.
- March 28, 1976 -- The Judiciary Committee held hearings on S. Res. 400.
- March 30, 1976 -- The Judiciary Committee favorably referred S. Res. 400 to the Committee on Rules and Administration.
- March 31, 1976 -- The Committee on Rules and Administration opened four days of hearings on S. Res. 400.
- April 29, 1976 -- The Committee on Rules and Administration favorably reported S. Res. 400 with an amendment in the nature of a substitute.
- May 10, 1976 -- S. Res. 400 as reported by the Committee on Rules and Administration was introduced and read in the Senate.
- May 12, 1976 -- S. Res. 400 (Cannon Compromise) was introduced in the Senate and the Senate began five days of consideration of this measure.
- May 19, 1976 -- The Senate approved S. Res. 400 by a 72-22 vote and thereby established a permanent Select Committee on Intelligence.