

S. Res. 21

Select Committee to Study Governmental Operations with Respect to Intelligence Activities



Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, MONDAY, JANUARY 27, 1975

No. 8

Senate

SELECT COMMITTEE TO STUDY GOVERNMENT INTELLIGENCE AC- TIVITIES

The Senate continued with the consideration of the resolution (S. Res. 21) to establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities.

Mr. MANSFIELD. Mr. President, I wish to state, before proceeding with the discussions and consideration of this resolution, that insofar as the majority leader is concerned, the chairman of the Committee on Armed Services, our colleague from Mississippi (Mr. STENNIS) is owed a vote of thanks because throughout the years he has scrupulously endeavored, to the best of his ability and in line with his other responsibilities, to scrutinize all activities of intelligence agencies related to the defense community. He need not yield to any Member of this body his stance as the preeminent "watchdog" of the Congress in performing this critical oversight function. I commend JOHN STENNIS. The Senate commends JOHN STENNIS for his assiduous and conscientious work in this endeavor.

Mr. President, now that the select committee has been approved by the Senate, the minority leader and I have directed a letter to the heads of agencies and departments of Government most preeminently concerned with intelligence endeavors. The letter reads as follows:

As you may be aware, the Senate is to conduct an investigation and study of government operations with respect to intelligence

activities. The scope of the investigation is set out in S. Res. 21, a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in section 2 of S. Res. 21.

Sincerely yours,

This letter is being directed to heads of 19 separate governmental units as listed here:

JANUARY 21, 1975.

Honorable William E. Colby, Director, Central Intelligence Agency, and as Coordinator of Intelligence Activities, Washington, D.C. 20505.

Lt. Gen. Daniel O. Graham, Director, Defense Intelligence Agency, The Pentagon, Washington, D.C. 20301.

Honorable William B. Saxbe, Attorney General, Dept. of Justice, 9th and Constitution N.W., Washington, D.C. 20530.

Mr. John C. Keeney, Acting Asst. Attorney General, Criminal Div., 9th and Constitution N.W., Washington, D.C. 20530.

Mr. John R. Bartels Jr., Administrator, Drug Enforcement Administration, 1405 Eye St. N.W., Washington, D.C. 20537.

Honorable James R. Schlesinger, Secretary of Defense, Room 3E 880, The Pentagon, Washington, D.C. 20301.

Honorable Howard H. Callaway, Secretary of the Army, Room 3E 718, The Pentagon, Washington, D.C. 20310.

Hon. J. W. Middendorf, Secretary of the Navy, Room 4E 710, The Pentagon, Washington, D.C. 20350.

Hon. John L. McLucas, Secretary of the Air Force, Room 4E 871, The Pentagon, Washington, D.C. 20330.

Lt. Gen. Lew Allen Jr., Director, National Security Agency, Fort George G. Meade, Maryland 20755.

I add that the administration about the preservation of records, documents, et cetera, applies as well to all agencies and subagencies concerned but not specifically singled out.

The task faced by the select committee which the Senate has just established is to examine into the intelligence activities of the U.S. Government. No more important responsibility to the people of the Nation can be assumed by Senators than membership on this committee. What is asked of them, in the name of the Senate, is to probe fully and to assess completely, to understand thoroughly and to evaluate judiciously. To the extent that the intelligence agencies have acted correctly and within the law, that must be made known. If there have been abuses, they, too, must be set forth. There can be no whitewash in this inquiry; nor is there room for a vendetta. In the end, the Senate must know what has transpired so that it may seek to close legal loopholes if there are any. In the end, we must know so that together with the House and the President, we may move to foreclose any demeaning of the basic premises of a free society.

What is at stake in the work of this committee is a resolution of doubts. What is at stake is a restoration of confidence in a large and costly and little known segment of the Federal Government. The Senate must be satisfied that the intelligence community is doing the people's business, to the end that the Nation may be with assurance so advised. The Senate must be persuaded that what is being done in the name of security under a cloak of obscurity is the people's business, as defined, not by employees of a Government agency, but the people's business as defined by the Constitution and the laws duly enacted thereunder.

The committee is called on, furthermore, to elucidate for the Senate the relevance of the intelligence community as it now operates to the Nation's contemporary needs. We need to know what may be required, today, not what might have seemed necessary yesterday.

The fact that a commission is looking into the CIA is all to the good; the responsibility of that group is to the President who created it. Its existence in no way relieves us of our responsibilities. It is appropriate and proper at any time that the Senate so determines, to inquire into any agency and, as necessary, to seek to clarify and redefine its functions and the scope of its activities.

One aspect of the impending inquiry concerns covert activities. These activities have been acquiesced in, to say the least, by the Congress for a long time. No one should be surprised or appalled, therefore, to discover their existence a quarter of a century later. In recent years, however, the extent and necessity

for them have come under question. Who sets the policy and why? What obtuse intrusions may there have been by these activities into the President's conduct of foreign affairs? What indifference, if any, to the laws passed by the Congress? What damage, if any, to the demeanor of the Nation? What interference in the personal lives of Americans and by whose authority and under what guidelines? What public funds have been committed and to what end? What proliferation of activities and how much overlap and duplication?

It used to be fashionable, Mr. President, for members of Congress to say that insofar as the intelligence agencies were concerned, the less they knew about such questions, the better. Well, in my judgment, it is about time that that attitude went out of fashion. It is time for the Senate to take the trouble and, yes, the risks of knowing more rather than less. We have a duty, individually, and collectively, to know what legislation enacted by Congress and paid for by appropriations of the people's money has spawned in practice in the name of the United States. The Congress needs to recognize, to accept and to discharge with care its coequal responsibility with the Presidency in these matters.

The Senate has begun to address itself to these questions by approving the creation of this select committee. There is a need to understand not only the present intelligence requirements of the United States but also what systems or procedures for oversight and accountability may be required to keep them within bounds set by the Constitution, the President and the elected Representatives of the people in Congress.

Wisely, I believe, a special committee for handling the investigation has been established by this action today. The scope of inquiry is far larger than can come within the purview of any single committee. Hopefully, within the select committee, the pieces—all of the pieces—can be fitted together. May I say that insofar as the Senate is concerned, I think this action expresses the expectation that the matter will be concentrated in this one committee. In my judgment, it would be most inappropriate for a bevy of studies of intelligence to proceed simultaneously in several others.

May I say, Mr. President, that this in no way conflicts with the legislative jurisdiction of the legislative committees so charged.

The select committee is equipped with a bipartisan membership. The Senators who will be selected for service on this committee are no different than the rest of us. They are not tied with a blue ribbon or a white or pink ribbon. There is no higher or lower order of patriotism in the Senate. There are no first- and second-class Senators. Those who will serve are men of competence, understanding, and decency. They will do the job which the circumstances and the Senate re-

quire of them.

The committee has been equipped with full authority to study, to hold hearings and to investigate all activities—foreign and domestic—of the intelligence agencies of the Federal Government. In the pursuit of that mandate, I have every confidence that the committee will act with discretion, with restraint and with a high sense of national responsibility. There is no cause and inclination to pursue this matter as a Roman circus or a TV spectacular. There is only the need to see to the sober discharge of very sober responsibilities.

How the committee proceeds is largely up to the members of the committee. They have the authority to make their rules and to define their procedures, and that would include the question of when to close or open the door to the use of television. As I have indicated, I would not anticipate any great requirements for the latter at this time. Most emphatically, I would express the hope, too, that committee staff would be selected with as much concern for discretion as for other qualifications. What comes to the public from this committee and when, ought to be solely—I stress the word “solely”—determined by the members of the committee.

The Senate is entrusting this committee with its deepest confidence. I know that that trust is secure and that the results of the inquiry will reflect the highest credit on this institution. I submit to the Chair the names of those assigned to the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities and ask that they be read and I do so on behalf of the distinguished Republican leader and myself.

The PRESIDING OFFICER. The clerk will read the nominations.

The assistant legislative clerk read as follows:

Senators Church, Hart of Michigan, Mondale, Huddleston, Morgan, and Hart of Colorado.

Mr. MANSFIELD. The Republicans also.

The assistant legislative clerk read as follows:

Senators Tower, Baker, Goldwater, Mathias, and Schweiker.

S. RES. 21

Resolved, To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, with respect to any intelligence activity carried out by or on behalf of the Federal Government; be it further

Resolved, That (a) there is hereby established a select committee of the Senate which may be called, for convenience of expression,

the Select Committee To Study Governmental Operations With Respect to Intelligence Activities to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency or by any persons, acting either individually or in combination with others, in carrying out any intelligence or surveillance activities by or on behalf of any agency of the Federal Government.

(b) The select committee created by this resolution shall consist of eleven members of the Senate, six to be appointed by the President of the Senate from the majority members of the Senate upon the recommendations of the majority leader of the Senate, and five minority members of the Senate to be appointed by the President of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The majority members of the committee shall select a chairman and the minority members shall select a vice chairman and the committee shall adopt rules and procedures to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

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

SEC. 2. The select committee is authorized and directed to do everything necessary or appropriate to make the investigations and study specified in subsection (a) of the first section. Without abridging in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of any agency or of any and all persons or groups of persons or organizations of any kind which have any tendency to reveal the full facts with respect to the following matters or questions:

(1) Whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation in the United States.

(2) The conduct of domestic intelligence or counterintelligence operations against United States citizens by the Federal Bureau of Investigation or any other Federal agency.

(3) The origin and disposition of the so-called Huston Plan to apply United States intelligence agency capabilities against individuals or organizations within the United States.

(4) The extent to which the Federal Bureau of Investigation, the Central Intelligence Agency, and other Federal law enforcement or intelligence agencies coordinate their respective activities, any agreements which govern that coordination, and the extent to which a lack of coordination has contributed to activities or actions which are illegal, improper, inefficient, unethical, or contrary to the intent of Congress.

(5) The extent to which the operation of domestic intelligence or counterintelligence activities and the operation of any other activities within the United States by the Central Intelligence Agency conform to the legislative charter of that Agency and the intent of the Congress.

(6) The past and present interpretation by the Director of Central Intelligence of the responsibility to protect intelligence sources and methods as it relates to the provision in section 105(d)(3) of the National Security Act of 1947 (50 U.S.C. 405(d)(3)) that "... that the agency shall have no police, subpoena, law enforcement powers, or internal security functions. . . ."

(7) Nature and extent of executive branch oversight of all United States intelligence activities.

(8) The need for specific legislative authority to govern the operations of any intelligence agencies of the Federal Government now existing without that explicit statutory authority, including but not limited to agencies such as the Defense Intelligence Agency and the National Security Agency.

The nature and extent to which Federal agencies cooperate and exchange intelligence information and the adequacy of any regulations or statutes which govern such cooperation and exchange of intelligence information.

(9) The extent to which United States intelligence agencies are governed by Executive orders, rules, or regulations either published or secret and the extent to which those Executive orders, rules, or regulations interpret, expand, or are in conflict with specific legislative authority.

(10) The violation or suspected violation of any State or Federal statute by any intelligence agency or by any person by or on behalf of any intelligence agency of the Federal Government including but not limited to surreptitious entries, surveillance, wiretaps, or eavesdropping, illegal opening of the United States mail, or the monitoring of the United States mail.

(11) The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress.

(12) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to improve executive and legislative control of intelligence and related activities, and to resolve uncertainties as to the authority of United States intelligence and related agencies.

(13) Whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by United States agencies.

(14) The extent and necessity of overt and covert intelligence activities in the United States and abroad.

(15) Such other related matters as the committee deems necessary in order to carry out its responsibilities under section (a).

Sec. 3. (a) To enable the select committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate, but it may not exceed the normal Senate salary schedule; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it

is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation to produce before the committee any books, checks, canceled checks, correspondence, communications, document, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have direct access through the agency of any members of the select committee or any of its investigatory or legal assistants designated by it or its chairman or the ranking minority member to any data, evidence, information, report, analysis, or document or papers, relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government, including any department, agency, officer, or employee of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States and any department, agency, officer, or employee of the United States Government having the authority to conduct intelligence or surveillance within or outside the United States, without regard to the jurisdiction or authority of any other Senate committee, which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the select committee acting through the chairman or any other member designated by him, and

may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18, United States Code, or any other Act of Congress regulating the granting of immunity to witnesses.

Sec. 4. The select committee shall have authority to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary or desirable to strengthen or clarify the national security, intelligence, or surveillance activities of the United States and to protect the rights of United States citizens with regard to those activities.

Sec. 5. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than September 1, 1975. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

Sec. 6. The expenses of the select committee through September 1, 1975, under this resolution shall not exceed \$750,000 of which amount not to exceed \$100,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

Sec. 7. The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, or any information relation to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

Sec. 8. As a condition for employment as described in section 3 of this resolution, each person shall agree not to accept any honorarium, royalty or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee.

Sec. 9. No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the select committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.