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Mr. Pike Goes Too Far

IF ANYONE NEEDED a clinching argument for better intelligence oversight by the standing committees of Congress, it lies in the current performance of the House special committee led by Rep. Otis Pike (D-N.Y.). By no fault of its own, the committee began its work months late. It is now playing catch-up ball with an abandon inconsistent with the sensitivity and seriousness that the object of its inquiry warrants. We refer specifically to its decision to hold the Secretary of State in contempt for refusing to produce certain documents. By this act the committee has forced an unnecessary and unwise confrontation with the executive branch. For the American system of government is simply not built to sustain such direct institutional clashes. It is built to have these clashes blurred and deterred by political compromise and a shared respect for the system's own vulnerabilities. That the Pike committee's single-minded quest for information has come to the issuance of subpoenas and the threat of a contempt citation by the full House, is evidence enough that the system has broken down.

Consider the sorts of information the Pike committee seeks. There are some 10 pre-Kissinger State Department recommendations, to pre-Ford Presidents, for covert operations. Mr. Ford was regrettably slow to assert a claim of executive privilege in the correct (direct) manner to protect these documents but that does not diminish the validity of the claim. If executive privilege does not mean that such pre-decision secretarial recommendations are protected, then it really means nothing at all. Second, the Pike majority asked for National Security Council documents on Soviet and American adherence to strategic arms agreements. These documents, besides containing technical material not readily mastered by an untutored committee in a hurry, presumably bear not only on sensitive in-

telligence-gathering methods but on the prospects of current negotiations. Their transmission to Congress could directly invade the President's prerogative to conduct foreign policy. Third, the committee asks for the NSC "Forty Committee's" records on covert operations approved since 1965. But these records too are bound to include pre-decision discussions, and to touch on some matters still current, and, of course, to intrude on the President's conduct of foreign affairs.

It is perfectly true that past Presidents abused the specific claim of executive privilege and the general claim of national security as rationales for secrecy. But that does not mean those claims are without substance. Excesses of the executive branch are not remedied by excesses of Congress. In its zeal, the Pike committee—unlike its Senate counterpart—has brushed by the time-tested "political" ways in which responsible standing committees can and do gain access discreetly to material which would not be forthcoming in the context of a hostile political confrontation. Indeed, the House panel has seemed to be unwilling to grant that there are any legitimate barriers to its inquiry—either in constitutional principle or in practical effect. But there are such barriers. The intelligence inquiry is not being pursued in a vacuum. The legitimate powers of the office of the Presidency need to be kept intact. These include the confidentiality of the presidential decision-making process and the conduct of the nation's foreign policy. Mr. Kissinger is not always his own best advocate. In this instance, he has been gratingly quick to identify his own discomfort with national misfortune. Yesterday, for instance, he belittled his citation for contempt as "frivolous"—hardly a response calculated to mollify his attackers. Yet in a congressional investigation the burden of responsibility does fall on the Congress. We do not yet see the Pike committee measuring up.