

Is Oversight Enough?

By Tom Wicker

The Senate has reached agreement on an independent committee to oversee the budget and operations of the Central Intelligence Agency, and to share such power over the Federal Bureau of Investigation and other security agencies. That's better than doing nothing about the documented abuses of the C.I.A., the F.B.I. and others, but skepticism about the new committee still is in order.

For one thing, it's a compromise between those who supported the Church committee's recommendation for an independent committee to oversee all the security agencies, and those who wanted oversight to remain essentially in the hands of the Judiciary and Armed Services Committees. That such a compromise was necessary, despite the proven inability or unwillingness of these committees to exercise control in the past, shows how little real determination there is in the Senate to prevent security and intelligence abuses in the future.

The likely reason is the decline in public interest in such abuses—at least the decline in Congressional perception of public interest—and the success of the Administration, the security agencies and their supporters in shifting the burden of guilt. Now it is not the agencies that are under fire for abusing their powers, but members of Congress and the press for airing "secrets" and supposedly endangering national security.

That climate does not augur well for Congressional oversight, no matter by which committee conducted; and in any case, the history of oversight suggests that those responsible for it have almost invariably been co-opted by those supposed to be overseen. The watchdog has become the agency pet and so far from protecting the public against the agency, ended by protecting the agency from the public.

The compromise committee agreed upon by the Senate, moreover, will have to share its authority—save in the case of the C.I.A.—with Armed Forces and Judiciary, those toothless tigers who saw no evil, heard no evil and certainly spoke no evil while carrying out their myopic "oversight" in the past.

Establishment of the new committees will force the Administration to submit an annual intelligence budget for Congressional review. But it is doubtful that any oversight arrangement, no matter how diligently pursued, could prevent all the myriad forms of abuse and violations of rights recently documented. An oversight committee, at best, is not much more than a useful first step in controlling the operations of security and intelligence agencies.

Another needed step is passage of a perfected version of a bill by Sena-

tors Edward Kennedy, Charles Mathias, Robert Byrd, Gaylord Nelson and others, to require a Federal court order to authorize electronic surveillance for purposes of obtaining foreign intelligence. The bill would require also that such surveillance be limited to "foreign powers," or to those for whom there is "probable cause" to believe that they are "agents of a foreign power." This measure is aimed at closing the last loophole by which security agencies can wiretap and bug American citizens on their own authority, under the guise of seeking "foreign intelligence."

Gerald Schneider, a political scientist on leave from the University of Delaware for study at the Brookings Institution, has proposed two further steps to several members of the Senate. Since many Senators and others are genuinely concerned that security

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agencies not be hamstrung in combating terrorism and subversion, he would not flatly ban certain activities but would require that any "intrusion" by them on the constitutional rights of American citizens be authorized, if at all, by a Federal court order, on a showing of evidence that a crime was about to be committed.

In the further belief that heads of agencies and high officials will usually be able to protect themselves against criminal responsibility, Mr. Schneider has proposed that lower-level employees of the security agencies be made subject to stiff mandatory penalties for committing any act that would be a felony if a private citizen committed it, and that there be no statute of limitations on such offenses for at least 25 years. Put in that kind of jeopardy, Federal employees would be far more likely to refuse to carry out illegal acts that might be ordered by their superiors.

On that point, for example, the Department of Justice has decided that it will not defend two F.B.I. agents accused in a civil suit of carrying out burglaries at the New York offices of the Socialist Workers Party. Like some of Richard Nixon's "plumbers," those who carried out the F.B.I.'s burglaries might not have followed orders had they known they would not have the full protection of the Government if caught in the act.