

Ervin Disputes Pentagon on Spying Curb

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WASHINGTON, April 10 — Senator Sam J. Ervin Jr. and a Defense Department official sharply disagreed today over the need for legislation to prevent a recurrence of military spying on civilians, a practice that resulted in the compiling of military files on an estimated 100,000 Americans in the late nineteen-sixties.

The disagreement came on the second and final day of hearings before the Senate Subcommittee on Constitutional Rights, which is headed by Senator Ervin. The subcommittee is considering a bill, introduced by the North Carolina Democrat and co-sponsored by 34 other Senators, to prohibit military surveillance and the gathering of information on "the beliefs, associations or political activities" of anyone not in the armed forces. Such spying would be punished if the bill becomes law, by a \$10,000 fine and two years in jail.

The defense Department ended its widespread civilian surveillance operation with a directive in March, 1971, from Melvin R. Laird, then the Secretary of Defense.

Misgivings Remain

In his opening statement yesterday, Senator Ervin said that the Defense Department by its directive, had made "a good faith and apparently successful effort to get itself out of the business of spying on civilians." While acknowledging that the Pentagon had destroyed "most" of the intelligence reports reports on civilians, the Senators said he had "misgivings" about the department's "regulatory scheme."

Senator Ervin said that he believed a law was needed because "if the Defense Department should decide to invoke qualifications and exceptions or, even worse, violate its own

regulation, there is no one in a position to say 'no.'"

D. O. Cooke, Deputy Assistant Secretary of Defense, said that the proposed legislation, if enacted, would provide a "number of unintended results." Mr. Cooke is chairman of the Defense Investigative Review Council, a five-man group set up in February, 1971, to "direct, manage and inspect" all domestic military intelligence.

'Numerous Flaws' Cited

Mr. Cooke contended that the bill would, among other things, prohibit members of the military from obtaining copies of the Congressional Record,

prohibit the conducting of security clearances and prevent the Army Corps of Engineers from filing environmental impact statements.

Because of such "numerous flaws" in the bill, Mr. Cooke said the department "must record our unqualified opposition to S. 2318."

Senator Ervin, in questioning Mr. Cooke, accused the Pentagon official of throwing up "more legal ghosts than ever existed."

"I must admit," the Senator said, "your statement is the most interesting thing I've read

since Jules Verne's '20,000 Leagues Under the Sea.'"

Under questioning by the subcommittee's counsel, Lawrence M. Baskir, Mr. Cooke said that the Defense Department had engaged in six surveillance operations that were "ongoing," with infiltrators being used to keep track of a group of civilians and servicemen advocating sabotage.

Yesterday, David E. McGiffert, former Under Secretary of the Army in the Johnson Administration, cast doubt on the military's need for "political" surveillance reports in the event of urban riots. Such upheavals started the spying in the nineteen-sixties.

"The reason is simple," Mr. McGiffert said. "The information gathered is useless in terms of the military's disturbance responsibilities." Mr. McGiffert said that the names of local officials and the "physical information" of access routes and bivouac areas were the main needs for quick response to domestic violence.

A staff member of the subcommittee said a final bill would be drafted in about a month. The bill is expected to be similar to Senator Ervin's proposal despite the Pentagon's objections, the aide said.