

Committee Votes Contempt Action For Kissinger

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The House intelligence committee yesterday voted to hold Secretary of State Henry A. Kissinger in contempt of Congress for refusing to produce documents concerning covert CIA operations and alleged Soviet arms-control violations.

Chairman Otis G. Pike (D-N.Y.) said he would seek House approval as soon as possible of the three contempt citations the committee issued in a series of lopsided votes.

Each accused Kissinger of "contumacious conduct" for refusing to comply with three committee subpoenas, one sent to him as Secretary of State and two as White House assistant for national security affairs.

Kissinger was cited just before the committee brushed aside a last-minute letter from the State Department explaining that Kissinger declined to comply with the subpoena on the instructions of President Ford.

Pike said the committee's staff had been deceived by the National Security Council staff at the White House about the existence of some of the documents and given the runaround in its efforts to obtain others.

He told reporters later that he felt there were some fundamental issues at stake in the showdown, primarily "the ability of the Congress to exercise its constitutional role of legislating and its constitutional role of oversight."

It was the second time this week that a Cabinet member has been cited for contempt.

A House Commerce subcommittee voted Tuesday to hold Secretary of Commerce Rogers C.B. Morton in contempt for refusing to turn over the names of companies asked to participate in an Arab boycott against Israel. Congressional Quarterly and the Library of Congress say the contempt citations are unprecedented.

If approved by the House, the Kissinger and Morton citations would be forwarded to the U.S. attorney here for prosecution. Contempt of Congress carries a maximum penalty of a year in prison and a \$1,000 fine.

A circuitous, last-minute attempt to invoke executive privilege in the face of one of the Kissinger subpoenas fell flat.

Rep. Robert McClory (R-Ill.), the committee's ranking GOP member, said at the outset of the hearing that he had been informed by White House counsel Philip Buchen over the telephone yesterday morning "that the doctrine of executive privilege would be raised" to maintain the secrecy of some 10 subpoenaed State Department recommendations for covert operations that had been proposed in past administrations.

Pike replied that it had not yet been invoked and that he felt it would be stretching the privilege unreasonably for President Ford to claim it for communications to past Presidents and past White House groups in charge of secret operations.

The committee then voted 10 to 2 to cite Kissinger for contempt, with McClory and

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Rep. David C. Treen (R-La.) dissenting. Shortly afterwards, White House aide Charles Leppert hurried in to deliver a letter on State Department stationery from Department acting legal adviser George H. Aldrich.

Pike refused to look at it, so McClory read it into the record. It said that Kissinger "had been instructed by the President" not to comply with the subpoena and that Kissinger was thus declining to honor it "on the basis of the President's assertion of executive privilege."

Pike told reporters later that he did not consider it a valid assertion. Committee counsel Aaron Donner added that past Presidents have traditionally promised to invoke the privilege only over their own signatures.

No privilege was claimed for the documents demanded of the National Security Council staff by the other two subpoenas. The committee approved contempt citations against Kissinger for failing to produce these records by separate votes of 10 to 2 and 10 to 1.

Committee staff director A. Searle Field said Kissinger was the proper party to cite because he was still legally assistant to the President for national security affairs.

President Ford announced last week that Kissinger's longtime deputy, Air Force Lt. Gen. Brent Scowcroft, would relieve the secretary of his second hat as NSC staff director, but the committee was told that Scowcroft had yet to be sworn in.

The solidest vote against Kissinger came on a subpoena for all documents in the hands of the National Security Council staff concerning both Soviet and American "adherence to the provisions of the Strategic Arms Limitation Treaty of 1972" and a follow-up agreement reached at Vladivostok in 1974.

"They did not tell the truth and they have, in effect, admitted they did not tell the truth," Pike said of the NSC staff.

Only McClory, who authored all of the subpoenas at issue, voted against the contempt citation stemming from the SALT controversy. Treen voted present.

The third citation, approved by a 10-to-2 vote, involved a subpoena for the records of

covert CIA operations approved since Jan. 20, 1965, by the National Security Council's so-called "Forty Committee" and predecessor groups ostensibly in charge of clandestine spy projects. As White House national security adviser, Kissinger has been chairman of the Forty Committee since the start of the Nixon administration.

On Capitol Hill later in the day to testify before a House Appropriations subcommittee, Kissinger paused before a bank of microphones long enough to protest the one contempt citation directed against him as Secretary of State, then turned on his heels and walked away, ignoring questions about the other two citations.

Kissinger said the subpoena issued to him at the State Department concerned proposed covert operations that originated there between 1962 and 1972 and involved primarily "previous administrations, previous Secretaries of State and previous Presidents."

"The President decided that this involved communications of a sensitivity and of a

character that have never been submitted previously to congressional committees and therefore invoked executive privilege," Kissinger said. "I profoundly regret that the committee saw fit to cite in contempt a Secretary of State, raising serious questions all over the world of what this country is doing to itself and what the necessity is to torment ourselves like this month after month."

Defending President Ford's plans to invoke executive privilege to block the one State Department subpoena, McClory said at yesterday morning's hearing that he felt the privilege "applies to the office (of the President) and not to the individual who holds the office." As a result, McClory said he felt it "appropriate for this President to invoke executive privilege in behalf of ..."

"President Washington," Pike interjected. He protested that such reasoning would prohibit the committee from investigating any covert CIA operations since, as Kissinger has testified, all such undertakings were personally approved by the President.