

House Committee Drops Charge Against Kissinger

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WASHINGTON, Dec. 10—The House Select Committee on Intelligence today withdrew its recommendation that Secretary of State Henry A. Kissinger be held in contempt of Congress for failing to provide the committee with subpoenaed documents.

The chairman, Otis G. Pike, told the House in a brief speech this afternoon that a confrontation had been averted because the Ford Administration had been in "substantial compliance" with the subpoena.

Morton Presented List

It was the second time this week that a committee, after threatening to ask the full House to cite a Cabinet member for contempt, had reached an accommodation with the Administration over access to information.

Secretary of Commerce Rogers C. B. Morton agreed Monday to give the House Subcommittee on Oversight and Investigation a list of American companies that had been asked to support an Arab economic boycott of Israel.

The two cases were handled according to a tradition, as old as the republic, for resolving

conflicts between two branches of government.

Both sides—Congress and the executive branch—asserted their claims vigorously for a time but did not press them to a conclusion. Instead, they arrived at a compromise that left unanswered the Constitutional question of whether Congress has an absolute right to information collected by the executive.

Over the years, a succession of Presidents and Congresses has been reluctant to test the issue in court. Each side fears that it might lose and set a precedent that would prove to be damaging in similar situations in the future.

Demand for 20 Items

The dispute between the intelligence committee and Mr. Kissinger involved the committee's demand for 20 separate State Department requests to Presidents since 1961 for covert operations abroad.

Time and again in recent weeks, Mr. Pike argued that the committee needed the actual State Department documents to determine whether Presidents had exercised proper

Continued on Page 12, Column 4

he battleground for such conflicts because of the close relationship between information and power.

The first such dispute was probably the one in 1792 in which President Washington decided to withhold from Congress details of Gen. Arthur St. Clair's disastrous expedition against the Indians. Eventually, however, the President yielded and Congress held its investigation.

When neither side has been willing to give and no compromise has been reached, the issue has often been settled by political means. Thus, after President Dwight D. Eisenhower withheld from Congress information on the Dixon-Yates power controversy, the Senate refused to confirm Lewis L. Strauss, who had been involved in controversy, as Secretary of Commerce.

As has often been the case in past confrontations, today neither the Administration nor Congress would concede that it had given more than the other side to avoid contempt actions.

The truth seems to be, in the view of officials who have seen such disputes come and go over the years, that neither side relinquished much. Congress was able to get most of the information it wanted, and the Administration was able to maintain the longstanding position of Presidents that Congress is not entitled to information that a President wishes to withhold.

Continued From Page 1, Col. 4

control over intelligence agencies.

President Ford asserted the doctrine of executive privilege and refused to relinquish the material on the ground that to do so would violate the confidentiality necessary to Presidential decision-making.

The compromise breaking the deadlock was arrived at last night at a meeting between a delegation from committee and Presidential assistants.

Briefing Settles Issue

Under the compromise, William G. Hyland, director of the State Department's bureau of intelligence, agreed to brief the committee extensively on the contents of the documents, and the committee agreed not to press its claim to see the documents themselves.

"We did not get everything we wanted," Mr. Pike, a Suffolk County Democrat, told his committee this morning, "but we got more than they were willing to give us."

A Congressional official who was briefed on the documents characterized them as "certainly not spectacular or dramatic" and added, "The information was not worth the battle."

There was no objection from the 12 other committee members to Mr. Pike's proposal that the recommendation of contempt be dropped. Later, there was scattered applause from Democrats and Republicans after Mr. Pike announced the committee's decision on the House floor.

The House Democratic leadership worked actively to prevent the contempt citations



Otis G. Pike, right, head of the House committee investigating intelligence activities, conferring yesterday with Les Aspin, a member. Mr. Pike later announced that contempt action against Secretary of State Henry A. Kissinger had been dropped because Mr. Kissinger had acted in substantial compliance with a subpoena involved.

against Mr. Kissinger and Mr. Morton from being brought to a vote of the full house.

A staff member who works closely with the leadership said the leaders feared that Congress would suffer regardless of the outcome of the votes.

In their view, if the contempt citations were rejected, it would seriously embarrass the committees that had sponsored

them. If, on the other hand, the citations were approved, long court battles would result, with the committees still not having access to the information they wanted.

By dividing power among three branches of government, the framers of the Constitution guaranteed that there would be repeated conflicts between branches. The issue of access to information has often been

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