WXPost JUL 14 1974

Preventive Measures

INDIVIDUAL VIEWS AND RECOMMENDATIONS OF SENATOR HOWARD H. BAKER JR.

I believe that the activities and inquiry of the Senate Select Committee on Presidential Campaign Activities have been, by and large, useful and appropriate . . .

The Report is not adjudicatory, and indeed it often goes to some lengths to avoid "finding fact" in the traditional sense. This equipment was directed to the committee staff by the chaiman in deference, I believe, to the sensitivity of litigation in process, or upcoming, and of course to the inquiry into impeachment by the House of Representatives. I commend the chairman for that point of view.

In an historical perspective, I believe that the committee's principal service may have been in the public ventilation of the facts and circumstances collectively assembled under the title of Watergate. The committee's gathering and disseminating the often shocking, frequently embarrassing, and sometimes incriminating evidence an testimony before it certainly should exert a deterrent effect, and that effect may be far more important than the committee's recommendations. I rather suspect that it may be a long while before a future President permits the occurrence of such unfortunate circumstances. If that is the case, then the committee's laborious effort, the considerable expense, and the national frustration will have been worth the investment.

I hope so.

PUBLIC PROSECUTOR

The Committee Report recommends the creation of a judicially-appointed permanent public attorney to investigate and prosecute cases in which there are conflicts of interest within the Executive Branch. This recommendation is recognition that the Federal Government is poorly equipped for investigating and prosecuting crimes al legedly committed by high-ranking Executive Branch officials . . .

I have great doubts, however, regarding the constitutionality of the Committee's proposal that the public attorney be appointed by the representatives of the Judiciary.

The appointment of a permanent public prosecutor, within the Department of Justice, for a fixed six-year term as nominated by the President and subject to Senate confirmation possesses none of the potential constitutional infirmities presented by a judicially-appointed public prosecutor . .

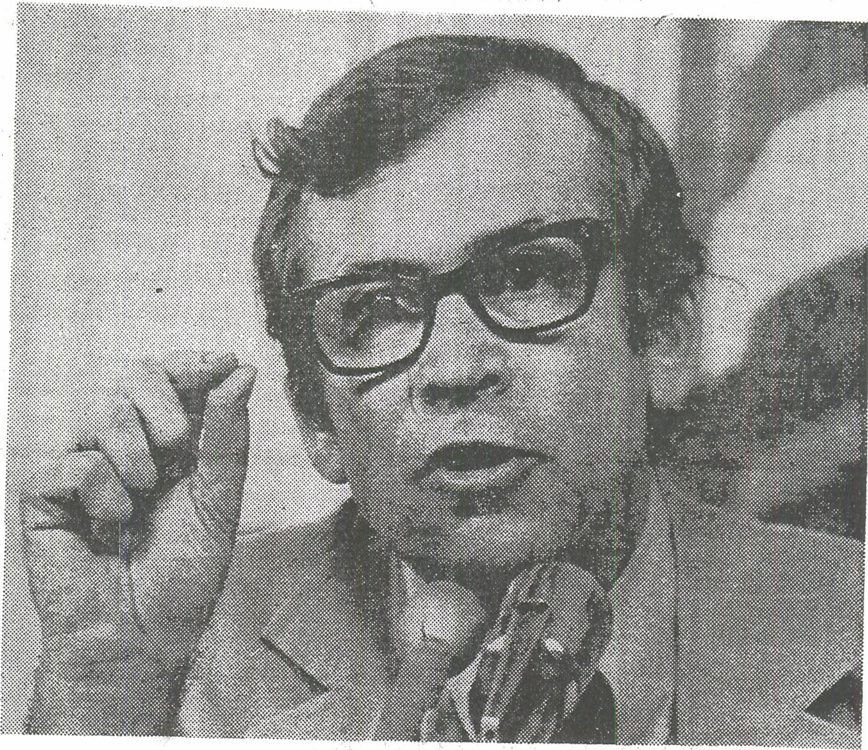
INTELLIGENCE OVERSIGHT

Both in the committee report and in other committee documents, there is found a substantial body of evidence regarding the activities of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Council, and other governmental intelligence gathering and?or investigative organizations, which provides insight into the activities, as well as the abuses, of these organizations relative to the matters under the select committee's persual. Testimony was presented to the committee to the effect that there was an attempt by high-ranking White House officials to somehaw "involve" the CIA in the Watergate cover-up; that the FBI investigation of the Watergate matter was impeded at the very highest levels of the Bureau itself; and that under the supervision of the White House, intelligence gathering operations, including unlawful activity, was conducted outside the purview of the congressionally-authorized intelligence and investigative agencies. Moreover, as indicated in separate committee documents, the CIA provided extensive logistical support to the participants in both the Ellsberg and Democratic National Committee break-ins and expressed a keen interest in the subsequent investigations.

I wish to associate myself with the recommendation in the committee report for closer supervision of Central Intelligence Agency activities by the appropriate congressional oversight committees.

I would go one step further and propose that the Congress should consider the creation of a Special Joint Committee on Intelligence Activiies. I believe the highly sensitive nature of intelligence operations, the expanding scope of the intelligence gathering requirement, and the enormous cost and dedication of manpower and resources to the intelligence undertaking in the United States, fully justifies a new committee arrangement . Such a committee, not dissimilar to the Joint Committee on Atomic Energy, could more effectively coordinate among the various intelligence investigatve agencies, now subject to congressional oversight, than can the several committees now having partial oversight responsibilities . . .

Are Proposed



The Washington Post

INVESTIGATIONS BY CONGRESS

Although this recommendation does not clearly fall within the province of S. Res. 60, the select committee hearings highlighted the fact that congressional investigatory proceedings exhibit a determination to ferret out the facts even if the investigative process may grievously injure the protected rights of individuals who are or may become defendants in judicial proceedings. Thus, I believe that Congress should give careful attention to the codification of Rules of Legislative Hearing Procedure so as to provide the same assurance that individual constitutional rights are not impaired by legislative hearings as the Federal rules of criminal procedure provide in criminal proceedings. I believe that such rules should provide a mechanism whereby witnesses and proposed witnesses before legislative hearings, who are or may be subject to criminal prosecution, can be identified and afforded additional procedural protections than is now the case. For instance, a "vulnerable" witness might be given the right to have counsel participate in the questioning of other witnesses presenting testimony adverse to the interests of the vulnerable witness. In addition, the Congress should study the advisability of imposing common law and/or federal evidentiary rules in certain types, if not all, legislative hearings. Finally, the Congress may wish to establish a legislative public defender whose duty would be to proctor legislative hearings and investigations so as to provide for the protection of the rights of individuals . . .

CAMPAIGN AND ELECTORAL REFORMS

Although public financing probably would solve a limited number of problems afflicting the present process, it would almost certainly create an equal number of potentially greater dangers. Some of those would stem, no doubt, from the incestuous nature of the government's financing the process by which it is selected. The responsiveness portion of the select committee's report details the repeated efforts of members of a administration to influence or abuse the various departments and agencies for purely political purposes. Would it not be possible under a system of public financing, in which an arm of the government was responsible for allocating funds, to

by Sen. Baker

abuse that authority on behalf of one candidate or party under the guise of bureaucratic red tape? . . .

Another serious problem with comprehensive public financing, in my judgment, is the effect it will have upon the individual's First Amendment right of freedom of political expression. . . . it states that the need to eliminate the influence of large sum contributors and special interests is so compelling that we must abandon the use of all voluntary private financing in favor of mandatory, public financing; and in the case of the latter, we have no control over which candidate receives our tax dollars, nor whether they are actually used for that purpose. In fact, taxpayers would be directly supporting candidates whom they consider repugnant . . .

There is a third, more reasonable option which would retain some continuity while avoiding some of the hazards of public financing. That option is a system of effectively regulated private financing in which the incentives for small contributions are vastly enhanced. Such a system is in essence what the select committee recommends. A strict limitation on the size, amount, and form of private contributions, a single campaign committee, a single campaign depository, an overall expenditure limitation, a requirement for full public disclosure before, rather than after, the election, and an independent elections commission, are all necessary reforms which would impose order upon the current campaign chaos. chaos.

Moreover, I would make one further recommendation which would do more to eliminate distortive influence of special interests than any other single action, and that is, to prohibit, altogether, contributions from any and all organizations. Only individuals can vote, and I believe only individuals should be permitted to contribute.

Some have argued, however, that if we eliminate the financial influence of the special interests and strictly limit the size of individual contributions, we cannot effectively fund a competitive two-party system. Indeed, without some new incentives for millions of Americans to make small contributions, such a system would clearly discourage constructive opposition and tend to bolster the inherent advantages of incumbency. Thus, I would propose a 100 per cent tax credit on all contributions made in a calendar year up to $50 on an individual return and $100 on a joint return. Such a credit would enable each taxpayer to divert up to $50 of his tax money to a candidate if, and only if, he desires to do so . . .

I am convinced further that we cannot hope to reverse the current trend of erosion of public trust and confidence without sharply increasing public participation in the political process. In that regard, I would urge that serious consideration be given automatic registration of voters in federal elections at age 18. The history of the United States has been a history of the extension of the voting franchise. Yet, even today, a significant number of our citizens are effectively prevented from participating in elections by complex, and often archaic, registration and residency requirement. . . .

I have come to believe, notwithstanding my earlier support for the ratification of the 22d Amendment, that we made a mistake in limiting a President to two terms and that the 22d Amendment should be repealed. I believe that the discipline of standing for re-election, or at least contemplating the possiiblity of standing for re-election, is a desirable one and that the nature of the Presidency is materially altered by the constitutional limitation of two terms. I think the incumbency factor which is much vaunted and highly prized by political observers is overstated in the first instance, but that it would be diminished by the repeal of the 22d Amendment. After all, incumbency is less regal if one must at least consider the possibility of standing for re-election four years hence. In short, the atmosphere engendered by the removal of political pressures from a President who has been re-elected to his second term presents, in my opinion, far greater potential for abuse of power than a situation in which an incumbent President always is presented with the opportunity to seek re-election.

POLITICS

Finally, I believe Watergate might never have occurred had there been more politics instead of less in the White House. Politics is an honorable profession. It is probably a free citizen's highest secular calling. The republic could not function without the dedication of millions of citizen politicians; and, consequently, I hope that politics as an honorable undertaking is not a casualty of Watergate.