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raised in my preliminary review of the problems of the Government administration.

However, I believe that an intensive and meaningful review by a select committee is very much in order. At a time when so many indicators of popular opinion register at the warning level when measuring confidence in Government, we must take some extraordinary action to restore that confidence.

I believe that a proposal such as the one I have outlined and submitted today would be a useful and important vehicle for the change that is needed and demanded by the American public.

S. RES. 197

Whereas during the past four decades there has been a proliferation of agencies of the Federal Government and a corresponding increase in the number of Federal employees;

Whereas the cost of administering those agencies has risen sharply and continues to rise;

Whereas virtually every public opinion poll taken on the subject in recent years indicates a growing chasm of mistrust between citizens of the Federal Government stemming in large measure from its size, its seeming distance and invulnerability to prompt and necessary change, and by the lack of responsiveness of its agencies to legitimate public needs: Now, therefore be it

Resolved, That there is established a select committee of the Senate to be known as the Select Committee on Federal Responsiveness and Accountability (hereafter in this resolution referred to as the "select committee").

Sec. 2. (a) The select committee shall consist of 12 members to be appointed by the President of the Senate as follows:

(1) seven members who are of the majority party, to be appointed upon recommendation of the majority leader, and

(2) five members who are members of the minority party, to be appointed upon recommendation of the minority leader.

(b) The select committee shall select a chairman from among its members. A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(c) For the purposes of paragraph 8 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

Sec. 3. It shall be the function and duty of the select committee to make a thorough and complete study and investigation of all matters relating to the problems of accountability and responsiveness in the Federal Government, including but not limited to—

(1) the patterns of administrative behavior which tend to decrease the responsiveness of Government agencies and of those who are employed by them;

(2) the methods of accountability, or lack thereof, of Federal employees for the duties and responsibilities assigned to them;

(3) the proliferation of agencies, boards, and other administrative mechanisms for dealing with public problems, including those that appear to be outmoded;

(4) the role of public employee protection in maintaining agencies whose continued existence is questionable;

(5) the reward-punishment-incentive system as applied to employee performance and its influence on the responsiveness and ac-

countability of Federal employees to the public interest; and

(6) any other aspect of the Federal bureaucracy which may improve governmental efficiency and provide the American people with a government more in tune with the need for change.

Sec. 4. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(1) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) With the consent of the chairman of any other committee of the Senate, the select committee may utilize the facilities and the services of the staff of such other committee of the Senate, or any subcommittee thereof, whenever the chairman of the select committee determines that such action is necessary and appropriate.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, or any other member designated by him, and may be served by any person designated by the chairman or member signing the subpoena.

(d) The chairman of the select committee or any member thereof may administer oaths to witnesses.

Sec. 5. From the date this resolution is agreed to, through February 29, 1976, the expenses of the special committee under this resolution shall not exceed \$400,000, of which amount not to exceed \$100,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended.

Sec. 6. The select committee shall report its findings, together with such recommendations for legislation as it deems advisable, with respect to the study and investigation under this resolution to the Senate at the earliest practicable date.

Sec. 7. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

QUORUM CALL

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECOMMENDATIONS OF THE ROCKEFELLER COMMISSION

Mr. MONDALE. Mr. President, in the 2 weeks since the report of the Rockefeller Commission on CIA activities

within the United States has been published, we have had an opportunity to consider its findings, its conclusions and begin to come to grips with its recommendations. It opens up many crucial issues concerning our constitutional rights, the functions of our Government and the protection of our individual liberties and national interests.

I approach the Commission report and my responsibilities as a member of the Senate Select Committee on Intelligence Operations with the belief that we need a Central Intelligence Agency. We need a thorough and coordinated intelligence effort so as to provide our Government the soundest possible basis for our diplomacy and our defense. And I believe there may be a role for certain covert actions, particularly if this is necessary to counter the covert actions of our adversaries. It is in this spirit that I have carefully studied the report of the Rockefeller Commission on domestic CIA activities.

While it is clear that the Commission did not have the mandate to address all of the many important questions concerning the intelligence activities of the United States, the report is a serious and worthwhile effort to come to grips with the alleged abuses carried out by the CIA in their domestic operations. The Commission should be given credit for a reasonably thorough investigation of some of the charges leveled at the CIA and for the straightforward manner within which the findings are presented. The recommendations, however, require the most thorough debate and consideration.

Many of the recommendations are close to the mark. The proposals to strengthen oversight and accountability are long overdue:

Beefing up the President's Foreign Intelligence Board;¹

Expanding the CIA's Inspector General corps;² and

A recognition that it is necessary to strengthen Congressional oversight—quite apart from whether a Joint Committee is the right answer.³

Some of the specific prohibitions are also indisputable:

The prohibition on drug testing;⁴

The ban on CIA domestic wiretapping.⁵

But, as laudable as some of the recommendations are, many of the others are either inadequate or, in fact, contradict basic lessons provided by the Commission's own findings—particularly with respect to protecting our constitutional rights. In some cases, the recommendations are little more than pious requests for the President and the CIA to obey the law. In others, the recommendations would go far to legalize the very abuses the Commission deplors.

Moreover, the recommendations systematically disregard the necessity of involving the Congress in defining the role and responsibilities of the Central Intelligence Agency. In many crucial areas the Commission proposes to short-

¹ Recommendation 5.

² Recommendation 9.

³ Recommendations 3 and 4.

⁴ Recommendation 27.

⁵ Recommendation 23.

circuit the legislative process that the circumstances require by means of Executive orders.

In this brief address, I want to start the debate on the appropriate remedies for the abuses and issues uncovered by the Commission report. The Senate select committee will be delving into these and other related matters in great detail, but nonetheless, I believe we can at least begin the dialog, starting with the recommendations in the Rockefeller report.

I will not try to deal with all 30 recommendations. Rather, I want to focus first on those areas which are usefully opened up by the report, but which require further treatment; and second on those areas in which I believe the recommendations are inadequate to the point of where our constitutional liberties could be jeopardized.

The subjects usefully addressed but not adequately considered include:

- CIA relations with state and local police;
- Constraints on physical surveillance;
- The problem of overseas connections with domestic crime, especially narcotics;
- Clandestine collection of foreign intelligence in the United States;
- The responsibility for counterintelligence activities.

First, the report documents the fact that the relationship between the CIA and State and local law enforcement agencies has involved many questionable activities, the CIA's providing equipment and money to police and the police supplying to the CIA false identification documents and help in at least one break-in.⁶

Yet, the Commission makes no recommendations in this area. It simply calls for a change in these policies and urges that the CIA be more circumspect in its dealings with local law enforcement agencies.⁷

Now, the CIA's basic statute makes it very clear they are not to have any domestic law enforcement responsibilities. The need for, and nature of, any relationship between the CIA and domestic State and local law enforcement organizations must be carefully examined and explicitly set forth in law. This is essential if the prohibitions on CIA domestic police functions are not circumvented.

Second, the report points out that while electronic surveillance, wiretapping and bugging is controlled by statute, physical surveillance, and the use of undercover agents and informers is "largely uncontrolled by legal standards."⁸ The problem of controlling physical surveillance and the use of agent informers is not peculiar to the CIA, but involves the FBI, the IRS, and other intelligence and investigative bodies.

The report should be commended for addressing the subject of the appropriate legal constraints on physical surveillance and on the use of agent informers, for these can raise fundamental questions of privacy and possibly constitutional rights. However, the only recommendation of the Commission is that in cer-

tain cases physical surveillance and the placing of undercover agents in domestic organizations be permitted on the say-so of the Director of the Central Intelligence Agency.⁹ This is clearly not what is called for. The Senate must now ask Congress to go forward and thoroughly explore this area and arrive at a proper legislative solution.

Third, the report raises what might be called the general subject of the overseas connection to domestic crime, in the context of the problem of narcotics.¹⁰

Just as legitimate business concerns have now become multinational in scope, so criminal activity, especially in the field of narcotics, is an internationalized enterprise. The report is correct in cautioning the CIA against getting involved in police functions,¹¹ yet we must also consider what instruments are appropriate to monitor criminal activities abroad which, in time, end up as criminal activities at home. Again, this is an area requiring the most thorough and careful consideration by the Congress, so as to provide our Government with the appropriate instrumentalities for combating crime but protecting our civil liberties.

Fourth, despite all the concern about clandestine CIA activities in the United States, the report of the Rockefeller Commission merely states that the authority of the CIA to engage in clandestine operations within the United States aimed at collecting information on foreign individuals or organizations is unclear and needs clarification.¹² How this is to be done is not clearly spelled out. Whether the CIA should have this responsibility has major implications for the permitted scope of CIA activities within the United States and the potential for abuse.

The Commission also did not address whether CIA or any other clandestine foreign intelligence operations in the United States would have any limits or checks. For example, would it be permissible to tap telephones, to break into embassies, to conduct surveillance of various kinds? And what about alleged entrapment of foreign diplomats, such as that which has been alleged against the CIA in New York City?

I can see there may be a legitimate need in this general area of intelligence, but whether, and how, clandestine collection of foreign intelligence in the United States is to be carried out must be carefully examined by the Senate select committee. Such operations can easily endanger our civil liberties, particularly if there are no external checks upon them.

This subject is closely related to another major issue which is raised, but not adequately treated, by the Rockefeller report. This is the role to be played by the Central Intelligence Agency in counterintelligence within the United States. Heretofore, that mission largely has been the province of the FBI. If I read them correctly, the recommendations of the Commission appear to move

in the direction of granting the Central Intelligence Agency a major role in the conduct of counterintelligence operations in the United States.

Paragraph C of recommendation 2 grants to the CIA the authority to collect information about the domestic activities of U.S. citizens, whether by overt or covert means, if they are "persons suspected of espionage or other illegal activities relating to foreign intelligence."¹³ The Commission calls for proper coordination with the FBI, but in so doing seems to relegate the Bureau to a secondary role.

The Commission recommendations concerning the proper role of the CIA and the FBI in regard to domestic intelligence activities can only be described as vague. Recommendation 2c and 14c seem to suggest CIA preeminence in the field of counterintelligence, but the final recommendation, No. 30, simply calls upon the Director of Central Intelligence and the Director of the FBI to negotiate a detailed agreement setting forth their respective jurisdictions and submitting it for approval to the National Security Council.¹⁴

It is my firm view that this would be an inadequate procedure. The division of responsibilities between the FBI and the CIA in this delicate area must be made by Congress. Counterintelligence is the cutting edge of many of the abuses that have come to our attention. The Huston plan was developed in the name of counterintelligence. Cointelpro, that stumbling acronym, stands for counterintelligence program. Illegal mail opening was a counterintelligence program. And there are yet other counterintelligence activities that, in the course of the Senate select committee's investigation may well indicate the dangerous and possibly uncontrolled character of counterintelligence activities, as they have been conducted in the past. For this reason, I believe, it is essential that the Congress establish the proper guidelines clearly defining jurisdiction for the CIA and the FBI, and equally important, setting up a system accountability for the conduct of counterintelligence-type activities within the United States.

These, then, are what I consider to be some of the incomplete aspects of the findings and recommendations of the Rockefeller Commission. But there are other recommendations, most of them dealing directly with the issue of spying by the CIA on U.S. citizens, that are at best hopes rather than remedies, and at worst could contribute to legalizing the illegal. In these cases, the Commission either falls back on simply urging the President and the CIA to obey the law or proposes measures that would legitimize the abuses that have brought forth this investigation.

To get a clear picture of this problem, it is important to go behind the "don't" language of the recommendations and focus on the exceptions which constitute the list of "do's" for the CIA. The exceptions set forth a wide variety of actions the CIA can take toward Americans in the United States.

⁶ Pp. 40-41, 236-240.

⁷ P. 41.

⁸ Pp. 63, 64.

⁹ Recommendation 16.

¹⁰ Pp. 233-234.

¹¹ P. 39.

¹² P. 59.

¹³ P. 13.

¹⁴ P. 39.

First, under recommendation No. 2, the CIA would be permitted to collect "information about the domestic activities of U.S. citizens, whether by overt or covert means," to evaluate, correlate, and disseminate analysis and reports about these activities and to store such information on "persons presently or formerly affiliated, or being considered for affiliation, with the CIA, directly or indirectly, or others who require clearance by the CIA to receive classified information."

They also would be able to do this on "persons or activities that pose clear threat to CIA facilities or personnel, provided the proper coordination of the FBI is accomplished."

They would also be able to do this with regard to any "persons suspected of espionage or other illegal activities relating to foreign intelligence, provided there is proper coordination with the FBI."

They also would be able to use information "received incidental to appropriate CIA activities and transmit it to agencies with appropriate jurisdictions, including, of course, law enforcement agencies."¹⁵

Critical aspects of this proposed authority are not defined. What is meant by "affiliation"? What is meant by "indirect affiliation"? How does one define persons or activities posing a clear threat to CIA facilities or personnel? How does one define "illegal activities relating to foreign intelligence"?

Second, the CIA is authorized to conduct mail covers,¹⁶ albeit in compliance with postal regulations, and in the furtherance of the CIA's legitimate activities, on a selected basis in matters involving national security. If past practice is considered, postal regulations are inadequate to protect citizens' rights and the restriction of mail covers to furtherance of the CIA's legitimate activities in matters of national security imposes no real restraint. Only the injunction to be selective is mildly controlling.

Third, the CIA is authorized to infiltrate dissident groups or other organizations of Americans upon "a written determination by the Director of Central Intelligence that such action is necessary to meet a clear danger to Agency facilities, operations, or personnel and that adequate coverage by law enforcement agencies is unavailable."¹⁷ Note that none of these terms are defined and that it is left to the discretion of the Director of Central Intelligence to decide what is a danger to the Agency and whether other law enforcement agencies are providing adequate support.

Fourth, the CIA would be authorized to conduct its own investigations of individuals presently or formerly affiliated with it. This would be done on the authority of the Director of Central Intelligence alone, once he determines that the investigation is necessary to protect intelligence sources and methods, the disclosure of which "might," let me stress "might," endanger the national security.¹⁸

This particular provision, recommendation No. 18, also makes the point that such investigations must be coordinated with the FBI whenever substantial evidence suggesting espionage or violation of Federal criminal statute is discovered. This, of course, raises the question whether such investigations may go on when there is no substantial evidence suggesting espionage or violation of Federal criminal statutes. In this connection, it should be pointed out that to permit investigations of individuals in cases where the national security merely might be endangered, and in ways that are not defined runs the same grave risks of abusing the concept of national security we found in the Watergate case.

Finally, recommendation No. 22 makes clear that physical surveillance of Agency employees, contractors, or related personnel—whatever that might mean—can be conducted within the United States on the written approval of the Director of Central Intelligence.

I do not believe that the Congress or the American people can accept proposals whereby undefined categories of American citizens can be spied upon, their privacy invaded, and possibly their constitutional rights suspended, on the voucher of the Director of Central Intelligence. It is ironic that these provisions would go far to legitimize precisely the various abuses cited in the report and which has given rise to such great public concern.

The Rockefeller Commission would place reliance on the personnel involved, on the Inspector General and on a beefed-up President's Foreign Intelligence Advisory Board to see that such spying was kept in bounds. All this would be control after the fact, and the only positive check would be the Director of Central Intelligence, who, in the past, has often been a witting handmaiden to Agency abuses.

It seems strange, that with all this new Executive machinery, there is no reference to the role of Congress, or in fact, the public, as the real check on future abusive secret domestic intelligence operations. This is a fundamental defect of the Rockefeller Commission report: Past abuses are to be remedied only by Executive orders and the responsibility for avoiding abuses is left largely in the hands of the institutions which abused their powers in the past. Indeed, the report recommends giving them more explicit authority to investigate American citizens.

Mr. President, running through the Rockefeller Commission report, following the recital of some very serious invasion of American liberties and the destruction of due process with respect to many American citizens, there is a series of recommendations.

In effect, it says we will let the Director see if he cannot do better next time.

There are practically no recommendations for legal changes. Most of the recommendations involve internal regulatory changes which, in effect, leave the executive free to do as he pleases despite a record of very serious transgressions of American civil liberties.

Mr. President, there are no strict recommendations for legal changes which they make. In effect, it calls for the adoption of an Official Secrets Act here in the United States. We never have had one, and what it would say, in effect, is that anything in effect that is classified by an executive department official would then be protected by the force of criminal law from disclosure. It would for the first time in our Nation's history make it illegal and subject to criminal penalties for a public official in Government to disclose or be part of a conspiracy to disclose so-called official secrets.

The irony of this recommendation is that it would probably in the future prevent the public from knowing about transgressions and violations of the law of the kind we are now investigating here before the Senate Select Committee on Intelligence.

If that were the law the last few years, it is probably likely that the American people would never have known, indeed could not conduct an investigation to determine, whether their civil liberties had been interfered with by the CIA or other governmental agencies.

I would say that that recommendation is seriously deficient. It is based on European practice. In many European countries, particularly Great Britain, they are now beginning to doubt the wisdom of their own official secret acts.

Mr. President, once again it seems to me we have to decide what is important in American life and, above all, it seems to me it is our system of freedoms and liberties.

The Government is saying, "Trust us, although we have abused these liberties in the past, we are now forewarned and you can trust us in the future."

I believe that we need trust, but I also think that the exercise of governmental power when uncontrolled, when undisclosed to the public, when unrestricted by clear laws, can be very dangerous in the hands of those who hold it.

This suspicion goes back to really the basis of our Constitution.

As Thomas Jefferson once wrote:

It is the tendency of things that freedom retreats and Government gains ground.

Thus we should not be surprised to find that when it comes to muzzling the stories that finally led to the current exposure of domestic wrongdoings and the long-overdue Senate inquiry, the Commission has no trouble coming up with proposals supporting legislation for an official secrets act. It endorses the idea of a statute which would make it—

A criminal offense for employees or former employees of the CIA willfully to divulge to any unauthorized person classified information pertaining to foreign intelligence or the collection thereof obtained during the course of their employment. (Recommendation 21.)

Unless we are careful about the ways in which we develop our laws, our administrative control and the relationship of those agencies to the Congress, we can well once again see the commencement of what can only be described as a secret police here in our own country.

¹⁵ P. 13.

¹⁶ P. 21.

¹⁷ P. 27.

¹⁸ P. 29.

Now please note that this recommended statute would operate even if no harm were done to the national defense or to our diplomacy. And it does not apply to espionage—that already is a crime. But it would apply to the revelation of wrongdoing if the information were classified. To reveal the spying on Americans, the opening of their mail, the bugging of their phones, or plots to assassinate foreign leaders all could put you in jail.

The Commission asks that this statute be drafted with appropriate safeguards for the constitutional rights of all affected individuals. This is a laudable, but a conflicting, objective. Moreover, it avoids the key issue, which is that this law would impede the kind of scrutiny that the Commission report makes clear is necessary.

How much of the information in the report, I wonder, was secret or top secret only a few months ago? Without public disclosure, most of the abuses documented in the report would never have been corrected. Yet, this law, proposed by the Commission, could help insure that public scrutiny would never happen again.

I want to emphasize that we need to be able to protect legitimate secrets from our potential adversaries. But we need even more to protect our constitutional rights. The burden of proof for more laws than we have already must lie upon the executive branch. Those who make and try to keep secrets must prove that they are justified in doing so.

I am not revealing any secrets when I say that the committee is concluding a study of "leaks" to see whether "national security" in fact has been endangered in the past. At this point it seems likely that the greatest percentage of leaks concern political issues that should in fact be debated in open democratic processes. The agencies will be asked to provide their "damage assessments" of the so-called leaks that have occurred in the last several years.

In 1970, the Defense Science Board found that the volume of classified scientific and technical information could be reduced by 90 percent. I do not know if this percentage would also apply to diplomatic secrets, but everyone dealing with the Federal Government is aware of the penchant for bureaucrats to classify all manner of documents, sometimes to draw attention to them and sometimes to cover up bungling, mistakes, errors of judgment, or just plain embarrassments—not to mention misdeeds and crimes.

Now, this is a pretty convenient device for protecting one's power and image. I daresay many of us in this chamber would like to be able to classify some of the things that we say, once we have had a chance to think about them.

The United Kingdom has an Official Secrets Act of this type that is apparently being proposed by the Rockefeller Commission. The indications are that it is not working. A few years ago, in fact, a royal commission was appointed, which was headed by Lord Franks, which thoroughly considered all of the difficulties which had been encountered in their Official Secrets Act. Their conclusion was

that the law was far too open ended and must be thoroughly revised.

Public exposure is the ultimate sanction against violation of our constitutional rights in this society. We must not compromise this away. The basic question that must be faced is whether the recommendations of the Rockefeller Commission, taken in their entirety, so insure proper operation of the CIA that we can forgo the crucial protection afforded all other democratic rights by the first amendment of the Bill of Rights. As James Madison reminds us—

The right of freely examining public character and measure, and of free communication thereon, is the only effective guardian of every other right.

The Rockefeller Commission, says of the Bill of Rights that these freedoms are not absolute. The report states that the first amendment, as Justice Holmes noted—

Does not "protect a man in falsely shouting 'fire' in a theater and causing a panic."

The Rockefeller Commission apparently believes that this justifies an Official Secrets Act.

But the revelations which led to the Senate inquiry and to the Rockefeller Commission have not proved false. In my view, they are much closer to a man truthfully shouting "fire" in a theater and thus saving lives. The Official Secrets Act proposed by the Rockefeller Commission could in effect make it a criminal offense to sound the alarm when our rights and our democratic institutions are jeopardized by secret Government operations.

In reviewing these concerns about the recommendations of the Rockefeller Commission, I am led to object to one of the report's most basic conclusions. The Rockefeller Commission report states that—

The evidence within the scope of this inquiry does not indicate that fundamental rewriting of the National Security Act is either necessary or appropriate.

I believe that this is clearly wrong. It is absolutely necessary for the Congress itself to write the most explicit guidance in law that it possibly can concerning the authority, and the jurisdiction, of the CIA, of the FBI, and of the other Federal investigatory bodies. It is absolutely appropriate for the Congress to draw a line between what is proper and what is not, both at home and abroad. We must make clear the conditions and terms under which various CIA activities can take place and on who's sayso. We must define or replace such terms as "national security," "sources and methods," and so forth.

For the American people to once again have confidence in its Government, and in its intelligence operations, this difficult task of reconciling liberty and freedom on the one hand, and the requirements of national security and secrecy on the other, must not be left solely to the executive branch; it must be an act of consensus, taken by the entire Federal Government, and in particular, the representatives of the people in Congress.

Laws alone are not enough, as we have already seen. Many laws on the statute

books have been violated or disregarded by the Central Intelligence Agency. Law must be accompanied by the enforcement of adequate oversight. We need both a new legislative framework and a new political framework, within which intelligence operations take place.

The system of accountability must not stop with the President. It must embrace the Congress. I hope that the President's referral of the subject of assassinations to the Senate is a sign of a desire to have the Congress exercise its rightful role in these ultimate and most difficult of responsibilities in Government.

Any domestic CIA activities must be carefully monitored by the congressional oversight bodies. Any wrongdoing must be brought to the attention of the Congress and the congressional oversight bodies. And this oversight system, whether it involves a joint committee, a special committee, or the existing committees, must be as representative as possible—possibly even including rotating membership. The key to increased confidence of the American people in our intelligence and investigatory bodies for them to know that their views are included in the process by which decisions are made and authority is granted.

Our Founding Fathers were keen observers of human nature. They knew that the only way power and liberty could coexist was to pit ambition against ambition.

Thus, in the final analysis, relying on the basic principle of government by checks and balances is the only way to restore the confidence in our intelligence agencies so they can get on with their basic and vital job.

In considering this question of confidence, I am reminded of Thomas Jefferson's clear exposition on the issue and how it relates to the preservation of democracy. In the Kentucky Resolution of 1798, he said:

It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is every where the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited Constitution to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go.

It seems to me that is essentially the direction in which we must consider the report of the Rockefeller Commission and with which we must approach the task of dealing with the transgressions of intelligence collecting agencies in our society over the past several years.

DETERMINATION OF SENATE ELECTION IN NEW HAMPSHIRE

THE PRESIDING OFFICER (Mr. GARY W. HART). Under the previous order, the Senate will now resume the consideration of Senate Resolution 166, which the clerk will state.

The assistant legislative clerk read as follows:

A resolution (S. Res. 166) relating to the determination of the contested election for