

UNITED STATES



OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 94<sup>th</sup> CONGRESS  
SECOND SESSION

VOLUME 122—PART 12

MAY 17, 1976 TO MAY 24, 1976

(PAGES 14041 TO 15250)

ers to work in the agents' behalf, before the defense department's nationwide intelligence collection effort was declared to have been ended in 1971.

In an effort reminiscent of, but narrower in scope than the "Cointelpro" domestic counter-intelligence programs of the Federal Bureau of Investigation, military officers and enlisted men also set out to harass and disrupt attempts of some antiwar groups to organize public demonstrations, the report said.

Among the individuals on whom the army maintained intelligence files, it added, were Dr. King; the late Whitney M. Young, head of the National Urban League; Julian Bond, the Georgia State legislator; Arlo Guthrie and Joan Baez, folksingers; Dr. Benjamin Spock, the child care specialist and antiwar activist; and Senator Adlai E. Stevenson 3d, democrat of Illinois.

#### "WORST INTRUSION"

The experience of the late 1960's which the committee staff termed "the most intrusion that military intelligence has ever made into the civilian community," resulted in the issuance of new Defense Department directives that presumably eliminated some intelligence activities against United States citizens and sharply curtailed others.

The Senate report pointed out, however, that the 1971 restrictions, while barring the collection of intelligence about individuals "unaffiliated" with the military, excepted from that prohibition individuals or groups that the Pentagon considered "threats" to its operations or security.

Although the committee staff said it had found very few apparent violations of the 1971 directive, it pointed out that the directive was an administrative one, and that "no matter how effective it may have been in the past, the directive can be rescinded or changed at the direction of the Secretary of Defense."

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### ORDER TO VITIATE ORDER FOR VOTE ON CLOTURE PETITION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for a vote on a petition of cloture to occur tomorrow be vitiated.

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

#### TIME LIMITATION AGREEMENTS—SENATE RESOLUTION 400

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the amendment to be offered by Senators TOWER, STENNIS, and THURMOND, there be a time limitation of not to exceed 4 hours, the time to be equally divided between the sponsor of the amendment and the manager of the bill; that on one of the Taft amendments, there be a time limitation of not to exceed 2 hours, the time to be equally divided between the Senator from Ohio and the manager of the bill; that on all other amendments, there be a

period of not to exceed 1 hour, with the time to be equally divided between the sponsors of the amendment and the manager of the bill; and that on the resolution itself, there be a time limitation of 4 hours under the usual rules of procedure, the time to start immediately.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, the vote on the cloture petition has been vitiated?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, as the majority leader knows, the entire Illinois delegation will be at Arlington Memorial Cemetery tomorrow for a period of about 2 hours. Will it be possible to have no vote scheduled during that period, and if debate has been finished, that votes be set aside until, say 4 o'clock tomorrow?

Mr. MANSFIELD. We shall pile up the votes, if need be, in view of the sad circumstance involved.

Mr. RIBICOFF subsequently said. Mr. President, I ask unanimous consent that under the previous consent agreement on S. 400, all motions, appeals, points of order, be limited to 20 minutes, equally divided.

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

The text of the agreement is as follows:

*Ordered*, That during the consideration of S. Res. 400 (Order No. 728), a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, debate on any amendment (except an amendment by Senators Tower, Stennis, and Thurmond, on which there shall be 4 hours debate, and an amendment by Senator Taft, on which there shall be 2 hours debate) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the resolution, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution; *Provided*, That in the event the manager of the resolution is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee; *Provided further*, That no amendment that is not germane to the provisions of the said resolution shall be received.

*Ordered further*, That on the question of agreeing to the said resolution, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Majority and Minority Leaders, or their designees; *Provided*, That the Senators, or either of them, may, from the time under their control on agreeing to the said resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

#### ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, on my own initiative, I ask unanimous con-

sent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning; and that no later than the hour of 11 o'clock tomorrow morning, the Senate will return to the pending business.

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

Mr. MONDALE. Mr. President, I wish to speak to the pending Stennis-Tower amendment.

The PRESIDING OFFICER. Will the Senator from Minnesota suspend?

Who yields time?

Mr. MONDALE. Mr. President, I ask the distinguished floor manager if he will yield to me such time as I may require—15 minutes?

Mr. RIBICOFF. I am pleased to yield 15 minutes to the Senator from Minnesota.

#### PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MONDALE. Mr. President, the Stennis-Tower amendment would delete from the jurisdiction of the oversight committee which we seek to create approximately 80 percent of the Nation's intelligence budget. The overwhelming proportion of the activities of this Nation in the intelligence field would be outside the jurisdiction of the new committee. The amendment proposes to delete from the jurisdiction of the new committee all of the Defense intelligence activity. That would mean the Defense Intelligence Agency, the National Security Agency, and joint programs with the CIA. It seems to me that the arguments for turning that amendment down and including these activities within the jurisdiction of the new committee under the terms of the Cannon resolution are overwhelming. First of all, the abuses that we have uncovered in the 15 months of the work of our committee have shown that there have been as many abuses committed by these agencies as by the agencies that would remain within the jurisdiction of the new committee, the CIA and the FBI.

The DIA played a role in covert action. One of the classic examples of misguided, counterproductive, and, I think, inexcusable covert actions that we found was so-called Track 2 in Chile. Track 2 was the strategy ordered personally by the President, under instructions to go around the institutions that exist for intelligence decisions in this country, and the CIA going directly to the DIA operatives in Chile. The idea behind Track 2 was, stripped to its essentials, to depose Mr. Allende, who was the duly elected President of Chile. One of the things that was decided in Track 2 was that a General Schneider, who was a constitutionalist and therefore refused to cooperate in the attempt to overthrow President Allende by a coup to be removed because he insisted on complying with the constitutional requirements of

the government that he took an oath of office to uphold.

Of course that effort, although we had not intended it that way, led indirectly to the assassination of General Schneider because, while being abducted, General Schneider was assassinated.

That one example, it seems to me, stands as a classic example of a misguided, poorly conceived, immoral and counterproductive tactic of the kind that shames this country. It is counterproductive in terms of our relationship not only with Chile, where it led our responsibility indirectly for the present repressive and terrorist administration which runs Chile, but also it has humiliated us in the eyes of Latin America.

Another agency that would be exempt under the proposed amendment is NSA, the National Security Agency. There was a separate report put out by our committee on the activities of NSA. It was this agency that had a watch list on 1,600 innocent Americans, and established an operation called "Shamrock," which read all of the cable traffic out of the city of New York, none of it complying with the requirement for a court warrant.

Mr. President, in addition to the report put out by the committee, there was in this Sunday's New York Times Magazine an article entitled "Big Ear or Big Brother?" by David Kahn, spelling out the broad range of abuses interfering with constitutional and legal rights of the American people conducted for several years and with practically no limits whatsoever by the National Security Agency.

I ask unanimous consent that that article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The New York Times Magazine  
May 16, 1976]

#### BIG EAR OR BIG BROTHER?

(NOTE.—David Kahn, assistant professor of journalism at New York University, is the author of "The Codebreakers.")

(By David Kahn)

Room 6510 at the State Department is a warren of windowless offices with a special cipher lock on the door. Scrambler teletype-writers, shielded by special walls so that none of their radiation can escape, tick out a stream of material. Another door bars an inner area to all but perhaps 5 percent of the officials at State. This is the LDX room—long-distance Xerox. Here, the scourgings of the globe's electronic environment flood in.

The environment is heavy with traffic—the *didahdidah* of Soviet Army radiograms in code or in clear; the buzzings of foreign air-defense radars; the whines of high-speed radio-teletypewriter circuits carrying diplomatic dispatches; the bleeps of missile telemetry; the hums of the computer-data links of multinational corporations; the plain language of ordinary radio messages; the chiming sing-song of scrambled speech. Moving on these varied channels may be Soviet orders to transfer a regiment from one post to another; Chinese Air Force pilots complaining during a practice fight about deficiencies in their equipment; Saudi Arabian diplomats reporting home from a meeting of OPEC. Tens of thousands of such messages are intercepted daily around the world and beamed to a complex at Fort

Meade, Md., for decoding and relaying to the State Department and, simultaneously, to the White House, the Defense Department and the C.I.A.

The tall, bespectacled Air Force general sat down behind a table in the high, colonnaded Caucus Room of the Old Senate Office Building. Television focused its dazzling lights upon him and recorded his gestures. Two business-suited aides pulled up their chairs on either side of him. Before him sat the members of the Senate's Select Committee on Intelligence. A gavel banged, and the hearing began.

In appearance, the event resembled the start of thousands of Congressional hearings. What distinguished this one, last Oct. 29, was that, for the first time, the head of the largest and most secretive of all American intelligence organs had emerged from obscurity to describe some of his agency's work and respond to charges that it had invaded Americans' privacy. The big officer was Lieut. Gen. Lew Allen Jr., current director of the National Security Agency. N.S.A. is America's phantom ear. And sometimes it has eavesdropped on the wrong things.

In addition to sucking up and disgorging its daily load of intercepts from abroad, the N.S.A. had improperly eavesdropped on the conversations of many Americans, such as the antiwar protesters Benjamin Spock and Jane Fonda and the Rev. Ralph Abernathy, successor to Dr. Martin Luther King Jr., current director of the National Bureau of Narcotics and Dangerous Drugs and other Government agencies, its vast technological capabilities had invaded the domestic field, which they were never intended to do. The committee wanted to know about an N.S.A. activity dubbed the "watch list."

General Allen testified that, in the early 60's, domestic law-enforcement agencies asked the N.S.A. for information on American citizens traveling to Cuba. The assignment, he said, was reviewed by "competent external authority"—two Attorneys General and a Secretary of Defense. All approved it, and the idea of using the N.S.A. for such purposes spread rapidly through the Government. The drug bureau submitted the names of 450 Americans and 3,000 foreigners whose communications it wanted the N.S.A. to watch. The F.B.I. put in a list of more than 1,000 American and 1,700 foreign individuals and groups. The Central Intelligence Agency, the Defense Department and the Secret Service also submitted watch lists. Altogether, General Allen said, some 1,650 American names were on the lists, and the N.S.A. issued about 3,900 reports on them.

But all this is over, he said; he personally abolished the "watch list" when he took over the agency in 1973.

The general's assurance did little to overcome the committee's overall concern—and that of many other Americans. For both prior to and since that hearing, disclosures in Congress and elsewhere have indicated a multifaceted practice of using the N.S.A. in ways that threaten American freedoms. For instance:

The N.S.A. persuaded three major cable companies to turn over to it much of their traffic overseas. It was partly through this operation, code-named Shamrock, that the N.S.A. complied with the "watch list" assignment. At one office, the N.S.A. man would show up between 5 A.M. and 6 A.M., pick up the foreign messages sorted out for him by company employees (who were said to have been paid \$50 a week for their cooperation), microfilm them and hand them back. When messages began to move on tape, the N.S.A. got them in that form. The agency took some 150,000 messages a month, 90 percent of them in New York, and thousands of these were distributed to other Government bodies. Congress got wind of Shamrock, how-

ever, and a year ago, after 28 years and millions of private telegrams, Secretary of Defense James R. Schlesinger had to terminate the operation.

A previous N.S.A. director, co-signed the notorious plan of White House aide Tom C. Huston to penetrate organizations considered security threats by the Nixon Administration. The agency furnished Huston with several suggestions; one of them seems to have been to let the N.S.A. eavesdrop on domestic American communications. Huston conceded that the plan would use "clearly illegal" techniques. But the N.S.A. has acknowledged that it "didn't consider . . . at the time" whether its proposal was legal or not. The Huston plan was never implemented, but, said the Senate Watergate Committee, the "memorandum indicates that the N.S.A. D.I.A. (Defense Intelligence Agency), C.I.A. and the military services basically supported the Huston recommendations."

Former President Nixon acknowledged in a recent deposition to the Senate Intelligence Committee that he had used the N.S.A. to intercept American nonvoice communications. He said he wanted to discover the source of leaks from the staffs of the National Security Council and the Joint Chiefs of Staff.

The agency is said to have passed reports on what prominent Americans were doing and saying abroad directly to Presidents Johnson, and Nixon. Once, for example, the agency informed Johnson that a group of Texas businessmen involved in private negotiations in the Middle East had claimed a close relationship with him to improve their bargaining position.

Two Stanford University computer scientists have recently accused the N.S.A. of promoting its own interests at the expense of the public's in a standard cipher proposed by the Government for computer networks. At issue is the key that would afford secrecy between pairs of users. The scientists accuse the N.S.A. of maneuvering to get industry to accept a key that, while too complex for rival businesses to try to solve would be susceptible of cracking by the N.S.A.'s superior capabilities. That would permit the agency to raid the economic data flowing into the computer network, and to penetrate personal-data files enciphered for security.

In the whole area of economic intelligence, N.S.A. interception has been developing rapidly. The House Intelligence Committee, in its report, expressed concern over the resultant "intrusion . . . into the privacy of international communications of U.S. citizens and organizations."

At the root of General Allen's appearance before the Senate Intelligence Committee, and of the entire Congressional investigation of the N.S.A., lay the question: Who authorized these abuses? What was there about the agency's legal basis that permitted it to invade privacy at the request of other Government agencies—and with so little qualm? Was the final authority the President's—and, in that case, was he not armed with powers to play Big Brother beyond the worst imaginings of the recent past?

"[The N.S.A.'s] capability to monitor anything . . . could be turned around on the American people," said the committee's chairman, Senator Frank Church. "And no American would have any privacy left. There would be no place to hide. If a dictator ever took charge in this country, the technological capability that the intelligence community has given the Government could enable it to impose total tyranny."

How essential to the nation's security is the National Security Agency? How can a balance be struck between the legitimate needs it serves and the freedoms it has shown itself capable of undermining? How did the whole problem originate?

Signals intelligence reaches back in America to the founding days of the Republic. But it matured only in World War I, with the widespread use of radio. During World War II, it became the nation's most important means of gathering secret information. When the Iron Curtain clanged down, the United States wanted to preserve these extraordinary capabilities. In 1952, President Truman issued a directive transforming the Armed Forces Security Agency, the inter-service arm for signal intelligence, into the National Security Agency, serving all branches of government.

Therein lay the first pitfall. Unlike the C.I.A., in which all intelligence functions were centralized in 1947, the N.S.A. was not formed by act of Congress, with a legislative charter defining the limits of its mission. The cryptologic empire has only a Presidential directive as its legal base. So shadowy has been the N.S.A.'s existence, however, that the text of the seven-page directive has never been made public.

This obsession with secrecy is well reflected by the agency's headquarters. At the edge of Fort Meade, just off the Washington-Baltimore Parkway, it is ringed by a double chain-link fence topped by barbed wire with six strands of electrified wire between them. Marines guard the four gates. Inside lie a modern, three-story square-A-shaped structure and, within its arms, a boxy nine-story building. From the latter, in particular, emanates a chill impersonality, quite different from the flashiness of C.I.A. headquarters in McLean, Va. Topped by a frieze of antennas, the only sign of life a plume of white steam rising from the roof, the afternoon sun gleaming off its glassy facade, it stares bleakly south, toward Washington, the White House, and the centers of national power.

All around sprawl the vast macadam parking lots for the 20,000 employees who work there. They have passed some of the most rigorous security tests in the Government, but they may be fired merely on a suspicion. They are enjoined from talking even to their spouses about their work. And inside the building they are physically restricted as well. The colored badge each of them wears tells the patrolling Marine guards into which areas they may and may not go.

Their work is of two kinds. Some of them protect American communications. They devise cryptosystems. They contract for cipher machines, sometimes imposing performance standards so high and tolerances so close that suppliers quit in despair. They promulgate cryptologic doctrine to ensure that the procedures of, say, the State Department do not compromise the messages of Defense. But the main job is SIGINT—signal intelligence—listening in. To do all its work, the N.S.A. alone spends about \$1 billion a year. The agency also disposes of about 80,000 servicemen and civilians around the world, who serve in the cryptologic agencies of the Army, Navy and Air Force but stand under N.S.A. control, and if these agencies and other collateral costs are included, the total spent could well amount to \$15 billion.

The N.S.A.'s place on the organizational chart is ambiguous: It is "within but not a part of" the Defense Department. The Secretary of Defense merely serves as the "executive agent" of the President in carrying out the functions assigned to the agency. It is not subordinate to the C.I.A., but its director sits on the United States Intelligence Board, the intelligence community's steering committee, whose chairman is the Director of Central Intelligence—the C.I.A. chief. The N.S.A. director is always a three-star general or admiral. (The deputy director must be a career cryptologist.) The President appoints the director, rotating among the three services, which get 85 percent of its output. The seven directors before General Allen held the job for an average of three and a half years each.

The agency's orders—Truman's 1952 directive—are to "obtain foreign intelligence from foreign communications or foreign electronic signals," General Allen is said to have told the House Intelligence Committee. The agency can be remarkably successful.

"Most collection agencies give us history. The N.S.A. is giving us the present," said Lieut. Gen. Daniel O. Graham, a former head of the Pentagon's Defense Intelligence Agency (D.I.A.). "Spies take too long to get information to you, [satellite] photographs as well. N.S.A. is intercepting things as they happen. N.S.A. will tell you, 'They're about to launch a missile. . . . The missile is launched' We know in five minutes that a missile has been launched. This kind of intelligence is critical to the warning business."

During the Strategic Arms Limitation Talks (SALT) of 1972, the N.S.A. reported on the precise Soviet negotiating position and on the Russian worries. "It was absolutely critical stuff," said one high intelligence officer. The information was passed back quickly to the American diplomats, who maneuvered with it so effectively that they came home with the agreement not to build an antiballistic missile defense system. "That's the sort of thing that pays N.S.A.'s wages for a year," the officer said.

In 1973, large antennas appeared in satellite photographs of Somalia, which lies east of Ethiopia on the Indian Ocean. They looked like Soviet models. But not until the N.S.A. had learned where the antennas' signals were going to and coming from was the Government certain that the Russians, who had been kicked out of Egypt, had moved their military advisers into Somalia in force and were controlling their warships in the Indian Ocean from there.

Examples like these made General Allen's task a little easier when he appeared before the Senate Intelligence Committee. Senator Walter F. Mondale, the Minnesota liberal, told the general, "The performance of your staff and yourself before the committee is perhaps the most impressive presentation that we have had. And I consider your agency and your work to be possibly the single most important source of intelligence for this nation."

Senator Church concurred. "We have a romantic attachment to the days of Mata Hari that dies very hard. The public has the impression that spies are the most important source of information, but that is definitely not so. The more authoritarian the Government being penetrated, the less reliable the information derived from secret agents. In the Soviet Union and other Communist countries, the penetrations are likely to be short-lived and the information limited. But information obtainable through technical means constitutes the largest body of intelligence available to us, except by overt means."

And, he might have added, the most reliable. It is free of the suspicion that blights a spy's reports: Is he a double agent? Photographs from satellites also provide data as hard as can be, but, as Schlesinger once remarked, "nobody has ever been able to photograph intentions."

On the other hand, communications intelligence is far more easily jeopardized than other forms of information gathering. If a Government merely suspects that its communications are compromised, it does not have to hunt down any spies or traitors—it can simply change codes. And this will cut off information not from just one man but from a whole network. That is why the Government is so hypersensitive to any public mention of the N.S.A.'s work. When President Ford last September refused to send classified material to the House Intelligence Committee after it made public four apparently innocuous words—"and greater communications security"—it was because of fears that

the words would reveal to the Egyptians, to whom they referred, that the United States had pierced deeply enough into their communications to detect important changes. When last February he invoked executive privilege for private firms to keep them from furnishing information to a House committee looking into Government interception of private telegraph and teletypewriter messages, it was also for fear of compromising N.S.A. procedures.

In doing its work, the agency doesn't just tune up its receivers and go out hunting for codes to break. It gets its assignments from other elements of the Government. They tell the United States Intelligence Board what information they need that the N.S.A. can probably provide. After board approval, the Director of Central Intelligence levies the requirements upon the N.S.A. Typical assignments might be to locate and keep track of all the divisions of the Chinese Army, to determine the range and trajectory of Soviet ICBMs, to ascertain the characteristics of radars around East Berlin. In all of these, the first step is to seek out the relevant foreign transmissions.

Some of the intercepts come from N.S.A. teams in American embassies. The team in Moscow has been spectacularly successful—at least before the Russians began flooding the building with low-intensity microwave radiation. It had picked up the conversations between Soviet leaders in their radiotelephone-equipped automobiles and other officials in the Kremlin.

More intercepts come from special satellites in space called "ferrets." Swinging silently over the broad steppes and scattered cities of the Communist world, or floating permanently above the golden deserts and strategic gulfs of the Middle East, these giant squat cylinders tape-record every electric whisper on their target frequencies. These they spew out upon command to American ground stations.

Most radio intercepts come from manned intercept posts. Some of these are airborne. The Air Force patrols the edges of the Communist bloc with radio reconnaissance airplanes, such as the supersonic SR-71, the EC-135, and the EC-121, which carries a crew of 30 and six tons of electronic equipment. These planes concentrate not on communications intelligence (COMINT) but on the second branch of signals intelligence—electronics intelligence, or ELINT.

ELINT plays an important role in modern war. Suppose the Air Force were to send a bomber force against Moscow, Soviet radars would detect, the force and report its range, direction and speed, enabling their fighters to attack. To delay this, the Americans would have to jam the radars, or "spoo" them—i.e., emit counterfeit pulses that would indicate a false position and speed for the bombers. But to do this, the Air Force would first have to know the frequency, pulse rate, wave form and other characteristics of the Russian radars. That explains why, in fiscal 1974, according to a report of the Center for National Security Studies in Washington, the Air Force flew at least 38,000 hours of ELINT flights—better than a hundred hours a day—dissecting radar signals with oscilloscopes and other electronic means. The game is not without its risks. No nation leaves all its radars turned on all the time. So the planes sometimes dart toward the country's territory. They hope the target will turn on its more secret radars. The danger, particularly at a time of international tension, is that the target will take the tease for the real thing and start World War III.

Other N.S.A.-directed posts lurk in the depths of the sea, aboard submarines in the Navy's Holystone program. This seeks, among other things, to "fingerprint" the acoustics of Soviet missile submarines. Aboard the Holystone submarine Gato, when it collided

with a Russian sub in the Barents Sea in 1969, were eight sailors working for the Navy's N.S.A.-related security group. The Navy also used to have nine noncombatant surface ships collecting signal intelligence. But after the Liberty was strafed by Israeli forces during the Six-Day War of 1967 and the Pueblo was captured by the North Koreans, it decommissioned this mode.

The vast majority of the manned posts are fixed on the ground. They ring the Soviet Union and China—clusters of low huts huddling on a dusty plain or in the foothills of some remote Karakoram. In Turkey, they nestle close to the Russian underbelly. The post at the Black Sea port of Sinop—the ancient Sinope, which centuries ago colonized the shores of the Euxine—strains to hear Soviet voices. At Okinawa, the antenna field cobwebs a mountainside.

But much of the interception is done by servicemen. Earphones clamped to their heads, they hear the staccato of Russian Morse: One Soviet Army post reports the movement of half a dozen trucks to another. Other messages are in cipher. On a voice circuit, soldiers can be heard talking on maneuvers.

During moments of tension, the routine changes. Transmitters will vanish from their usual points on the dial. Station call signs will cease following their normal pattern of changes. Yet this is when information is most needed. The monitors hunch over their radio sets as they hunt up and down the frequency spectrum for their target transmitter. They can recognize him by peculiarities in sending or by the tone of his transmitter. One may sound like dowdy-dowdow, another like doodee-doodee. One may sound as if he's sending from inside a can; another may let his frequency slide up two or three kilohertz during a message.

They type out their intercepts on four-ply carbon paper and pass them back to the analysts. These men graph message routing to deduce organizational relationships. They monitor traffic volume for an upsurge that might indicate unusual activity. They extract from the message content indications of equipment capabilities, unit morale, names and characteristics of commanders. And they send the messages in cipher back to the cryptanalysts.

These are the aces, the shamans, of the communications intelligence business. They are the descendants of the ruffed divines and mathematicians who broke codes in curtained, candle-lit black chambers to further the grand designs of their absolute monarchs. The N.S.A.'s modern Merlins work in large open spaces filled with rows of gray steel desks. They pore over green-striped sheets, tap on computer terminals print letters with colored pencils in rows and columns on cross-ruled paper, sip coffee, confer. Their successes become the agency's most jealously guarded secrets.

They succeed, however, mainly with the ciphers of third-world countries and with the lower-level ciphers of major powers. Underdeveloped nations have neither the money nor the expertise to secure their messages from American—and Russian—exposure. Anyhow, they mainly want to keep things secret from their neighbors—Pakistan from India, Egypt from Israel, Argentina from Chile. So they buy commercially available cipher machines. But N.S.A. cryptanalysts, backed up by probably the largest concentration of computers under one roof in the world, some of them perhaps a generation or two ahead of any others in existence, can often beat these.

The major powers, on the other hand, use machines to generate ciphers so strong that, even given a cryptogram and its plaintext, and all the world's computers of this and the next generation, a cryptanalyst would need centuries to reconstruct the cryptosystem and use the reconstruction to read the

next message. The N.S.A., in other words, cannot get the most desirable communications intelligence—the high-level messages of the Soviet Union and Communist China. (The SALT coup was partly the result of a Soviet enciphering error.) Worse, the area in which cryptanalysts may expect success is shrinking. The main reason is the declining cost of computation. This is falling by 50 percent every five years; the most obvious example is the price of pocket calculators. For the same amount of money as it spent five years ago, a nation can buy a cipher machine today with double the coding capacity. But doubling the coding capacity squares the number of trials the cryptanalyst has to make. Very quickly this work rises beyond practical limits.

So the N.S.A. asks for help. The F.B.I. burglarized embassies in Washington for it. The C.I.A. has subverted code clerks in foreign capitals: It once offered a Cuban in Montevideo \$20,000. In 1966, it bugged an Egyptian code room to pick up the vibrations of the embassy's cipher machine. The N.S.A., which could not cryptanalyze this machine, though it was commercially available, analyzed the recordings, revealing the machine's settings—and hence the messages. The C.I.A.'s most spectacular assist came in 1974, when it spent \$350 million in an unsuccessful secret effort to raise a Soviet submarine from the depths of the Pacific, with missiles and cipher machines intact.

In Room 6510 at the State Department, the intercepts come in on white sheets of paper bearing the heading "To Secretary of State from DIRNSA [Director, N.S.A.]." Several lines of gibberish indicating the distribution are followed by the text of the intercept, unscrambled on the spot. R.C.I. officers (for "research—communications intelligence"), one for each geographic area, insert the new material into fat loose-leaf binders and pull out the old. Once a week or so, the country directors mosey on down to Room 6510 and leaf through the file to keep current with their areas. If something urgent comes in, the R.C.I. officer calls the country director, who comes right down. Daily, an R.C.I. officer conceals the more important intercepts under black covers (the C.I.A.'s color is red) and carries them in a briefcase to the several Assistant Secretaries of State.

Dramatic intercepts are rare. And when they come, they seldom have much impact. Once, an intercept arrived suggesting that a *coup d'état* could take place in a certain country in a matter of hours. It was rushed to U. Alexis Johnson, then Under Secretary of State. He read it, nodded, said, "That's interesting," and handed it back to the R.C.I. officer. There was simply nothing he could do about it.

The vast majority of the intercepts are low-level routine. At State, they deal largely with the minutiae of embassy business, such as foreign messages dealing with Soviet visa requests to foreign governments, reports of foreign ambassadors about meetings with American officials, foreign businessmen's orders. At Defense, they may include foreign ship locations, a reorganization in a Soviet military district, the transfer of a flight of Iranian jets from Teheran to Isfahan. Nearly all come from third-world countries. Usually they are of secondary interest, but sometimes their importance flares: Korea, the Congo, Cuba, Chile. And since these countries are spoken to by the major powers, their messages may carry good clues to the major powers' intentions. (This was another of the sources for the SALT intelligence.)

The quantity is enormous. In part this reflects the soaring increase in communications throughout the world. In part it marks a shift to the more voluminous peripheral sources, such as observing message routings, to compensate for the growing difficulty of cryptanalysis in areas of central interest, such as Russia and China. Unfortunately this

overwhelming volume can stifle results. In late September 1973, just before the start of the Yom Kippur War, "the National Security Agency began picking up clear signs that Egypt and Syria were preparing for a major offensive," the House Intelligence Committee reported. "N.S.A. information indicated that [a major foreign nation] had become extremely sensitive to the prospect of war and concerned about their citizens and dependents in Egypt. N.S.A.'s warnings escaped the serious attention of most intelligence analysts responsible for the Middle East."

"The fault," the committee concluded, "may well lie in the system itself. N.S.A. intercepts of Egyptian-Syrian war preparations in this period were so voluminous—an average of hundreds of reports each week—that few analysts had time to digest more than a small portion of them. Even fewer analysts were qualified by technical training to read raw N.S.A. traffic. Costly intercepts had scant impact on estimates."

If N.S.A. failed in this major test, how does it do in its day-to-day operations?

A survey at the State Department showed that most desk officers felt that while the N.S.A. material was not especially helpful, they didn't want to give it up. It made their job a little easier. A former top State Department official was always glad to see the man with the locked briefcase. "I got some good clues on how to deal with various countries," he said, "and I quickly learned which ambassadors I could trust and which not."

At the Defense Department, most officials said they appreciated the help they got from the agency. "D.I.A. relies very heavily on N.S.A.," said General Graham, "because D.I.A. puts out a warning document to American units all over the world and to Washington, and whether the warning lights are green or amber or red comes mostly from the N.S.A."

For policy makers, naturally, the more information the better. But is this marginal advantage worth the billions it costs in a nation that has so many other vital human needs unfulfilled? Put that way, the question poses a false dilemma. The money for health and housing and education can—and should—come from elsewhere. It is on the vastly larger arms budget, on atomic overkill and obsolescent nuclear aircraft carriers, that the nation overspends. Intelligence is far cheaper and usually saves more than it costs. In general, with its record of some failures and some successes, and the incalculable potential value of its sleepless watch around the world, the N.S.A. is worth the money the nation spends on it.

The real question for a nation reappraising its intelligence community is not one of financial priority but of legal basis. There is no statute prohibiting the N.S.A. from activities that encroach on Americans' constitutional rights. In response to criticism, President Ford recently issued an executive order on intelligence that seems to forbid the N.S.A. from intercepting American communications—but also seems to leave a loophole. Even with the best of intentions, however, that cannot be an adequate approach. For what one President can order another—or even the same—President can abrogate or amend.

The final responsibility for all those improper activities by the N.S.A. was, in each case, the President's, even though it remains unclear whether all of them were reported to the Oval Office. That alone should illustrate the hazards of an arrangement under which the powers of an intelligence service derive not from Congress but from the White House. As a basic reform, Congress should replace Truman's 1952 directive with a legislative charter for the N.S.A.

That, in fact, was the view that underlay much of the questioning of General Allen before the Senate Intelligence Committee; and that is the substance of the recommen-

dations on the N.S.A. contained in the committee's recent report on the intelligence establishment as a whole. "The committee finds," said the report, "that there is a compelling need for an N.S.A. charter to spell out limitations which will protect individual constitutional rights without impairing N.S.A.'s necessary foreign intelligence mission." The committee also made specific recommendations designed to prevent a repetition of the known abuses of the past.

The House Intelligence Committee, in its own report, came to the same basic conclusion, declaring that "the existence of the National Security Agency should be recognized by specific legislation," which should "define the role of N.S.A. with reference to the monitoring of communications of Americans."

There is no question that the National Security Agency, in the words of the Senate committee report, is "vital to American security." In fact, in this nuclear age, when danger-fraught situations can be best handled with knowledge about the "other side," and when many international agreements, such as SALT, are dependent on, say, America's ability to verify Soviet compliance by its own technical means, N.S.A. intelligence, like all intelligence, can be a stabilizing factor in the world.

There is also no question that we need a new statute. No law can guarantee prevention of abuses, especially if lawlessness is condoned in the higher echelons of government, and the C.I.A.'s charter did not prevent that agency from overstepping its bounds. But a gap in the law is an invitation to abuse. An institutionalized mechanism to seek out violations and punish the guilty can best deter the sort of intrusion that so many Americans fear—and that destroys the very freedom the N.S.A. was created to protect.

Mr. MONDALE. Next, Army Counterintelligence, which would be another agency exempt under this pending amendment, was found spying on innocent Americans, bugging, tapping, and illegally opening mail. That record is also spelled out in the reports of our committee. Some of the early pioneering work in the area of intelligence abuse came as a result of the hearings before Senator Ervin on the Constitutional Rights Subcommittee relating to the abuses of the Army Intelligence Agency against innocent Americans. Thus there is a very rich and broad record that demonstrates that abuse has occurred within the authority and under the jurisdiction of Army intelligence.

Next, the military has provided the backbone for the major paramilitary activities. These are activities which have been carried on in Laos, the Bay of Pigs, in which an attempt is made to suggest that it is not direct U.S. military intervention but which, in fact, have been under our control and direction, often U.S.-trained military personnel who have been, in the jargon of the business, "sheep-dipped." They have been clandestine in their outward marks, but they are, in fact, U.S. military personnel involved in those activities.

Those paramilitary activities occurred outside the Constitution. If you read the Constitution and the declaration-of-war powers contained therein you will find no exception in there permitting military activities run and conducted by the United States except through a declaration of war, and there is no exception in there for such activities if you call them paramilitary. If you did, of course, there

would be no constitutional protections at all. This is another area of abuse, another area of major significance that would be beyond reach of this oversight committee if this amendment is adopted.

The military clandestine intelligence activities are supervised by the CIA. Only half of what the CIA spends comes from its own appropriations. The other half comes out of defense appropriations through transfers or advances, and thus if you controlled only the CIA it would be a simple matter to shift intelligence operations, covert operations, dirty tricks, into agencies not under the jurisdiction of this oversight committee.

Anything the CIA does or the FBI does the military can do and has done. You either have to oversee all of them or, in all likelihood, we will not have had restrained what we are seeking to restrain.

Finally, let us look at the Huston report. The Huston report or the Huston plan is probably the most classic official document of lawlessness ever prepared and signed off by high officers in the history of America. It was approved by the President, it was approved by representatives of every intelligence agency in the Federal Government. On its face it sanctioned a broad range of illegal and unconstitutional activities: reading mail without a court's warrant, contrary to law; black bag jobs; breaking and entering the homes of American citizens, contrary to the fourth amendment; tax returns and a whole range of activities that we have revealed and which were to be officially sanctioned by Presidential private plan, the Huston plan. The reason I raise this point is that a majority of the participants in the committee, who prepared that plan, were representatives of the military agencies, the DIA, the NSA, Army Intelligence, Navy Intelligence, Air Force Intelligence. Each had a representative on the committee that prepared the Huston plan.

So if what we are trying to do here is designed to try to prevent the recurrence of abuses that threaten American democracy and threaten the accountability for U.S. foreign policy to Congress and to our constitutional system, then the argument is overwhelming that these agencies must be included within the jurisdiction of this new oversight committee.

Moreover, the reason for the oversight committee is not simply to prevent abuses, as important as that is, but to assure that these agencies are acting effectively to defend us. The record is replete with failures on the part of these agencies to effectively defend our interests. For years the CIA and the FBI did not talk to each other at top levels, risking this Nation's defense because of the petty personal disputes. No one knew about it because there was no oversight.

For years there has been private talks within the Defense Department about the effectiveness of the DIA on which we spend millions and millions of dollars. The Murphy Commission recommended that it be terminated; the House committee, after studying it, recommended that it be terminated, and we understand there is a good deal of private talk in the Defense Department toward that same

end, because it has not proven to be as effective and to serve the purpose it was supposed to serve in helping to protect this country.

For many years there was a paranoid attitude in the CIA that viewed possible agents that we could work with or possible leads as all plants presented by the Russians. Maybe and undoubtedly many of them were, but not all of them, and very few of these leads were pursued.

That shows, in my opinion, the need for oversight not only to prevent abuses but to make certain that these agencies are performing effectively to defend our country against real dangers.

If we do not have oversight of the military agencies, I think we have largely failed—largely failed in our effort.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Who yields time?

Mr. MONDALE. May I have 5 more minutes?

The PRESIDING OFFICER. The Senator is recognized for 5 more minutes.

Mr. MONDALE. It seems to me that there are three or four fundamental principles that justify and demand oversight of all of these agencies.

First of all, if there is one thing we have learned from this long study, it is that we must be very concerned about how human nature works when we clothe people with secret power, particularly with great secret power. If we are not careful, it will almost inevitably lead to abuse.

Recently, the Director of the Bureau, Mr. Kelley, said, "Well, the real problem is that in Hoover's twilight years he was acting foolishly," and I think that is true. But I do not think the villain theory answers our question because many of these things occurred before Mr. Hoover's twilight years. They were committed by many people in the Bureau and in these other agencies, other than Mr. Hoover.

Mr. Hoover does not explain the CIA; he does not explain the DIA; he had nothing to do directly with assassinations. Many of the abuses that we have seen here were not the contribution of Mr. Hoover.

Mr. Hoover had little or nothing to do with the "Palmer Raids" in World War II.

What we have seen, if we look at the history of secret intelligence agencies, is that if we are not careful and if we do not have oversight, we can expect, based on the record, that human nature is such that those who wield this power will find it very hard to restrain themselves from abusing it. It is hard to refuse to play God when we have the right to do it outside the law and protected by censorship.

That is why, above all, we need what Madison once called auxiliary precautions.

I do not think it is any insult to those now running these agencies to say that we need that oversight and that we cannot accept their argument that, "we are different people than those other people who did wrong, but we don't do wrong."

I do not think that answers the question. I do not think the experience and history justifies it.

I often like to quote Madison's Fed-

eralist Paper No. 51, which I think underscores the need for what he called "auxiliary precautions."

He said this:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

and that he said

Experience has taught mankind the necessity of auxiliary precautions.

I think that is what this record shows: experience has taught us that we need auxiliary precautions against abuse, particularly the abuse of power in the intelligence field which, by necessity, operates in secret.

Secrecy, yes. Unaccountability, no. That is why we simply must have full jurisdiction in this oversight committee.

It seems to me that, when we strip the arguments down to their essentials, what many people are really arguing in these agencies is that this Nation cannot defend itself unless it can do so with the protection of the censorship and unless it can from time to time proceed illegally. In other words, in order to defend this country, it is necessary to do something that the framers of this country found abhorrent, namely, to have censorship—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MONDALE. May I have 5 more minutes, please?

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Yes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MONDALE. So that we can proceed with secrecy and protect ourselves from the Congress, from the American people, and, second, to have the right to act illegally and in violation of the rights of the American people from time to time in order to defend this country from its real dangers.

I say that is their essential argument, when we get down to it, and certainly the record will demonstrate that time and time again they said almost exactly that, because that would be the only reason for saying that they should have the right to operate in secret and beyond the reach of the Congress.

Why do they want that right if they are operating legally and responsibly? What is their fear?

I think the fear is that it would deny them this broad freedom they have had to pursue whatever course they wanted, no matter how illegal or disruptive of constitutional rights it should be.

What we found, if we found anything, is that this Nation can defend itself fully and effectively, as it has for 200 years, within the law.

For some months we have looked through the FBI files; we asked them which dangers they wanted to defend us from. We did not look at logic, we did not look at theory, we looked at real life, and we found out that this Nation can

clearly defend itself within the law and within the Constitution from every threat to this country, terrorists, bombers, foreign spies, rioters, civil unrest. We can do all that within the Constitution and within the law.

I want to know what right any of us have, those of us who have taken the oath to uphold the Constitution of the United States, to grant authority to anyone, the President or anyone in his behalf, or ourselves, to take the law into his own hands and in secret and in that fact threaten the constitutional rights and the constitutional system of this Nation.

It is not necessary and it is the most dangerous thing that this Nation can do.

If our study has concluded anything, it is this, that those framers of our Constitution nearly 200 years ago came up with a document that was shrewd and profound in terms of how human nature worked, but shrewd and profound in terms of giving us the full authority we needed, the power we needed to protect us from our dangers at home and abroad, and at the same time to restrain the hand of Government. Because we do not want to go beyond that line, beyond enforcing the law to interfering in the political rights and freedoms of the American people.

It is the most sacred and important line drawn in the Constitution. I cannot think of anything better that we could do to celebrate this Bicentennial and more meaningful than to say that 200 years later we agreed that line is right and that in the face of this record we are going to insist that these agencies observe the law and to make certain they obey it, that they are going to have to report their activities to this Congress, all of them.

Mr. President, I yield the floor.

#### INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, in order to keep the calendar clear and to take only a few minutes of the Senate's time, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 776, S. 3420.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3420) to authorize appropriations to the International Trade Commission.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CURTIS. Mr. President, I fully support S. 3420 which provides budget authorization for the United States Trade Commission. The Finance Committee has approved the amount requested by the Commission for fiscal year 1977 and 1978, and I would like to briefly explain the need for this level of funding.

The Trade Act of 1974 has placed increased responsibilities on the Commission. For example, in fiscal year 1975, about one-third of all Commission resources were devoted to the development of advice to the President on the prob-

able economic effect of trade concessions. Additional work in this area has been necessary this year and more is expected as negotiations proceed. Undoubtedly, the Commission will be asked to furnish additional support to U.S. representatives as negotiations intensify in fiscal year 1977. The new escape clause criteria have resulted in a total of 14 industry investigations in less than a year since the Trade Act's effective date, compared to a total of only 1 such investigation initiated in the previous 21 months. Intensive efforts are being devoted to completion of unfair import practice investigations under the new rules and time limits established by the Trade Act of 1974.

Mr. President, the Commission's present efforts, such as its recent advice to the President on the probable effect of tariff concessions and the generalized system of preferences, its reports on East-West trade, its studies of international commodity agreements and the United States-Canadian automotive agreement, and its series on the competitiveness of the United States and other major trading countries, have greatly impressed the members of the Committee on Finance.

Further, as the multilateral trade negotiations proceed in Geneva the Commission will play an increasingly important role regarding the economic impact of proposed tradeoffs and the Commission must be adequately staffed to carry out this important task.

Mr. President, it is essential that the International Trade Commission remain responsive to the needs of government and the American business community and I strongly urge my colleagues to support S. 3420.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3420

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there are authorized to be appropriated to the International Trade Commission \$11,789,000 to carry out its duties and functions during fiscal year 1977.*

*(b) There are authorized to be appropriated to such Commission \$12,036,000 to carry out its duties and functions during fiscal year 1978.*

*(c) In addition to the amounts authorized under subsections (b) and (c), there are authorized to be appropriated to such Commission such amounts as may be necessary for fiscal years 1977 and 1978 for increases required by law during such fiscal years in salary, pay, retirement, and other employee benefits.*

#### ORDER REFERRING S. 3091 TO COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. TALMADGE. Mr. President, I ask unanimous consent that S. 3091, which was reported on Friday from the Committee on Agriculture and Forestry be re-