UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS
SECOND SESSION

VOLUME 122—PART 3

FEBRUARY 5, 1976 TO FEBRUARY 18, 1976

(PAGES 2463 TO 3714)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1976

Hollingsworth, a Texan and graduate of Texas A. & M. University, will soon retire, ending a career that has spanned a lifetime of military service and been marked by a number of demanding challenges.

As John Saar notes in his excellent account, General Hollingsworth is, at 57, a legend within the U.S. Army. He is a soldier's soldier who first demonstrated his capabilities in defending the Siegfried Line in 1944. His leadership then was as it remains today—complete, deeply respected, and capable of instilling confidence in all whom it touches.

General Hollingsworth's last assignment was perhaps his most difficult. Given command of the strategically vital 1 Corps in South Korea 2½ years ago, General Hollingsworth has molded its 185,000 men into a truly crack outfit, bolstering morale, and giving every confidence that it can adequately defend Seoul from attack. The importance and difficulty of that assignment cannot be overestimated, coming as it did during a time in which South Koreans witnessed massive changes in the balance of forces elsewhere in Asia.

General Hollingsworth has served his Nation well. It has made great demands of him, and he has risen to each challenge. I salute this distinguished Aggie, welcome him home to Texas, and wish him well in his future endeavors.

I call to the attention of my colleagues the Washington Post story and the outstanding service of this great general.

GIFTS AND FAVORS

Mr. GOLDWATER. Mr. President, a great furor has been raised over generals and admirals and a few of our colleagues visiting duck and goose hunting establishments on the eastern shore in Maryland. Last evening I ran across an interesting item that seems to point out that Members of Congress have other favors from the labor unions than just outright money. What I discovered was that on the 3d of March of last year the Railway Clerks Political League paid $1,485.16 to Congressional Liquors for "Christmas gifts to Senators and Congressmen." How many sets of standards do we maintain? One for admirals and generals and then an entirely separate one for ourselves. Think about it.

THE LINK BETWEEN DEFICITS AND INFLATION

Mr. TAFT. Mr. President, we have all been hearing a great deal about the harmful effects of Federal deficits on the national economy. In discussing these deficits, we must keep in mind the state of the economy at the time of the deficit.

Both liberal and conservative economists agree that, in times of recession, a deficit is necessary to stimulate the economy and to bring about a recovery. They also agree that in times of boom a surplus should be run to keep the economy from overheating and developing an inflation. In other words, the budget should be in deficit during recessions, and in surplus during inflation. It is this latter half of the policy that the Federal Government has consistently violated. There is simply no excuse for running a deficit during periods of economic prosperity.

What is the problem of running a deficit during a business expansion? The problem is simply that deficits must be financed. The Government must borrow to cover the excess of expenditures over receipts. When the Government issues bonds to acquire funds, one of two things can happen. First, the Federal Reserve Board, which is in charge of the creation of money and credit in the country, may choose to purchase some of these bonds, or may decide to let the public do all the buying. If the public is to do all the buying, then a portion of the public's savings will go into the purchase of Federal bonds. This means that those savings are not available for the purchase of private bonds, or for the banking system to use to lend to private borrowers.

Thus, investment is reduced, and the economy's growth rate slows. It is only through the use of savings for new mines, farms, factories, roads, and so forth, that the economy can grow, and produce more and better paying jobs for an expanding population. Thus, permanent deficits are a tremendous drag on the economy and severely retard the growth of our standard of living. Although some Federal spending is for investment, such as for highways and dams, the bulk of it goes for consumption, or is transferred to people who have a high propensity to consume, and a low propensity to save. Thus, the larger the Federal budget, the lower is the percent of our national income that is invested for growth.

Alternatively, the Federal Reserve can seek to increase the amount of credit in the system, by purchasing some of the Government bonds. This, too, has its drawbacks. In the previous case, private saving is diverted away from private investment and into the Federal Treasury. Under this latter system, extra money is created, and private consumption and investment are not automatically reduced. There is no obvious transfer of private spending to the Treasury. What happens instead is that total spending in the economy is increased, while the total supply of goods and services has not been changed. This means that more money is chasing the same quantity of output, and this necessitates a price rise. This is the root of an inflation. By eroding the purchasing power of private spending, either for consumption or investment, the Government is able to appropriate some of the goods and services that are being produced.

Thus, we see that there is an unpleasant choice to be had when Government deficits are not made up by Government surpluses in good years. We are faced with the choice of either a drop in investment and growth, when the Federal Reserve does not finance a Federal deficit, or an increase in inflation, when it does finance the deficit by creating money through the purchase of Government bonds.

I believe that the only responsible fiscal policy for the Government to follow is one of deficits during recession, offset by surpluses during booms. In fact, some European nations habitually run surpluses, which they use to increase the rate of investment in their societies. This has made for a much higher growth rate in these countries than we have experienced in the United States. The higher growth rates have produced a rapid increase in standards of living, to the point where at least two European countries, Sweden and Switzerland, now have higher per capita incomes than the United States.

The saddest thing about our current situation is that the answers to these problems are available to us, if only we are not too proud to look around us and learn from the experience of others. I hope that Congress can develop some flexibility in the economic programs it is willing to adopt, and will avoid the pitfalls of deficit spending during the economic expansion which is now underway.

CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE COMMUNITY

Mr. MONDALE. Mr. President, tomorrow the Senate Committee on Government Operations begins its markup of legislation to establish a standing committee on the intelligence activities of the U.S. Government. The issues posed by such legislation are difficult, but they cannot be avoided if the Congress is to fulfill its responsibilities to protect the rights of our citizens and at the same time maintain for the Government a capability to meet our needs for accurate and meaningful intelligence.

I have joined my colleagues on the Select Committee To Study Governmental Operations With Respect to Intelligence Activities in sponsoring S. 2893, a bill to establish a standing Senate Committee on Intelligence Activities. I believe that this bill represents the best possible solution to the problems posed by intelligence oversight. I have written to Senator RIBICOFF, chairman of the Committee on Government Operations, stating my views with respect to some of the objections which have been raised to various provisions of that bill, and I ask unanimous consent that my letter and accompanying statement be printed in the RECORD.

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

SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C., February 17, 1976.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Senate Government Operations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR ABE: I want to congratulate you on the very fine hearings which you have conducted during these past few weeks on congressional oversight of the intelligence community. The necessity for immediate legislation in this area is reflected in the Senate's instructions to you to report a bill by March 1.

Your task is at once urgent and difficult. We struggled with the complex problems and issues raised by congressional oversight of the intelligence community for many months in the Select Committee, and I recognize that

they are not easily resolved. However, I do firmly believe that the basic features of S. 2893, which was sponsored by the majority of the members of the Select Committee, are sound. A more effective accommodation of the competing values which must be reflected in such legislation may be impossible to achieve.

My major area of responsibility on the Select Committee, as chairman of its Subcommittee on Domestic Intelligence, has involved those intelligence activities of the Federal Government which have an impact upon the constitutional rights of American citizens. I have been particularly concerned with the activities of the Federal Bureau of Investigation. In that regard, and because of my general concern about the matter of effective congressional oversight, I would appreciate your including in your Committee record the observations set forth in the attached statement with respect to some of the concerns which have been expressed during your Committee's hearings.

Sincerely,

WALTER F. MONDALE.

STATEMENT OF SENATOR WALTER F. MONDALE BEFORE THE SENATE GOVERNMENT OPERATIONS COMMITTEE, FEBRUARY 17, 1976

The Attorney General, Secretary Kissinger, Directors Kelley and Colby, and other administration witnesses have raised concerns among the membership of your Committee about S. 2893. Before responding in detail to the arguments raised by these administration witnesses, I would like to remind the Committee of some of the abuses we have uncovered. These abuses demand more intensive oversight of the intelligence community by the Congress if our democracy is to survive.

As chairman of the Subcommittee on Domestic Intelligence of the Select Committee, I have spent the past few months immersed in the evidence of gross abuse of the rights of American citizens by the FBI and other domestic intelligence agencies. The Bureau's "neutralization" of Dr. Martin Luther King is a case in point. Between 1963 and his death in 1968, the FBI placed Dr. King under intensive physical and electronic surveillance, including in sixteen instances installing bugs in Dr. King's hotel rooms. The FBI decided to use the information it had obtained through this electronic surveillance to "dethrone" King, and to cultivate and promote a new leader of the civil rights movement. It used the information to attempt to block Dr. King's being awarded honorary college degrees. The Bureau attempted to block Dr. King's audience with the Pope and to discredit him with other churches and the clergy. It mailed a hotel "bug" tape to King and an enclosed blackmail letter.

Throughout this period the FBI obtained absolutely no evidence that Dr. King was involved in any criminal or violent activity. There was no evidence that Dr. King was connected with the Communist Party in any way.

Yet the FBI activities directed at Dr. King were not unique. Our public hearings in the fall documented similar activities against thousands of other domestic dissidents through the FBI COINTELPRO program. We heard evidence of surveillance of thousands of law abiding citizens by the FBI. The public record discloses the details of the Nixon administration's Huston plan to coordinate intelligence activities in a concerted attempt to deprive American citizens of their constitutional rights. We have also documented the CIA's Operation CHAOS; the NSA's electronic surveillance of millions of international telephone conversations of American citizens.

This is only a partial list but the point is obvious! Domestic intelligence programs of the federal government have presented and if not checked will continue to present a "clear and present danger" to the rights of speech, association, privacy, and the rule of law.

Therefore, I begin my discussion of the administration arguments against S. 2893 with the following premise: intensive Congressional oversight and the development of statutory restrictions on the domestic intelligence agencies, indeed the whole intelligence community, are essential to the preservation of our democracy. I assume there will be minimal risks to the effectiveness of the intelligence agencies through more intensive oversight, but I firmly believe that the risk to democratic principles in the absence of such oversight clearly outweighs any risk to the national security.

The administration witnesses have raised two basic concerns about S. 2893 to which I would like to address myself. As chairman of the Subcommittee on Domestic Intelligence of the Select Committee on Intelligence, I am particularly disturbed by the contention of some administration witnesses that the new committee should not have jurisdiction over the FBI's intelligence activities. According to these witnesses, it is impractical to segregate the FBI's intelligence functions for oversight purposes and this responsibility should therefore remain where it has always been in the Senate Judiciary Committee. Second, the administration apparently takes the position that S. 2893 should not be enacted because it does not resolve once and for all the many issues relating to the competing values of secrecy and disclosure.

I. DOMESTIC INTELLIGENCE CAN AND MUST BE WITHIN THE JURISDICTION OF THE NEW COMMITTEE

The prospect of excluding domestic intelligence from the jurisdiction of the new committee is intolerable. If the Senate takes that action in creating a new committee it will in essence be saying that when intelligence activities infringe upon the rights of our citizens, including the full litany of abuses mentioned above, then we should continue the same type of inadequate oversight we have had in the past. If, on the other hand, the activities involve the rights of foreign countries or the adequacy of our protection of the national security, then we must provide more intensive oversight in a special committee. This area of foreign intelligence requires special attention, but domestic intelligence requires even more intensive oversight because it is so intimately related to civil liberties.

The threat by intelligence agencies to our rights is at least as important as the CIA's maintenance of a proprietary in Southeast Asia or a Glomar Explorer in the South Pacific. Protection of the rights and liberties of citizens should be the paramount concern of this new committee, as it is with the Select Committee (see paragraph 2(12) of S. Res. 21), not excluded from its jurisdiction as the administration suggests.

At the outset I would like to make it clear that despite information which I have reviewed about abuses by the FBI, I still believe that the FBI is the finest law enforcement organization in the world. The basic cause of the gross abuse of civil liberties we have uncovered is the FBI's departure from its traditional law enforcement function. As Attorney General Levi reminded your committee, the most effective solution to the abuses of domestic intelligence is requiring the FBI to simply enforce criminal laws and not conduct political intelligence. Attorney General Harlan Fiske Stone imposed that restriction upon the FBI in 1924. Had it never been lifted I am confident we would not be concerned about FBI domestic intelligence.

Any oversight legislation which will frustrate a return to the Stone standard is inadequate. The administration's proposal to exclude domestic intelligence jurisdiction from the new committee will frustrate that purpose. Therefore, I submit that contrary to administration testimony it is not only possible to separate out for oversight purposes the domestic intelligence activities of the FBI from its other functions but it would be more difficult and dangerous to attempt at this time to draw that line than not to do so.

S. 2893 defines domestic intelligence for the purpose of oversight in terms of the activities of the Intelligence Division of the FBI and my division whch assumes those functions. Since Director Hoover established the domestic intelligence program in the 1930's, counterintelligence, counterespionage, and internal security intelligence functions have been carefully segregated within the Bureau in a separate division, the Intelligence Division, and that segregation continues today.

Basic supervision and policy formulation is centralized in headquarters in that division. Other types of intelligence, for example that related to organized crime or intelligence on crimes unrelated to terrorist violence or national security, are conducted by other divisions of the Bureau and would not be picked up by the new committee under S. 2893. There has been a mixture of functions in the investigative field offices, of the FBI which might complicate oversight. This mixture of functions does not frustrate oversight of the FBI by the Department of Justice. Within the past year the budget officials within the Department of Justice have helped the Bureau to segregate out of the functions of the Intelligence Division into separate budget line items, and to attach man years and funding figures to those items.

In executive session testimony before the Select Committee, the Assistant Attorney General for Administration who developed this new budget conceded that all of the functions of the Intelligence Division have been segregated out for budget purposes. If the Department of Justice can segregate out these figures for internal budget purposes, which is to say for their own internal oversight purposes, they can do so for external Congressional oversight. Indeed, if it were impossible for the Department of Justice to segregate out these figures it would mean that no one in either the executive branch or the legislative branch, including the FBI, could tell the American people how much money or manpower was being expended on intelligence activities directed at American citizens. This would seriously frustrate oversight of domestic intelligence by anyone, including the Department of Justice or the Judiciary Committee.

It would be more difficult and dangerous to separate out domestic intelligence from foreign intelligence for the purpose of oversight. It would be difficult because foreign intelligence and domestic intelligence are not as different as "apples and oranges", as the administration suggests. It would be dangerous because it would deprive the new committee of the jurisdiction necessary to develop a meaningful division between these concepts and develop other legislative remedies to protect civil liberties.

The activities of foreign and domestic intelligence have been inextricably linked. While foreign intelligence and counterintelligence activities performed abroad are the responsibility of agencies other than the FBI, the investigations frequently lead to counterintelligence activities in the United States, at which time the Bureau becomes the responsible agency. The investigation may be continued by the Bureau using the same techniques and sources as those employed by the agency with foreign intelligence responsibilities. Just as counterintelligence activities at home have been related to intelligence abroad, domestic security in-

vestigations are frequently linked through sources and methods to counterintelligence. The Huston plan is an excellent example of that phenomenon. Under the guise of counterintelligence, the intelligence community conspired to violate fundamental rights of American citizens.

The FBI's investigation of Dr. King is another example of the fact that domestic and counterintelligence have been undistinguishable. It began as a counterintelligence investigation—an investigation supposedly undertaken to determine Dr. King's contacts with what the Bureau perceived as agents of a foreign power, the Communist Party of the United States. Indeed, we have substantial evidence that the mandate from President Roosevelt to J. Edgar Hoover which originated the FBI's whole domestic intelligence program was actually a counterintelligence mandate—Roosevelt wanted to know the impact of Soviet and Fascist agents on domestic groups.

We will never achieve what Attorney General Levi and I both agree is necessary—strictly confining the FBI to enforcing specific criminal statutes—if we exclude the Department of Justice from the bill. We must as he suggests conduct oversight of domestic intelligence as an adjunct of criminal prosecution. That is exactly why S. 2893 provides that the new committee have jurisdiction of domestic intelligence investigations and the criminal prosecutions, if any, which grow out of these investigations. The Select Committee recognizes that we can only achieve the goal which the Attorney General and I both seek, tying all domestic intelligence investigations to a criminal statute, by enacting a legislative charter which requires such a relationship. FBI witnesses requested such a charter when they testified before our Committee in the fall.

The new committee can only develop such a charter if it has the necessary jurisdiction. The committee that develops the domestic intelligence should have the necessary jurisdiction over all elements of the intelligence community affected so that it can sort out these terms and develop comprehensive legislation.

II. S. 2893 PROVIDES ADEQUATE PROTECTION FOR CLASSIFIED INFORMATION

In light of the abuses we have uncovered I am suspicious of the arguments we are hearing about the irresponsibility of Congress in its handling of classified information. I have a hard time distinguishing between the fear of leaks which undermine the national security from the fear of intensive oversight and accountability.

The two legitimate concerns of the executive branch are that either information will be officially declassified by the Congress which undermines the national security or that some staffer or member will unofficially leak classified information. The basic concern of the Congress ought to be that the procedures we adopt accommodate those executive interests without unnecessarily frustrating oversight.

The most effective procedure for congressional declassification is established in S. 2893 whereby the executive branch can make its argument to the committee, secure the help of sympathetic members on the committee, and attempt to preclude release. In an extraordinary case the committee could refer the matter, with or without the information in question, to the full Senate for a decision. If the majority of the committee is so irresponsible as to abuse that power, the Senate can take action against the Committee by withdrawing from that committee the power to disclose the information and I am sure the voters would take their retribution on the members in the next election. Assuming that the Senate selects responsible Senators for that committee, the only way that procedure might fail is if the executive branch refuses or fails to make effective arguments against disclosure or if one assumes that there are not nine responsible Senators to fill those seats on the new committee.

I do not believe there is any more effective alternative. The administration, at least the Attorney General, concedes that one popular remedy, stiff criminal penalties, is not only unworkable but unconstitutional when applied to Senators and their aides. The Supreme Court held in 1972 that the separation of powers and the so-called "speech or debate" clause of the Constitution preclude the executive branch from using the judicial branch via grand juries or criminal prosecution to investigate the legislative activity of Congress, including its oversight of the executive branch. Stated another way, separation of powers and checks and balances would become a mockery if the FBI could investigate the Senate's investigation of the FBI. Therefore, the criminal approach is unworkable.

Senator Tower has introduced legislation which would require the Select Committee to turn to the full Senate on release of sensitive information. I am sure the intelligence community does not view resort by the new committee to the full Senate for a decision upon the question of release as a meaningful solution. Such a procedure will probably further jeopardize the secrecy of the information especially if the committee must disclose the information to the Senate. As the Attorney General stated, "Simply put, the danger of public disclosure depends, in part, on the number of persons who have access to information."

Two other alternatives have been suggested: the approach taken in the so-called Case amendment, section 112(b) of Title I of the U.S. Code, and the agreement reached between the House Intelligence Committee and the White House. Both procedures have in common the power of the President to enjoin the Congress from releasing information. Obviously such a procedure would be a complete abdication on the part of the Congress to the executive branch.

Therefore S. 2893 is the only effective congressional declassification procedure because it is the only one that accommodates the legitimate interests of both branches. It is not a complete abdication of the prerogatives of the executive or legislative branches.

The question of unauthorized leaks by Senators or staff appears on the surface a dilemma. Criminal sanctions are unavailable because unconstitutional; therefore, the only solution is the removal from office. Of course, this is exactly how the executive branch deals with leaks. However, the ultimate solution is to name responsible Senators to the new committee who in turn will hire responsible staff. Then the Senate should make it clear that a leak which undermines the national security will cost them their jobs. We have followed that procedure in the Select Committee and have had no such leaks.

Furthermore, the likelihood of leaks, especially by Senators, is a direct function of the effectiveness of the formal congressional declassification procedures and the power of the oversight committee. By that I mean that frustrated Senators who have obtained classified information about some executive branch activity which they find abhorrent will be much less likely to resort to the calculated leak if there is a formal procedure to secure disclosure as provided in S. 2893. If they cannot secure declassification they can at least influence executive branch policy through the oversight committee.

Finally, I agree that these are not perfect solutions, but as a recent editorial in The Washington Post endorsing S. 2893 pointed out:

"Any 'solution' is sure to be a compromise open to challenge from both sides. In this sense the quest for a perfect solution is a recipe for stalemate."

If I have learned anything in my years in the Senate, it is that there are no "perfect solutions." My year on this Committee has convinced me that the equally important goals of protecting the national security and the constitutional rights of citizens mandate that we not tolerate a stalemate in this most critical area. Furthermore, in avoiding the stalemate we will not avoid risks to the national security for the only risk-free oversight is no oversight at all. Then we will have taken the ultimate risk, our democracy.

CONGRESSIONAL MEDDLING IN FOREIGN AFFAIRS

Mr. GOLDWATER. Mr. President, during the past few years, Congress has attempted to exert greater influence over the conduct of America's foreign policy.

The results have been uniformly bad.

The highly respected magazine, Business Week, of February 23, 1976, has an editorial concerning the Jackson-Vanik amendment to the 1974 Trade Act. The editorial is aptly entitled "Tactics That Failed." I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

TACTICS THAT FAILED

For the past two years, the development of trade between the U.S. and the Soviet bloc has been dampened by the so-called Jackson-Vanik amendment to the 1974 Trade Act. Designed to force the Soviet Union to lift its restrictions on emigration of Jews to Israel, Jackson-Vanik limits Export-Import Bank credits to the Soviet bloc and denies it most-favored-nation tariff treatment. The amendment has had a perverse effect on Soviet emigration policy—with the outflow of Jews dropping from 38,000 in 1973 to 13,000 last year. And it is one reason why the big Soviet-bloc buying has gone to West Europe and Japan instead of to the U.S. (page 44).

The sponsors of the amendment, Senator Henry Jackson (D-Wash.) and Reresentative Charles Vanik (D-Ohio), made two basic mistakes. They assumed that the Russians would be willing to make a public capitulation to pressure from Congress. And they assumed that the Soviets could not get along without U.S. industrial products and technology.

As State Dept. experts tried to tell Congress in 1974, the best way to get a modification of Soviet policy is to keep negotiations out of the spotlight. The Nixon Administration, through quiet, diplomatic prodding, had persuaded Moscow to allow Jews to leave in record numbers. The Jackson-Vanik amendment produced an abrupt reversal of this policy.

The failure of the amendment to achieve its purpose should set the stage for its repeal. Moscow could put the process in motion by taking some preliminary steps to ease emigration policy—as a sign that repeal would be followed by substantial changes. But Congress must be prepared to recognize Jackson-Vanik for what it is—a serious mistake. Supporters of the amendment who saw it as a means of delaying a broader détente with Russia may be pleased with the results. For anyone genuinely interested in the plight of the Jews, it is a bitter disappointment.

Mr. GOLDWATER. Mr. President, I have serious reservations about the policy known as détente, because too many people in the West interpret this to mean