

Amendments to S. 3000 Proposed by Senator Proxmire

National Intelligence Program Budget Report

1. Senator Proxmire proposes an amendment which would require the Director of Central Intelligence to submit an unclassified written report to the Congress disclosing the total amount of funds requested in the budget for the national intelligence program for the next succeeding year.

2. This matter has been reviewed repeatedly by the Senate Armed Services Committee and the Senate Appropriations Committee over the years. In fact, as recently as April of this year Mr. Colby met with a number of Senators to review this matter. At that time he stated that statutory restrictions placed upon him by the Congress in his capacity as Director of Central Intelligence to protect Intelligence Sources and Methods preclude him from recommending or agreeing to the disclosure of the figures which Senator Proxmire has suggested. He explained that disclosure of the total intelligence budget would over the years, by virtue of the trends disclosed, provide valuable assistance to our adversaries. He pointed out that if he were able to obtain similar information regarding our adversaries, he would find it useful to the United States Government.

3. I believe that disclosing such a figure would only stimulate further inquiry for greater details regarding intelligence activities, for explanations of changes or trends, and for the component elements of the total figure.

There need be no concern that budgets of other agencies are inflated with intelligence figures since all intelligence money other than that which is openly appropriated is included in the Department of Defense appropriations act. While ours is an open society, certain things must remain secret and this is one of them. I am strongly opposed to Senator Proxmire's amendment to require transmissions publicly of the total amount of the national intelligence program. Furthermore, the CIA subcommittees of the House and the Senate Armed Services and Appropriations Committees are fully aware of the details behind this overall figure and they are free to inquire into these matters as deeply as they deem appropriate. I would also point out that if any member of the Senate wishes to know what that figure is, I would have no objection to furnishing this figure to a member only on a classified basis.

4. Statutory Authorities. Senator Proxmire additionally has submitted an amendment to the National Security Act of 1947, which established the Central Intelligence Agency. A number of his provisions deal with inserting the word "foreign" before the word "intelligence" which appears in section 102 of the Act. I would have no objection to the amendments included in sections 1, 2, 3, 4, and 5 of Senator Proxmire's amendment. I should like to add that the above amendments were included in S. 2597, which I introduced in October of last year. The purpose of these amendments is simply to emphasize that the CIA is concerned only with foreign intelligence.

Mr. Colby in his confirmation hearings before the Senate Armed Services Committee agreed that such an amendment would be desirable.

5. Reporting Responsibilities. Section 5 of Senator Proxmire's amendment is generally concerning procedures for reporting on foreign intelligence activities to the Congress. A similar amendment was included in S. 2597, and I have no objection to the establishment of statutory procedures in this regard.

6. Statutory Prohibitions. Section 6 of Senator Proxmire's amendment is generally intended to provide that CIA shall not carry out on its own or assist other agencies of government in carrying out law enforcement or police-type operations. While CIA is already prohibited from engaging in law enforcement, police, or internal security activities, I would have no objection in further clarifying the intent of Congress in this regard. The provisions of Section 6, which add a new subsection (g)(1)(A) to section 103 of the National Security Act of 1947, are substantially similar to a provision which I had included in S. 2597; however, I had included a proviso that the restrictions on the Agency would not be construed to prohibit CIA from:

- (a) protecting its installations; (b) conducting personnel investigations of Agency employees; (c) carrying on within the U. S. activities to support its foreign intelligence responsibilities; or (d) providing information resulting from foreign intelligence activities to other appropriate departments.

I believe this proviso is essential in making clear what the intent of Congress

is in this regard. Accordingly, I would accept Mr. Proxmire's amendment (g)(1)(A) if the proviso were added. Section 6 also adds a new subsection (g)(1)(B) which is designed to prohibit assistance to other departments or agencies or local governments who are engaged in police, law enforcement, or internal security functions within the U. S., unless such assistance is provided with the prior written approval of the CIA oversight committees of Appropriations and Armed Services of the Senate and the House. The requirement to seek specific prior approval of committees of Congress before an agency of the Executive Branch shall engage in certain activities is in my judgment a violation of the doctrine of separation of powers and accordingly would be unconstitutional. I also question the wisdom of preventing the Director of Central Intelligence from providing the intelligence product of his efforts in the foreign intelligence field to any interested agency. The basic purpose behind this amendment could be served as well by the reporting requirement in Section 5 of Senator Proxmire's amendments. The section contains a requirement for Agency reporting to the Congress in accordance with procedures established by the Congress to assure effective legislative oversight and security. Therefore, I suggest that a similar reporting provision be inserted in lieu of the language suggested by Senator Proxmire.

7. Illegal Activities. The last new subsection, (g)(1)(C), proposed by Section 6 would prohibit the Agency from participating in any illegal

activities within the U. S. I do not believe this to be an appropriate provision of law. I think it is redundant and unnecessary to legislate that any agency or officer thereof shall not violate law, particularly where the officer has sworn an oath to uphold the law.

S. 3000

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Attached is selfexplanatory and please let us know if you have any suggestion. Things are going to move fast on this. We picked up the amendment Saturday morning and got our position up to the committee this morning (the Director had reviewed). The Procurement Authorization bill to which Proxmire intends to attach his amendments is being presented on the floor today probably limited only to opening speeches but amendments could be considered today and probably throughout the week.

Deputy Legislative Counsel

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How about this? Let me know.

Deputy Legislative Counsel

3 June 1974

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