

S 15358

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. MOSS, Mr. STUCKEY, Mr. ECKHARDT, Mr. BROYHILL of North Carolina, Mr. WARE, and Mr. McCOLLISTER were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 3 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate, and that the House insisted on its disagreement to the amendments of the Senate numbered 44 and 45 to the bill.

## CORRECTION OF A VOTE

Mr. CANNON. Mr. President, the RECORD of yesterday at page S15190, shows me as not voting on S. 1560 (vote No. 355 Leg.). I was present and voted "yea." I ask unanimous consent that the permanent RECORD show that I voted "yea" on that vote.

The PRESIDING OFFICER. Without objection, the RECORD will be corrected.

## FEDERAL RAILROAD SAFETY ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2120.

The PRESIDING OFFICER (Mr. BENNETT) laid before the Senate the amendment of the House of Representatives to the bill (S. 2120) to amend the Federal Railroad Safety Act of 1970 and other related Acts to authorize additional appropriations, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1973".

Sec. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"Sec. 212. Authorization for Appropriations.

"There is authorized to be appropriated to carry out the provisions of this title not to exceed \$19,440,000 for the fiscal year ending June 30, 1974."

Sec. 3. Section 303 of the Hazardous Materials Transportation Control Act of 1970 (49 U.S.C. 1762) is amended to read as follows:

"Sec. 303. Authorization for Appropriations.

"There is authorized to be appropriated to carry out the provisions of this title not to exceed \$1,200,000 for the fiscal year ending June 30, 1974."

Sec. 4. The Secretary of Transportation shall, within ninety days after the date of enactment of this Act, submit a report to the Congress which contains a complete evaluation of all programs conducted under the Hazardous Materials Transportation Control Act of 1970, and on proposed revised handling procedures and feasibility of alternative routing in order to avoid population centers.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

## EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will now go into executive session to consider the nomination of Mr. William E. Colby to be Director of the Central Intelligence Agency.

The legislative clerk read the nomination of William E. Colby, of Maryland, to be Director of Central Intelligence.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that during the debate on the nomination of Mr. William E. Colby to be Director of Central Intelligence, Messrs. T. Edward Braswell, Jr., R. James Woolsey, and John A. Goldsmith, members of the staff of the Committee on Armed Services, be granted the privilege of the floor.

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

Mr. HUGHES. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. HUGHES. Mr. President, I ask unanimous consent that Mr. Charles Stevenson, a member of my staff, be allowed the privilege of the floor.

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

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of this nomination, Ellen Frost, Murray Flander, and Roy Greenway have the privilege of the floor.

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

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. JACKSON. Mr. President, I should just like to detain the Senate floor for 1 minute in behalf of the nomination of Mr. William E. Colby to be the head of the Central Intelligence Agency.

First, I commend the acting chairman of the Committee on Armed Services, the

distinguished senior Senator from Missouri, for the able, the fair, and the impartial way in which he conducted the hearings in connection with the Colby nomination. A number of statements had been made regarding Mr. Colby. The Senator from Missouri saw to it that the committee probed all these areas very carefully. The Senator from Missouri went out of his way to run down all statements including rumors, that might bear on the qualifications of Mr. Colby. I commend the Senator, and I say to the Senate that this nomination has been thoroughly examined by the committee.

I want to observe that William Colby is an outstanding and able professional in the Central Intelligence Agency. I believe that he stands in the best tradition of the professionalism which some of us feel is so essential to the security of the United States of America. I have confidence in Mr. Colby. There were a number of situations—one in particular—in which his integrity was tested. He did not hesitate to be forthright and straightforward in his decision as to what he should do based on his oath and his obligation as a part of the Central Intelligence Agency.

I merely want to say to the Senate that I do believe that this is a good appointment, and I hope and trust that the Senate will give Mr. Colby the overwhelming vote of confidence that he so richly deserves.

Mr. SYMINGTON. Mr. President, I thank my good friend, the able Senator from Washington, for his kind remarks. For many years it has been well known in this body that he is a true expert in this field. I respect his opinion, as I am sure the Senate does also, on matters of this character. I am grateful for what he said.

Mr. President, I earnestly hope that the Senate confirms the nomination of William E. Colby to be Director of Central Intelligence.

The Committee on Armed Services overwhelmingly approved his nomination. I have known him personally for many years. He is a dedicated and competent professional in a difficult and troublesome field.

Because he is unusually able, Mr. Colby has been asked to take on some difficult responsibilities in recent years.

In 1968 President Johnson asked him to head the pacification program in the increasingly unpopular Vietnam war. More recently, as Executive Director of CIA, he has been assigned certain responsibilities for correlating and organizing information in the wake of the all-infecting Watergate break-in.

I am sure the Senate realizes that recent events—including Watergate and the Indochina war—have caused the Senate Armed Services Committee to give unprecedented attention to this nomination—not only because of the nominee himself, but also because of the importance of the assignment as head of CIA, top intelligence adviser to the President, at this point in history.

As far as I can determine, Mr. President, no nominee for this important job has ever been questioned so intensively

August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15359

by the Senate Armed Services Committee. Three days of testimony were taken by the full committee. In addition, the Central Intelligence Subcommittee questioned Mr. Colby at a fourth meeting.

In addition to these nomination hearings, the committee held 6 days of hearings in May on the CIA relationship to Watergate. Witnesses included former CIA Directors Schlesinger and Helms, the former Deputy Director, General Cushman, and the current Deputy Director, General Walters, and other CIA officials, including Mr. Colby. In all, this year the committee has taken many hours of testimony on this nomination and other CIA matters.

In addition to testifying in extensive hearings, Mr. Colby has provided extensive responses and exhibits in reply to later questions from Senator KENNEDY, who was provided the opportunity of questioning Mr. Colby; and also Senator PROXMIRE, as well as members of the committee, submitted questions.

## CIA, NSC, AND THE PRESIDENT

Let me say a preliminary word about the position of CIA with respect to the White House and other executive bodies.

The Senate should be under no illusions about the position of this Agency in the national command authority. By law, CIA is responsible to the National Security Council. However, the NSC is advisory to the President who is the NSC Chairman. As a former NSC member in two different positions, I know well that the National Security Council is one of those bodies where but one vote really counts—that of the President.

In other words, in point of fact the CIA is directly under the President and responsible to him.

## MR. COLBY'S PUBLIC TESTIMONY

The record is available to all Senators. Mr. Colby, in his public testimony made some statements which are refreshing, coming as they do from a career official of CIA who has now been designated to be the Director of Central Intelligence.

As example, Mr. Colby stated, in response to a question, that he thought the war in Laos had "undoubtedly gone well beyond the scope of activities envisioned by Congress in 1947, when it authorized CIA to perform certain covert activities, and he questioned the feasibility of such large scale covert activities.

Later, I personally asked Mr. Colby if he would favor a policy of more open disclosure with respect to activities of the intelligence community. Here is his reply:

Mr. COLBY. I think it is probably essential in America today, Mr. Chairman, and I would favor a greater degree of exposure of what we are doing. We have already had some matters which we do expose. Some of the exposure that we have quite frankly gives us problems abroad in our relationships with other intelligence services, and even in our relationships with individuals who secretly agree to work with us, who are somewhat frightened at the prospect of their names coming into the public, and things happening to them as a result. But I think that there are ways in which the intelligence community and the CIA in particular can reassure the appropriate committees, and also the Senate as a whole, and also the people as a whole, as to the activities we are engaged in. I think we are going to have to draw that

line. It is going to be a difficult one in many situations, but it is obvious that again we have to run an American intelligence service.

I also asked Mr. Colby about possible amendments to the 1947 law which governs CIA, since our committee is committed to a broad review of the CIA charter. He made it clear that he is not opposed to certain changes. In that connection, he later stated that he has been authorized to brief the committee on the basic directives issued to CIA by the National Security Council—NSCID's—under the 1947 act. This we plan to have him do at the earliest opportunity.

Finally, in his discussions of possible revision of the law, Mr. Colby said he thought it might be appropriate to limit CIA intelligence activities by specific references to "foreign" intelligence. I asked Mr. Colby to state the proper scope of CIA activities within the United States, and he responded as follows:

Mr. COLBY. We obviously have to run a headquarters here; we have to recruit people for our staffs, and so forth; we have to conduct investigations on those people; we have to protect our own intelligence sources and methods within the Agency; we have to contract with a large number of American firms for the various kinds of equipment that we might have need for abroad. We also, I believe quite properly, can collect foreign intelligence in the United States, including the requesting American citizens to share with their Government certain information they may know about foreign situations. We have a service that does this, and I am happy to say, a very large number of American citizens have given us some very important information. We do not pay for that information. We can protect their proprietary interest and even protect their names if necessary, if they would rather not be exposed as the source of that information.

We also, I believe have certain support activities that we must conduct in the United States in order to conduct foreign intelligence operations abroad. Certain structures are necessary in this country to give our people abroad perhaps a reason for operating abroad in some respects so that they can appear not as CIA employees but as representatives of some other entity. Lastly, I think that there are a number of activities in the United States where foreign intelligence can be collected from foreigners, and as long as this is foreign intelligence, I think it quite proper that we do so. I can certainly go into more detail on this in executive session any time you would like, Mr. Chairman.

And may I add that he did.

But I reiterate that the focus should and must be foreign intelligence only, and that all the other activities are only supportive of that major function.

Finally, I asked Mr. Colby what I believe is the most important question of all:

Senator SYMINGTON. If you should receive an order in the future which appears on its face to be illegal, what would you do?

Mr. COLBY. I would object to it and, if necessary, I am quite prepared to leave this responsibility if it came to that.

Senator SYMINGTON. I did not hear you.

Mr. COLBY. And I am quite prepared to leave this job if it comes to that.

## THE OUTSIDE WITNESSES

Five outside witnesses testified in public sessions, July 20, on the Colby nomination. One of them, Paul Sakwa, a CIA officer in the 1960's, suggested that we obtain certain documents from CIA

which show that Mr. Colby "slanted intelligence" and "submitted misinformation" as CIA station chief in Saigon from 1959 to 1962.

With the help of the CIA we were able to get almost all of the classified cables and reports suggested by Mr. Sakwa. The committee appreciates his interest, but it is fair to say that the committee was not impressed with the thesis which he advanced as it applied to Mr. Colby.

Another witness, Mr. Samuel A. Adams, was, until recently, a CIA analyst. He criticized the Phoenix program—which I shall discuss later—and he also complained of the treatment given him by CIA after he pressed his own appraisal of certain estimates of Communist strength in Cambodia. Mr. Adams did not specifically oppose Mr. Colby's nomination.

The other three witnesses were Representative ROBERT F. DRINAN, Democrat of Massachusetts; K. Barton Osborn, a sergeant assigned to Military Intelligence, who left Vietnam about a month after Mr. Colby took over the pacification program in 1968, and David S. Harrington, a former Marine officer who was assigned to the pacification program, and once, in early 1969, sat in on an I Corps briefing for Mr. Colby.

All these witnesses focused on the period from November 1968 to June 1971, when Mr. Colby headed the Vietnam pacification program as Deputy MACV for Civil Operations and Regional Development Support—CORDS. Each of these witnesses were especially critical of one CORDS program: Phoenix.

## PROJECT PHOENIX

The Phoenix program has been covered in a number of congressional hearings—including the Senate Foreign Relations Committee and Senator KENNEDY's Refugee Subcommittee. The program was one of Mr. Colby's responsibilities as the boss of CORDS, the head of the pacification program.

It is important to realize that Phoenix was a Vietnamese program. It had U.S. support, however, in funds and manpower. The program was aimed at the VCI—the Vietcong Infrastructure—members of the Vietcong apparatus who were working against the Government within the cities and hamlets of South Vietnam.

Unquestionably, there were abuses in the program. Mr. Colby has conceded that. He testified, however, that the great preponderance of Vietcong Infrastructure killed—some 85 percent—died in battles and skirmishes, were eventually identified as VCI, and were added to the casualty lists as VCI. Others were killed by police units.

By way of further explanation, Mr. Colby emphasized that despite this being a war, killing was to be minimized in Phoenix especially, because captured VCI were the best source of intelligence to help our own military units.

Mr. Colby told us he worked to provide protection for accused VCI, and bring a measure of due process into these paramilitary proceedings. He testified that Phoenix eventually required three accusers, required that province chiefs be notified of VCI charges; and finally, in

S 15360

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

1971, that charges be presented to a suspect in writing.

At our request he has supplied a series of documents, some of them classified Vietnamese documents, to support his claim that reforms were instituted by Phoenix under his leadership.

Mr. President, my opposition to this whole Indochina war since 1967 has been well known to Members of the Senate. But I do not think we should lose the ability of an extraordinarily able man who was only carrying out orders, just because he was in a paramilitary job at the same time we were decorating thousands of Americans for carrying out their military assignments. He accepted a tough job under orders and did his best; and the record shows that he tried to eliminate any abuses he discovered when he took over the Phoenix program.

## CONCLUSION

Mr. President, this has been a summary of the extensive record the committee took on this nomination. Much in the record is classified, but we have tried to accommodate Senators who wanted more information.

I believe the record justifies Mr. Colby's confirmation.

He is exceptionally well qualified. The way the world is, surely we need an effective intelligence agency.

It is for these reasons that again let me say I do hope the Senate will confirm him without delay so the intelligence community can get on with its important job.

I yield to the able ranking member of the Senate Armed Services Committee, the distinguished senior Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Mr. William E. Colby as Director of the Central Intelligence Agency.

The case for Mr. Colby has been well documented by the distinguished acting chairman of the Senate Armed Services Committee, the senior Senator from Missouri (Mr. SYMINGTON).

Simply stated this man is a professional in every sense of the word. For the most part he has spent his entire life in public service.

The son of an Army officer, he joined the Army himself in 1941 initially serving in the Parachute Field Artillery. When the Office of Strategic Services issued a call for French speakers in 1943, Mr. Colby volunteered and in 1944 parachuted behind enemy lines in north-central France to work with a resistance unit. Shortly before the end of the war in 1945, he led a team dropped in northern Norway to destroy a rail line used for transporting German reinforcements.

A graduate of Princeton prior to World War II, Mr. Colby completed his formal education by obtaining his law degree from Columbia Law School.

In 1949 he entered Government service as an attorney for the National Labor Relations Board in Washington. In 1951 he joined the staff of the American Embassy in Stockholm and from 1953 to 1958 served in the American Embassy in Rome, Italy.

Mr. President, the purpose of tracing this biography is to show the wide experience of Mr. Colby in foreign assignments. He not only spent time overseas as a youth when his father held overseas assignments but the vast majority of his life has been in U.S. positions abroad.

After serving as first secretary of the American Embassy in Saigon beginning in 1959, Mr. Colby returned to the United States to become Chief of the Far East Division of the CIA here in Washington.

In March of 1968 he joined the Agency for International Development and was sent to Saigon to assume the post of assistant chief of staff. In November of that year he became deputy to the commander of the Military Assistance Command in Vietnam with the rank of an Ambassador. In this capacity he directed the civil operation and regional development support program. This was better known as the pacification or Vietnamization program. As director of this program, Mr. Colby was the administrator for all regional and popular defense forces as well as aid programs in South Vietnam. The success of this program had a great deal to do with the safe withdrawal of American military forces last year.

In early 1972, Mr. Colby returned to Washington to assume the duties of Executive Director-Comptroller of the CIA. In March of 1973, under the directorship of Dr. James Schlesinger, he was named to the No. 3 spot at CIA—that of Deputy Director for Operations.

Mr. President, few men are as well qualified for the post as Director of the CIA as Mr. Colby. He knows the agency well. He has worked for it many years. He has had experience in managing the CIA budget.

As we move into a period of negotiation the intelligence gathered by the CIA will be more important than ever. We need a professional at the helm.

Further, Congress will be taking a greater interest in the activities of the CIA in future years. This is as it should be. With a man of Mr. Colby's qualifications and background in the Director's office, I believe more congressional oversight can be accomplished in an effective and beneficial way.

Mr. President, in closing, I would like to stress the point made by our able chairman that Mr. Colby has had some tough jobs over the years, because he was the very man who could handle them. He has worked under four Presidents. He clearly recognizes the fact that the CIA never involves itself in policy, but merely presents the best information available for policy decisions by the President. He is a man who I believe will render our Nation a distinct service in this unique position and I urge the Senate to act favorably on his nomination.

I wish to thank the distinguished acting chairman.

Mr. SYMINGTON. I thank the able senior Senator from South Carolina, ranking minority member of Armed Services, for his constructive contribution.

I yield now to the distinguished senior Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the distin-

guished acting chairman of the committee.

## A BLIND CONFIRMATION VOTE

Mr. President, today the Senate will cast a blind vote on the confirmation of William E. Colby to be Director of Central Intelligence.

It will be a blind vote in many ways. We do not really know who Mr. Colby is. We are not allowed to go back into his personal employment history and judge his fitness. We do not know what jobs he has accomplished. We do not know whether or not he has succeeded or failed.

And we will be confirming him for a blind position. In my opinion the Director of Central Intelligence is one of the 8 or 10 most powerful positions in our Government.

So we will vote for or against a man in an immensely powerful office and we know very little about him or the job. Why is this?

Obviously, there are serious questions of national security involved. Intelligence operations can be compromised and lives put in danger. There is the ever-present possibility of embarrassing the Nation if caught in the middle of some particularly sensitive operation. Sources of information may dry up.

All these point to the necessity of secrecy.

But I would remind the Senate that failure to find out what is going on could be just as serious from a security standpoint. Do we turn a blind eye to the covert funding of clandestine armies and attempts to overthrow foreign governments?

No, we have lived in blindness too long in this body.

If we do not assert our constitutional responsibilities, the executive department will do it for us. That has been the pattern.

## RECENT CHANGES

Today there are promising signs that we are snapping out of the slumber of acquiescence that has typified congressional oversight of the intelligence community.

The Armed Services Committee has held open hearings for the first time. Questions have been submitted for the Record and other Senators have been allowed to pursue individual lines of questioning in committee hearings.

The distinguished acting chairman of the committee, Mr. SYMINGTON, deserves our commendation for the skill and openness of these meetings. He has begun the process of reviewing the intelligence community and he deserves the support of every Member.

Last week I submitted a series of questions to the acting chairman for presentation to Mr. Colby during his final confirmation hearing. The Director-designate promptly replied. Most of his answers are unclassified and I wish to share those unclassified answers today.

Mr. President, I ask unanimous consent that my questions and Mr. Colby's answers be placed in the Record.

I would like to go over several of these questions.

First is the issue of the CIA budget. Since Mr. Colby and his predecessor, Mr.

August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15361

Schlesinger, both testified that the release of the aggregate intelligence budget would not violate national security. I asked Mr. Colby just how far down the line this prudently could go.

He used this question as a platform to back off from his earlier position. Now he says that although the "disclosure of the total figure of the intelligence community budget would not present a security problem at this time, it is likely to stimulate requests for additional details." He goes on to note that he cannot positively recommend the publication of the total or any subdivision thereof.

Mr. President, I do not think that a new Director of Central Intelligence should be confirmed without public knowledge of the size of his budget.

In view of testimony by Mr. Colby and his predecessor James R. Schlesinger that release of the intelligence budget would not violate national security, there is no doubt that the Senate and the American people should be told the truth about the size of the CIA budget.

Mr. Colby has said that it is up to Congress to release these facts. Now is the time to do just that.

Mr. President, I would like to ask the distinguished manager of the nomination, the Senator from Missouri (Mr. SYMINGTON), if he could consider releasing those figures in view of the fact that the testimony from both Mr. Schlesinger and Mr. Colby is that it would not violate national security. Why should not the Senate and the American people know as much as we can disclose about this matter as long as national security is not endangered and why should we not have that information?

Mr. SYMINGTON. Mr. President, first may I say to the able Senator his statement this afternoon is in the interest of the security and the prosperity of our country. I commend him for it. It is the same type and character of interest he has displayed in other matters that are for the welfare of the United States.

When the question of the budget of the Central Intelligence Agency came up, inasmuch as I was a member of both Armed Services and Foreign Relations I found the latter committee was reaching decisions not in accordance with the facts presented by the Central Intelligence Agency. I then urged that the Central Intelligence Agency Subcommittee include members of the Committee on Foreign Relations, which at that time included only the top ranking members of the Appropriations Committee and the Armed Services Committee. For some reason, the late, great Senator Russell decided later to exclude the members of the Foreign Relations Committee, this after they were members by invitation for several years.

Then it is fair to say that most CIA interest and the budget still later came before the Appropriations Committee only, the five or seven senior members of the Appropriations Committee.

I believe that it was 2 years ago that our late beloved colleague, Senator Ellender, was asked on the floor of the Senate about this budget, and replied to the effect that he did not know much

about it, and did not want to know. He was chairman of the one committee exercising any review of the status and functioning of the CIA.

This year the Senate Armed Services Committee took Mr. Colby and other members of the Central Intelligence Agency through the budget in detail. Questions were asked and explanations given.

As acting chairman of the Committee on Armed Services, I would welcome the opportunity of going over that budget with the distinguished senior Senator from Wisconsin, who is a member of the Committee on Appropriations. From there on, I would rather not commit myself further at this time as to just what can and should be done.

I may say, of interest to other Senators as well as to the Senator from Wisconsin, that the Central Intelligence Agency receives a relatively small percentage of the overall intelligence dollar. That was a great surprise to me when I first found it out.

I may say also that several staff members of the Committee on Foreign Relations sent around the world by Subcommittee on U.S. Commitments Abroad of the Committee on Foreign Relations, reported when they returned that probably the most wasteful, duplicating aspect of what they saw on their trip was in the intelligence field. We are trying to release more intelligence figures. I am sure the able Senator could obtain them as a member of the Committee on Appropriations.

Mr. PROXMIRE. I may say to the Senator from Missouri that I am interested in obtaining those intelligence figures, as he knows, but the important step is to declassify them. We have the word of Mr. Schlesinger and Mr. Colby that this would not affect national security if we knew how much it is. Mr. Colby said it is up to Congress to release those figures. Under the circumstances, I see no reason why we should not be able to get this information. The Senator said it is a small part of the total intelligence dollar. Is it a billion dollars? A half billion? How much is it? I think the attitude we have toward CIA, to some extent, has to be influenced by what resources we put into it. This can best be determined by knowing what the dollar spending is on the CIA.

Mr. SYMINGTON. Mr. President, on July 2, in an open hearing, I made this observation and asked Mr. Colby:

Several Members of Congress have called for the overall budget of the intelligence community to be made public, so the American people can see at least the general amount which is spent for intelligence functions. In past years, and despite the increasing desire of the American people to know what is going on in their Government, the furnishing of intelligence information has been further restricted.

Do you see any reason why overall budget information, or even a breakdown of the intelligence budget into its major categories, would endanger national security if it were made public?

Mr. Colby replied:

I would propose to leave that question, Mr. Chairman, in the hands of the Congress to decide. I think there are considerations pro

and con on all sides of that question. But I have found that the Congress is at least as responsible on this as our friends elsewhere in Government, and we have, as you know, shared with the Congress some very sensitive material which has been successfully protected by the Congress.

On the other hand, there are situations in which an American intelligence service will have to be much more exposed than the intelligence services of other countries. We are not going to run the kind of intelligence service that other countries run. We are going to run one in the American society and the American constitutional structure, and I can see that there may be a requirement to expose to the American people a great deal more than might be convenient from the narrow intelligence point of view.

That appeared a constructive answer. Members of the Senate Armed Services Committee and I would hope the Appropriations Committee will do their best to release more information about this budget. I do not think his answer means, however, an unqualified endorsement that everyone in America ought to know the details of the intelligence business. That would be against the Nation's interest.

Mr. PROXMIRE. I think that is correct; but I do not understand why we cannot be told the total amount, so that we will have some basis for judging it.

Mr. SYMINGTON. Let me say to the able Senator, we would also give the total amount for the DIA, for the NSA, and the amounts for the various other intelligence services, including the Office of Naval Intelligence and the other services; and I would be glad to discuss this with the able Senator, or anyone else. I read that into the Record, because I did not think Mr. Colby's answer to the question was quite as broad as I was led to believe by what the able Senator said.

Mr. PROXMIRE. Can the Senator give any reason for not disclosing the overall amount?

Mr. SYMINGTON. Yes, but I would rather not discuss this on the floor, rather some other place at the convenience of the Senator from Wisconsin. There ought to be more public information. How it is given out, from the standpoint of national security, I would prefer to discuss further with the able Senator from Wisconsin at his convenience.

Then I would be glad to abide by his decision, because knowing him, I would either persuade him I was right, or he would me that he was right.

Mr. PROXMIRE. Just one further point on this. My resistance to handling this on a classified and confidential basis is that there is then no way in which it can be used in debate. There is no way in which it can be used in a report to other Senators. There is no way in which it can be made something on which we can secure outside expert opinion and judgments either as to the adequacy of the responses or how much should be put in.

Frankly, some of the most thoughtful and useful comments on spending policy comes from outside Congress. It comes from a variety of people; it comes from the interested experts in the universities, the business community, and elsewhere; and if we cannot discuss this publicly, so we can secure that opinion it seems to me we are very sharply handicapped.

S 15362

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

I think the Senator will agree that the success of the operations of the CIA, at least in the covert field, have been mixed—in fact, mixed on the side of being a whole series of pretty disastrous failures, and I think one of the reasons is because so much of it has been done in secret.

Mr. SYMINGTON. I fully agree with the Senator.

Mr. PROXMIRE. I thank the Senator. Mr. President, I have just alluded to the fact that CIA operations have often failed. Let me run through very quickly some of the CIA operations that have been made public, and how they have operated:

1953: Overthrow of Premier Mosadegh and retention of Shah on throne in Iran. I think we can agree that one was successful.

Early 1950's: Attempted airdrop of men into Albania to overthrow Albanian Government. Ended in disaster—all caught.

1954: President Arbenz of Guatemala and his Communist cabinet overthrown by CIA team. That was a success.

1958: CIA support for invasion forces against President Sukarno of Indonesia. U.S. pilot, Allan Pope, captured later released by intervention of Robert Kennedy. That was interpreted by most at that time as a failure.

1960: Reported bribe of Singapore Premier of \$1 million. Another failure.

1960: U.S. U-2 pilot Francis Gary Powers shot down over U.S.S.R. Collapse of summit meeting. That was certainly a failure.

1961: Bay of Pigs. We all know what a failure that was.

1958-62: Support for Khamba tribesmen of Tibet against Chinese invasion. Training camp established at Camp Hale in Colorado. Tibet operation terminated with some loss of life among trained Tibetans. A failure.

1964-66: CIA involvement with emigre groups exposed in court case over United States and Canadian Estonian organizations. A failure.

1964: CIA supported U.S. Congo operation by assisting Tshombe. Anti-Castro Cubans used to fly U.S. aircraft. I think that was considered by most to be a mistake.

1964-65: CIA attempts to rig Chilean elections against Allende. Frei wins with CIA support. A temporary but certainly a pyrrhic victory, which has resulted since then in the view of many, as hurtful to American policy.

1966-67: National Student Association found funded by CIA. Elaborate front organizations in the United States exposed. That was certainly considered to be a failure.

Training and support of secret army in Laos at cost of over \$300 million a year. I think that would be a failure.

Supply of red wig, miniature camera, credentials, and voice alternative device to E. Howard Hunt given by CIA. That would certainly be considered a disaster.

Operation of dummy and front organizations such as Air America and Southern Air Transport. Certainly doubtful.

Phoenix program to neutralize Vietcong infrastructure—20,587 people killed

during Phoenix program led by William E. Colby. That certainly had mixed result at best, in the view of most observers, on the basis of the hindsight we now have.

So, as I say, this is not an agency that has a long and distinguished record of achievement in the covert operations. They have done many useful things in intelligence gathering; we would have to acknowledge that. But the country would have been better served and the CIA would have done a better job if we could have had more congressional knowledge of these covert operations, and if in fact some of them, at least, had been made public at a time when they could have been discussed, and then influenced the policies that were formulated later.

I am not contending that all covert operations can be made public in advance, of course.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. SYMINGTON. The covert operations that have failed are the ones made public. Some covert operations that have cost many American lives have been outstandingly successful. Some such operations have cost the lives of friends in foreign countries, although outstandingly successful.

I believe it unfortunate and illegal that the CIA was instructed by the National Security Council, just another way of saying the President of the United States, to carry on a war in Laos. I do not believe that will happen again. Although the Director of the CIA does not report to Congress, he promised me he will do his best to see it does not happen again. He knows the damage that war has done to the good name of the Agency he has served loyally for many years.

I agree with the Senator from Wisconsin that many problems we are talking about today came about, because of lack of review on the part of the committees of Congress that should have been more interested in CIA operations.

Mr. PROXMIRE. I think we also ought to recognize that it is very possible that this whole notion of our playing God, of our determining that the head of a government in a foreign country is not the right one, that we should challenge whether to act by assassination or by military coup or in some other way to put our own national preferences in authority and power. The President for whom both of us have such reverence, Harry Truman, who was the man during whose administration the CIA was founded, said in 1963 that he had no idea, at the time the CIA was established, that it would get into covert operations. He was appalled at the so-called "dirty tricks" record.

So here is one area that, whatever we are spending—and we have no idea—considerable question could be raised, first, as to whether we should continue, in view of the fact that we can challenge whether it is serving our interests under any circumstances; second, whether covert operations represent a moral attitude and posture that we should take; and third, whether this kind of activity should be continued without the congressional oversight, congressional

knowledge, and congressional decision that should be required.

Mr. SYMINGTON. May I say the great President the able Senator just mentioned brought me into Government; and The first Director of the Central Intelligence Agency was from my home town, and a close friend. I agree the agency began doing extraordinary things in later years, actions not justified under its charter. Let us hope that can be corrected. I would hope to see legislation, plan to suggest some myself, to correct this development. On the other hand, of all Senators who might be interested in it, I would say would be the distinguished Senator from Wisconsin (Mr. PROXMIRE) because I have never seen, with one exception, a CIA estimate of the Army, Navy, or Air Force capabilities of the possible enemy that was not less than the estimate of our own Armed Services. Without the CIA, we would be turning over decision as to what the enemy has to the Pentagon.

If we do that, I am sure it would increase even more our already very large military budget, because we build our own defenses against the best estimate of what the possible enemy has.

Mr. PROXMIRE. I would agree wholeheartedly, from what I have heard—and I know very little about it, as all of us know very little about it, unfortunately—the CIA may well have done a very good job in bringing quality to the intelligence community in the noncovert intelligence gathering area.

Mr. SYMINGTON. And separated from the military.

Mr. PROXMIRE. Yes.

Mr. CRANSTON. Mr. President, will the Senator from Missouri yield?

Mr. SYMINGTON. I yield to my able friend from California.

Mr. CRANSTON. I want to express my appreciation for the great work the Senator from Wisconsin has been doing in seeking to bring to public light—for the information of the Senate, the Congress, and the country—the total budget figure for the CIA. It is very important that that figure be made public. I think that the response the Senator got to his question submitted to Mr. Colby during the confirmation hearings indicates clearly that there is no security reason for keeping the figure secret. All that Mr. Colby said, according to the Senator's speech today, was that to disclose the total figure of the intelligence budget would not present a security problem at this time, but that disclosure was likely to stimulate requests for additional details. What he was saying there is that there are no security reasons, but they want to keep the figure secret because they want to keep some other things secret. To me, that makes no sense. If there are figures that should be kept secret, those figures need not be revealed. I agree that there are facts about the CIA's operation that are not properly available for public consumption, but making public the overall figure has nothing to do with concealing those facts.

But the chairman of the committee mentioned that if this figure was made public, then certain overall figures would have to be made public.



August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15363

Mr. SYMINGTON. I find myself in a rather extraordinary position this afternoon. Perhaps more than any other Member of the Senate, over a period of years, I have been pleading, arguing, working for further information about the CIA to be released at least to the Congress if not the American people.

So I do not want to be in any box about what is or is not released.

What I said to the able Senator from Wisconsin was based on his being a member of the Appropriations Committee.

So far as I am concerned, it has been most unfortunate the way intelligence information has been so extensively masked in the overall budget.

Mr. CRANSTON. I am delighted that the Senator has made that statement, because that is what the Senator from Wisconsin and I have been looking for. The DIA figure is already in the public domain.

I would like to add to the point the Senator from Missouri made about the figures in the defense budget. Since we do not know what the overall figure for the CIA is, every other figure in the Defense budget is open to suspicion as to its accuracy. In order to conceal within the Defense budget the overall CIA figure, every other figure is susceptible to being padded, and certain figures are padded. As a result, we have no idea what the figures really are, whether for the C-5A, the B-1 bomber, the Trident, or for military housing. We do not know whether those figures are accurate or inaccurate.

Mr. SYMINGTON. The Senator from California mentioned the DIA figure as published. I am not sure all the DIA figures are published, or NSA, or ONI, or Army Intelligence, or Air Force Intelligence. We are getting into something that should be checked from the standpoint of national security. I am sure the Senator would agree.

Mr. CRANSTON. Absolutely. I am delighted that we seem to have come to a point of agreement among the three Senators in talking about this matter.

Mr. PROXMIRE. Mr. President, apropos of what the Senator from Missouri has been quoting, indicating in his judgment that the total size of the intelligence budget is in the neighborhood of something like \$5 billion or \$6 billion, it has been said by some that this is high, and by others that it is low. Does the Senator feel, or could he discuss the total amount of the intelligence budget, in view of the fact that the Senator from Missouri just said that this is one area where there is more waste and extravagance than in almost any?

Mr. Symington. May I say to the able Senator from Wisconsin that I came in here to recommend the confirmation of Mr. Colby—

Mr. PROXMIRE. All right.

Mr. SYMINGTON. I know the Senator's tremendous capacity for figures—therefore do not want to commit myself because I am not sure. I am quite confident in my own mind, however that the figure of \$6 billion is high. As to what the exact figure is, let me check it, and I will tell the Senator before the end of the week as well as the relatively low percentage of that figure that goes to the CIA.

Mr. PROXMIRE. I thank the Senator very much.

Mr. CRANSTON. If the Senator will yield for just one brief question, I should like to ask him if I could also be advised of that figure. The Senator said the Senator from Wisconsin is a member of the Appropriations Committee. I am not contesting my right to the figure—

Mr. SYMINGTON. I would certainly desire to give the Senator from California any information he wants. He has me in a bit of a "crack"—

Mr. CRANSTON. That was deliberate.

Mr. SYMINGTON. Unusual for him, too. Let us see. In any case, one or two members of a committee should not be told about things other members of the committee are not told about. When that happens—and it has happened—I see the Senator from Iowa (Mr. HUGHES) in the Chamber, and he knows what I am talking about—then we do not have a majority of the committee voting money on the basis of the facts. It was easy for me to say to the Senator from Wisconsin that I would be glad to discuss it with him, because he is a member of the Appropriations Committee.

Would the Senator be good enough to give me 24 hours, then I will answer his question.

Mr. CRANSTON. Certainly. The difficulty I have in voting on matters like this, not only in relation to the CIA, is that the concealment of the CIA figure distorts every other figure.

Mr. SYMINGTON. The Senator from California is right. I am sympathetic. But we do not want to be attacked for violating any rules on national security. I would hope we can do what the Senator from California desires and I appreciate his understanding.

Mr. CRANSTON. I thank the Senator from Missouri very much. I will be delighted to wait until tomorrow.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Jerry Tinker and Dale deHaan be given the privilege of the floor during the course of this debate.

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

The time of the Senator from Wisconsin has expired.

Mr. HUGHES. Mr. President, I yield 15 minutes of time under my control to the distinguished Senator from Wisconsin (Mr. PROXMIRE) to finish his statement. He has obviously been in discussion here and has been unable to finish it. So I will be more than happy to yield him that time.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 15 minutes.

Mr. PROXMIRE. Mr. President, I want to thank the distinguished Senator from Iowa for giving me this 15 minutes. I do not think I will use it all.

Mr. SYMINGTON. I participated in this colloquy, but did not start it. If the Senator needs more time I will be glad to yield him from my time.

Mr. PROXMIRE. I thank the Senator. On the issue of the National Security Council Intelligence Directives, which I first raised here on April 10 and again

on June 4, I am pleased to note that for the first time the oversight committees will be briefed on their contents. It is simply unbelievable that the oversight committees were unaware of these—the primary operating directions to the intelligence community—for all these years. How could there be any oversight if Congress had no idea about what the executive department had directed the CIA to do? That is why the oversight committees did not know about the secret army in Laos or the tampering with the election in Chile. They did not even know where to look.

I urge the oversight committees to retain copies of these directives and require frequent briefings along the lines of the programs undertaken under each directive.

I ask the distinguished Senator from Missouri, the acting chairman of the Committee on Armed Services, if it would be possible to sanitize the NSCID's and release them publicly or have the National Security Council do so—that is, take out the classified information included in them, but release what can be released.

Mr. SYMINGTON. I am not sure, but have obtained approval to look at them myself. We have been so busy trying to get the procurement bill out under pressure from the leadership that I just have not yet had time. I would be glad to ascertain whether or not that would be possible. Those directives from the National Security Council, at least in the minds of some people, in effect go against the legislation which created the agency itself.

Mr. PROXMIRE. It is the kind of information we ought to have. Much of it is historical and dated and therefore could be disclosed.

Mr. SYMINGTON. I agree. The only person who could decide that would be the President or his agent, through the National Security Council. I will be glad to write them a letter about it.

Mr. PROXMIRE. When I get classified information and I ask that it be sanitized, 90 or 95 percent of the information is usually intact.

I might also add at this point that the CIA's reply to my question about the interpretation and extension of the National Security Act of 1947 was completely inadequate. The NSCID's flow from one clause in the 1947 act. The act also provides, as Mr. Colby states, that the National Security Council shall issue directives pursuant to the act.

But this does not give the National Security Council the right to change the intent or substance of the original act. It merely enables the National Security Council to carry out the expressed wishes of Congress as stated in the act. And nowhere in the act does Congress give the CIA authority to operate overseas with covert techniques.

In 1963, President Truman stated emphatically that he did not have this in mind when the CIA was formed during his administration.

## DOMESTIC OPERATIONS

Finally, I wish to talk about the issue of domestic operations. Although Congress clearly did not want the CIA to become involved in domestic matters and

S 15364

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

placed specific language in the act to that effect, still the CIA maintains certain domestic operations. Some of these may be harmless, like the Domestic Contact Service, but others pose more serious problems.

Mr. President, the strictest kind of restraint must be placed on domestic activities of the intelligence community. The CIA has no place training police forces under the omnibus crime bill. It should not be forming dummy domestic corporations or active corporations, for that matter. CIA ties with the academic community, research institutes, aerospace companies, and Federal bureaucracies should be carefully controlled.

I am particularly disturbed that the Domestic Contact Service has been placed under the operational control of the clandestine services. Mr. Colby says that this is to improve the coordination of its collection activities with those of the Agency abroad. I find this disturbing because of the possibility that the DCS, which has a good reputation, may now become "tainted" by the covert side of the Agency. If the DCS is an open and aboveboard operation, then it should operate in an open and aboveboard manner. It should operate under the authority of the analytical side of the CIA.

I should like to ask the Senator from Missouri one other question: Does the chairman think the oversight committees should be told about the foreign and domestic operations?

Mr. SYMINGTON. I would put it this way: The oversight committees should be told everything that does not directly affect an operation.

During the years I spent in the Pentagon at the Secretary level, there was one subject I did not want to know about; namely, the details of war plans.

If we have agents in a foreign country, under cover, I do not want to know who they are, nor do I want to know the details of their actions.

Mr. PROXMIRE. I understand that. I think everyone would agree with that. What I have in mind is that when these operations have taken place, and without disclosing identities of individuals involved, does the Senator feel that the oversight committees should be informed, so that there could be a prompt evaluation and a policy determined on the basis of that experience?

Mr. SYMINGTON. One of the most unfortunate developments in the history of this country was the secret war in Laos run by the CIA out of the Embassy in Vientiane under instructions from the Embassy. It was run without knowledge on the part of members of the Armed Services Committee or the CIA Oversight Committee or the Committee on Foreign Relations.

It was only found out about when staff members of Foreign Relations went into Laos and found a war being run out of the Embassy in Vientiane.

That kind of secret operation is wrong. It all should have been reported to the proper committees. I believe the main reason it was not reported was because they knew if it was found out, it would have been stopped.

Mr. PROXMIRE. Are these foreign operations ever reported to the oversight committees?

Mr. SYMINGTON. They have not for some years.

Mr. PROXMIRE. Why should they not be reported to the oversight committees?

Mr. SYMINGTON. I think they should.

Mr. PROXMIRE. And they should exercise their authority.

Mr. SYMINGTON. Yes.

Mr. PROXMIRE. So far as the Senator is concerned, that is his position?

Mr. SYMINGTON. And to the best of my ability, I will see that such reporting of a war, a secret CIA war, is put into effect.

## THE COLBY CONFIRMATION

Mr. PROXMIRE. In considering how to vote on the Colby confirmation I have weighed the available facts, as inadequate as they may be. On the negative side are his associations with the Phoenix program, his lifelong career in the covert side of intelligence, and the whole question of executive department use of the CIA. On the positive side is his willingness to answer all questions, his reputation as a good administrator, and some awareness of the propriety of close congressional oversight.

On balance, I have decided to support Mr. Colby. But I am giving notice that I will closely monitor his leadership of the intelligence community. And I will not hesitate to object to any questionable use of the intelligence community in domestic affairs. Furthermore, I may offer certain amendments to the military procurement bill dealing with the CIA.

## A NEW OVERSIGHT COMMITTEE

Mr. President, within the next few days I will introduce a resolution to create a standing committee of the Senate on the Central Intelligence Agency. There are many sound reasons for creating a full standing committee. Not the least of these is the need for continuing oversight of the multibillion-dollar intelligence community. This can only be done with a full-time staff unencumbered by other responsibilities.

I will recommend that this new committee be composed of members of the Senate Armed Services Committee, the Foreign Relations Committee, and others selected from the remaining Senators.

Mr. President, I welcome the statement by the distinguished chairman of the Senate Armed Services Committee (Mr. STENNIS) that the committee will undertake a reassessment of its oversight responsibilities. I hope that my bill S. 1935 will be considered at that time.

I thank the distinguished Senator from Iowa and the distinguished Senator from Missouri for yielding me time.

Mr. President, I yield back the remainder of my time to the Senator from Iowa, and I thank the Senator once again.

Mr. SYMINGTON. Mr. President, if the distinguished Senator from Iowa will yield, I am very glad to hear the able Senator from Wisconsin say he has decided to vote for Mr. Colby. Knowing him as I do, I know also that he would so

do unless he felt it was right and in the interest of the country.

His speech today on the Senate floor is constructive. This situation has been wrong; it has been wrong over a period of years; it should be corrected; and as a member of the Armed Services Committee, the Foreign Relations Committee, and a member of the Military Subcommittee on Appropriations, I will be glad to work with him to that end.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HUGHES. Mr. President, I yield myself 15 minutes.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Iowa (Mr. HUGHES) and the distinguished Senator from Massachusetts (Mr. KENNEDY) have at least 20 minutes apiece of the remaining time and that the vote occur on the pending nomination at the hour of 4 p.m.

Mr. CRANSTON. Mr. President, reserving the right to object, I do wish to speak on the nomination and I am not certain as to the time I will need. I am waiting to hear the statements of the two Senators.

Mr. MANSFIELD. We are trying to accommodate several Senators who would like to vote at 4 o'clock.

Mr. CRANSTON. I do not want to object, but I would like to have 12 or 14 minutes.

Mr. MANSFIELD. Very well. I withdraw the request.

Mr. HUGHES. Mr. President, I have requested time to speak to clarify my opposition to this nomination. As I stated at the time of the vote by the Armed Services Committee, I wanted to review the evidence which had been presented before making a final judgment.

That review has reinforced my original inclination to oppose Mr. Colby's nomination.

At the outset, let me say that I do not question Mr. Colby's ability. He has an impressive background of Government service in intelligence and other areas as well as good academic and professional credentials.

Moreover, I am pleased with many of the statements and pledges made by Mr. Colby in his confirmation hearings.

He has offered to accede to Congress will in making public some information about the CIA budget.

He has promised to continue reducing unnecessary intelligence activities in order to hold down costs.

He has stated that he would respect the prohibitions on CIA activities within the United States and calls the Agency's assistance to E. Howard Hunt a mistake that will not be made again.

He has agreed to consider providing written materials as well as oral briefings to the appropriate congressional committees.

And he has declared his intention to resign if he is ever given an order to involve the Agency in an illegal act.

August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15365

These are no small assurances and he is to be commended for them.

Despite those statements, Mr. President, I remain troubled about Mr. Colby's suitability for this particular important and sensitive position. After all, we are deciding who shall control what our intelligence agency does overseas and who should be the President's chief analyst of political and military developments in other countries that affect our national interest and security.

The decision as to who should have these far-reaching powers gets to basic consideration of a public official's loyalty to the Constitution of the United States when that loyalty seems contravened by other loyalties and disciplines. This, in turn, gets at the fundamental qualification for a CIA Director of an overriding commitment to civilian control of the Agency.

At a time when startling disclosures are being made of secret warfare being waged at the behest of a few individuals in command positions and of large scale falsification of official reports on such activities to the Congress and the American people, it seems imperative to me that we take a thorough, objective look at the temperament and background of the individual we select for this powerful, sensitive post.

In this context, I have serious doubts about the way in which Mr. Colby handled his previous assignments.

His optimistic assessments of the popularity and strength of President Diem in South Vietnam a dozen years ago may well have helped to cement American policy in support of a dictator who had lost touch with his own people. Better judgments in those years may well have avoided or mitigated the tragedy of Vietnam.

Mr. Colby's activities as head of the Far East Division of the Directorate of Plans may well have undermined the 1962 Laos accords and led to the start of the secret but deadly war in that troubled country.

Mr. Colby's direction of the Phoenix program, however well intentioned it may have been, clearly did not prevent abuses and excesses in that program which are now a matter of public record. I will leave to some of my colleagues a more detailed analysis of Mr. Colby's record as director of Phoenix which I believe requires the most careful scrutiny.

I am also frankly troubled about some of the attitudes Mr. Colby has shown toward the proper role of the CIA in the future.

Take, for example, his statements with regard to U.S. activities in Laos.

Mr. Colby told the distinguished acting chairman of the Armed Services Committee (Mr. SYMINGTON) that—

The initiation of CIA's activity in Laos was a matter which did require the use of intelligence techniques because it was felt important at that time that the United States not be officially involved in that activity.

Regardless of whatever "intelligence techniques" were involved, the fact was that the CIA financed one military faction which overthrew the legitimate Government of Laos in 1960 and later sponsored a secret army responsive to

American rather than Laotian policies. As the years passed, Americans became so deeply involved with this army—through advisers, pay, and air support—that the CIA was in effect running its own war in Laos rather than simply gathering intelligence.

Mr. Colby never told the committee that he would not engage in another secret, CIA-run war. Rather, he said:

I will try to keep it out of the kind of exposure that some of these larger activities got us into.

His concern was with exposure rather than with impropriety or outright illegality of an intelligence-gathering agency's running a war.

In a written question for Mr. Colby, I tried to pin down this crucial difference. I asked him: Where should the line be drawn between CIA and Defense Department activities involving the use of armed force?

His answer was:

In general, the line should be drawn between CIA and the Defense Department with respect to armed force at the point in which the United States acknowledges involvement in such activities. As a practical matter, however, the scale of the activity will, in many cases, also affect whether the United States is revealed as engaged in the activity.

Again, the point to be made is that Mr. Colby believes that CIA-run military operations are perfectly acceptable so long as they can be concealed. This is unacceptable to me.

When Americans are involved in combat, the Congress should be informed and congressional approval should be obtained.

Yet Mr. Colby stopped short of promising the openness which our system demands. When I asked him: Do you believe that it is proper under our Constitution for such military operations—as in Laos—to be conducted without the knowledge or approval of Congress, he replied:

The appropriate committees of the Congress and a number of individual senators and congressmen were briefed on CIA's activities in Laos during the period covered. In addition, CIA's programs were described to the Appropriations Committees in our annual budget hearings.

Mr. President, in my judgment, the lines drawn by Mr. Colby in responding to these questions are too blurry to be acceptable.

Given the recent evidence of the failure of more than a handful of Members of Congress—if that many—to be informed of the secret B-52 raids in Cambodia, I am suspicious of such assertions. And I am sure that the distinguished Senator from Missouri (Mr. SYMINGTON), though we differ on this particular nomination, would agree that sufficient and timely information on Laos was not provided to the Congress.

Now we face the problem of Cambodia. Press reports suggest that the CIA has already placed personnel throughout the country who are providing radio equipment to Cambodian units and who then suggest where these units should operate. At least some of these people worked on paramilitary operations in Laos at an earlier time.

We have to be sure that these people are not the entering wedge of another clandestine cadre of American military advisers—which would be contrary to existing law and against the clear desire of the American people and the Congress to withdraw from military operations in Cambodia.

Mr. Colby's prior association with such operations and his testimony make me fear that he might acquiesce in another secret war, at least so long as it can be kept secret.

I have no objection to an intelligence man as director of the CIA. In some cases, it might be positively beneficial, since he would be better able to control the vast bureaucracy beneath him because he knows the ins and outs of the process.

But the intelligence apparatus should be under command and control of proper constitutional authority; its operation must not be permitted to become an end in itself.

I am fearful of a man whose experience has been so largely devoted to clandestine operations involving the use of force and the manipulation of factions in foreign governments. Such a man may become so enamored with these techniques that he loses sight of the higher purposes and moral constraints which should guide our country's activities abroad.

We need as Director of the CIA a man who will unflinchingly act on those purposes and subject to those constraints, a man who will unflinchingly show the independence necessary to resist pressures from his operatives below and from his superiors above to try some dirty trick which promises some clever success at the expense of our principles.

Take the example of CIA involvement in domestic activities in the United States. We know that the CIA provided assistance to Howard Hunt's burglary of Daniel Ellsberg's psychiatrist's office; that it prepared a personality study of Dr. Ellsberg, an American citizen; that it provided probably illegal training to local police forces in our country.

When questioned about taking firm steps to prevent recurrences, Mr. Colby answered me that—

With respect to the training of local police personnel—any further such action will be taken only in the most exceptional circumstances and with the Director's personal approval.

Instead of outright repudiation of such practices, Mr. Colby left open the door for his own personal decision.

Bluntly, there were too many qualifications, too many hedges in such answers to convince me of Mr. Colby's suitability for this particular command post.

We cannot accept such loopholes unless we are willing to tolerate abuses and, ultimately, risk loss of control.

Mr. President, in confirming a director of the far-flung CIA, there should be no questions whatever in our minds as to his responsiveness to civilian control and his respect for the basic political processes of this republic.

The discipline of the secret operative is necessary, often admirable, but it is not necessarily conducive of the kind



S 15366

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

of perspective and judgment required for the head of a vast governmental agency which has the capability of either protecting or compromising our national interest and our moral purpose as a people.

Mr. President, we must recognize today more clearly than ever before that the Congress has awesome responsibilities in voting on this immensely important appointment. The selection of head of the CIA is too crucial to our future to be made with a routine stamp of approval.

This brings us to the larger context of congressional responsibility for oversight of the CIA. In the last 20 years more than 200 bills designed to make the CIA more accountable to Congress have been introduced and have gone absolutely nowhere. The least we can at this time do is to review and live up to our responsibilities under the existing imprecise laws governing that agency.

Mr. President, my opposition to Mr. Colby has no personal overtones. Nor do I have cause to question either his loyalty or ability. The question is whether or not this man in the light of his background and attitudes is qualified for the CIA directorship with all of its sensitive bearing on national security, national purpose, and constitutional liberties.

For me the answer is No.

I yield the floor.

Mr. KENNEDY obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Mr. President, I would like to repeat my request: Twenty minutes to the distinguished Senator from Massachusetts (Mr. KENNEDY), and 10 minutes to the distinguished Senator from California (Mr. CRANSTON), and then a vote on the nomination.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object and I shall not object—I simply did not hear the request.

Mr. MANSFIELD. Twenty minutes and 10 minutes and then the vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I, first of all, want to express my very sincere appreciation to the acting chairman of the Armed Services Committee, and the person that is bringing the nomination to the floor of the U.S. Senate (Mr. SYMINGTON). I want to express my very deep sense of appreciation for all the courtesies he has extended to a Member of the Senate, which in this case is myself, and for cooperating in every possible way to assist this Member to gain information from the nominee and also from the committee itself on a number of different matters which I was deeply troubled by and very much concerned about.

After listening to the colloquy of the Senator from Wisconsin, the Senator from California, and the Senator from Missouri, and hearing the Senator from Missouri indicate that he was going to respond in every positive way he could to work with Members of the Senate, I would like to say publicly that, as a person who has worked with him closely on

this particular matter, as well as other matters, I think my colleagues can be very much assured of his cooperation and willingness to extend every degree of information that he possibly can to the Members of the Senate.

Mr. SYMINGTON. Mr. President, I cannot let those very kind remarks go without expressing my gratitude. Having served for many years with the able Senator from Massachusetts, and having had increasing respect for his ability and his intelligence on these and other matters, it was a privilege to cooperate with him in this case. It will always be a privilege to cooperate with him.

Mr. KENNEDY. I thank the Senator.

Mr. President, although I respect Mr. William Colby's proven ability and the high regard in which he is held by the intelligence community of the United States, I intend to cast my vote against his confirmation as Director of Central Intelligence.

In part, the reservations I have about his nomination are matters of personal conscience, arising out of Mr. Colby's close relationship with the Phoenix program in South Vietnam and my own longstanding humanitarian concern about the effects of the war on Vietnamese civilians.

In part, my reservations also involve larger questions about the changing role of the CIA in American policy and the philosophy of the person the country should have to guide the Agency in the years ahead.

As chairman of the Senate Refugee Subcommittee, as a Senator concerned about civilians in Vietnam, as one who has been to Vietnam and seen their plight firsthand, I have long been troubled by the continuing serious allegations surrounding the Phoenix program.

From the fall of 1968 through the spring of 1971, Mr. Colby was in charge of the U.S. pacification program in South Vietnam. As such, he was one of the principal architects and masterminds of Phoenix, a program designed to "neutralize"—in one of the more notorious euphemisms of the Vietnam war—the so-called Vietcong infrastructure, that is, South Vietnamese civilians providing assistance to the Vietcong.

The following statistics on Phoenix, furnished by Mr. Colby in House hearings in 1971, represent one of the few accepted measures of the program:

## PHOENIX—NEUTRALIZATION OF VIETCONG INFRASTRUCTURE

	Captured	Rallied	Killed	Percent killed	Total neutralized
1968.....	11,288	2,229	2,559	16	15,766
1969.....	8,515	4,832	6,187	31	19,534
Sentenced:					
1970.....	6,405	7,745	8,191	36	22,341
1971 (May).....	2,770	2,911	3,650	39	9,331
Total.....	28,978	17,717	20,537	30	66,972

As Ambassador Colby stated in his public confirmation hearing before the Senate Armed Services Committee on July 2, during his tenure as head of pacification:

Most of the developments of the Phoenix program were my own.

Yet, the record of Phoenix and related public safety programs under Mr. Colby is marked not only by a shocking dearth of information on the operations and results of the programs—but it is also riddled with unanswered charges and allegations of assassinations, of indiscriminate killing of civilians, of targeting suspects without adequate intelligence, of false arrests and unknown persons "neutralized," of torture and brutality in the interrogation centers and prisons, of jailing non-Communist political opponents of President Thieu, of reclassifying political prisoners as common criminals, and of inexcusably poor training and field control of a program of such lethal scope. And we see the results of this program continuing today in the prisons of South Vietnam.

In addition to a private conversation with Mr. Colby earlier this month, I had the opportunity, at the invitation of the Armed Services Committee to question Mr. Colby last week in executive session, and to submit a series of written questions on Phoenix and related programs. Mr. Colby's replies still leave many questions unanswered—and, in fact, raise some troubling new ones.

In terms of the past record, Mr. Colby has provided no additional information on the Phoenix and related programs, and declined to submit documentation in support of his views.

In terms of the present, it is clear from Mr. Colby's replies that the United States has not fully disengaged from Phoenix and related functions, and that Mr. Colby supports our present posture.

One of the questions I submitted read as follows:

What is the current status of the Phoenix (Phung Hoang) Program? Assuming it continues, does the United States have a supportive, advisory or any other kind of role? Are any American or American sponsored personnel, from the CIA or elsewhere, involved in any way? Are any American commodities or funds, directly or indirectly, from the CIA or elsewhere, supporting any aspect of the Phoenix Program?

This is Mr. Colby's response:

Aside from a GVN national level coordinating committee, the Phung Hoang program has been incorporated within the national police of Vietnam and is no longer a separate program. The United States does not have a support, advisory or other role with respect to the Phung Hoang program, although CIA maintains liaison and assists the Special Police Branch of the National Police in its intelligence functions. The United States advisory effort with the Phung Hoang program was terminated in December 1972, and U.S. assistance to the Phung Hoang program through the Department of Defense ended at the same time. Aside from this relationship with CIA, I am not informed about the uses made of other assistance which might be supplied by the United States.

This comment is distressing. Clearly a continuing American involvement along the lines suggested by Mr. Colby is not only unconscionable—but, I feel, it is also in violation of the spirit, if not the letter, of the ceasefire agreement for Vietnam.

Finally, in terms of the future and his potential direction of the CIA, Mr. Colby clearly feels that Phoenix-type functions,

—August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15367

organizations and programs—what he calls “internal counter-subversive or counter-terrorist activities”—are a proper function of the CIA, and serve a useful purpose in U.S. foreign policy.

Again, one of the questions I submitted read as follows:

Are there plans, anticipations, or personal convictions on your part, that Phoenix programs should be supported by the United States in the Philippines or Thailand or elsewhere?

This was Mr. Colby's response:

Under the Nixon doctrine I do not envisage a large-scale U.S. involvement in internal counter-subversive or counter-terrorist activities on the scale of experience in Vietnam.

Frankly, this is a surprising reply— for the Nixon doctrine has been in force for the greater share of Phoenix history.

As a matter of fact, this morning, in our Refugee Subcommittee, we inquired into the matter with AID and Department of Defense officials. I asked Mr. Dennis Doolin about the Department of Defense's contribution of nearly \$12 million, under fiscal year 1974, for police support activities. Under Mr. Colby's earlier response, he recognizes that the Phoenix program continues in Vietnam and recognizes that the program is now incorporated into the national police. However, he was unable to give us any information. We know that we are contributing in excess of \$12 million to the police forces of South Vietnam, out of AID and DOD funds. But the Defense Department personnel whom we had before our committee were unable to give any assurance to us this morning that no part of these funds are being used for Phoenix functions.

Also, Mr. Colby indicated when I asked if such a program could start in the Philippines, Thailand, or elsewhere: “Under the Nixon doctrine, I do not envision a large-scale U.S. involvement in internal countersubversive or counter-terrorist activities on the scale of experience in Vietnam.”

The Vietnam experience is the one that gave us Phoenix. I cannot say that I was assured by his answers to those questions.

Finally, during his tenure in Phoenix, Mr. Colby found it necessary to issue a directive to all U.S. military personnel participating in the program. One passage in the directive states that:

U.S. personnel . . . are specifically unauthorized to engage in assassination.

Another passage states:

If an individual finds the police type activities of the Phoenix program repugnant to him . . . he can be reassigned from the program without prejudice.

In sum, the essence of Mr. Colby's defense against the charges that Phoenix was a program of indiscriminate murder, assassination, and torture is that war is dirty business, and that the program was an essential part of the American war effort in South Vietnam, that he was aware of the abuses, that, as the military directive indicates, he made efforts to reduce them, that the abuses were isolated events, and that, in any event, he was simply carrying out a program ordered by the U.S. high command.

But no rationalization of Phoenix, no minimization of its abuses, no antiseptic label can conceal the fact that although Phoenix is the mythical bird of life and resurrection, Phoenix under Mr. Colby's tenure was a bird of death for 20,587 civilians of South Vietnam.

This Nation should never have been involved in Phoenix. Never again should a program like that be part of America's role in world affairs.

The other reservation I have about Mr. Colby involves the sort of leadership America wants for its CIA in the years ahead.

In recent years, the activities of the CIA, especially its secret operations, have come under increasing challenge at home and overseas. The gulf between the Agency's intelligence arm and its clandestine arm is well known. Especially in recent months, as highlighted by the unfolding disclosures of CIA involvement in the Watergate affair, the reputation of the Agency has been further diminished, because of its apparent involvement in domestic activities in violation of its charter.

I share the serious and growing doubts of many other Senators about the role of the CIA as it is presently constituted. Already, under the leadership of Senator STENNIS and Senator SYMINGTON, the Armed Services Committee has begun an extensive review of the CIA Act. There are many other signs as well that both the Senate and the House intend to exercise a far greater degree of oversight over the CIA in the future than has existed in the past.

But Congress cannot do the job alone. If the CIA is to fulfill its proper role in the decade of the seventies, it must have a director who is responsive and sympathetic to the need. As a man who has risen through the ranks of the Agency on its clandestine side, Mr. Colby symbolizes the side of the CIA that has become deeply embroiled in the present controversy over the Agency's foreign and domestic activities.

Perhaps the CIA continues to need this covert side to its operations—unquestionably, Mr. Colby is an outstanding choice to lead such a role as the CIA's Deputy Director for Operations, the position he now holds.

But, looking to the future of the country and the future of the CIA, I believe the United States has had enough secrecy and covert ideas and covert men. At the very least, the CIA needs a greater balance between its clandestine and its intelligence functions.

But William Colby is the epitome of the covert man. And so, although my opposition to him on this ground is in no sense a personal reflection on him, I do not believe that he should be the choice to strike that balance or to shape the Agency in the transitions that lie ahead.

One other point should be mentioned. In recent weeks, I have been troubled by a number of questions arising out of Mr. Colby's role as Executive Director of the CIA in certain aspects of the Watergate affair in 1972 and early 1973.

Although this aspect is not yet entirely free from doubt, the issue continues

to be investigated by the Senate Select Committee and the special prosecutor.

I do, however, want to make clear that my vote against Mr. Colby's confirmation is not based on his relationship to Watergate.

In closing, let me say again that I respect the very high regard in which Mr. Colby is held by those who have known and worked with him. In many respects, he symbolizes the finest qualities of intellectual ability and personal sacrifice demonstrated by legions of able and unheralded American officials who have unselfishly dedicated their careers to the Nation's public service.

But, for the reasons stated, I am unable to approve his nomination.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, to me there is one basic problem looming behind the vote on the nomination of Mr. William Colby to be the new Director of the Central Intelligence Agency. That problem is the vast power wielded by the Central Intelligence Agency itself.

When I reviewed the National Security Act of 1947, I was reminded once again that the CIA's power has largely developed within the statutory authority laid down by that act.

The bulk of the CIA's duties as defined by the National Security Act are related to advising the National Security Council and correlating and evaluating intelligence. The authority for the “dirty tricks” is contained in one short clause stating that it shall be the duty of the Agency, under the direction of the National Security Council—

. . . to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct. (50 USC 403(d)(5).)

This means that the law gives the CIA, subject only to the approval of the National Security Council, a virtually free hand in conducting clandestine operations overseas, overthrowing foreign governments, training mercenaries, and even sponsoring assassination programs such as Phoenix—all in the name of national security.

Today it seems strange that Congress should have signed away such power. Knowing what we know now, we would probably have placed far more restrictions on the CIA's mandate. Perhaps a brief look at the cold war setting in which the National Security Act was drafted will help to show how badly change is needed.

The cold war spawned an increasing tendency to see overseas political developments in military terms and hence to let defense policy determine foreign policy, rather than the other way around. Prior to World War II, military officers had not been prominent decisionmakers in matters of foreign policy, but the cold war saw a dramatic reversal. Diplomats yielded their influence to professional soldiers and to civilians whose concern for military might surpassed even that of the generals.

In this framework, the political sys-

S 15368

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

tem adopted by another country was automatically part of a worldwide contest between capitalism and communism, and thus either a threat or a boost to our national security. As President Truman said before a joint session of Congress on March 12, 1947:

... totalitarian regimes imposed upon free people, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.

National security had become a national mania. Accordingly, the powers of oversight and review were given to the two Armed Services Committees of House and Senate and to the Appropriations Committees, but not to the Foreign Relations Committees.

Today we know that what the CIA does has explosive foreign policy implication. In many countries of the world, American foreign policy has become closely associated with the CIA.

Today we know, too, that a radical movement somewhere in the world is not automatically a threat to our security. We know that economic strength and political leadership are as important, in their own way, as our arsenal of bombs and missiles.

Today the mood and atmosphere have changed, but the law has not.

And I think that is the most fundamental challenge facing the Congress on the question of the CIA—to bring the law into line with a democratic society and to place further restrictions on the CIA, its Director, and its activities.

Accordingly, I am introducing today a measure to set up a 1-year, ad hoc Select Committee on Foreign Intelligence, whose duties shall include recommendations on revising the National Security Act and taking other appropriate steps to bring the CIA under firmer supervision. This committee should address the basic questions of the CIA's mandate and the degree of power that is appropriate to that mandate. It should consider that power in the context of a democratic society. It should seek to lay down guidelines for the CIA's activities.

More broadly, however, the ad hoc committee that I am proposing should take a broad look at all our overseas intelligence activities, not just those of the CIA. It would be directed to study the implications of these activities for U.S. foreign policy, foreign economic policy, and defense policy, and to report its general findings to the full Senate.

Mr. President, I think we need a study committee of this kind even if an authorizing committee is set up relating to the CIA. I am delighted that the distinguished Senator from Wisconsin (Mr. PROXMIRE), who has provided such creative and constructive leadership in this field, plans to introduce a resolution to create a standing committee of the Senate on the CIA. I am delighted, too, that our wise and effective majority leader, Senator MANSFIELD, is particularly interested in this move, and is devoting a considerable measure of his talents to the effort to bring the CIA under proper control.

I believe we also need a study committee because—too often—this country does one thing with the right hand and another with the left. There should be some group in the Senate that can stand back and look at the whole, briefly, without a permanent assignment, and thus without developing a domain of its own—in other words, without developing a constituent interest.

I also have some modest suggestions relating to curbing the power of the CIA short of a fundamental review and overhaul. I am offering these suggestions in the form of amendments to the National Security Act, and I will explain them in a moment. But first I want to make clear that I would prefer to have these suggestions acted upon by some sort of oversight committee or authorizing committee. But if the Senate does not establish either of these committees, I will push ahead with these amendments on my own.

My first proposal is to place a time limitation on the terms of the Director and Deputy Director of the CIA. As the law stands (50 U.S.C. 403(a)), the Director and Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. But there is no time limitation to that appointment. I propose a term of not to exceed 8 years. I do not feel that 8 years is a magic number. But I do think it important to place a time limitation on these positions so as to prevent the perpetuation of an "independent kingdom." I understand that the distinguished Senator from West Virginia (Mr. BYRD) has introduced similar legislation to place a time limitation on the term of the Director of the Federal Bureau of Investigation.

My second proposal would prevent the posts of Director and Deputy Director from being occupied by two "insiders" at the same time. According to existing law, at no time shall the two positions be occupied simultaneously by commissioned officers of the armed services. I suggest extending that restriction to individuals employed by the CIA within the last 5 years prior to their appointment.

By requiring that the posts of Director and Deputy Director shall not both be filled by "insiders" at the same time, my intention is to prevent the Agency from being run by "professionals' professionals" and subject it to some form of supervision from the outside. Just as a general should not be appointed Secretary of Defense, so the leadership of the CIA should not be drawn solely from within.

My third proposal is directed at the broad power granted to the CIA by the National Security Act to perform functions other than those related to the collection and analysis of information—the so-called "dirty tricks". I have already quoted that part of the National Security Act that conveys the authority for these operations.

My amendment would change that power in a very modest way by requiring not only the approval of the National Security Council, but the specific, written approval of the President as well.

This is a small but important first step toward curbing the misuse of power.

Let me emphasize again that these are not final solutions but only modest first steps. And again, they should ideally be debated by an authorizing committee or by a committee specifically set up to study foreign intelligence activities in general and the CIA in particular.

I also want to make it clear that my motive in introducing this legislation is not punitive. I have considerable respect for the CIA. Nor is it directed at Mr. Colby personally. I recognize that he is a capable man who has won the respect of his colleagues and of many people outside of the Agency as well.

I have endeavored to find out all I could about Mr. Colby but, like Senator PROXMIRE, I have found that a difficult task. I concur with him that today the Senate will cast a blind vote on the Colby nomination.

I came on the floor today not knowing how I would vote. I have listened carefully to the debate. Primarily for some of the reasons advanced by two distinguished Senators, Senator HUGHES and Senator KENNEDY, I shall vote against him.

I shall vote against him also because William Colby is a symbol of the abuse of power.

We do not need to break the law to have effective intelligence operations. I believe in order, justice, and law.

My aim in the legislation I am proposing is simply to place limitations on the extraordinary power wielded by the Director of the CIA in the belief that such power is incompatible with our democratic system.

The legislation that I am introducing today is only a partial check on the virtually unfettered power enjoyed by the CIA. A crucial step not covered by my proposals, for example, is making public the budgets of the various intelligence agencies, including the CIA. I have already pursued this suggestion through letters to other Senators and through discussion in the Democratic Caucus, and I want to reiterate this concern today.

I have noted two encouraging developments in particular. First, during his confirmation hearing for his appointment as Secretary of Defense, Dr. James Schlesinger stated that publishing a gross figure for national intelligence programs would have a "minimal" effect on security concerns. In answer to determined questioning on a public budget figure by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), he added:

... for the gross national intelligence program figures, I think we could live with that on a security basis, yes.

And William Colby, the Director-designate of the CIA, stated that while budget totals have traditionally been classified, he would "defer to the appropriate congressional authorities" for any change. I read that as a message for us to go ahead with changing this unnecessarily supersecret tradition.

Mr. President, General Marshall used to say that political problems, if thought about in military terms, become military problems. Now the word "paramilitary"

August 1, 1973

## CONGRESSIONAL RECORD — SENATE

S 15369

tary"—from "para," meaning "along-side of" or "related to"—has come into common use even though most standard dictionaries do not list it. I am afraid that without legislation to curb the CIA, political problems—already woefully militarized—will increasingly become paramilitary ones.

I ask unanimous consent that the text of the proposed legislation be printed at this point in the RECORD.

There being no objection, the resolution and bill were ordered to be printed in the RECORD, as follows:

S. 2321

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended by striking out the proviso at the end of such section and inserting in lieu thereof the following: "Provided, however, That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously (1) by commissioned officers of the armed services, whether in an active or retired status, or (2) by individuals who have been in the employ of the Agency for any period of time during the five year period immediately preceding the time they are considered for appointment. No person may serve as Director for more than a total of eight years."

(b) The eight year limitation prescribed for the Director of the Central Intelligence Agency by the amendment made by subsection (a) of this section shall begin to run on the date of enactment of this Act in the case of any person holding such office on such date of enactment.

Sec. 2. Paragraph (5) of section 102(d) of the National Security Act of 1947 (50 U.S.C. 403(d)(5)) is amended by striking out the period at the end of such paragraph and inserting in lieu thereof a comma and the following: "but only if the President specifically authorizes any such function or duty and notifies the Director in writing of his approval and includes in his notice a description of the function or duty authorized to be performed by the Agency."

S. RES. 152

A resolution to create a Select Committee of the Senate on Foreign Intelligence

*Resolved,* That Rule XXV, paragraph 1, of the Standing Rules of the Senate is amended by inserting a new subparagraph (f) and relettering the subsequent paragraphs accordingly. The new subparagraph (f) reads: "(f) Select Committee on Foreign Intelligence, which shall be charged with

(1) conducting oversight and review of all foreign intelligence activities carried out by

- (a) the Central Intelligence Agency
- (b) the Defense Intelligence Agency
- (c) the National Security Agency
- (d) the U.S. Army, the U.S. Navy, the U.S. Marine Corps, and the U.S. Air Force

- (e) the Department of State
- (f) the Atomic Energy Commission
- (g) the Federal Bureau of Investigation
- (h) any other U.S. Government department or agency which the Chairman of the Select Committee determines is carrying out foreign intelligence activities;

(2) to study the implications of such activities for United States foreign policy, foreign economic policy, and defense policy;

(3) to review the provisions of the National Security Act of 1947 with a view toward recommending further restrictions on the duties, functions, and powers of the Central Intelligence Agency; and

(4) to report to the full Senate at the end of one year following the passage of this Resolution concerning its general findings.

Sec. 2. Rule XXV of the Standing Rules of

the Senate is amended by inserting a new paragraph (4) and renumbering the subsequent paragraphs accordingly. The new paragraph reads:

"4. Without regard to paragraph 7 of this rule, the Select Committee on Foreign Intelligence shall have a term of one year and shall consist of seven members of the Senate, four from the majority party and three from the minority party. Two members shall be Senators who are concurrently serving on the Committee on Armed Services, and two shall be Senators who are concurrently serving on the Committee on Foreign Relations. The remaining three members shall be appointed by the President of the Senate upon the recommendation of the policy committees of the majority and the minority. The Select Committee shall select a Chairman and a Vice Chairman from among its members."

Sec. 3. The Select Committee is hereby authorized, for a period of one year following the passage of this Resolution,

(a) to adopt rules concerning its procedure,

(b) to hold hearings,

(c) to procure printing and binding,

(d) to make expenditures,

(e) to employ personnel, and

(f) to receive and deposit such written information as it may request from the various Departments and Agencies listed in Section 1, and to take all appropriate steps to safeguard, where necessary, the confidentiality of such information.

Sec. 4. For purposes of this Resolution—

"foreign intelligence activities" means all activities conducted in, or directed toward, areas other than the United States and its territories and possessions, and relating to,

(a) the gathering of information, and

(b) the planning, conduct, and execution of political, economic, or military activities whose existence is not generally or publicly acknowledged by the United States Government.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Illinois may be yielded 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. Mr. President, at an executive session of the Committee on Foreign Relations on February 7, 1973, I expressed to Mr. Richard Helms my feeling that the CIA should have no direct relationship with the briefing or training of domestic police, law enforcement, or internal security personnel. I said that I believed those functions should be carried out by the FBI.

I was aghast to learn that the CIA had engaged in a training program or in training sessions at the request of the Chicago Police Department, among other police departments of the United States, with techniques that were described to us in executive session. I said that I felt this action simply had no place in the CIA and contravened the authority granted by Congress to the CIA, which was supposed to engage in activities outside the United States. I said that the FBI had adequate resources to carry on this assistance, but that if the CIA had information that could be used, it should be transmitted to the FBI, because the FBI had direct responsibility for domestic activities, and that the CIA should stay totally and completely away from that area.

I described also my concern because I had just recently visited South Korea,

where there is an agency known as the CIA, which then engaged in international activities besides also engaging in domestic activities. That is a most distrusted agency, and I wanted no implication that our CIA could ever become involved in domestic affairs right here in the United States.

Mr. Helms responded that he would convey this information to the new Director and said he was sure that he would abide by it.

On May 21, 1973, at an open session with Mr. Helms, I asked him if he had in fact conveyed this position to his successor as Director of Central Intelligence, Mr. James Schlesinger. He responded:

I did not talk to Dr. Schlesinger directly about this. I conveyed the sense of the Committee's statement and the Senator's statement of the General Counsel of the Agency, which was conveyed to Dr. Schlesinger. And a few days before I left to go to my post in Iran, I was informed that Senator Fulbright had written a letter to the Director embodying in his letter these strictures. So I assume that, therefore, the messages had not only gotten through but the new Director would abide by it.

The letter from Senator FULBRIGHT to Mr. Schlesinger was dated February 8, 1973, and said that members of the committee present at the executive session the day before had reached a consensus "that the FBI was the proper agency to carry on such activities—involving assistance to local police departments—and that they should be discontinued by the CIA." Senator FULBRIGHT said he wanted to underscore the point and to request Mr. Schlesinger's comments after he had familiarized himself with the matter.

Mr. Schlesinger responded by letter to Senator FULBRIGHT on March 1, 1973, stating:

I have given this matter careful attention, and am satisfied that the Agency's activities in this connection have been consistent with the letter and spirit of existing legislation. However, in keeping with the sensitivity of this matter I have directed that such activities be undertaken in the future only in the most compelling circumstances and with my personal approval. We will, of course, comply with applicable laws and regulations regarding coordination with other Federal agencies.

Before voting on Mr. Colby's nomination, I wanted to assure myself that he was acquainted with the discussion and correspondence between members of the Committee on Foreign Relations and Messrs. Helms and Schlesinger on this matter.

I was particularly concerned to have Mr. Colby's own views, since Mr. Schlesinger—in his letter to Senator FULBRIGHT—had left the door ajar on this question by indicating that such activities would be undertaken in the future "only in the most compelling circumstances and with my personal approval."

Therefore, I have raised this issue with Mr. Colby, who has responded that he would undertake such activities only in the most extraordinary circumstances and that—if the circumstances appeared to him to be that extraordinary—he would consult with the congressional oversight committee before acting. This reply is satisfactory to me, and I believe

S 15370

## CONGRESSIONAL RECORD — SENATE

August 1, 1973

it indicates rather clearly Mr. Colby's intention to be responsive to Congress.

One of the difficulties which has caused problems for the CIA in its relations with the Congress has been CIA's reluctance to seek congressional guidance on sensitive matters. While one can appreciate that a concern for security may often stifle any inclination toward candor, it is important now that the Agency be completely forthcoming with Congress.

I shall vote for Mr. Colby's confirmation because he is a man demonstrating competence, integrity, and ability. I feel that he will always consult with the Congress when desirable and will keep us advised of CIA activities which have a bearing on our own constitutional responsibilities in the fields of national security and foreign affairs.

Speaking personally, I have had 6 years of extremely fine experience with one of Mr. Colby's predecessors—Mr. Helms. I have always found the briefings I have had, not only concerning this country but also countries abroad, among the most intelligent and penetrating which has helped me immensely in my work as a U.S. Senator. I might say that I received great help, indeed, in working with the floor leader today in the matter of the ABM. I could not have had more assistance and help in reaching a conclusion than I did from finding who would know the policy decisions best based on objective facts, enabling me to come to my conclusion, one which I feel sure is ultimately shared by the administration as well.

Mr. SYMINGTON. I thank the Senator from Illinois for his kind remarks, am very grateful.

Mr. NUNN. Mr. President, first, let me say to the Senators from Iowa, Massachusetts, Wisconsin, California, and Illinois that they have made a real contribution in outlining some of the things most needed to be done to supervise the CIA and which definitely should be done.

I should also like to commend the acting chairman of the Armed Services Committee, the distinguished Senator from Missouri (Mr. SYMINGTON), for the manner in which he held the hearings on the confirmation of Mr. Colby.

This is a very important confirmation to a very important post. I would also like to agree and take the position the Senator from Missouri took so far as the need for creating a real supervisory committee is concerned.

I commend the Senator from Missouri for his ideas on investigating not only the charter of the CIA but also the possibility of letting the total budget figures be known so far as the intelligence community is concerned.

I have had numerous conversations with Senators and, at the present time, the total figure, if we were given that total figure, and if it were made known, would not only eliminate any doubts about the Intelligence Agency, but would also eliminate any doubt about the overall Defense Department budget figures.

I can only agree with the Senator from Wisconsin (Mr. PROXMIRE) when he said, in effect, that it taints the entire defense budget when it is put into different items so that we have no way of segregating

out what is for intelligence and what is not.

Mr. President, it is important to realize that certain subdivisions and certain breakdowns will have to be looked at carefully, even if we get the budget figures made public. But the Senator from Missouri, the acting chairman, who has said that he will go into the matter, is to be commended, because it is one of great importance.

The Senator from Mississippi (Mr. STENNIS) has also stated that he is going into the matter of the charter and I should like to commend him for that.

In closing, I should like to say that I have attended the hearings on the Colby confirmation. Mr. Colby has integrity. He has experience to do the job. It is one of the most important jobs in Government. I believe that the CIA now needs leadership perhaps more than any other branch or agency in the Government. It is awfully important.

I am therefore going to cast my vote for his confirmation.

Mr. FULBRIGHT. Mr. President, although I intend to vote for the confirmation of Mr. Colby, I will do so with some misgivings. My concern does not go to Mr. Colby's integrity or to his professional competence because I have no grounds for doubt in either of these areas. I am, however, troubled by the practice of placing the vast responsibilities exercised by the Director of Central Intelligence in the hands of someone whose experience has been devoted almost exclusively to clandestine intelligence operations.

In my view there is a real need to insulate the analytic process from the operational side of the intelligence business and I am not certain that a Director who is operationally oriented will be sufficiently sensitive to this problem. Perhaps Mr. Colby is aware of this problem but we cannot feel any assurance on this score precisely because his background is so little known to us. Substantial reorganization of the Agency's structure apparently began under the last Director and presumably will continue under Mr. Colby. I have serious questions whether the overt operations—which we have judged the most valuable, especially in the estimates field—might not suffer and might not be disrupted by undue emphasis on clandestine operations.

I am also concerned over the possibility that the intelligence community is coming under increasing pressure from political, policymaking officials. In recent years White House and NSC officials are reported to have brought great pressure on the intelligence evaluation process and to have co-opted many functions previously entrusted to career professionals. This trend has become pronounced under this administration and again we know very little about Mr. Colby's attitude in this regard.

Finally, I am disturbed by Mr. Colby's connection with the Phoenix program in South Vietnam. I cannot condone a U.S.-financed program of political intimidation and assassination—even though the Vietcong engaged in the same practices—and I am far from confident that Mr. Colby was sufficiently sensitive to the

abuses which were attributed to the Phoenix program while it was under his direction.

Thus although I will vote for Mr. Colby, I would hope that the Senate will give careful attention to the manner in which he exercises his responsibilities and to the questions which I have raised regarding the operation of the intelligence community.

Finally, I wish to add, that the endorsement of Mr. Colby by Senator SYMINGTON, acting chairman of the Armed Services Committee and a valued member of the Committee on Foreign Relations, carries great weight with me. Senator SYMINGTON has assured me that Mr. Colby will report to the committees of the Senate and that he is confident that Mr. Colby recognizes that Congress has a responsibility and a right to know what the Intelligence Agency is doing.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. SYMINGTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DOMENICI). All time has now been yielded back.

The question is, Shall the Senate advise and consent to the nomination of William E. Colby, of Maryland, to be Director of Central Intelligence?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The result was announced—yeas 83, nays 13, as follows:

[No. 361 Ex.]  
YEAS—83

Aiken	Fannin	Muskie
Allen	Fong	Nunn
Baker	Fulbright	Packwood
Bartlett	Griffin	Pastore
Bayh	Gurney	Pearson
Beall	Hansen	Pell
Bellmon	Hartke	Percy
Bennett	Hatfield	Proxmire
Bentsen	Helms	Randolph
Bible	Hollings	Ribicoff
Brook	Hruska	Roth
Brooke	Huddleston	Saxbe
Buckley	Humphrey	Schweiker
Burke	Inouye	Scott, Pa.
Byrd	Jackson	Scott, Va.
Harry F., Jr.	Javits	Sparkman
Byrd, Robert C.	Johnston	Stafford
Case	Long	Stevens
Chiles	Mannuson	Stevenson
Cook	Mathias	Symington
Cotton	McClellan	Taft
Curtis	McClure	Talmadge
Dole	McGee	Thurmond
Domenici	McIntyre	Tower
Dominick	Metcalf	Tunney
Eastland	Monahan	Weicker
Eastland	Montoya	Williams
Evans	Nixon	Young