

13 July 1973

MEMORANDUM FOR: Mr. Colby

SUBJECT: Meeting with Chairman Hebert

1. Attached are copies of the Proxmire (S. 1935) and Harrington (H. R. 8592) bills, texts of which are identical, together with brief comments thereon.

2. We understand Harrington plans to reintroduce his bill in an effort to get additional sponsors. If so, this might be an opportunity for Chairman Hebert to make the following points on the floor:

a. Introduction of this bill appears based on two implicit assumptions:

(1) The Agency has in fact been engaged in improper police, subpoena, law-enforcement, and internal security activities in violation of the National Security Act.

(2) This has come about as a result of inadequate congressional oversight of the Agency.

b. In fact the Intelligence Subcommittee of the House Armed Services Committee has, in the course of its intensive investigation of matters relating to the Watergate affair, carefully examined the possibility that CIA may have violated the above-mentioned prohibitions of the National Security Act, and has found no evidence of such violation.

c. The Intelligence Subcommittee has maintained continuing oversight of the Agency, been regularly briefed by Agency officials, and has at all times found the Agency completely forthcoming in responding to requests for information about its activities and operations.

3. Chairman Hebert might, if he is willing to make the above points, be willing also to make some remarks on the specifics of the bill along the lines of the attached comments. (I attach an extra copy in case you want to give him one.)

STATINTL



John M. Maury
Legislative Counsel

Attachment

Comments on Proxmire (and Harrington) Bill

The bill amends the National Security Act of 1947 by providing that nothing in this or any other act should authorize the Agency to:

(a) engage directly or indirectly, or in conjunction with any other agency or individual, in any law-enforcement or internal-security activity;

(b) assist directly or indirectly any Federal, State, or local agency in any police, law-enforcement or internal-security actions within the United States unless approved in writing by our oversight committees;

(c) participate in any illegal activity in the United States;

(d) engage in any covert action abroad unless approved in writing by our oversight committees.

Section 102(d) of the National Security Act already forbids the Agency to engage in any "police, subpoena, law-enforcement powers or internal-security functions." The legislative history of the National Security Act makes clear that this provision was designed to ensure against the Agency's ever becoming a "gestapo" type organization. At no time has the Agency ever attempted to exercise any of these proscribed powers.

However, in carrying out its foreign intelligence function, the Agency frequently develops information of major concern to domestic law-enforcement agencies. In such areas as narcotics smuggling, aerial hijacking, international terrorism, and, of course, foreign directed espionage and subversion, the Agency has a capability, and we think an obligation, to provide to domestic agencies through appropriate channels information which this Agency acquires abroad in carrying out its foreign intelligence mission.

The bill in question would appear to prohibit the communication of information of this kind to Federal, State or local authorities who alone might be in a position to use it effectively to forestall serious criminal action or security threats within the United States.

The bill also creates a serious constitutional problem by providing that any assistance given to domestic law-enforcement agencies, and any covert action conducted abroad, be undertaken only with the prior written approval of our congressional oversight committees. Among the problems this creates are:

(a) explicit statutory recognition that the United States is involved in covert action which on its face is a violation of international law;

(b) violence to the principle of separation of powers by requiring that the Legislative and Executive Branches share responsibility for executive action.

Finally, the bill contains what appears to be a completely superfluous provision that it shall be illegal for the Agency "to participate, directly or indirectly, in any illegal activity in the United States."

93^D CONGRESS
1ST SESSION

S. 1935

IN THE SENATE OF THE UNITED STATES

JUNE 4, 1973

Mr. PROXMIRE introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 102 of the National Security Act of 1947, as
4 amended (50 U.S.C. 403), is amended by adding at the
5 end thereof a new subsection as follows:

6 “(g) (1) Nothing in this or any other Act shall be
7 construed as authorizing the Central Intelligence Agency
8 to—

9 “(A) carry out, directly or indirectly, within the
10 United States, either on its own or in cooperation or

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1 conjunction with any other department, agency, organi-
2 zation, or individual any police or police-type operation
3 or activity, any law enforcement operation or activity,
4 or any internal security operation or activity;

5 “(B) provide assistance of any kind, directly or
6 indirectly, to any other department or agency of the
7 Federal Government, to any department or agency of
8 any State or local government, or to any officer or
9 employee of any such department or agency engaged
10 in police or police-type operations or activities, law
11 enforcement operations or activities, or internal se-
12 curity operations or activities within the United States
13 unless such assistance is provided with the prior, specific
14 written approval of the Central Intelligence Agency
15 oversight subcommittees of the Committees on Appro-
16 priations and the Committees on Armed Services of
17 the Senate and the House of Representatives;

18 “(C) participate, directly or indirectly, in any
19 illegal activity within the United States; or

20 “(D) engage in any covert action in any foreign
21 country unless such action has been specifically ap-
22 proved in writing by the Central Intelligence Agency
23 oversight subcommittees of the Committees on Appro-
24 priations and the Committees on Armed Services of

1 “(2) As used in paragraph (1) (D) of this subsection,
2 the term ‘covert action’ means covert action as defined by
3 the National Security Council based on the commonly
4 accepted understanding of that term within the intelligence
5 community of the Federal Government and the practices
6 of the intelligence community of the Federal Government
7 during the period 1950 through 1970.”

93rd CONGRESS
1ST SESSION

S. 1935

A BILL

To amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency.

By Mr. PROXMIRE

JUNE 4, 1973

Read twice and referred to the Committee on Armed Services

93^D CONGRESS
1ST SESSION

H. R. 8592

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1973

MR. HARRINGTON introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 102 of the National Security Act of 1947, as
4 amended (50 U.S.C. 403), is amended by adding at the
5 end thereof a new subsection as follows:

6 “(g) (1) Nothing in this or any other Act shall be
7 construed as authorizing the Central Intelligence Agency
8 to—

9 “(A) carry out, directly or indirectly, within the
10 United States, either on its own or in cooperation or

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1 conjunction with any other department, agency, organi-
2 zation, or individual any police or police-type operation
3 or activity, any law enforcement operation or activity,
4 or any internal security operation or activity;

5 “(B) provide assistance of any kind, directly or
6 indirectly, to any other department or agency of the
7 Federal Government, to any department or agency of
8 any State or local government, or to any officer or
9 employee of any such department or agency engaged
10 in police or police-type operations or activities, law
11 enforcement operations or activities, or internal se-
12 curity operations or activities within the United States
13 unless such assistance is provided with the prior, specific
14 written approval of the Central Intelligence Agency
15 oversight subcommittees of the Committees on Appro-
16 priations and the Committees on Armed Services of
17 the Senate and the House of Representatives;

18 “(C) participate, directly or indirectly, in any
19 illegal activity within the United States; or

20 “(D) engage in any covert action in any foreign
21 country unless such action has been specifically ap-
22 proved in writing by the Central Intelligence Agency
23 oversight subcommittees of the Committees on Appro-
24 priations and the Committees on Armed Services of
25 the Senate and the House of Representatives.

1 “(2) As used in paragraph (1) (D) of this subsection,
2 the term ‘covert action’ means covert action as defined by
3 the National Security Council based on the commonly
4 accepted understanding of that term within the intelligence
5 community of the Federal Government and the practices
6 of the intelligence community of the Federal Government
7 during the period 1950 through 1970.”

93rd CONGRESS
1st Session

H. R. 8592

A BILL

To amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency.

By Mr. HARRINGTON

JUNE 12, 1973

Referred to the Committee on Armed Services

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