

October 3, 1984

CONGRESSIONAL RECORD — SENATE

Mr. President, I can just see what would happen. The Secretary of State gives the best advice he can and spends the \$232 million we have appropriated to date, and whatever else we appropriate down the road. They get the best security experts in the world. They do all of things right, and then a very imaginative terrorist somewhere in this world does what we all know terrorists can do, including right here in this building, and commits an act of terrorism. What happens the next morning, Mr. President? Depending whether the President happens to be Republican or Democratic, or depending who controls this body, or depending on how the media feels that day, we have a lynch party after the President, and it was the President's fault because he certified under this amendment.

I am sure that is not the intention of the Senator from Delaware, but that is the effect.

Mr. President, I move to table the amendment offered by the Senator from Delaware.

Mr. BIDEN. Mr. President, will the Senator hold off 1 minute?

Mr. RUDMAN. I am happy to withhold 1 minute.

Mr. BIDEN. Mr. President, that is the whole point, folks. It is someone's responsibility. If it isn't the President's, whose is it? And the whole question here is one of mentality, to quote my friend from South Carolina. He is right. The State Department does not have the mentality to take adequate security measures and there is nothing like having the President's attention focused to make him get involved and him make the decision and him make the judgment and someone take the responsibility.

That is what it is all about. I yield the floor and thank my colleagues.

Mr. RUDMAN. Mr. President, I simply say in conclusion that the Senator from Delaware is asking for guarantees in an area where guarantees are impossible.

Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Delaware.

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 37, as follows:

(Rollcall Vote No. 178 Leg.)

YEAS—61

Table listing names of Senators who voted 'YEAS' including Abdnor, Andrews, Armstrong, Baker, Bingham, Boren, Boschwitz, Byrd, Chafee, Cochran, Cohen, D'Amato, Danforth, Denton, Dixon, Dole, Dymally, Duranberger, Evans, Exon, Garn, Goldwater, Gorton, Gravel, Hatch, Hatfield, Hawkins, Mocht, Helms, Helms, Humphrey, Jepsen, Kastenbaum, Kasten, Laxalt, Lugar, Mathias, Mattingly, McClure, Moynihan, Murkowski, Nickles, Packwood, Pressler, Quayle, Roth, Rudman, Simpson, Specter, Stafford, Stennis, Stevens, Symms, Thurmond, Tower, Trible, Wallop, Warner, Wellstone, Wilson, Zorinsky.

NAYS—37

Table listing names of Senators who voted 'NAYS' including Baucus, Bennett, Biden, Bradley, Bumpers, Burdick, Chiles, Cranston, DeConcini, Dodd, Eagleton, Ford, Glenn, Hart, Heflin, Hollings, Rostenkowski, Inouye, Johnston, Kennedy, Lautenberg, Leahy, Levin, Long, Matsunaga, Melcher, Metzgerbaum, Mitchell, Nunn, Pelt, Proxmire, Pryor, Randolph, Riegle, Sarbanes, Sasser, Tsongas.

NOT VOTING—3

East, Percy

So the motion to lay on the table amendment No. 1018 was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, a parliamentary inquiry: Am I correct that the question now arises on the Rudman amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, will the Senator from New Hampshire yield 30 seconds to me at this point for a unanimous consent request?

Mr. RUDMAN. If the Senator will withhold, it will take 10 seconds to get this amendment out of the way. I do not believe there is any debate or opposition to it.

I move the adoption of my amendment.

Mr. HOLLINGS. Mr. President, what is the Rudman amendment?

Mr. RUDMAN. The amendment is in the first degree which gives \$116 million of emergency money to the State Department.

Mr. HOLLINGS. Good, I cannot tell when the Senator is acting as chairman and when he is acting individually. The Senator is going to act individually in a minute. I will go along with the Senator as chairman. [Laughter.]

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire [Mr. RUDMAN].

The amendment (No. 7017) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

Mr. RUDMAN. I yield to the Senator from Vermont.

AMENDMENT NO. 7019

Mr. LEAHY. Mr. President, I ask unanimous consent to offer an amendment for myself and Mr. RIDDLESTON at this time that relates to the defense section, because it was approved by the Appropriations Committee as part of the Defense appropriations bill. However, it should appear instead at the end of the continuing resolution. I understand that the manager of this section, the Senator from Alaska, believes this is appropriate. These are intelligence provisions that have been approved by both the Intelligence and Appropriations Committees. We have been advised that the House Appropriations Committee prefers that they be treated separately from the defense section for purposes of conference.

Mr. President, I send the amendment to the desk which is virtually identical to sections 300 and 300A of the Defense appropriations bill, S. 3026, as reported by the Appropriations Committee, and I ask for its immediate consideration, and that it appear at the end of this bill.

The PRESIDING OFFICER. The clerk will report.

The assistance legislative clerk read as follows:

The Senator from Vermont [Mr. Leahy], for himself and Mr. Rostenkowski, proposes an amendment numbered 7019:

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

TITLE — INTELLIGENCE PROVISIONS PERFORMANCE BY THE CENTRAL INTELLIGENCE AGENCY OF SECURITY-RELATED DUTIES

SEC. 61. (a) Notwithstanding any other provision of law, there are transferred to the Director of Central Intelligence so much of the functions of the Administrator of General Services and his deputies under sections 1 and 2 of the Act of June 1, 1948 (62 Stat. 281, chapter 356; 40 U.S.C. 248-318a) as relate to the protection of real property (and personal property and persons thereon) of the Central Intelligence Agency, except that the Director of Central Intelligence may not promulgate any rule or regulation authorized by section 2 of such Act without the approval of the Attorney General.

(b) The limitations on powers contained in section 4 of such Act shall apply with respect to functions transferred to the Director of Central Intelligence by subsection (a).

S 13030

CONGRESSIONAL RECORD — SENATE

October 3, 1984

COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

SEC. 02. (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country and on any actions which may have been taken with respect thereto.

(c) Section 203 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303) is amended—

(1) in subsection (a) by striking out the fifth sentence; and

(2) by amending subsection (b) to read as follows:

"(b) There shall also be a Deputy Director of the Office of Foreign Missions. Either the Director or the Deputy Director of such Office shall be an individual who has served in the United States Foreign Service, while the other of the two shall be an individual who has served in the United States intelligence community."

(d) The amendments made by subsection (c) shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of enactment of this section.

Mr. LEAHY. Mr. President, first I renew my unanimous-consent request that I be allowed to do this.

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

Mr. LEAHY. Mr. President, this amendment has two sections. The first is a housekeeping provision for the CIA. It gives the CIA the authority to hire their own security guards to protect its real property in the United States, rather than relying on the General Services Administration.

The second section deals with official representation of foreign governments that conduct hostile intelligence operations inside the United States. It expresses the sense of Congress that we should end disparities in numbers and treatment that give advantages to such governments, in comparison to the numbers and treatment of U.S. representatives in those countries. An annual report to the appropriate committees of Congress is also required.

Finally, the amendment lifts a requirement that the Director of the Office of Foreign Missions must be a foreign service officer.

The language of the second section takes into account the concerns of the Foreign Relations Committee, which objected to a mandatory requirement of equivalence that was originally recommended by the Intelligence Committee.

Mr. HATFIELD. Mr. President, will the Senator yield for a question? It is my understanding that this amendment has been cleared with the Subcommittee on Defense headed by the Senator from Alaska, Mr. STEVENS.

On that basis, Mr. President, I would be willing to accept the amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7019) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7020

Mr. RUDMAN. Mr. President, I send an amendment to the desk which is an amendment to committee amendment 34 of the joint resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for himself, Mr. THURMOND, Mr. PACKWOOD, and Mr. METZENBAUM, proposes an amendment numbered 7020.

At the end of section 137, add the following new subsection:

"(e) Section 510 of Public Law 98-411 is hereby repealed."

Mr. RUDMAN. Mr. President, I will attempt very briefly to my colleagues to explain what this amendment is. This is offered in behalf of the chairman of the Judiciary Committee, Senator THURMOND, the chairman of the Commerce Committee, Senator PACKWOOD, Senator METZENBAUM, and myself.

This is a very complex issue. The Senator from South Carolina referred to me a few moments ago wondering in which capacity I was acting. Well, I would say, Mr. President, I am trying to act in the capacity of being of some help to the cities and towns across America that, without the relief contained in this bill, will have serious problems with antitrust actions brought against them.

For the purpose of history, let me recollect for the Senate that, on the Commerce-State-Justice appropriations bill, an attempt was made to exclude FTC authority over municipalities. That lost here in the Senate by a vote of 63 to 36, or in that area.

When we went to the conference, for a variety of reasons, we had difficul-

ties. The fact of the matter is we came out of conference with a provision nearly identical to the one which we had defeated in the Senate. That became law.

So, at present, the Federal Trade Commission cannot act in its normal injunctive capacity—we are not talking about money damages—against situations in municipalities across this country where there is obviously abuse in a proprietary function. So that is the history.

Where are we now?

The major problem here was caused by a decision called the Boulder decision. The U.S. Supreme Court said that cities and towns did not have antitrust immunity from treble damages. As a matter of fact, there is already a verdict outstanding in Illinois of \$28.5 million against one particular county, and there are hundreds of other cases pending.

Make no mistake, the single most important thing that we must do is to assure that, when we leave town at the end of the week, there is in law immunity from antitrust damages for these cities and towns. There is little disagreement in this Chamber on that. There is total agreement with my friend from South Carolina and the sponsors of this particular amendment on that point.

The problem arises here: It is our belief that if this Boulder repeal bill, if you wish, originally reported by the Senate Judiciary Committee to the Senate, similar to what is embodied in section 137 of this bill, goes to conference and we allow the FTC restriction to stand, we are going to have some difficulties in getting a bill at all.

The mayor of Newark, NJ, put this issue as well as anyone can put it in testifying before the House Judiciary Committee earlier this year. He said:

The best solution on the remedy side would be to eliminate damages altogether and to allow governmental plaintiffs, such as the FTC, the Attorney General, State attorneys general, to bring injunctive action to deter unfair or egregious action by local governments.

That is precisely what we will end up with if we adopt what is in section 137 and adopt this amendment.

We received a letter today from the National Association of Counties and the National Association of Towns and Townships. I will not read the entire letter. I ask unanimous consent that it be printed in the RECORD at this point.

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

OCTOBER 3, 1984.

HON. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The National Association of Towns and Townships (NATA/T) and the National Association of Counties (NACo) support the Rudman/Thurmond amendment to amendment No. 34 of H.J. Res. 648. This amendment will reauthorize the Federal Trade Commission to bring ac-