

Page Denied

SECRETARY OF STATE

WASHINGTON

Dear Mr. Chairman:

It is my understanding that the Senate Foreign Relations Committee intends to take up consideration of the Leahy-Huddleston amendment to the FY 1985 Intelligence Authorization Bill on Thursday, June 21. I would like to take this opportunity to share with you the reasons why the Administration and I personally have difficulty with the amendment as it now stands.

As the Administration noted on May 10 to the Senate Select Committee on Intelligence, we concur in the general objective the amendment purports to support, which is that the number of official representatives of foreign governments that engage in intelligence activities in the U.S. should not exceed the number of official representatives of the United States in those foreign countries. We cannot agree, however, with the provision of the amendment that sets limits in statute on the number of official representatives of certain foreign governments. By formally establishing a statutory limit, it is our view that the Leahy-Huddleston amendment would unnecessarily infringe upon the President's constitutional authority for the conduct of foreign affairs.

In addition, there are a number of practical considerations which have led me to the conclusion that the Leahy-Huddleston amendment, as drafted, would not have the intended effect of creating conditions of greater reciprocity in our relations with the Soviets and others:

-- It would require determinations by the President that place an undesirable and unfair burden on him: that a government was engaged in intelligence activities harmful to the United States, and then that it is in the national interest not to expel large numbers of officials of that government or not to deprive them of their immunities. The amendment, as presently drafted, appears to give the President options, but in effect prejudices the argument in favor of full implementation of its provisions, regardless of foreign policy or other political considerations.

-- If we decided to deprive such officials of their immunities, in the Soviet case we would be violating a bilateral agreement in force since 1967, which gives all members of our Embassies and their families full diplomatic

The Honorable,
Charles H. Percy,
United States Senate.

-2-

privileges and immunities on a reciprocal basis. Even more importantly, we would be sending an extremely strong negative signal which would impede our efforts to improve our relationship with the Soviets in other areas.

-- If the United States chose to deprive a number of Soviet Embassy and Consulate personnel of their privileges and immunities (under the provisions of the amendment this number could exceed 120), the most logical Soviet response would be to strip an equal number of our personnel in the USSR of their privileges and immunities. We would be forced to withdraw these personnel or leave them open to arbitrary arrest, imprisonment and interrogation. This action on our part would lead ultimately to a number of highly unfavorable developments which I cannot detail in this letter, but which Department experts can brief you on if you wish. My conclusion is that if we chose to implement Leahy-Huddleston's statutory limitations immediately, the United States, not the Soviet Union, would lose more.

-- Finally, the wording of the amendment is also loose enough to include any other nation that might have more officials in the U.S. than we have in their country. This is clearly an undesirable feature of the amendment.

It is my strong hope that you will consider fully the problems I have outlined above with respect to the present Leahy-Huddleston amendment. I do believe that with determined effort we can achieve the laudable goals, which we all support, of containing hostile intelligence activities in our country, ensuring reciprocity, and supporting the activities of our missions abroad. I do not believe, however, that the present amendment will advance us toward these goals. Members of my staff will be available to discuss these matters in more detail with you and your colleagues, and to discuss possible alternatives to the Leahy-Huddleston amendment now before the Foreign Relations Committee. Together, I am convinced we can solve this problem.

Sincerely,

George P. Shultz