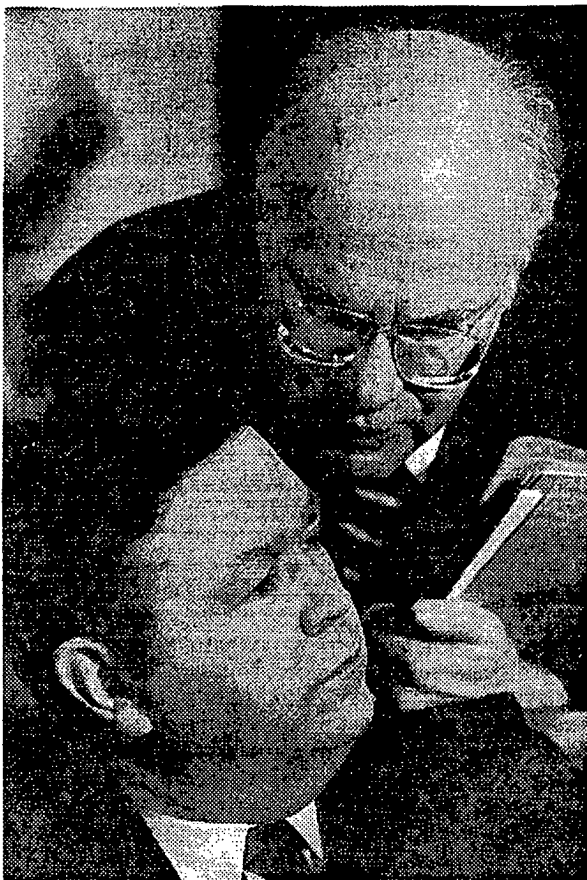


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PHOTOS BY JAMES K.W. ATHERTON — THE WASHINGTON POST

Boren, left, and Patrick Leahy (D-Vt.) of intelligence panel confer as CIA nominee Gates, right, testifies for second day.

Gates Seeks Judgment On His Recent Actions

CIA Nominee Finishes 2nd Day Of Testimony on Iran Affair

By Walter Pincus and Dusko Doder

Washington Post Staff Writers

The Senate Select Committee on Intelligence yesterday ended two days of public hearings on the nomination of Robert M. Gates to be director of central intelligence with the nominee asking to be judged by what he has done in the two months since becoming acting director of the agency rather than by his actions during the Iran-contra affair.

"I can't revisit what happened," Gates said at one point while being questioned about an episode in the U.S. sale of arms to Iran. "But what I can tell you is that I have taken steps that I think would prevent that kind of problem from happening again and I took those steps well before these hearings."

At the close of yesterday's three-hour session, Chairman David L. Boren (D-Okla.) said that the members

felt "a strong obligation to be thorough" and that there would be "at least" one closed hearing for those who want to raise questions about classified matters.

He added that public hearings would be reopened if necessary, a reference to the possibility that the report of the Tower commission investigating the activities of the National Security Council, which is expected on Feb. 26, might raise additional questions for Gates.

Although Sen. Arlen Specter (R-Pa.) and Sen. Bill Bradley (D-N.J.) voiced unhappiness at some of Gates' answers during the two days of questioning, a majority of the members of the committee favors recommending approval of his nomination, according to committee sources.

One source cautioned, however, that "the ballgame is not over" and that the ultimate decision will depend on whether new information surfaces about Gates' performance at the Central Intelligence Agency. Gates, who had headed the agency's analytical division, became deputy director last April. CIA Director William J. Casey resigned earlier this month after undergoing surgery for a brain tumor.

Yesterday's session again focused on the Iran arms sale-contra aid scandal, Gates' role and the lessons he learned from it.

In the face of often critical questions, the nominee stumbled several times and was forced to change or amend earlier responses. For example:

■ Gates said the CIA general counsel told him that he

did not believe a presidential authorization, or "finding," was needed for the CIA's activities in November 1985, when the agency provided logistical support for a secret shipment of U.S.-made missiles from Israel to Iran.

"Mr. Gates," Specter thundered, "you are flatly wrong." Specter then read from a variety of sources, including a CIA inspector general's report, to support his point.

■ Specter accused Gates of trying "to distance yourself" from the Nov. 21 testimony of then-Director Casey before the two congressional intelligence oversight panels. Gates testified in December and on Tuesday that he had supervised Casey's prepared testimony—overseeing the "strategic direction" of the testimony and reading the first "two or three" drafts. Gates yesterday described Casey's prepared text as "a fair statement of what we knew at the time."

After Specter pointed out that Casey's testimony failed to mention serious CIA skepticism about the involvement of Iranian middleman Manucher Ghorbanifar and the propriety of the CIA helping with the November 1985 arms shipment, Gates said yesterday that he would "have to talk to those who drafted the testimony to determine what rationale there may have been for not putting" material in.

Furthermore, it has been recently revealed that Casey's testimony would have misinformed the congressional investigators about some aspects of the arms shipment until Secretary of State George P. Shultz complained directly to President Reagan the night before Casey's scheduled appearance and had the statement modified.

■ Gates also drew the ire of Bradley, who questioned why the nominee did not pursue a cryptic reference by National Security Council staff aide Lt. Col. Oliver L. North to Swiss bank accounts and the contras during a lunch at the CIA last Oct. 9.

When Gates said he was prevented by a congressional ban against CIA involvement with the contras fighting the government of Nicaragua, Bradley interrupted: "This is Oct. 9, there was no prohibition. The [congressional ban] expired Oct. 1, so how can you put in your testimony a statutory prohibition that no longer existed?"

Gates replied that another law prohibited the CIA from investigating Americans, although he did not explain how that prevented his questioning North about the alleged diversion of funds.

At one point, Specter asked Gates if he ever warned Casey against shipping arms to Iran in an effort to free American hostages held in Lebanon. Gates said he had, but could not recall exactly when. Specter then read aloud Gates' Dec. 4 testimony in which he replied "No" when asked a similar question.

Gates then recalled that last September, after two more U.S. hostages had been taken in Beirut, Gates told Casey that he "thought the entire activity should be called off." He added, "I misspoke on Dec. 4."

Boren wrapped up the hearings by saying that the more than eight hours of "tough questioning" had made Gates more aware of the "kind of responsibility" he would assume if confirmed by the Senate. It demonstrated, he said, that even in matters usually kept from public view "we are going to follow the law."

The "thorough" inquiry, Boren added, was not generated by "any hostility toward the nominee but because we have a responsibility to the Senate and to the country to be thorough and careful in this process."

Following a proposal by Sen. William V. Roth Jr. (R-Del.), Boren said that his committee intended to develop procedures to review CIA fiscal expenditures "to make sure that the money is spent for the purposes mandated by Congress."

Gates expressed readiness to sit down with the leaders of the intelligence and government operations committees to work out the proposed review procedures.

In his final public remarks, Gates called the hearings "healthy" and "important in terms of clearing the air" about the agency's involvement in the Iran-contra affair.

Asked to contrast his conception of the job to that of Casey, Gates said that his practice has been that "my deputy should know what I know" contrary to what he said was Casey's tendency at times to withhold information from his deputy.

Gates also reaffirmed his vow Tuesday to inform congressional

oversight committees about any illegal intelligence activity. He said he had been "confused by the question" when he initially responded that he would feel obliged only to inform the attorney general and only about agencies under his responsibility. He also said that would "not tolerate the NSC [National Security Council] getting involved in operational intelligence activities."

Gates, however, expressed his opposition to legislation that would specifically bar the NSC from intelligence activities.

Asked by Bradley what he would do if he were to discover the existence of a presidential "finding" initiating covert action that he was not aware of, Gates said: "The first thing I'd do is hop in a car and come up here."

"You are certainly learning, Mr. Gates," Bradley quipped.

"No one ever accused me of being slow," Gates replied.

Gates said yesterday that he had just received a CIA inspector general's report on the agency's activities in support of the contras at a time when Congress barred most types of military aid. He provided no details but said he would forward it to the committees.

On Tuesday, Gates testified that he had asked for an inspector general's investigation to specifically look at the contra-related activities of the former CIA station chief in Costa Rica, known by the pseudonym Tomas Castillo, who has been placed on administrative leave.

The probe will cover "the role that our officer played with respect to [U.S. Ambassador to Costa Rica Lewis] Tambs," among other things, Gates said.

Asked if Tambs is being probed, he said, "I assume that it is—not by us, but by others." Tambs recently retired from the government.

Castillo, charged with passing messages between the contras and NSC staff aide North, who was fired last November, was cleared of allegations of improper behavior by an initial inquiry late last year.

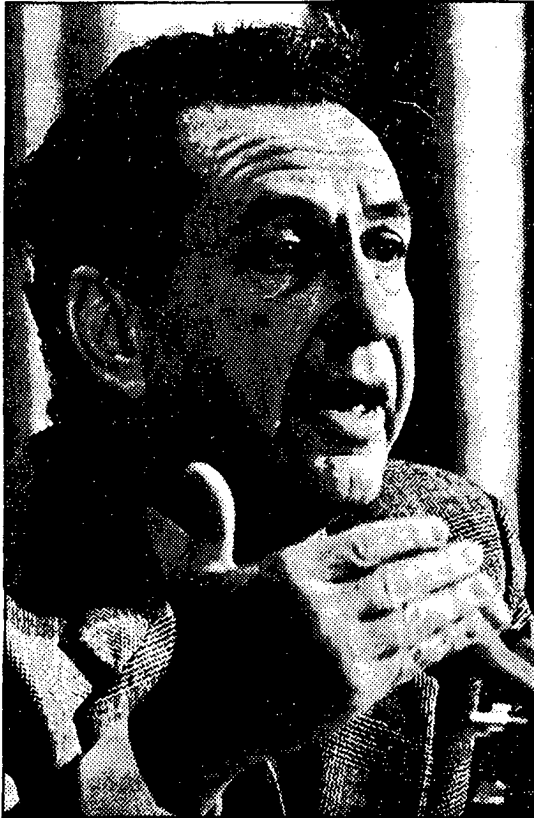
But Gates testified that CIA Inspector General Carroll Hauver had told him that "confronted with some documentary evidence, our officer had changed aspects of his testimony."

Gates also said that he has asked the inspector general to investigate the CIA-NSC involvement with "Project Democracy," which has been described in some news accounts as North's umbrella operation for covert activities.

At the beginning of yesterday's session, Gates bantered with photographers who were taking his picture:

"Remember that country-and-western song, 'Take this job and shove it'?"

SPECTER ON THE GATES NOMINATION



"This hearing is an important one for many reasons. But I believe that one of the reasons is that there are many officials in many bureaus in this country today who are watching this proceeding, and are observing what is happening for someone who is a high-ranking No. 2 man, who plays it safe, doesn't speak up, then comes forward for a confirmation hearing and says, 'Well, in hindsight, it should all have been done differently.' And if that position can be taken—not to speak up, and then to be promoted, and then to say, 'Well, I should have done it differently' and for the intelligence committee to say, 'Well, let's start again'—seems to me to provide incentives for that kind of conduct and for a repetition of having this committee kept in the dark.

"And that's why I'm pursuing not what you were saying today, but what you had done in your position as deputy director. And that's why I weigh so much more heavily the actions you took in that capacity—because I think, candidly, it's easy to say today, 'Well, I would have done it differently.' But the real weighty considerations are what you did."

—Sen. Arlen Specter (R-Pa.) at yesterday's confirmation hearings for Robert M. Gates, President Reagan's nominee for director of central intelligence