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QUESTIONS RELATED TO SECRET AND CONFIDENTIAL DOCUMENTS

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REPORT

of the

SPECIAL COMMITTEE TO STUDY QUESTIONS RELATED TO SECRET AND CONFIDENTIAL GOVERNMENT DOCUMENTS

In accordance with the provisions of S. Res. 13, the Special Committee to Study Questions Related to Secret and Confidential Documents submits the following report and recommendations.

The Committee was aided in its work by the Legislative Reference Service of the Library of Congress and wishes to commend Mr. Robert Lauck and Mr. David Sale of that service for their contributions.

This report covers questions relating to (1) access to classified information by Members of Congress, (2) legal rights of an individual Senator with respect to classified documents in his possession, (3) legal rights of a Senate Committee with respect to classified documents in its possession, (4) legal rights of individual members with respect to documents on information received from foreign embassies, (5) the declassification of documents in the possession of an individual member, (6) pending bills and proposals for Congressional machinery to oversee classified information matters and (7) recommendations by the Committee.

I. ACCESS TO CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS

The Freedom of Information Act (FOIA), Pub. L. 89-497, 80 Stat. 250, 5 U.S.C. 552, amending the Administrative Procedure Act, (5 U.S.C. 551, *et seq.*), enunciates a policy of public disclosure and access to information generated by Federal agencies.

Beginning with the access problem in the context of the Freedom of Information Act, the first two questions are: (1) What limitations are provided by the Act on public disclosure of classified information? and, (2) do these limitations apply to Members and committees of Congress?

that decision might have been." The Committee suggests that the machinery be set up for questioning in an orderly manner these executive decisions to classify for reasons of National security, and we urge the Government Operations Committee to give priority consideration to bills now pending before it and discussed herein designed to accomplish this objective. We make no detailed evaluation of these bills, leaving that to the judgment of the substantive committee but urge that a complete overhaul of the classification system be undertaken at the earliest possible time.

II. The question of procedures to be followed by a member who has classified documents in his possession, prior to his disclosure of those documents, was discussed by the Committee.

The Committee recommends that individual members who have such documents and wish to disclose them, consult with the Senate Ethics Committee prior to such disclosure.

The Committee wishes to make it clear that although it recommends consultation with the Ethics Committee, any determination by the Ethics Committee would not be binding on the member. The reason for the recommendation of consultation is to permit a member the opportunity of getting the additional thinking and precedents available to him before making a final decision regarding disclosure.

III. At the request of Senator Cranston, the Committee discussed providing the Senate the overall sums requested for each separate intelligence agency. The release of such sums would provide members with the minimal information they should have about our intelligence operations. Such information would also end the practice of inflating certain budget figures so as to hide intelligence costs, and would insure that all members will know the true cost of each budget item they must vote upon.

Accordingly, the Committee recommends that the Appropriations Committee itemize in the Defense Department Appropriations bill the total sums proposed to be appropriated for intelligence activities by each of the following agencies: Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, National Reconnaissance Office and any separate intelligence units within the Army, Navy, and Air Force. The Committee does not request that any line items be revealed.

The Committee also recommends that the committee reports indicate the total number of personnel to be employed by each of the above agencies. The Committee does not request any information about their duties.