

# NOMINATION OF THEODORE C. SORENSEN

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HEARING  
BEFORE THE  
SELECT COMMITTEE ON INTELLIGENCE  
OF THE  
UNITED STATES SENATE  
NINETY-FIFTH CONGRESS  
FIRST SESSION  
ON  
NOMINATION OF THEODORE C. SORENSEN TO BE  
DIRECTOR OF CENTRAL INTELLIGENCE

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MONDAY, JANUARY 17, 1977

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Printed for the use of the Select Committee on Intelligence



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(Established by S. Res. 400, 94th Cong., 2d sess.)

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<sup>1</sup>The letter by Senator Javits is included in the record because the hearing ended before he had an opportunity to appear before the committee.

## NOMINATION OF THEODORE C. SORENSEN TO BE THE DIRECTOR OF CENTRAL INTELLIGENCE

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MONDAY, JANUARY 17, 1977

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:05 a.m., in room 318, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman) presiding.

Present: Senators Inouye, Garn, Bayh, Hathaway, Huddleston, Biden, Morgan, Hart, Case, Thurmond, Hatfield, Goldwater, Stafford, Mathias, and Baker (ex officio).

Also present: Senators Leahy and Metzenbaum.

Also present: William G. Miller, staff director; Michael Madigan, minority counsel; Howard Liebengood, minority staff director; Audrey Hatry, clerk of the committee; Tom Moore, Ted Ralston, Anne Karalekas, Martha Tally, Charles Kirbow, Sam Bouchard, Jean Evans, Martin Gold, Stan Taylor, Elliot Maxwell, Mark Gitenstein, Michael Epstein, Walter Ricks, Tom Connaughton, and Edward P. Levine, professional staff members.

The CHAIRMAN. The Senate Select Committee on Intelligence begins hearings today on the nomination of Mr. Theodore C. Sorensen to be Director of Central Intelligence.

The post of Director of Central Intelligence is one of the most important in the U.S. Government. Intelligence is our first line of defense and a major means of preserving the peace. The United States has created an intelligence system which consists of a number of major agencies employing tens of thousands of highly skilled and dedicated men and women. The position of Director of Central Intelligence requires the ability to manage, set priorities, allocate resources, and direct the activities of highly complex organizations in the national intelligence community, such as the National Security Agency, elements in the Department of Defense as well as the CIA, the Defense Intelligence Agency, the counterintelligence activities of the FBI, and the intelligence functions of the Department of State.

The Director of Central Intelligence has the duty to provide to the President and to the national leadership, both in the executive and legislative branches, the best information and analysis of that information available to the U.S. Government. The difficult task of serving both the President and the Congress is one that requires wisdom and tact and the trust of both branches of Government. The analytic abilities, mature judgment, and the independence of mind required, are qualities indispensable to the task of the Director of Central Intelligence.

In addition to the firm managerial talent and the highest degree of informed knowledge and analytic ability, there must be confidence on the part of our citizens, our departments and agencies, our Congress, and our allies that the Director of Central Intelligence is a man of intellectual integrity, proven accomplishment and discretion, worthy and suited to the task of guiding the secret activities of the U.S. Government and protecting the valid secrets of the U.S. Government.

There has been great controversy in the past decade about the proper role of secret activities carried out by the U.S. Government which has shaken the structure of our intelligence system. This concern was aroused by the Vietnam war, sharpened by the revelations of Watergate, and heightened by the investigations of intelligence agency abuses of the past years. We are now rebuilding, under the Constitution and the law, an effective intelligence system designed to protect and enhance the liberties of all Americans. The creation of the select committee is one step in that rebuilding process. The appointment of a new Director of Central Intelligence sensitive both to the need for the best possible intelligence and to the need to protect the rights of our citizens, is another important step.

We seek the best possible Director for our national intelligence system. We have a deep awareness of the critical importance of this appointment and of the qualities that are required. It is in this spirit that the hearings upon the nomination of Mr. Sorensen are being held.

The Chair recognizes the vice chairman of the committee.

Senator GARN. Thank you very much, Mr. Chairman.

I want to welcome Mr. Sorensen to these hearings. I want him and all present to know that this committee and the Senate consider this hearing to be of the utmost importance. The Director of Central Intelligence is the President's chief adviser on intelligence matters, and supervises a vast, expensive intelligence system whose work is of critical importance to the security of this Nation.

We have on this committee Senators who have widely varying views about the intelligence community. We have a diversity of opinion as to what legislative actions we should take, but we are united on at least one key point, the security of this Nation is affected by the quality of the information the intelligence community provides.

We do not live in a trouble-free world. We need an intelligence system which will protect the interests of this country throughout the world, and as a Director of Central Intelligence, we need a man who has the total confidence not only of the people of this country, but of the countries throughout the world with which the United States must deal.

It is with the serious recognition of this great responsibility that we as a committee begin these hearings on the President-elect's nomination of the Director of Central Intelligence. I think I can speak for every member of this committee when I say that we have begun and will continue to carry out these responsibilities carefully and thoroughly.

In addition, I want to add that I am impressed with the way all 15 members of this committee have undertaken this task without the slightest hint of partisanship. I strongly believe that pure partisan

interests should not have any role to play in our oversight of the intelligence community.

In that regard, I want to state that I fully recognize President-elect Carter's right to designate his own choice for Director of Central Intelligence and to hope that his choice will be confirmed by the Senate.

This committee has approached today's hearings with that right of the President-elect in mind. We will support the nomination if it is possible to do so when these hearings are concluded. The purpose of these hearings is to assess Mr. Sorensen's qualifications to occupy this important position. We are not here to decide how liberal or conservative he is. We are not here to decide whether we approve or disapprove of Mr. Sorensen's past friendships or associations, nor, in fact, are we even here to decide whether or not Mr. Sorensen's education and experience have prepared him fully for this job. If the truth were known, probably no Director of Central Intelligence, after once taking office, has ever felt fully prepared to assume these large responsibilities.

We are here to determine whether or not Mr. Sorensen in our view possesses those values, attitudes, and views which will prompt him to act wisely and objectively, which will cause those thousands of Americans in the intelligence community to accept and respect his leadership, and which will elicit the trust of Congress, the confidence of the President, and the respect of all Americans.

It is only fair to say that in preparing for this hearing this committee has come across information which has raised more questions than it has answered. Some of this information is very disturbing, if not disqualifying. I have been especially concerned about some of the questions that have been raised, and I have expressed those concerns to Mr. Sorensen personally, and to representatives of Mr. Carter.

The major purpose of this hearing today is to give Mr. Sorensen the opportunity to respond to these questions for all of us to hear. His answers will have a direct bearing on how I and others will vote on this nomination. Perhaps much of this information would not be so disturbing if we were considering Mr. Sorensen for a position other than the Director of Central Intelligence. The Director of Central Intelligence must be the keeper of the Nation's most sensitive secrets. He must deal at arm's length with the heads of intelligence services throughout the world and he must command the complete and total confidence and trust of those with whom he will work.

And so it is with great concern that I approach these hearings. I am confident that we will conduct them on a high level, one that is fair and yet very probing. All members of the committee appreciate the responsibility that we have. When these hearings are concluded, I hope the American people, President-elect Carter, and Mr. Sorensen will be able to say that this committee has discharged their responsibility evenhandedly, carefully, and fairly.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

The Chair has been advised that Senators Hathaway, Huddleston, and Mathias would like to make opening remarks, and Senator Bayh.

The Chair recognizes Senator Bayh.

Senator BAYH. Mr. Chairman, I am anxious to hear the witness, and so my remarks will be very short.

I have known the witness over a long period of time. I want to say that up front I am proud of the contributions he has made to our country often under very difficult circumstances. There can be no question of the contributions he has made.

He is now being proposed by President Carter for a different role at a different time. All of us are painfully aware of the activities that have been disclosed about the Agency that he is now being called upon to head. Those activities have played a significant part in the slow erosion of confidence of the people of this country in their Government.

As chairman of the subcommittee that has the responsibility of protecting the rights of Americans, I will be particularly concerned about Mr. Sorensen's answers to some of the questions that will be raised. We will be particularly anxious to hear his views on how we as a congressional body can work with an intelligence gathering body to prevent the kind of abuses which have occurred in the past.

Having said that, Mr. Chairman, I am anxious to yield and get on with the witnesses.

The CHAIRMAN. Senator Hathaway?

Senator HATHAWAY. Thank you, Mr. Chairman. I have just a few remarks I would like to make before listening to the witness testify.

Mr. Sorensen, I know you appreciate that the questions that will be asked with respect to the classification of documents are going to pose a terribly troublesome issue for all of us here today, troublesome in my judgment because I have admired your record in Government, and because you represent to so many thousands of Americans, the vision, the idealism, and the intellectual excellence which were the hallmarks of some very special years in American Government and American history. And I credit President-elect Carter for recognizing that the restoration of faith in our intelligence community requires those very qualities if our Nation is to maintain the respect and confidence of people throughout the world.

It also seems clear to me, however, that in order for our intelligence agencies to best perform their very grave, solemn, and often dangerous tasks, we have a special responsibility to insure that the top leadership of those agencies enjoys the total respect, trust, and confidence of the hundreds of dedicated men and women who are the unsung heroes of this work, the people to whom our Government has entrusted one of its most important and significant missions, that of insuring the safety and the security of our Nation.

I don't know how those people will view the events which we will discuss here today, your candid admission in the past that the rules and methods designed to protect our country's most important secrets may not really be so inviolable after all. I do know from my recent travels for this committee that there is no greater concern to the intelligence agents of our Nation than that we here at home be cognizant of the risks that they undertake on our behalf, and that we will never take any steps which would ever expose them to any greater danger than they already knowingly and willingly face. I am concerned about exactly what it is that has happened over the years that has brought about this state of affairs: Is it only a new post-Watergate morality and someone has changed all the rules, and is that the plane of dialog upon which this issue should be

discussed here today? Or does the question really involve what you will suggest, Mr. Sorensen, a day-in and day-out breach of our Nation's system for securing its secrets? And if this is so, is it not the role and indeed the responsibility of this committee to look long and hard at the facts and circumstances which have brought about this state of affairs.

We are a Nation of laws and not of men, and under our form of government and in order for our system to work effectively, individuals may not take it upon themselves to separately determine which laws should be obeyed and which ones may be ignored. I think that the task of changing bad laws is for the Congress, and to this end, I have and I know many other Members have also introduced bills in recent years to change our classification procedure, realizing that it is archaic, that it is out of date, and that it needs to be modernized.

Nevertheless, even though at the time that you were involved with classified materials, the law was archaic, to be sure, the question in my mind still is—and I anxiously await your answer to this broad question—whether or not any individual can take it upon himself to in effect declassify documents without following the regular procedure, and if such a person should do something like that, is that person the kind of person that we want to have as head of our national intelligence community?

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Mathias?

Senator MATHIAS. Mr. Chairman, so we can get on with the hearing, I would like to submit my statement for the record and say just very briefly that I think it is clear that our present system for conducting secret activities, indeed, for limiting secrecy itself, is faulty. The affidavit submitted by Mr. Sorensen in the *Ellsberg* case is a very important document, I think, that illustrates the problem that faces the country.

There has been overclassification of information, and without question, the rationale of national security has been used to conceal unwise and improper actions by high officials. At the same time, every recent administration has either withheld or disclosed information using standards which at best would be called arbitrary, and I think we have to face the plain fact that our classification system is so faulty that information the public should know has been withheld, that injustices can take place, and that some improper disclosures have resulted in harm to the country.

And Mr. Sorensen in his affidavit submitted in the *Ellsberg* case has described a pattern of behavior which has been too common in Government. Other officials have given statements that confirm Mr. Sorensen's perception of the practice. But I think everyone should agree that strict standards requiring the maintenance of secrets cannot apply to some who serve in the U.S. Government and not to others, and yet this is the situation that we are now in.

And a rigorous examination and reform of the classification system I think is an absolute necessity. The nomination of Mr. Sorensen presents the opportunity to face these issues that must be faced in the fullness of their complexity, and I would add with some compassion for and awareness of the human mistakes of the past.

[The prepared statement of Senator Mathias follows:]



## PREPARED STATEMENT OF SENATOR CHARLES MCC. MATHIAS

The hearing on the nomination of Mr. Theodore C. Sorensen to be Director of Central Intelligence comes at a critical time in the history of our country. We are only now emerging from the dangers of the last decade which encompassed the Vietnam war, secret bombing in Cambodia, the Watergate issue, and the revelation of illegal activities by the intelligence agencies of the United States.

I have known Mr. Sorensen since he came to Washington in 1961 and I have great respect for his fine mind and his thoughtful approach to the problems of this nation. He has served our country with distinction. The Committee has the task of determining whether he is fitted for the particular task of Director of Central Intelligence.

We on this Committee and in the Senate are confronted in this nomination with the necessity to make an important decision that will shape the future direction of intelligence activities carried out by the United States Government—how they are to be decided upon, carried out, accounted for and controlled.

It is clear that our present system for secret activities or indeed, for limiting secrecy itself, is faulty. The affidavit submitted by Mr. Sorensen in the Ellsberg case is an important document that illustrates the problem facing this country. There has been over-classification of information. Without question, there has been the use of the rational of "national security" to conceal unwise and improper actions by high officials in the Executive branch. At the same time, all recent Administrations have withheld or disclosed information on using standards which, at best, could be called arbitrary. We must face the plain fact that our classification system is so faulty that information the public should know has been withheld, that injustices can take place, and that in some instances disclosures have resulted in harm.

Mr. Sorensen, in his affidavit submitted in the Ellsberg case, has accurately described a pattern of behavior which has been common practice in the government. Many other high officials have given statements that confirm Mr. Sorensen's perceptions. But all would agree that strict standards requiring the maintenance of secrets cannot apply to some who serve in the United States Government and not to others. That is the situation we are in now. A rigorous examination and reform of the classification system is an absolute necessity.

I was a member of the Church Committee which investigated the alleged abuses of the CIA, FBI, and other intelligence agencies. I am keenly aware that we must carefully frame new charters to place our national intelligence system under the Constitution and the law. It is very evident to me that there must be more rigorous checks upon secrecy and secret activities in government.

The creation of a permanent oversight committee is an important step clearly intended to bring constitutional checks and balances into play. But bringing the Legislative branch into the orbit of secret knowledge and awareness of secret activities carries with it great dangers. Full disclosure of information the public should know is at least as important as the need to protect secrets. Striking this balance will be the most difficult task that this Committee faces. We need not be reminded that the history of the Executive branch of the past 40 years has resulted in grievous failures that have harmed the best interests of the United States.

We are an open democratic society; yet we have valid secrets that must be protected.

We have the most effective intelligence system in the world; yet we cannot permit efficiency or secrecy to become a reason for allowing such activities to go on outside of constitutional processes.

We have the opportunity to construct anew. The nomination of Mr. Sorensen presents the opportunity to face the issues that must be faced in the fullness of their complexity and with a compassion for and awareness of the human mistakes of the past.

The CHAIRMAN. Thank you very much.

It is now my pleasure to present to the committee a very distinguished American who has served this Nation as a most effective voice—I'm sorry. Before proceeding, Senator Huddleston?

Senator HUDDLESTON. Mr. Chairman, in the interest of time and because I think the important thing is to hear our witness, the designate of the President to be Director of Central Intelligence, I would just like to join the committee members in welcoming Ted Sorensen to this hearing. I feel strongly that this is a very important occasion, not only for this committee, but for the Congress of the

United States. This is the first time that our select committee, the first committee ever to have jurisdiction over all of the national intelligence activities of the United States, has had an opportunity to review the background and qualifications of an official whose jurisdiction mirrors our own. The Congress, I think, and the public have a right to see this as a test not only of Mr. Sorensen, but of congressional oversight of the intelligence community.

As members have already indicated, there are areas in which we have a particular concern, I think that this committee and the Congress have a justifiable concern as we examine the qualifications of a person who is to assume this very important post, with all of the responsibilities that it entails for the security of this Nation.

Mr. Chairman, I would like to submit my statement for the record at this time, and permit the chairman to go ahead with the presentation of the witness.

The CHAIRMAN. Without objection, the statement will be made part of the record.

[The prepared statement of Senator Huddleston follows:]

PREPARED STATEMENT OF SENATOR WALTER "DEE" HUDDLESTON

Mr. Chairman: I would like to join the other committee members in welcoming Ted Sorensen, the Director of Central Intelligence-designate to our hearing today.

This is a very important occasion for the Select Committee. It is the first time that the committee, the first Senate Committee ever to have jurisdiction over all of the national intelligence activities of the United States, has had the opportunity to review the background and qualifications of the official whose jurisdiction mirrors our own. The Congress and the public have a right to see this as a test not only of Mr. Sorensen, but of congressional oversight of the Intelligence Community.

These hearings gain importance from recent events. This is the first opportunity to scrutinize a prospective DCI since the country learned of CIA assassination plots aimed at foreign leaders, and Presidential attempts to use the intelligence agencies for partisan political purposes. The Director of Central Intelligence must be a person who will be able to prevent failures such as these in the future. And Congress, which previously failed in its oversight function, must demonstrate that its oversight can be exacting, fair and nonpartisan.

Today's hearings deal with the nomination of Ted Sorensen to fill one of the most complicated and sensitive positions in the government. The Director of Central Intelligence has many functions. He serves as the President's chief foreign intelligence advisor and is responsible for the production of national intelligence. He must coordinate activities of a huge and complex intelligence community while having direct responsibility for the CIA, whose missions range from the evaluation of intelligence to espionage and covert action abroad. He is responsible for the protection of intelligence sources and methods from unauthorized disclosure.

These multiple roles set out in the National Security Act of 1947 would tax our most distinguished citizens. As this country's chief intelligence officer the Director needs to have a world perspective. He requires access to, and the trust of, the President; yet he must be a man of such stature as to be able to say "no, Mr. President." While serving as a confidant of the President he must advise the Congress, a growing consumer of intelligence, about intelligence which may not support the President's policies.

As producer of national intelligence, the DCI must insure that objective intelligence, free of departmental, agency or political biases, is provided to the President and the Congress. He must be on guard that his role as the Director of the Central Intelligence Agency does not lead him to favor, unnecessarily, the intelligence produced by the CIA.

While the statute charges the Director with coordinating our national intelligence activities, 80% of the resources of the intelligence community are beyond his direct control. No clear boundaries exist between national intelligence activities for which he is responsible and the equally expensive, equally complex, departmental and tactical intelligence activities over which he has no control.

He is responsible for protecting intelligence sources and methods from unauthorized disclosure. Yet he has no authority to do this and the CIA is prohibited from law enforcement or internal security functions.

Finally, as director of the CIA he must manage a wide variety of activities around the globe—some extremely sensitive—with great potential for benefit or harm to this nation's interests.

These are enormous responsibilities. But the Director's success is inextricably linked to our success as a nation.

As chairman of the committee's subcommittee on charters and guidelines I welcome this opportunity to explore the role of the director of central intelligence with the man the President-elect has seen fit to designate for this sensitive post. Perhaps these hearings can help us to find better ways to define the position of the director and the needs and missions of the nation's intelligence agencies.

These hearings will also address an issue which is always troubling in a democratic society—the issue of secrecy. There are secrets which our government must keep—secrets upon which our survival as a free society depends. These secrets cannot be disclosed on whim or caprice. Their release may have fateful consequences. But democracy demands openness as well. It withers in the absence of an informed citizenry. We have paid a terrible price for senseless secrecy—secrecy used to cloak official misdeeds and official stupidities. Today we shall try to examine this issue, not in a partisan fashion and not as a trial court or grand jury. We shall address it as the Senate undertakes one of its most honored functions, providing advice and consent to the chief executive officer of the United States.

The CHAIRMAN. Senator Biden?

Senator BIDEN. Mr. Chairman, I have a brief opening statement which could be either now or at the beginning of the questioning, whichever would be appropriate in the chairman's mind.

The CHAIRMAN. What is your wish, sir?

Senator BIDEN. It doesn't matter, whatever the Chair would like.

The CHAIRMAN. Would you like to give it now.

Senator BIDEN. OK.

Mr. Chairman, these hearings on the nomination of Mr. Theodore Sorensen to be Director of the Central Intelligence Agency are in my opinion, the first great test of the ability of this committee and the Congress to conduct objective and thorough oversight of the intelligence community.

The days which I have spent preparing for these hearings have been for me, and I am sure for many members of the committee as well, a most sobering experience. I consider Ted Sorensen to be a friend of mine. He is a nominee of the President-elect, a man of my party, whom I enthusiastically supported for that job. However, these facts cannot and will not affect my participation in these hearings or the process of considering the nomination.

I view the Office of Director of Central Intelligence, of the Director of the Central Intelligence Agency, as the most sensitive position in the Government. It demands a person of excellent managerial skill, a person of intelligence, a person of great discretion, but above all, a person who understands his responsibilities, the limitations of his authority under our laws and Constitution, a person who believes fervently in the rule of law.

I know Mr. Sorensen and I know that he has many if not all of these qualities.

The hearings thus far have concentrated upon one document which in many respects focuses upon several of these issues. I am referring to the so-called Ellsberg affidavit. This affidavit in my opinion raises two fundamental questions with respect to Mr. Sorensen's qualifications: Can he effectively balance the equally important competing

interests of secrecy and the right of the people to know what their Government is doing? Second, does he respect and understand the rule under which he will serve?

These are two questions I would ask any candidate for the DCI, and these are two questions I will ask Mr. Sorensen, and would have asked regardless of the so-called Ellsberg affidavit.

In the case of the affidavit, both issues are intimately interrelated. The affidavit and Mr. Sorensen's testimony today create a very explicit record on his position on the relative importance of secrecy and the public right to know.

On this question we are not far apart. Mr. Sorensen says in essence that there is a need for secrecy, and that overclassification is dangerous and counterproductive. As Justice Stewart in the *Pentagon Papers* case said, "When everything is secret, nothing is secret," and I am not disturbed by that position taken by Mr. Sorensen.

However, the question of how we formalize our process of classifying and declassifying the information, and then the general question of what laws or regulations were or were not violated by Mr. Sorensen does disturb me. In the past 2 years in reports of intelligence community abuses, critics of the intelligence agency, of which I am surely perceived as one, have made much of the evidence of lawlessness that has taken place within that Agency.

We criticized Presidents for claims of inherent authority to act outside the law governing ordinary citizens. We criticized professionals in the intelligence agencies who have candidly admitted that they gave little if any consideration to the lawfulness or constitutionality of their actions.

I believe that a very strong case can be made that Mr. Sorensen did not violate any statutes in the actions he took. I believe the argument with respect to the various Executive orders on classification may be closer, but quite honestly, I am not sure whether or not Mr. Sorensen could be indicted or convicted under the espionage statutes, or fired from his White House job if that were the issue.

The real issue is whether Mr. Sorensen intentionally took advantage of ambiguities in the law, or carelessly ignored the law. If he did so, can he now bring the activities of the intelligence community within the strict limits of the law?

We will expect that in the future of intelligence agencies. If that is to be the case, then we must hold the Director—DCI—accountable as well.

If in the end I decide that Mr. Sorensen was either careless in his role as Special Counsel to the President with respect to the laws and Executive orders in question, or if I think that he intentionally evaded the law, I will vote against his confirmation. I must say that I will do so even though I believe that the current laws and Executive orders are ambiguous and indeed opaque.

I will and I hope that the Congress generally will hold the next DCI to a very high standard. That is a standard that we as critics of the intelligence community hold other DCI's and Directors of the FBI for past illegalities. We cannot use a different standard for Mr. Sorensen.

In conclusion, let me say that regardless of what happens to Mr. Sorensen, I believe that the ultimate responsibility for the state of

affairs in this is the Congress. The fact that neither the committee nor Mr. Sorensen can say with certainty whether the activity he described is illegal is our responsibility. Congress is ultimately responsible for the fact that the espionage statutes are so vague that they permit informal leaking; that they are so outdated, as the Church committee pointed out; that they permit forms of modern espionage not contemplated when the current law was drafted in 1917; that they are so vague that they permit gross overclassification of information, thereby undermining the people's right to know about Government activity.

The espionage statute is a threat to national security and to civil liberties. If we rake Mr. Sorensen over the coals on this question, and we will, and if we reject Mr. Sorensen's nomination, as we might, and if at the same time we do not rewrite our espionage and secrecy laws, we will be a bit hypocritical.

And last, Mr. Chairman, I think the question of the confidence that Mr. Sorensen would be able to generate from the members of the intelligence community, both our own and those with whom we deal, is a question that will be considered by me and I hope will be considered by the remainder of the committee.

Thank you very much.

The CHAIRMAN. Thank you very much.

I am pleased to recognize the distinguished minority leader of the U.S. Senate, Mr. Baker.

Senator BAKER. Mr. Chairman, I thank you very much.

It is a special privilege for me to have the opportunity to appear today on this committee which I helped to create and to sit here as I do in the most junior seat.

After my election as minority leader of the U.S. Senate, it was brought to my attention quickly that one of the provisions we wrote into the resolution which was adopted was that the majority and minority leaders would both be ex officio members of this committee but not voting members. This seemed like a better idea at the time we drafted the resolution than it does now. [General laughter.]

Notwithstanding this occurrence, Mr. Chairman, as you know because of our relationship in the past, I have a deep and continuing interest in the general field of intelligence activities of the U.S. Government. I hope it is not superfluous for me to say that I have a genuine concern for the efficiency and the integrity of the intelligence apparatus of this Government. I say that, notwithstanding that on occasion I have been at least among the most severe critics of the CIA and the intelligence community, going back to the time of another hearing in this room, the Watergate hearings. At the conclusion of these hearings I filed a separate report, which came to be known as the Baker report, which examined whether or not the CIA might have been involved in the Watergate affair. Incidentally, I concluded while I was a member of the Church committee, and so stated in my separate views, that I found no evidence that the CIA as an institution was involved in Watergate. I felt, having first raised that question, that I owed an obligation to put a period at the end of the sentence.

I supported with great optimism and effort the creation of the Church committee to examine further into the charges and allegations

of misconduct of the CIA and the intelligence community, particularly relating to the charges of assassination plots, many of them occurring during the Kennedy administration when Mr. Sorensen served in the White House, and many of them directed against Premier Castro of Cuba.

I tried as hard as I could to participate fully in those proceedings, and to contribute to the deliberations of that committee. To then become a member of this committee after its creation as the first intelligence oversight committee of the Senate was to me a signal opportunity and a great responsibility.

And so it is with great reluctance that I now assume the role of an ex officio nonvoting member of this committee.

But being a nonvoting member, maybe it also creates certain other opportunities that I would not have had in a more judicious role as a voting member of the committee sitting in judgment on this nomination. Maybe I can be a little more straightforward and frank than I would be if I were going to vote on this nomination in this committee. Maybe I would not say that I think this is a bad nomination, but I do think that; and not necessarily because I think Mr. Sorensen is unqualified. I think he is a very qualified American, and loyal and dedicated citizen. Because of the extraordinary difficulty that the intelligence community has been through in the last few years, the beating and the battering that it has taken, partly at my behest, while all the charges and allegations were investigated. I think that a good nominee for Director of Central Intelligence ought to be someone who is beyond reproach, above criticism and someone who would immediately and instantly engender the confidence of the intelligence community of this country, of other countries, and of this Government and the Congress of the United States.

And so it is with reluctance, but candor, I trust, that I say that I don't think this nomination fits that prescription.

However, Mr. Chairman, if I were a member of the committee with a vote, I would say and do precisely what the members on both sides of the aisle have done here today, and that is hear and judge the proof rather than express the opinion that I have just expressed as an ex officio and nonvoting member of the committee.

And, I reserve the right to change my mind. I will study these hearing records and listen carefully to all the testimony and evidence before making any final decision on the nomination.

But my great concern, Mr. Chairman, is that in the recent past there has been so much controversy, there has been so much suspicion, so much uncertainty, so many unanswered questions about the function and the propriety of the intelligence apparatus in this country, so much debate about the future of intelligence, the necessity or absence of a necessity for covert action, the propriety of classification, the question of Presidential knowledge or plausible deniability, of the involvement of Presidents or the absence of involvement of Presidents in assassination plots, not 1 or 2, but 50 or 60 perhaps, in administrations going back to the fifties that I had very much hoped that the President-elect would send us a nominee who was beyond controversy and above suspicion.

I reserve the right to change my mind, Mr. Chairman, but I felt that I ought to say that I am concerned about this nomination and I will look with great interest at these hearings.

The CHAIRMAN. Are there any further remarks?

Senator MORGAN. I reserve any further remarks to a further time.

The CHAIRMAN. Thank you.

It is my pleasure now to welcome to the committee a very distinguished American, who has served with great distinction as our voice and as our Representative in the United Nations. He now serves us, and serves the people of New York, as its voice. I am certain he will be a fine representative of the people of New York.

Senator Moynihan has asked the committee to be given the opportunity and the privilege to present to us the nominee, Mr. Theodore Sorensen.

Mr. Sorensen, I think you are most fortunate to have Mr. Moynihan representing you, sir.

It is now my pleasure to recognize the junior Senator from the State of New York, Mr. Moynihan.

Senator MOYNIHAN. Thank you, Mr. Chairman, and may I say I am more than sensible of the honor to appear before this committee and to you, sir and to the members of the committee.

I now have the honor to introduce to the committee Mr. Theodore C. Sorensen of New York who is the designee of the President-elect for the post of Director of Central Intelligence.

I introduce him, of course, only in the formal sense of presentation. There will not have been a single member of this committee who, upon learning of the President-elect's intended nomination did not instantly recognize the name and immediately associate the man with a still shining moment in American history, the Presidency of John F. Kennedy.

For my part, I will always remember him standing in the hallway of the west wing of the White House on that afternoon of November 22, 1963, when silently, somehow, the knowledge passed among us that the President was dead. And with that, for me, and I expect for many there, the further realization came that of all who would be stricken, none apart from the President's own family would feel the hurt more deeply or bear the pain longer than Ted Sorensen.

When, minutes later, Hubert Humphrey arrived to be with us, we young men of the Kennedy moment in what was in so many ways our last time together, he embraced Ralph Duncan and exclaimed in anguish: "What have they done to us?" And again, one thought of Ted Sorensen.

Well, they did not break us, no more than they did Hubert Humphrey. But just as surely, much ended that day, not least the sense of ordained security of innate invincibility which permeated the consciousness of even those among us most sensible of the dangers which America and American ideals faced in an increasingly hostile world. Somehow, we had thought it would all come out right in the end. We really had thought that, notwithstanding what we said or how we acted.

Well, it didn't, of course. Not for us. And the lesson of danger, of concealed threat, of ambush, of tragedy, mark us, even now, I dare to say, as a kind of generation. None learned this lesson more profoundly than Theodore C. Sorensen. It was surely this fact, combined with his formidable and undiminished powers of analysis and exposition, these qualities in him which prompted Governor Carter

to offer him the post of Director of Central Intelligence, just as we may also feel certain it was Mr. Sorensen's sense of the present and prospective dangers faced by the American Republic which prompted his agreement to return to the public service, a return which President Johnson in a parting letter 13 years ago predicted would one day come, for Government would necessarily turn once more to this extraordinary man before too many years had passed.

Unhappily in the interval since that time, the atmosphere of public service in the Nation's capital has not improved. I have been pained to hear questions raised concerning Mr. Sorensen's qualifications owing to personal convictions which he has, or had, concerning the taking of human life.

Surely, we are not about to impose religious qualifications for public service at this late date, when persons of conviction have become so few as to make the issue increasingly moot.

I would then respectfully urge the committee to direct its concerns, as I know it will, Mr. Chairman, to the issues of competence and of integrity, of vigilance and of loyalty, which are of large and proper concern to you all. Here, it seems to me the thing speaks for itself: In the formulation of the common law, *res ipsa loquitur*.

Intelligence will breed intelligence. Theodore Sorensen will carry on in the tradition, too brief but already productive stewardship of George Bush. The Agency and the Presidency and the Nation will be well served.

I feel certain that the members of this committee will share with me the conviction that in making this appointment, the President must also be concerned that the interests and sensibilities of the intelligence community—of the men and women who make up this community will also be taken into consideration.

I have had the honor, Mr. Chairman, to serve in the subcabinet or cabinet of four Presidents. In the course of that service, I have come to hold the men and women of the Central Intelligence Agency in particular in the highest possible regard. As professional analysts, as Government servants and if you will not mind the term, as patriots, they have no equal as a corps.

Theodore Sorensen is a man who will understand them and who will know that they have not—and in whom they will see—not merely a channel for their work into the innermost policy circles of the American Government, but an advocate of their work as well.

Mr. Chairman, on Friday last, 14 Members of the New York State delegation in the House of Representatives sent to Governor Carter a letter commending him for the nomination of Mr. Sorensen to this post. With your kind permission, I would ask that this letter be made part of the record of this hearing.

I thank you, Mr. Chairman, for the privilege of introducing my friend, Theodore Sorensen.

[The letter referred to follows:]



**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

January 14, 1977

Honorable Daniel K. Inouye  
 Chairman  
 Select Committee to Study Governmental  
 Operations with Respect to Intelligence  
 Activities  
 G-308 Dirksen SOB  
 Washington, D.C.

Dear Mr. Chairman:

We strongly endorse President-Elect Carter's nomination of Theodore G. Sorensen as Director of Central Intelligence. Though we have in common our membership in the New York Congressional Delegation, we come from all parts of the state; serve urban, rural and suburban districts; and hold differing political views. Nevertheless, we join in expressing bipartisan support for Mr. Sorensen.

We do so because we believe he brings to the position outstanding personal qualities.


Mr. Sorensen is a man of unquestioned personal integrity, who has been scrupulous, candid and direct in all of his dealings with us and our colleagues.


He is, in addition, a man of keen intelligence, with a distinguished educational background. For the better part of two decades, he has addressed public issues with insight and wisdom.

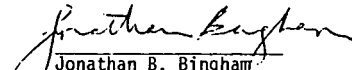
We have not all agreed with all of his positions on those issues. But we have always found them to be well reasoned and carefully considered. Moreover, they are not dogmatic or filtered through an ideological prism. Mr. Sorensen bases his judgments on the facts, not on preconceived notions. As Director of Central Intelligence, we believe, Mr. Sorensen would do likewise; he would present to the President and to the

Congress objective and uncolored reports and conclusions.

Sincerely,

  
Edward I. Koch

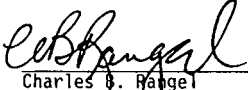
  
Joseph P. Addabbo


  
Jonathan B. Bingham

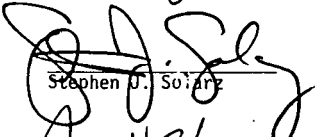
  
Matthew F. McHugh

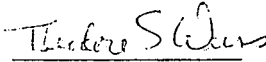
  
John M. Murphy


  
Edward W. Pattison


  
Charles B. Rangel

  
Benjamin S. Rosenthal

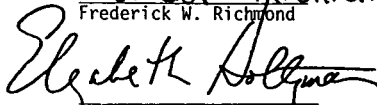
  
Stephen J. Solarz

  
Theodore S. Weiss

  
James H. Scheuer

  
Frederick W. Richmond

  
Lester L. Wolff

  
Elizabeth Holtzman

The CHAIRMAN. Thank you very much, Senator Moynihan.

Mr. Sorensen, will you please rise and raise your hand?

Do you, Theodore Sorensen, swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Mr. SORENSEN. I do.

The CHAIRMAN. Mr. Sorensen, welcome to the committee, sir.

#### TESTIMONY OF THEODORE C. SORENSEN

Mr. SORENSEN. Mr. Chairman, members of the committee, I am grateful for this opportunity to share with you my views on President-elect Carter's decision to nominate me for the post of Director of Central Intelligence and to answer the scurrilous and unfounded personal attacks which have been circulated against me, largely on an anonymous basis.

I did not seek or lightly accept this assignment, and some of my friends have suggested that anyone agreeing to take the job lacks either the sanity or the judgment necessary to fulfill it. I recognize that the successes of the intelligence community are largely unspoken while its errors are roundly assailed; that it is often accused of deeds that it never committed or that it undertook at the request of higher authority; and that the Agency and its employees are rarely able to defend themselves publicly against these attacks. In recent days, I have had the same experience.

But I do not intend to be intimidated by those who wish to strike at me or my policies, or through me at Governor Carter, by personal attacks on my integrity and probity, grossly distorting the facts and malicious twisting of my words. I prize both my country and my honor too greatly to desert this post under that kind of cloud; and despite the prejudgments already voiced by some members of the committee before I have been heard, I am here to appeal to the sense of fairness of the members of this committee.

I recognize that some of you have legitimate questions concerning my qualifications. But before dealing with those questions, I must, as a matter of personal privilege, respond to the personal attacks upon my character which my nomination has suddenly stirred.

First, it has been said that I leaked or otherwise conveyed classified information for political or personal purposes, or took it upon myself to declassify documents, or ignore or evade the law. That charge is totally false. In the White House, I drew upon classified materials in backgrounding the press only when I was specifically directed to do so by the President, who clearly had such authority; and I took documents home for review only in those rare instances when I would otherwise have spent 24 hours a day in that office.

Judging from the opening comments of some members of this committee, they have never leaked secret information to the press, and I commend them for that unique achievement. Speaking for myself, I have never compromised the national security of this country or approved of anyone else doing so. My affidavits in the lawsuits brought against the New York Times and Daniel Ellsberg regarding publication of the Pentagon papers accurately described the practices then prevalent in Washington—not as I thought they should have been, but as they were.

Senator CASE. Mr. Chairman, are those affidavits in the record?

The CHAIRMAN. They will be, sir.

Senator CASE. I wonder if it should be done now, so there would be no question on Mr. Sorensen's testimony. He has referred to them; that is why I raise the matter.

The CHAIRMAN. Can you wait until he is finished?

Senator CASE. We can, but he has referred to papers that are not in the record. That is the reason I thought he might want to put them in himself.

Mr. SORENSEN. I would be very glad to do that, Mr. Chairman. I would ask that the affidavits filed in the case against the New York Times be submitted as well as the affidavits submitted in the case against Daniel Ellsberg. For some strange reason, all of the anonymous attacks have referred only to the Ellsberg affidavits, not to the New York Times affidavits.

Senator CASE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Sorensen, I will in compliance with the requests made, I will show you an affidavit in the case of *United States of America v. Anthony Joseph Russo, Jr. and Daniel Ellsberg*, defendants, State of New York, county of New York, and dated the 30th day of June, 1972.

Mr. Sorensen, this is a typed copy of the original, and I will show this to you, sir.

I also have another affidavit in the case of the *United States of America v. New York Times Co.* This is dated June 17, 1971. I show you this also.

The affidavits in the case of the *United States of America v. Russo and Ellsberg*, is that an affidavit which was submitted by you, sir?

Mr. SORENSEN. I assume it is a copy of the original, yes, sir.

The CHAIRMAN. In the case of *United States v. New York Times*, is that also an affidavit that was submitted by you in this case?

Mr. SORENSEN. I am assuming it is a copy of the original, yes, sir.

The CHAIRMAN. Without objection, the Ellsberg affidavit will be placed on the record as exhibit A and the New York Times affidavit as exhibit B.

[The documents referred to were marked as exhibits A and B.]

## EXHIBIT A

[ Retyped from copy of original ]

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	NO. 9373-(WMB)-CD
	)	
vs.	)	
	)	
ANTHONY JOSEPH RUSSO, JR.,	)	AFFIDAVIT OF
DANIEL ELLSBERG,	)	THEODORE C. SORENSEN
	)	
Defendants.	)	

STATE OF NEW YORK :  
: ss.  
COUNTY OF NEW YORK :

THEODORE C. SORENSEN, being duly sworn, deposes and says:

1. I am a member of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, 345 Park Avenue, New York, New York.

2. Having served as a lawyer in both the Executive and Legislative branches of the Federal Government from 1951 to 1964, including more than three years as Special Counsel to the President, at which time I held a top security clearance, participated in National Security Council meetings, read classified documents daily, and drafted many such documents to or for the President, I am very familiar with the United States Government's military, diplomatic and intelligence operations, policies and practices, as well as those regarding the classification of various papers in the name of

national security. I regard myself as a devoutly loyal citizen who is proud of his years of public service and who recognizes the need for a limited amount of secrecy in government.

3. I can flatly state that "top secret" stamps are frequently and routinely applied with only the briefest and loosest consideration of what, if any, direct and concrete injury to the nation's security interest would result if the general public were to be granted access to the information; and, once applied, the tenure of such classifications rarely if ever reflects a thoughtful reconsideration of whether the passage of time and events has altered the original grounds. The public's right to be informed, and the Congress's right to be informed, have not to my knowledge been regarded as important criteria by those determining classifications. Nor is consideration given to the danger of irreparable injury to the national security interest of the United States if the public and Congress are denied facts necessary for an informed judgment, enlightened debate, the correction of mistakes, the discontinuation of invalid policies and strategies, and the prevention of a repetition of past errors.

4. I have frequently read classified documents containing information which was not secret, or the secrecy of which was not necessary for any conceivable purpose related to national security as distinguished from political embarrassment, or which the public and Congress had every

right and reason to know in a democracy. Many such documents contained information which was well known to this country's enemies or adversaries who were involved therein; and thus the only people denied this information as a result of the classification of the documents were the members of the Congress and the general public.

5. During my years in the White House it was not unusual for me or other government officials to have photocopied or otherwise reproduced classified documents or excerpts therefrom; to take such documents home for review; or to quote from them, summarize them, or otherwise utilize them in "off-the-record," "background," or other kinds of sessions with one or more representatives of the news media and occasionally in speeches. No formal authority was sought or obtained for such use, and no investigation or prosecution ensued. On the contrary, the President, Secretary of State, Secretary of Defense, Attorney General, Special Assistant for National Security Affairs, Director of C.I.A. and other members of the National Security Council knowingly and deliberately disseminated such information from time to time in order to advance the interests of a particular person, policy, political party or Department, or the Administration itself or, in their opinion, the national interest. Lesser officials often did the same for these reasons and others -- including the maintenance of friendship with newsmen, a

desire to demonstrate how much they knew or how important they were, a desire to undercut a rival official or agency, or a desire to oppose a policy or proposal with which they disagreed. While the President frequently expressed irritation over these "leaks" of classified information and documents, an investigation was rarely ordered and -- even where the originator of the unauthorized dissemination was discovered -- prosecution was never ordered.

6. It was the view of President John F. Kennedy "that the dangers of exclusive and unwarranted concealment of pertinent facts far outweigh[ed] the dangers which are cited to justify it ... No President should fear scrutiny of his program. For from that scrutiny comes understanding; and from that understanding comes support or opposition. And both are necessary ... I have complete confidence in the response and dedication of our citizens whenever they are fully informed ... [G]overnment at all levels must meet its obligation to provide you [the press] with the fullest possible information outside the narrowest limits of national security ..." (Address, American Newspapers Publishers Association, April 27, 1961) Even this speech, in which the President at the height of the Cold War was concerned about the publication of necessarily secret information and appealed to the nation's press to voluntarily and privately consider its own responsibilities in this regard, he refused



to propose, much less impose, any form of governmental restraint, and spoke sharply against censorship, concealment, the stifling of dissent and the covering up of mistakes, and urged only self-discipline and self-restraint as the basis for preventing harmful unauthorized disclosures. On the basis of many conversations with the President on this topic, I know that this was consistent with his belief and practice. He stated to me and others his belief that the press erred in withholding the advance information it possessed on the Bay of Pigs invasion, inasmuch as revelation of the real facts would have caused him to call off that ill-considered venture.

7. In the course of working on that speech for the President, and preparing for his subsequent meeting with the nation's top editors on this topic, the Central Intelligence Agency and others directed to my attention a long list of unauthorized disclosures to the press which, in the opinion of the C.I.A., seriously compromised our national security. Some of these examples were summarized in the aforementioned Presidential speech as follows:

"[D]etails of this nation's covert preparations to counter the enemy's covert operations have been available to every newspaper reader, friend and foe alike; that the size, the strength, the location and the nature of our forces and weapons, and our plans and strategy for their use, have all been pinpointed in the press and other news media to a degree sufficient to satisfy any foreign power; and that, in at least one case, the publication of details concerning a secret mechanism whereby satellites were followed required its alteration at the expense of considerable time and money."

Further examples provided to me after this speech included newspaper and magazine stories revealing details on new weapons; on U.S. methods of detecting Soviet missile and other tests; on SAMOS and other reconnaissance satellites; on the U.S. bargaining position in advance of the Test Ban talks in Geneva; on an internal memorandum regarding military strategy from the Secretary of State to the Secretary of Defense; on comparative U.S. and Soviet developments in the use of nuclear propulsion for submarines, carriers, aircraft, rockets and power plants; and on a variety of Soviet weaponry developments, publication of which revealed to the Russians our ability to monitor those developments. I was also informed that the technical details of a nuclear weapon triggering device had been leaked a decade earlier to Drew Pearson. Being generally familiar with the "Pentagon Papers" which appeared in the press last year, I know of nothing in those documents which compares in any way with the seriousness of some of the above mentioned disclosures. Revelations of past strategy, discussion, considerations, predictions, information, priorities, plans and assessments, unlike the then-current information and technology revealed in some of these cases, cannot compromise current national security. But no prosecution occurred in any of those cases.

8. Classified documents or the information contained therein also reached public view through the books

and articles of former government officials. I have many times observed this practice and participated in it. In keeping with the long-standing practice that the papers and files of the President and his top appointees belong to them and may be removed from their offices at the conclusion of their service, I removed 67 cartons of papers, documents and files of all kinds (7 cartons of which were "classified") from my office in the White House upon my departure in February of 1964. I drew upon this material, keeping some of it in my own home, in writing the book KENNEDY, published in 1965. The classified material included copies of the Kennedy-Khrushchev correspondence, the transcript of their summit meeting at Vienna, secret memoranda and directives relating to the Cuban missile crisis, Berlin, Laos and Congo crises, and the Bay of Pigs, as well as other Presidential letters and memoranda of conversations. Although I generally did not use quotation marks when extracting classified material and submitted portions of the manuscript for informal review to individuals who then or previously served in high national security positions, I did not seek or obtain any formal clearance or approval from the government and was at no time questioned or reprimanded in this regard. The government, speaking through the National Archives, asked me as the lawful owner of these papers to donate them to the United States of America for eventual deposit in the John Fitzgerald Kennedy Library; and the government, acting through the

Internal Revenue Service, recognized that these were my property in granting a tax deduction for this gift. The legislative history of the Presidential Libraries Act of 1955 and the Federal Property and Administrative Services Act of 1949 made clear that these were my papers to dispose of as I saw fit, much as Sherman Adams, Samuel Rosenman, Clark Clifford and a great many others had done before me.

9. I also served as unofficial editor of the posthumously published manuscript on the Cuban missile crisis by Robert F. Kennedy entitled THIRTEEN DAYS. That manuscript quoted from previously classified letters of President Kennedy and Soviet Chairman Nikita Khrushchev, summarized a highly classified memorandum to the Attorney General from J. Edgar Hoover, and quoted a variety of extremely confidential conversations. No question was raised with respect to this publication.

10. What all of the above boils down to is this: The government has always recognized and accepted the fact that arbitrary, inconsistent and indiscriminate over-classification of documents exists; and that consequently large amounts of classified material are passed from the government to the public -- sometimes to the government's embarrassment, occasionally even to its injury -- as part of the system of governing and living in an open society. Because classified labels have come to mean so little in practice, and because

the guidelines for classification, declassification and utilization of classified material are so vague and obscure that no one can be certain when they are violated, hundreds of violations of the letter of the law if it is broadly interpreted occur every month. The government has accepted this as an inherent part of our system and has relied on the support of subordinates, on their loyalty, consciences and self-discipline, and occasionally on administrative procedures to deter and correct the dissemination of those state secrets that are actually injurious to the national security.

11. I understand that this affidavit will be submitted by counsel for the defense.

/s/ Theodore C. Sorensen  
Theodore C. Sorensen

[NOTARY SEAL]

Sworn to before me this  
30th day of June, 1972

/s/ Lewis A. Kaplan

LEWIS A. KAPLAN

Notary Public State of New York

Commission Expires March 30, 1974

## EXHIBIT B

[Retyped from copy of original]

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	Civil Action
v.	:	
	:	71-2662
THE NEW YORK TIMES COMPANY, et al.,	:	
	:	
Defendants.	:	

-----X

STATE OF NEW YORK :  
 : ss.  
COUNTY OF NEW YORK :

THEODORE C. SORENSEN, being duly sworn, deposes and  
says:

1. I am a member of the law firm of Paul, Weiss,  
Goldberg, Rifkind, Wharton & Garrison, 345 Park Avenue, New  
York, New York.

2. Having served as a lawyer in both the Executive  
and Legislative branches of the Federal Government from 1951  
to 1964, including more than three years as Special Counsel  
to the President, at which time I held a top security  
clearance, read classified documents daily, and drafted many  
such documents to or for the President, I am very familiar with  
the United States Government's practices regarding the classi-  
fication of various papers in the name of national security.

3. Having read the materials appearing in the New York Times on June 13, 14 and 15, 1971, I am familiar in a general way with the Times' publication of summaries of, excerpts from and documents attached to a historical study of this nation's deepening involvement in the Vietnam War conducted by the Department of Defense.

4. A determination by the Government or anyone else as to whether our nation's security requires the withholding from public view of any particular document or documents is not a matter requiring military or other highly specialized expertise. The highly individual and frequently arbitrary opinion of the classifying officer is thus entitled to no or little more weight than the opinion of any other informed and concerned citizen. "Top secret" stamps are frequently and routinely applied with only the briefest and loosest consideration of what, if any, direct and concrete injury to the nation's security interest would result if the general public were to be granted access to the information; and, once applied, the tenure of such classifications rarely if ever reflects a thoughtful reconsideration of whether the passage of time and events has altered the original grounds. The public's right to be informed, and the Congress' right to be informed, have not to my knowledge been regarded as important criteria by those determining classifications.

5. The nation's security does legitimately require the withholding from public view for an appropriate period and

no longer certain documents, including those which if revealed could endanger or otherwise adversely affect the lives or movements of American military personnel. In addition, foreign governments are ordinarily entitled to expect that their confidential communications to our government will be treated with the same regard for their wishes as they provide for our confidential communications to them; and the President is ordinarily entitled to receive the kind of candid advice and reports from his top civilian and military subordinates which is possible only if they can be certain that words intended for his eyes alone are not shortly thereafter transmitted to the general public.

6. The question of whether any particular document or documents should remain secret today is thus one of balancing these interests, and the New York Times, a Federal Judge, a Senator or a citizen may be as capable of making that judgment as any one in the Executive Branch. My own judgment is that, on balance, publication by the New York Times of the documents in question in this case is not injurious to the national security. No current or future military operations or present top government officials appear to be involved in any way. No serious embarrassment to any foreign government appears to be involved. None of the information and opinions revealed appear to have any current facets requiring continued secrecy.



7. On the contrary I believe the national security interests of the United States will be irreparably injured if these documents are suppressed from public and Congressional view; if the United States, on the verge of several fateful decisions in the Middle East, Latin America and Asia, is thereby prevented as a nation from learning the true history of what went wrong in Vietnam; if the same policies of concealment and deception which prevented debate and produced mistakes in this nation's approach to Vietnam are thereby judicially encouraged to continue; if the very purpose of this objective historical study is thereby frustrated, and the cost in time and talent invested in its evolution wasted, by confining its circulation to a handful of high officials who largely supported the original policy; and if the courts of this country, by enjoining a free press and permitting the concealment of official error, thereby erase still one more important distinction between ourselves and our adversaries.

8. I understand that this affidavit will be submitted in opposition to the motion made on behalf of the Plaintiff for an order enjoining the further publication by the New York Times of this material.

/s/ Theodore C. Sorensen  
Theodore C. Sorensen

New York, N.Y.

June 17, 1971

Sworn to before me this 17th day  
of June, 1971.

BEATRICE D. DALY  
Notary Public in the State of New York

The CHAIRMAN. Please proceed, sir.

Mr. SORENSEN. I will repeat my last sentence. My affidavits in the lawsuit brought against the New York Times and Daniel Ellsberg regarding publication of the Pentagon papers accurately describe the practices then prevalent in Washington, not as I thought they should have been, but as they were.

Almost identical affidavits were submitted by a former Assistant Secretary of State, a former State Department legal adviser, and a former Ambassador. During my White House service, I received the highest security clearances from the CIA; and I received them again in the last few weeks.

Indeed, I have something of a reputation for guarding secrets, whether they be something of my Government, my clients, or my friends. No one has ever charged me with conveying classified information to others or mislaying classified materials.

Second, it has been said that I improperly took classified documents with me from the White House when I left Government service, improperly used them in writing my book on President Kennedy, and improperly obtained a tax deduction for donating them to the John F. Kennedy Library. Those charges are totally false.

Upon the announcement in early 1964 that I was leaving the White House, I was visited by the Assistant Archivist of the United States, an official of the General Services Administration. He informed me that the papers in my files that I had created and accumulated during the period of my service in the White House were regarded by both law and historical precedent as my personal property; and further, that I was entitled to make any use of those papers that I deemed appropriate, whether selling them as some former White House aides had done, writing books based on them as other former aides had done, or donating them to an appropriate educational institution—with a tax deduction on the value of the gift—as still others had done.

This was the law conveyed to me by the Assistant Archivist of the United States.

Upon my signing, on February 14, 1964, a letter of intent to donate my papers to the Kennedy Library, the Archivist's Office sorted and packed my files, presumably leaving behind anything that was not mine, and transferred them to a GSA depository in the Boston area.

The GSA then sent to my home in Massachusetts certain of those papers that I had selected as necessary background materials for my book. The GSA collected them from me upon completion of my manuscript, and the entire lot of my papers was then transmitted to the John F. Kennedy Library, to which I donated them.

Naturally there were classified papers among them—although no communications intelligence reports—just as there were classified documents among the papers taken upon their departure from the White House by the principal aides of every President at least since Woodrow Wilson, including Colonel House, Samuel Rosenman, Harry Hopkins, Sherman Adams, McGeorge Bundy, and many, many others.

Like most of those named, I reviewed my papers, including classified papers, in preparing a book on my experiences, just as Gerald Ford at his confirmation hearing acknowledged drawing upon top secret documents in his possession in writing his book on the Warren Commission. In the decade since my book was published, no one has

suggested that security was in any way breached by anything in my book, and it was, in fact, submitted for clearance in advance to the National Security Advisor to the President, to his former Deputy, and to the former Deputy Secretary of Defense.

My handling of classified information was, at all times, in accordance with the then existing laws, regulations, and practices.

Upon donating my papers to the Kennedy Library—instead of selling them individually for a far larger amount—I received the tax deduction to which I was entitled by law, just as many former Government officials did over the years, including, in addition to some or all of those already mentioned, former Ambassador Galbraith, former White House aide Arthur Schlesinger, and former Governor and Ambassador Adlai Stevenson.

No doubt arguments can be made against the practice begun by George Washington of White House occupants taking their papers with them—John Eisenhower has recently stated, for example, that his father inherited from Truman and left to Kennedy no papers other than the instructions on nuclear attack procedures—but at the time I took my papers in 1964, that was clearly the accepted view of the law.

No doubt arguments can be made against permitting tax deductions on the donation of papers by former Government officials—and such arguments were made when the law was changed in 1969—but that was, nevertheless, the law prior to that time.

All of the above actions were taken with the full knowledge and approval of the U.S. Government and were publicly described in the well-publicized affidavits which I filed in the *New York Times* case and subsequently in the *Ellsberg* case.

Those two cases involved important first amendment issues, including the public's right to know the tragic history of the Vietnam war. Whatever improvements might have been made in the wording of my affidavit, I make no apology for having responded to the requests of counsel in both cases to attest to the inconsistencies and anomalies of Government classification practices.

Third, it has been said that I avoided military service as a pacifist during World War II and the Korean war. This charge is totally false. I have never sought to avoid military service, hazardous or otherwise, in wartime or any other time. I have never advocated for the United States a policy of pacifism, nonresistance to attack or unilateral disarmament.

The facts are that I registered for the draft upon becoming 18 years of age in 1946, a year after World War II ended, and shortly thereafter expressed the philosophy of nonviolence with which I had been reared by two deeply idealistic parents by requesting, not an avoidance of military duty or hazardous duty, but military service in a noncombatant capacity—classification 1AO—preferring, by way of illustration, to serve on the battlefield as a medical corpsman saving lives instead of taking lives. This status was granted.

My action was largely symbolic inasmuch as our country was not then at war, or expected to go to war. I have never, in my service on the Executive Committee on the National Security Council during the Cuban Missile crisis or at any other time, permitted my preference for personal nonviolence to inhibit in any way my advice to the

President on the military and other options available as a matter of national policy.

I would not have accepted Governor Carter's designation to be Director of Central Intelligence were I not prepared to carry out every lawful order of the President conceivably connected with this post.

Fourth, it has been said that my legal representation of multinational corporations and foreign governments poses a conflict of interest in undertaking this assignment. This charge is patently absurd.

Over the years, the highest national security officials in our country have frequently represented such clients before taking office, including Messrs. Dulles, Acheson, Rogers, McCloy, Stevenson, and a host of others—but no one challenged their right to serve or later claimed that their actions were prejudiced because of those earlier ties.

My only representations of foreign governments were the brief occasions on which I represented the Governments of Iran, Zaire, Sierra Leone, and Newfoundland in commercial disputes or negotiations. In no country did I have any connection with or firsthand knowledge of any activities of either their intelligence agencies or our own; nor do I have now any obligations or prejudices regarding any foreign country which would interfere with any official duties.

The fifth and final charge is the suggestion that I must have been somehow involved in Kennedy White House plots to assassinate foreign leaders. That charge is totally false.

I have previously testified under oath, and I do so again today, that I knew nothing of such plots; and no one who did has ever stated or ever could state, nor did your predecessor committee find or suggest, that I was informed or involved in any way.

The record is equally clear that I had no advance knowledge or involvement of any kind in the Bay of Pigs or in any CIA covert operations.

Mr. Chairman, far more than any job or title, I value my good name. I deeply resent this reckless scattering of baseless personal accusations in order to suppress a different point of view. I respectfully ask this committee, whatever the fate of my nomination, to consider the evidence submitted today and previously submitted to your staff director, and to make it clear that these personal charges are wholly false and without foundation and not the basis for the committee's view of my nomination.

With these personal charges out of the way, we can turn now to the question of my qualifications—to legitimate questions, raised by those with whom I respectfully disagree, but who are entitled to raise what they regard as valid questions.

There are basically two such questions.

First is the question of my experience in intelligence. I was an observer at National Security Council meetings and a reader of intelligence reports in the White House, and I worked closely with the CIA and other national officials during the Cuban Missile crisis. I have, since leaving the White House, written and lectured widely on international affairs, and engaged in negotiations with dozens if not hundreds of top foreign officials.

I was requested by the Ford White House a year ago to provide advice and consultation on its reorganization of the intelligence effort.

My qualifications for this post have been endorsed by John McCone, Clark Clifford, Averell Harriman, Adm. Elmo Zumwalt, Gen. James Gavin, and others who know of my work.

Most importantly, I was chosen by the President-elect as someone sufficiently in his personal trust and confidence to bring him the hard, unvarnished unpleasant facts, and to reject any improper orders whatever their source; as someone who possessed the integrity necessary to continue the task of restoring public trust and confidence in the CIA, and earning that trust and confidence by keeping the Agency accountable and free of abuse, and as someone with the degree of intellect and independence required to protect the integrity of the intelligence process from outside pressures and politics.

But I recognize that there are those, inside and outside of the intelligence establishment, who disagree with the Murphy Commission recommendation that an outsider always be named to this post; who refuse to recognize the totally nonpartisan leadership provided by George Bush as DCI, despite earlier concerns about his partisan background; or who see no value for this post in a lawyer's sensitivities to civil liberties and lawful conduct. These people believe that only someone from inside the military or intelligence establishment has the experience necessary for this job. I disagree.

Second is the question of my views. Although as previously indicated, I am not a pacifist, I do favor a foreign policy that prefers, where possible, the risks of peace to the risks of war. Although, as previously indicated, I fully recognize the need for legitimate Government secrecy, which is in fact weakened by overclassification, I do believe in the right of the Congress and public to receive far more information than they presently do from all Government agencies, including the CIA.

I believe as well in the application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate congressional committees and written authorization by the President and his senior cabinet officials.

There are those who disagree with these views and who regard them as incompatible with the duties of a Director of Central Intelligence. Paying little heed, apparently, to the fact that the Director's real responsibility is to provide leadership to the intelligence community and objective intelligence, not policy, to the President and his policymakers, these critics prefer to view this post as a part of the national security decisionmaking apparatus and prefer in that post someone with policy commitments more like their own.

Obviously, I disagree with that view as well.

But it is now clear, Mr. Chairman, that a substantial portion of the U.S. Senate and many members of the intelligence community are not yet ready to accept as Director of Central Intelligence an outsider who believes as I believe on these two legitimate questions. It is equally clear that to continue fighting for this post, which would be my natural inclination, would only handicap the new administration if I am rejected, or handicap my effectiveness as Director if I am confirmed.

It is therefore with deep regret that I am asking Governor Carter to withdraw my designation as Director of Central Intelligence. My regret stems not from my failure to get this post, but from my concern for the future of our country.

I return to private life with a clear conscience. When my nomination was announced on Christmas Eve, my youngest son said to me, "Now you will have to do some things you don't want to do," and I replied, "I never will." I have never compromised my conscience, and I am unwilling to do so now in order to assure my nomination.

I want to thank you, Mr. Chairman and members of the committee for hearing me out, and for the courtesies you have extended to me over the past few weeks. I will be glad to answer any questions you think necessary, and to answer those of the press immediately after the conclusion of this hearing.

The CHAIRMAN. Mr. Sorensen, needless to say, this was not expected. The committee was prepared to proceed.

I know that this has been a difficult time for you, and may I say that it has been a difficult time for the members of my committee. But knowing Theodore Sorensen, I am certain that this painful episode will not in any way dampen his interest and concern in the well-being of this country, because I am certain your love for your country will continue.

We are all aware of your great service to this country since 1951, and I think it would be a great loss to us if you decided not to continue this tradition of service. I am certain you will not fail us.

If it is of any consolation to you, sir, this committee has received a report from an agency of the intelligence community, incidentally, one of the toughest agencies, one that is required to clear all nominees, the Federal Bureau of Investigation. The Federal Bureau of Investigation has given you a four-star rating, considers you loyal, patriotic, and should be considered for any classified position.

I am sorry that I cannot make that report part of the record because it is not a type of report that can be made part of the record, but I can tell you as chairman of this committee, having seen the report, and I welcome all the members of my committee to look at it, you have been given a four-star rating.

Mr. Sorensen, I hope that you will not leave this room with bitterness, although there is justification for that. I hope you will leave this room knowing that we have tried to do our best as Members of the U.S. Senate and as members of this committee.

I thank you for having considered this nomination, and as chairman of the committee, I await the pleasure of the President of the United States.

Senator GARN. Thank you, Mr. Chairman.

I would just like to say that I had the opportunity this week to visit with Mr. Sorensen at some length on two different occasions, and I would like to say publicly what I said to Mr. Sorensen on Friday, that I had great respect for his ability and his intelligence, that at no time did I feel that he had deliberately or with any malevolent intent taken classified material that would harm this country. I told him that personally; I say it publicly.

I also told him during that particular meeting that in the research that we had done we found frequent indications of his keen moral

sense. We found personal notes that he had written when he was in the White House turning down the offer of a couple of theater tickets because he did not feel that it was proper for one in his position to accept a couple of \$7 or \$8 theater tickets.

So, Mr. Sorensen, I wanted to say that to you publicly, not just privately. You know that I had some concerns about your nomination. Not as to your honesty or your integrity or your ability, but as I said to you, I felt that the wrong man had been nominated for this position, and that as Secretary of HUD, HEW, or someplace else, you would have been an extremely valuable asset to the new President of the United States.

I know this has been a difficult decision for you. I personally have appreciated the opportunity of getting to know you this week, and I wish you well in the future.

The CHAIRMAN. Senator Biden?

Senator BIDEN. Mr. Chairman, I think it should also be pointed out that at least in the preliminary memorandum done by my staff and other members of the committee staff, that the questions which I was going to raise about the espionage law, as to whether or not they were violated, the conclusion of staff was, there was no violation, and in fact, there is no evidence that any law has ever been violated by Mr. Sorensen. I am sorry that it is not going to be made part of the record so that to "flesh out" this entire area would aid us further in formulating a revision of those unclear laws.

But I should say that it is emphatically clear in my opinion, and I think in the tentative opinion of the staff memorandum, that there was no violation of any law, and I would also like to point out that, Ted, you are one of the classiest men I have ever run across in my whole life.

The CHAIRMAN. Senator Hart?

Senator HART. Mr. Chairman, much is said in these halls about presumptions for nominations by the President of the United States. It seems to me in light of what has happened here today, that if we are serious about honoring those nominations and those recommendations, it would be well for committees of the Congress, and particularly the Senate which have the obligation of confirmation, to honor that presumption and at least let a hearing go forward before all members or a majority of the members of those committees make up their minds as to how they intend to vote. Otherwise, it makes mockery of the hearing and confirmation process. I for one am extremely saddened by what has occurred. I don't believe Mr. Sorensen has received his day in court, and I am afraid his case was prejudiced at the outset.

The CHAIRMAN. Senator Hatfield.

Senator HATFIELD. Thank you, Mr. Chairman.

Mr. Sorensen, I think you know that I have been a long time admirer of yours, and I applaud your statement here today, not that I needed to hear it to be fully convinced that the charges against you are rather exaggerated.

I feel that your statement today again affirms in my mind, and should affirm in the total public's mind, the integrity of your personal character, your marvelous public record, even before it was necessary to do so publicly.

I want to applaud you, salute you and say that in no way has this incident ever diminished my opinion, my high regard for you.

The CHAIRMAN. Senator Morgan?

Senator MORGAN. Mr. Sorensen, I say to you that you have made a very excellent presentation this morning and Senator Moynihan has made one on your behalf.

On the few occasions on which you and I talked, I think you will recall that I expressed to you my reservations about your appointment to this particular job, but also the esteem in which I held you and the work that you have done in the past.

I must say to you that as I flew to Raleigh last night with the briefing book, and read in that briefing book the proposed statement to be made before this committee by at least two organizations, if not more, I was—I found myself somewhat in a dilemma, because many of the remarks in those statements were so intemperate that I hesitated to even be associated with any sort of opposition whatsoever.

I hope you understand that my reservation about your particular appointment to this job was not for the purpose of suppressing a different point of view, but was reservation founded on what I believed to be real reason.

The CHAIRMAN. Senator Bayh.

Senator BAYH. Mr. Chairman, Mr. Sorensen, I am distressed at the turn of events. It is rather obvious that some of these political, personal references to you were the ultimate in political poppycock. I think anybody who had studied the case knew it wasn't a question of laws being violated or a question of a man in high public trust intentionally undertaking to do damage to the country. As you quite accurately pointed out, sir, never, in the publishing of your books and speeches and articles, never has anyone charged you with damaging the security of this country.

The concern that I had, very frankly, were concerns that you spoke of—the task of restoring public trust and confidence.

Now, I was hopeful, frankly, I was confident, that as the hearings progressed as we had a chance to establish a record for all the world to see, these other matters would be laid to rest and we could proceed to look at the problem of restoring confidence.

I must say, I think what you have done is a rather gutsy thing.

The CHAIRMAN. Senator Huddleston?

Senator BAYH. Well, could I just—it was a rather gutsy thing. I was hoping that this committee could take advantage of your presence here—and now, perhaps, Mr. Chairman, it is inappropriate—but to learn from this rather unique experience you have had regarding overclassification. I would hope, if this is not the appropriate time, that we could get your assurance to let us have the benefit of your experience at some later date.

You are in a unique position to help us.

And one last thought, Mr. Chairman. It is hard to separate one's personal feelings from one's responsibilities, but I have to confess to you that one of the reasons I was hoping we could put this matter to rest and proceed with you as Director of the CIA is that I am painfully aware, as I am sure you are, and hopefully most of this committee is, that some people are out to get you, not because of



what you said in that affidavit, but because they don't want a clean broom at CIA.

And this committee is going to have a clean broom and a Director that can bring objectivity into that important post.

The CHAIRMAN. Senator Hathaway?

Senator HATHAWAY. Just 30 seconds if I may, Mr. Chairman. I don't want to keep Mr. Sorensen here any longer, knowing how he must feel after having made the statement he just made. I just want to say that I respect your decision and I respect your judgment. You were a big man when you entered this room and you are going out an even bigger man.

Thank you very much.

The CHAIRMAN. Senator Huddleston.

Senator HUDDLESTON. Mr. Chairman, as one who developed some concern about this nomination, I too, would like to say that never was there any question in my mind about Mr. Sorensen's loyalty, integrity, dedication to this country, or intelligence.

I voted against George Bush for this position. As a member of the predecessor committee to this committee I felt that Mr. Bush did not have sufficient background to fill this job. I was wrong on that vote. I think George Bush did become a very effective Director of Central Intelligence.

I came to this committee hearing with an open mind. I came seeking and hoping for reassurances, and I am sorry that we don't have an opportunity to receive those reassurances.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The Chair has received requests from two Senators who are not members of the committee to make brief remarks. I am certain there will be no objection. I would like to recognize at this time Senator McGovern.

#### **STATEMENT OF HON. GEORGE McGOVERN, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA**

Senator McGOVERN. Mr. Chairman, I am deeply distressed at what has happened here today. I was not aware that Mr. Sorensen was going to withdraw his name, but I have a brief statement which I would like to give to the committee, as I had prepared it, because as far as I am concerned, nothing has changed about these judgments.

I have known all of the Directors of the Agency during the past 20 years, and I am convinced that Ted Sorensen is as well qualified, if not better, to head this Agency than any of those predecessors. His experience, his judgment, his reliability, his intelligence are all stronger than we are accustomed to in this office. I have known him as a friend, as an associate, as a dedicated public servant, as a Presidential confidante, and as an eminent attorney. He is a man of intense patriotism who can be relied upon absolutely to put the national interest first and foremost at all times.

It is because I know his qualities of mind and character so well that I deeply resent the scurrilous attacks that were unleashed against him this past weekend. I think they are a disgrace to decency and to justice. Certain, for the most part unidentified, people have leaked a variety of stories to the press designed to prejudice the nomination

of this man, and I think that is the real reason this withdrawal took place this morning.

The campaign waged against him has not been equalled since the days of the late Joe McCarthy.

Now, what is being said of Ted Sorensen? They say first that he doesn't have experience. The truth is that he has more experience in both national and international affairs than the President-elect who nominated him. The Director of the CIA does not need to be an experienced spy or an experienced break-in artist. If on-the-job experience in such activities were needed in the Director's office, we should be seeking out H. L. Hunt or James McCord or J. Gordon Liddy, but these experienced CIA men have all been sent off to jail which is one way of reminding us that what the CIA now most needs is a director of sound moral character with a knowledge of American legal and constitutional principles, and a clear sense of the national interest.

Ted Sorensen has all of these qualities. Talk about experience. He was the White House Counsel under the late President Kennedy. He was a trusted aide of John Kennedy during all of his years in the Senate. He traveled the length and breadth of this land during his long 4-year bid for the Presidency, and in the White House he was the principal drafter of the great messages President Kennedy delivered to the Nation and the world.

But beyond this, he was a trusted adviser in every area of Government, including many matters involving the intelligence function.

He saw first hand the operation of the governmental process, and Mr. Chairman, I think few if any men ever to serve as director of the CIA brought to that office the wide ranging experience of Mr. Sorensen. It is said that he took Government papers, including classified papers, with him when he left the White House, but this is not something that he has concealed. The committee has these affidavits because they were volunteered by Mr. Sorensen at the time of the public trial of Daniel Ellsberg. He gave this affidavit as a means of demonstrating a fact of life, which is that it is customary for White House aides to take their files with them when they leave Government service.

It is said that he leaked classified information, but he has assured this committee, as he has others who have asked him about it, that he never released classified information except when ordered to do so by the President of the United States, nor has anyone demonstrated how anything he ever released under Presidential order damaged this Nation in the slightest.

If certain Senators are so incensed about the practice of leaking, how do they explain their own conduct in anonymously leaking reports about Mr. Sorensen, and why don't they get more incensed about the persons who in recent days have leaked the classified CIA estimates of Soviet military strength relative to American military strength? What about the constant leaking by the Pentagon of classified information on weapons systems?

One unnamed Senator was quoted in yesterday's Post as follows:

The job requires a man of authority, a man who can control the entire intelligence community, a Jim Schlesinger, not a Sorensen. The Director of the largest intelligence service in the world is a leaker. It undermines the whole intelligence effort. It raises questions about his judgment.

I submit, Mr. Chairman, that a statement like that raises questions not about Mr. Sorensen's judgment, but about the judgment of the anonymous Senator. That Senator appears to be more accomplished at leaking than at judging.

If he regards leaking as the most serious offense of the CIA, what does he think about the Agency's record of attempted but bungled assassination efforts, its working alliance with the criminal underworld, its crude efforts to subvert independent governments, its secret wars, its shabby, un-American performance for so many years in so many places? It is these shameful, self-defeating practices that jeopardize the CIA and that must be brought under control if that Agency is not to continue discrediting the good name of the United States.

Finally, Mr. Chairman, Mr. Sorensen is the kind of man who would know what his Agency is supposed to do well, and what it was not supposed to do, and I sincerely had hoped for the sake of this country that he would be confirmed in the important assignment for which President-elect Carter has selected him.

On the basis of what I know about this nomination, and on the basis of what I have heard said about it in the press this past weekend, I can only conclude that if it is being rejected, we can mark it down that the ghost of Joe McCarthy still stalks the land.

And Mr. Chairman, I can't tell you how deeply distressed I am personally and as one who loves this country, at the shameful experience we have come through this past weekend. I think it is a dreadful beginning for a new administration to be dealt a blow of this kind. I deeply resent it and am deeply concerned for what it forebodes for this country.

The CHAIRMAN. Thank you very much.

I believe I owe it to the committee and to the members of the staff to address myself to the suggestion that we have leaked information to the press. I can say without reservation that the members of this committee, the members of the staff have not leaked any information to the press. The documents in question, the two affidavits, were not classified material to begin with. They were matters of public record.

As one member of the committee, I can assure you that no member of the press ever got to me. I would like to express my apologies now for not answering the telephone. It was a miserable day this weekend, yesterday and the day before.

But I don't wish the record to show without any response that we have been responsible for leaks. As chairman of this committee, I am proud to serve in this capacity, and I can say that this committee has done its best during this 8 months, and I am certain the members of the press will concur with us that this is one committee where leaks are almost nonexistent, and I hope that we continue in this fashion.

Senator Metzenbaum.

#### STATEMENT OF HON. HOWARD METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Mr. Chairman, I came to this committee today because I felt a building up of a kind of pressure against the confirmation of Mr. Sorensen. I have known Mr. Sorensen over

a period of many years, and I was predisposed to support his nomination. I had to hear for myself what the evidence was, since I could not really believe Mr. Sorensen, with his distinguished record of public service over a period of many years could really have been guilty of some of the scurrilous things that have been said about him in recent weeks.

I think it is a sad day when a man is nominated, as has been Mr. Sorensen, and before the evidence is in, before any evidence is heard, his reputation, his personal reputation is put in the kind of aura that has occurred with respect to Mr. Sorensen.

The withdrawal by Mr. Sorensen of his nomination bothers me much. It bothers me for him, but it bothers me more for the country because it means to me that other men who don't fit the necessary mold of those who think they know who should be the head of the CIA, or who should hold a particular position in government, will be able to build up a climate of public opinion making it necessary for the nominee to withdraw his name.

I think the individual loses, but I think the country suffers far more, not alone with respect to the one individual who withdraws his name, and I empathize with Ted Sorensen in that respect, but with all of those other individuals who are unwilling to submit their names because they too may suffer the same kind of castigation without justification, without cause.

I think the country has suffered a great loss today, and I am sorry Mr. Sorensen saw fit to withdraw his name from consideration of this committee and the U.S. Senate.

The CHAIRMAN. Senator Baker?

Senator BAKER. Mr. Chairman, I thank you very much.

I would express the same surprise that the chairman did when he indicated that he had not expected Mr. Sorensen to withdraw his nomination. In a way I am sorry, I am genuinely sorry that we did not know of that situation ahead of time. It might have been possible to handle this situation in a different way, with greater respect for the sensibilities, but that was not the case.

I think Mr. Sorensen has done a brave and generous thing today. I think it was brave in that it required a degree of personal determination and careful searching of his own situation, his own viewpoints and ideas in this respect, and a generous thing in that it has I believe avoided the conflict which was sure to ensue, which would have created an unfavorable, probably unpleasant, and certainly an unpropitious beginning for a new administration during inaugural week.

So I think that what Mr. Sorensen did today was not only electrifying, but it was brave and generous, and I commend him for it.

I would add only this, Mr. Chairman, if I may. I underscore what you said previously, I know of no leak of any information, certainly no significant information from this committee, either members or staff, and I don't say that by way of defense, but rather because I think that the integrity of this committee and its reputation for being able to keep secret those things with which it is dealing is imperative if the committee is to function as an effective oversight committee.

So I thoroughly agree with you. I know of no such leaks. I personally would represent to you, Mr. Chairman, which I believe needs no

representation, that as far as I am concerned, there have been no leaks of any information, classified or otherwise, that has come into the possession of this committee.

I suppose the final thing I should say is that it is in the nature of the American congressional and political system that there should be a nomination and a testing; that is clearly so regardless of the party that is in the White House. It is often misunderstood by foreign observers, our friends in the foreign press in particular, but it is well understood in the United States, intuitively and instinctively by our citizenry and certainly by our press, that while politics may not be an adversary proceeding, at least it is a system of testing, and Congress is the only place to test. There is no minority President. There is only a minority in the Congress.

And I think that the best interests of the minority, the best interests of the country, and indeed, the best interests of the administration are best served by frank and open and candid appraisal of each nomination as it is presented to the appropriate committees of Congress.

I personally am sorry, Mr. Sorensen, for this situation, and for the distress I am sure it has caused you, but I am certain personally that you and others understand the necessity for the testing.

I commend you again. I reiterate, it was a brave and generous thing you did today, and I think it will auger to your credit and your future reputation.

Thank you.

The CHAIRMAN. Mr. Sorensen, in behalf of the committee, I thank you for your presence here this morning, and I wish you well, sir.

The hearing is adjourned.

[Whereupon, at 11:41 a.m., the committee recessed subject to the call of the Chair.]

LETTER OF HON. JACOB K. JAVITS, A U.S. SENATOR FROM THE  
STATE OF NEW YORK

JANUARY 14, 1977

DEAR MR. CHAIRMAN: I deeply regret that due to engagements in my state on Monday I am unable personally to introduce Mr. Theodore C. Sorensen, one of my New York constituents, to the Intelligence Oversight Committee for consideration of his nomination to the Director of the Central Intelligence Agency. I would like to take this opportunity to commend Mr. Sorensen to the Committee. In addition, I would appreciate the opportunity to appear before the Committee on Tuesday.

I have known Ted Sorensen, a distinguished member of the New York Bar, since he became special counsel to President Kennedy in 1961. His experience as presidential advisor, Woodrow Wilson Scholar, author of several books, including *Decision-Making in the White House*, and participation in numerous public and civic activities, has equipped him with the ability, judgment and broad experience to serve in the position of Director.

As you and the other members of the Committee are well aware, the Central Intelligence Agency is in serious need of strong leadership to continue the rebuilding of the Agency so ably begun by President Ford and Former Director Bush. I believe that Mr. Sorensen will bring to his new responsibilities those qualities necessary to complete that process of improving the efficiency and morale of the agency, of restoring public confidence in its work, and of insuring that past abuses will not recur.

With best wishes,

Sincerely,

JACOB K. JAVITS.