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FOIA Number:

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FOIA MARKER

This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.

Record Group/Collection: Donated Historical Materials
Collection/Office of Origin: Bush, George H.W., Collection
Series: Personal Papers
Subseries: CIA Files, Subject File, 1975-1978

OA/ID Number: 25891
Folder ID Number: 25891-002

Folder Title:
CIA-Sorenson Statement for Senate Committee, 1/77

Stack:	Row:	Section:	Shelf:	Position:
G	6	22	4	2

MEMORANDUM OF LEGAL ISSUES

(done by SPRADSON'S
Staff from New York
on Sunday, 16 Jan)

From the founding of the Republic, as a matter of principle and uniform practice, White House papers have been treated as the personal property of the President and his aides, and have been removed from the White House upon their departure from office. The practice began when George Washington removed all of his papers, and was followed continuously thereafter. [National Study Commission on Records and Documents of Federal Officials, (Honorable Herbert Brownell, Chairman), Public Hearings Background Memorandum, page 60, et. seq.]

Congressional ratification of this practice was evidenced by repeated appropriations of public funds to buy Presidential papers from their heirs. For example, Congress appropriated funds to buy Presidential papers of Presidents Washington, Jefferson, Madison, Monroe, Jackson; Polk and Tyler. [Library of Congress, Congressional Research Service, "Ownership of Presidential Papers" (1974), pages 3-4.] The concept of private ownership of such papers also received judicial endorsement when Mr. Justice Story of the Supreme Court, sitting as a circuit judge, held that the papers of George Washington were private, not public, and subject to copyright protection. [Folsom v. Marsh, 9 Fed. Cas. 342 (No. 4901) (C.C.D. Mass. 184)]

Further Congressional acquiescence in the concept that such papers are private and not public is reflected in the Presidential Libraries Act of 1955, which directed the Administrator of General Services to

negotiate for and accept donations of Presidential historical materials. As the Library of Congress Research Service found in reviewing the legislative history of this Act: "In the hearings which led to the enactment of the Presidential Libraries Act in 1955, the Administrator of General Services testified that as a matter of ordinary practice, the President has removed his papers from the White House at the end of his term. This, he testified, was in keeping with the tradition and the fact that the papers are the personal property of the retiring Presidents. Accordingly, he indicated that the proposed legislation was not mandatory in nature and would not bind future Presidents. Rather, the decision to make the gift would continue to rest with the former President and his heirs. Testimony of Edward F. Measure, Administrator of General Services, in Hearing at 14-15." [Library of Congress, Congressional Research Service, op. cit., p

The private ownership concept and the practice of removing such papers upon termination of White House tenure, continued, without interruption, and was the universally accepted practice when President Kennedy entered the White House and Mr. Sorensen began his White House service. Indeed, as John Eisenhower recently stated, "The only material left by President Eisenhower for President Kennedy was a satchel containing a series of orders and instructions to be of assistance in the event of nuclear attack or national crisis."

This historical practice was summarized as follows in 1971 by Herman Kahn, the former Assistant Archivist of the United States in charge of Presidential Libraries: "Probably the best proof that the papers of the Presidents and their aides are not official records, is that there are not now nor have there ever been in the White House any files that pre-date those of the incumbency of the current President and his aides. Nor are they any such papers in the National Archives. Following their removal from the White House it has been the universal practice for Presidential aides either to keep in their own office or house the files created during their White House employment or to give them to an appropriate library or other depository."

Under governing law at the time of Mr. Sorensen's gift, it was totally lawful and appropriate that the donor take a tax deduction for the transfer of such documents. Numerous government officials over the years have taken such tax deductions, including Governor Adlai Stevenson, Arthur Schlesinger and J. Kenneth Galbraith. In Mr. Sorensen's case, his ownership of the documents in question was confirmed by the government archivist who originally requested the donation. The Internal Revenue Service, after full audit, approved of the deduction, and Mr. Sorensen's accountant settled with the Internal Revenue Service the valuation of the papers.

It was only after the events in question here that Congress changed the law to preclude such deductions. And it was not until

1974, ten years after the events in question here, that Congress made a limited change in past law and practice concerning ownership and removal of such papers by adopting the Presidential Recordings and Materials Preservation Act. However, that Act was limited solely to records and tapes created by the Nixon Administration -- and not any Administration prior or subsequent thereto.

To cite just a few of the precedents with respect to removal and donation of papers: Judge Samuel Rosenman, who served as Special Counsel to Presidents Roosevelt and Truman, removed and donated his papers to the Roosevelt and Truman libraries, as did Roosevelt aides Harry Hopkins and Louis Howe. Clark Clifford, President Truman's Special Counsel, took his papers, and donated them to the Truman Library. Sherman Adams, Eisenhower's Special Counsel, removed his files and donated them to the Dartmouth College Library. And Mr. Sorensen's colleagues, McGeorge Bundy, Robert McNamara, Dean Rusk, Douglas Dillon, Kenneth Galbraith and Arthur Schlesinger took their files and donated them to the Kennedy Library.

In almost every case, these papers included classified documents. For example, a brief review of the tables of contents attached to gifts of papers deposited in the Kennedy Library reveals that donations of papers by the following individuals included classified documents: McGeorge Bundy, National Security Adviser to the President; Robert McNamara, Secretary of Defense; Douglas Dillon, Secretary of the Treasury; Dean Rusk, Secretary of State; and Presidential Aides Arthur Schlesinger, J. Kenneth Galbraith, and Walter Heller.

No statute, rule or precedent precluded a government official from having reference to classified documents or information in writing books or memoirs. Indeed, since officials carry such information in their heads, they are always in a position to draw on it. The current attacks being made on Mr. Sorensen in this regard could as easily have been levelled against all of the other great memoir writers of recent history.

A quite recent example is President Ford. On November 21, 1973, in testimony before the House Judiciary Committee considering his confirmation as Vice President, President Ford said that in his book, Portrait of the Assassin, he drew upon highly classified papers of the Warren Commission and revealed information from at least two "Top Secret" documents. The Committee did not express concern as to the propriety of Mr. Ford having had such "Top Secret" papers in his possession while writing his book. (See transcript of the House Judiciary Committee hearings of that date.)

The only laws in effect, at the time Mr. Sorensen wrote his book, governing the use of classified information were the espionage statutes which prohibited: a) the use of national defense information with the intent of causing injury to the United States, or to confer an advantage on a foreign government (18 U.S.C. 8793, 794); b) the release of classified communications codes (18 U.S.C. 798); or c) the disclosure of classified security information to foreign governments (50 U.S.C. 8783).

It is not suggested by anyone that any of these provisions were violated. Nor has it ever been suggested, in the decade since Mr. Sorensen's book was published, that the book disclosed any classified security information. In fact, the relevant portions of the book were submitted in advance to McGeorge Bundy, National Security Adviser to the President, who confirmed that there were no inappropriate disclosures.

The only regulation governing the use and storage of classified information received by White House aides was Executive Order 10501, which provided that the custodian of classified information had responsibility for providing for its secure storage and handling, and for following procedures to insure that unauthorized persons not gain access. Whatever documents Mr. Sorensen required for his book were released to him by the custodian of his papers, the General Services Administration, and no suggestion has ever been made that he gave unauthorized persons access to them.

The General Services Administration acted in accordance with established practice in permitting Mr. Sorensen to use his papers at home. Indeed, government officials frequently work at home, and former officials and generals, drawing on their papers, have often written their memoirs at home or in their private offices.

Portion of Sorensen Press Conference After Conclusion of Senate Hearings

Reporter's question was garbled...

Sorensen: "I would not want to characterize the intelligence community as a whole. The people with whom I have been working at the Agency have been extremely supportive of both my views and my qualifications."

Mr. Sorensen was asked if he withdrew his nomination "because of the oppositions' elements within the intelligence community...."

Sorensen: "No, I didn't say that, I didn't say that... First of all let me say that I have not condemned, and will not condemn the intelligence community as a whole. That's a grave mistake. I met out there some of the brightest and ablest and most dedicated people I have ever met anywhere in government. I work extremely well with them. I found them very much compatible with my views and attitudes on covert operations, on the role of intelligence in American society, on the kind of role America should play in world affairs..."

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USE ONLY☐ CONFIDENTIAL☐ SECRET

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry

77-3143

FROM:

George L. Cary
Legislative Counsel

EXTENSION

6121

NO.

DATE 18 January 1977

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Director

2.

3.

(FOR YOUR RETENTION,
IF YOU WISH.)

4.

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15.

Attached for your information is a copy of the transcript of Mr. Sorensen's confirmation hearing and the impromptu press conference following the session.

George
George L. Cary

FORM
3-62

610

USE PREVIOUS
EDITIONS☐ SECRET☐ CONFIDENTIAL☐ INTERNAL
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CONCLUDING STATEMENT OF THEODORE C. SORENSEN

But it is now clear that a substantial portion of the United States Senate and the intelligence community is 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.

RADIO TV REPORTS, INC.

4435 WISCONSIN AVENUE, N.W., WASHINGTON, D.C. 20016 244-3540

FOR PUBLIC AFFAIRS STAFF

PROGRAM News Special

STATION WETA TV
PBS Network

DATE January 17, 1977 11:15 AM

CITY Washington, D. C.

SUBJECT Impromptu Press Conference

Q: Mr. Sorensen, could we -- could we ask you at what point this morning did you decide to withdraw your resignation [sic]?

THEODORE SORENSEN: This is a decision that has been evolving over the weekend.

Q: Did you make it while you sat here today, or had you known you would withdraw prior to your entrance here this morning?

SORENSEN: I knew prior to my entrance.

[Confusion of voices.]

SORENSEN: At approximately two minutes to ten this morning.

We have an audio problem here.

Q: [Inaudible.]

SORENSEN: Yes, I spoke to Governor Carter on the telephone in the booth downstairs as I entered the building. He regretted very much my withdrawal.

Q: Did he try to dissuade you from your decision?

SORENSEN: Well, he and I had been talking over the weekend, and he was aware of the situation.

Q: What made you wait until this morning?

SORENSEN: Because I wanted to answer the personal charges that had been made against me before I withdrew.

Q: Mr. Sorensen, is there any chance that you might reconsider the nomination?

SORENSEN: No.

Q: Why do you say that a portion of the intelligence community is not ready to accept you?

SORENSEN: Because it has become apparent to me that some individuals in the intelligence community prefer someone of a different philosophy and with different experience.

Q: Are you convinced, Mr. Sorensen, that this committee would not pass on your nomination? Were you convinced that you would not be confirmed by this committee?

SORENSEN: No, I was not convinced. As I said in my statement, I was convinced that if I were to be confirmed, it would be with a substantial division that would handicap my effectiveness in the job.

Q: What do you mean, Mr. Sorensen, when you say "a different philosophy?"

SORENSEN: Well, I tried to spell out in my statement what I regard as legitimate arguments that can be made against me; arguments with respect to my experience and arguments with respect to my views. I happen to think they are fully compatible with the job as Director of Central Intelligence. But I know that there are those who disagree.

Q: How did you become aware that some people in the intelligence community did not want to accept someone with your views?

SORENSEN: Well, one senses that sort of thing.

Q: Did anyone talk to you directly, though? What happened?

SORENSEN: No.

Q: Mr. Sorensen, [words inaudible] that the votes would not be there...?

SORENSEN: Well, I'll tell you once again that I said in my statement that if I had been confirmed, it would have been with a divisive and narrow margin that might well have handicapped my effectiveness in the job.

Q: Do you share Senator McGovern's....

Q: ...you could not have been?

SORENSEN: Pardon.

Q: Did you believe that you could not have been?

SORENSEN: Well, I obviously until the vote was counted did not know. So all I knew was that the opposition was substantial.

Q: As a result of this experience, do you see the intelligence community as being very heavily influenced by people that hold hawkish, right-wing views?

SORENSEN: I would not want to characterize the intelligence community as a whole. The people with whom I have been working at the Agency have been extremely supportive of both my views and my qualifications.

Q: Mr. Sorensen, did I understand you correctly? You said the President-elect did not try to persuade you to see the thing through.

SORENSEN: Well, as of this morning, he did not. But as I say, he and I have had several conversations over the last few days. And he stoutly insisted that I stay in the race as the weekend began.

Q: But as of this morning, he did not?

SORENSEN: As of this morning he did.

Q: How much do you think politics played in this?

SORENSEN: In the....?

Q: In what happened.

SORENSEN: I would assume that politics had something to do with the charges that have been circulated against me.

Q: Do you share Senator McGovern's view that this means that the ghost of Joe McCarthy sort of stalked this room....?

SORENSEN: Oh, I think I would prefer to let Senator McGovern speak for himself on that.

Q: Mr. Sorensen, could you say why you did it in this dramatic fashion, why you saved your withdrawal till the end rather than announcing it at the beginning and then answering the

questions, the charges against you?

SORENSEN: Possibly because none of you would have been listening when I answered the charges against me.

[Applause.]

Q: Are you available for any other job in the Carter administration?

SORENSEN: Not at this time.

Q: Who did circulate the charges against you? Do you have any idea? What kind of people or what people, specifically?

SORENSEN: Well, I think some of that has already appeared in the press. You can also take a look at the organizations, the American Conservative Union, the Liberty Lobby, spokesmen for the John Birch Society and others who have asked to testify against me.

You might also talk to those reporters who have talked to senators who have been putting out this information.

Q: Senator McGovern mentioned senators. What senators?

SORENSEN: Why, I would assume the press knows that since they always refused to be quoted by name.

Q: You feel that the John Birch Society has more influence on the senators here? Is that what you're suggesting....?

SORENSEN: No. No, I was asked who was circulating charges. And I listed some of those who are circulating charges.

Q: You believe there were senators circulating some of those allegations?

SORENSEN: According to the press. And I believe a little bit of what I read in the newspapers.

Q: Did the Governor in any way explain, Mr. Sorensen, why he so strongly supported you yesterday afternoon and urged you and insisted that you stay in the race the day before yesterday and yesterday, and yet this morning put up no particular opposition to your withdrawing? Did he explain what had changed his mind, or what?

SORENSEN: The Governor and I had jointly reached the conclusion stated in my final paragraph that there is substantial opposition in the Senate which would result either in my rejection, which would handicap his administration as it gets off to a new

start, or result in my being confirmed by a narrow vote, which would handicap my effectiveness as I got off to a start as Director of Central Intelligence.

Q: I understand that, sir. But wasn't that known to you Sunday afternoon or Saturday morning? What changed? What was it....?

SORENSEN: There's been a good deal of assessment of the votes taking place throughout the weekend.

Q: I see.

Q: Mr. Sorensen, this is possibly repetitious, as a matter of fact. When did you, in fact, on the spot decide that you would not accept this job as Director?

SORENSEN: That decision has also been evolving. Like lots of decisions, it's difficult to pinpoint a specific moment. But it was obviously not conclusive until two minutes of ten when I telephoned Governor Carter.

Q: But your typed statements had to be done before that.

SORENSEN: Yes, although that particular page was not part of the mimeographed set.

Q: When was that prepared?

SORENSEN: That was prepared late last night.

Q: So you were prepared to go either way last night. Was that it?

SORENSEN: Well, I knew pretty well last night which way I was going.

Q: If you withdrew your nomination because of the opposition elements in the intelligence community....

SORENSEN: No, I didn't say that. I didn't say that.

Q: But if you did for that reason, does that mean that the next appointee will share their views....?

SORENSEN: No. I think that -- first of all, let me say that I have -- I have not condemned and will not condemn the intelligence community as a whole. That's a grave mistake. I met out there some of the brightest and ablest and most dedicated people I have ever met anywhere in government. I worked extremely well with them. I found them very much compatible with my views

and attitudes on covert operations, on the role of intelligence in American society, on the kind of role America should play in world affairs. As in any large organization, there are undoubtedly individuals who take a different point of view. Some of those individuals have friends in Congress, in the press and elsewhere. And I have been led to believe that some of those individuals -- and I would not even know their names -- have been a part of the campaign against me.

The next Director of Central Intelligence hopefully will not be as vulnerable to the kind of personal malicious attack which enabled those who opposed me for policy reasons to hide behind these personal attacks in order to achieve their purpose.

Q: Mr. Sorensen, do you feel that any one of the senators who you perceived was opposed to your nomination was an admirer of Joe McCarthy?

SORENSEN: I think one would simply have to check the Congressional Record to find out what some individuals in this committee said about Joe McCarthy.

Q: Mr. Sorensen, aside from that, do you think anybody -- now Senator McGovern raised a very serious question here, saying that Joe McCarthy -- the ghost of Joe McCarthy stalks the land, as I recall. Now do you agree with that, because I noted you didn't want to second that.

SORENSEN: I....

Q: Do you agree or disagree?

SORENSEN: I believe it's more appropriate for me to talk about my statement and Senator McGovern to talk about his statement.

Q: Mr. Sorensen, on your discussions initially with Governor Carter in Plains when you agreed to take this job, was there any inkling that this would be such a controversial nomination and that you would have to fight in order to become Director of CIA?

SORENSEN: No..

Q: None at all?

SORENSEN: No.

[Confusion of voices.]

SORENSEN: What?

Q: Other than the evolution that you've been going through over the weekend, has there anything that happened specifically, any information provided or any particular statements by anyone that caused your thinking to crystallize in this manner over the weekend and until this morning when you made your announcement?

SORENSEN: No.

Q: Mr. Sorensen, what is your attitude on the Ellsberg case? In other words, did you favor his theft of those documents and his release through the newspapers? I mean, was that a legitimate question....?

SORENSEN: Again, if you would read the statement which I have delivered, you would find that I submitted an affidavit at the request of counsel with respect to the inconsistencies and anomalies with respect to classification practices in Washington at the time I served. That was my sole function in the Ellsberg trial, as it had been in the New York Times' trial which preceded it.

Q: Didn't you say somewhere that you felt that it would be wrong if these documents had not been released to the Pentagon -- or leaked to the Times?

SORENSEN: What I said was in a much more general statement that I thought the public was entitled to know the tragic history of the Vietnam war.

[Confusion of voices.]

Q: Do you condemn Ellsberg in any way?

SORENSEN: I'm sorry, I didn't hear you.

Q: Mr. Sorensen, do you condemn Ellsberg in any way for the way he released those papers?

SORENSEN: I really regard either approval or condemnation of Daniel Ellsberg in 1977 as an irrelevant question. He is not on trial here today.

Q: No, no, it's just a matter of your....

Q: Mr. Sorensen....

Q: ...as head of the CIA?

SORENSEN: I'm sorry, I can't hear you.

Q: Would you be conferring with the President-elect on your

successor? Will he ask your opinion? Has he asked your opinion?

SORENSEN: Well, he didn't have time to ask it. He did not have time to ask it this morning. If he should ask, I would be glad to give him my opinion.

Q: Mr. Sorensen, did the President-elect and/or his staff know prior to your being chosen for this CIA job about your Ellsberg affidavit and New York Times' affidavit and the other charges that you alluded to in your own statement?

SORENSEN: Well, I haven't the slightest idea how thorough their investigation of my background was prior to the time the President-elect asked me to take on this assignment.

Q: I mean, did you provide them with this information yourself?

SORENSEN: No, but this is all on the public record. As far as I know, no person who is being considered for a post is asked himself to provide information.

Q: You were not asked to provide any information yourself?

SORENSEN: No.

Q: When you spoke of finding compatible views out at the CIA, you also spoke of opposition within the intelligence community. Is this supposed to leave the implication that the Pentagon part of the intelligence community was more opposed to you than the CIA part?

SORENSEN: No.

Q: When you talked with Governor Carter....

Q: Do you think that the events of this last weekend and today would tend to support the proposition by some senators that the intelligence agencies and the Central Intelligence Agency are just a rogue elephant out of control in the way they gutted this nomination?

SORENSEN: No, definitely not.

Q: Mr. Sorensen, could you give us some estimate of how much time you spent talking with Governor Carter before he nominated you?

SORENSEN: Well, I've known Governor Carter for a year and a half.

Q: Right.

SORENSEN: If you're talking about the specific discussions relating to this selection, that can....

Q: How many hours?

SORENSEN: You can ask -- some of your colleagues who were in Plains on that Saturday afternoon can judge from the time I arrived and the time I left. It was a few hours.

Q: A few hours.. Now during those few hours of discussion with Governor Carter, are you at liberty to tell us whether he or you ever discussed this controversial affidavit?

SORENSEN: Which controversial affidavit?

Q: The Ellsberg.

SORENSEN: I did not regard it as a controversial affidavit.

Q: Okay, then the affidavit. Did you discuss....

SORENSEN: And for that reason I didn't discuss it.

Q: And he didn't either.

SORENSEN: No.

Q: Mr. Sorensen, do you agree with Senator....

MAN: Folks, I think we ought to make this the last question.

Q: Do you agree with Senator Baker's analysis that the designated head of the CIA should be above controversy, above reproach?

SORENSEN: He certainly should be above reproach. But to say that he should be above controversy invites a repetition of what happened here, whereby those who are opposed to an individual for his views will start circulating totally unfounded charges against him. And then they will say "This man is controversial and therefore must be rejected."

MAN: Thank you all very much.

Q: Sir, given this experience and your willingness, though, to go on and speak to Mr. Carter about a successor, Mr. Sorensen, what would you recommend?

SORENSEN: Well, I think it's clear from the statements delivered by the mourners after the deceased had been laid down that in their consideration of the next Director of Central Intelligence, they could do worse. And they probably will.

[Laughter.]

Q: Do you feel badly, Mr. Sorensen?

SORENSEN: No....

[End of press conference.]

Stenographic Transcript Of

HEARINGS

Before The

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

NOMINATION OF THEODORF C. SORENSEN

TO BE THE DIRECTOR OF CENTRAL INTELLIGENCE

January 17, 1977

Washington, D. C.

(FRED WARD ASSOCIATED WITH)

Alderson Reporting Company, Inc.

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554-2345

C O N T E N T SSTATEMENT OF:PAGE

Theodore C. Sorensen...

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The Honorable George McGovern,
A United States Senator from
the State of South Dakota

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The Honorable Howard Metzenbaum, A
United States Senator from
the State of Ohio

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ExhibitPage

Exhibit A

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Exhibit B

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

Monday, January 17, 1977

United States Senate,
Select Committee on Intelligence,
Washington, D. C.

The Committee met, pursuant to notice, at 10:05 o'clock a.m., in Room 318, Russell Senate Office Building, the Honorable Daniel K. Inouye (Chairman of the Committee) presiding.

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

P R O C E E D I N G S

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 United States 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 United States 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

1 abilities, mature judgment, and the independence of mind
2 required, are qualities indispensable to the task of the
3 Director of Central Intelligence.

4 In addition to the firm managerial talent and the
5 highest degree of informed knowledge and analytic ability,
6 there must be confidence on the part of our citizens, our
7 departments and agencies, our Congress, and our allies that
8 the Director of Central Intelligence is a man of intellectual
9 integrity, proven accomplishment and discretion, worthy and
10 suited to the task of guiding the secret activities of the
11 United States Government and protecting the valid secrets of
12 the United States Government.

13 There has been great controversy in the past decade about
14 the proper role of secret activities carried out by the United
15 States Government which has shaken the structure of our
16 intelligence system. This concern was aroused by the Vietnam
17 war, sharpened by the revelations of Watergate, and heightened
18 by the investigations of intelligence agency abuses of the past
19 years. We are now rebuilding, under the Constitution and the
20 law, an effective intelligence system designed to protect and
21 enhance the liberties of all Americans. The creation of the
22 Select Committee is one step in that rebuilding process. The
23 appointment of a new Director of Central Intelligence sensitive
24 both to the need for the best possible intelligence and to the
25 need to protect the rights of our citizens, is another important

1 step.

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

7 The Chair recognizes the Vice Chairman of the Committee.

8 Senator Garn. Thank you very much, Mr. Chairman.

9 I want to welcome Mr. Sorensen to these hearings. I want
10 him and all present to know that this Committee and the
11 Senate consider this hearing to be of the utmost importance.
12 The Director of Central Intelligence is the President's chief
13 advisor on intelligence matters, and supervises vast, expensive
14 intelligence system whose work is of critical importance to
15 the security of this nation.

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

22 We do not live in a trouble-free world. We need an
23 intelligence system which will protect the interests of this
24 country throughout the world, and as the Director of Central
25 Intelligence, we need a man who has the total confidence not

1 only of the people of this country, but of the countries
2 throughout the world with which the United States must deal.

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

9 In addition, I want to add that I am impressed with the
10 way all fifteen members of this Committee have undertaken this
11 task without the slightest hint of partisanship. I strongly
12 believe that pure partisan interests should not have any role
13 to play in our oversight of the intelligence community.

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

18 This Committee has approached today's hearings with that
19 right of the President-elect in mind. We will support the
20 nomination if it is possible to do so when these hearings are
21 concluded. The purpose of these hearings is to assess Mr.
22 Sorensen's qualifications to occupy this important position.
23 We are not here to decide how liberal or conservative he is.
24 We are not here to decide whether we approve or disapprove
25 of Mr. Sorensen's past friendships or associations, nor, in

1 fact, are we even here to decide whether or not Mr. Sorensen's
2 education, experience have prepared him fully for this job.
3 If the truth were known, probably no Director of Central
4 Intelligence, after once taking office, has ever felt fully
5 prepared to assume these large responsibilities.

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

13 It is only fair to say that in preparing for this hearing,
14 doing the research, this Committee has come across information
15 which has raised more questions than it has answered. Some
16 of this information is very disturbing, if not dequalifying.
17 I have been especially concerned about some of the questions
18 that have been raised, and I have expressed those concerns to
19 Mr. Sorensen personally, and to representatives of Mr. Carter.

20 The major purpose of this hearing today is to give Mr.
21 Sorensen the opportunity to respond to these questions for all
22 of us to hear. His answers will have a direct bearing on how
23 I and others will vote on this nomination. Perhaps much of
24 this information would not be so disturbing if we were consider-
25 ing Mr. Sorensen for a position other than the Director of

1 Central Intelligence. The Director of Central Intelligence
2 must be the keeper of the nation's most sensitive secrets. He
3 must deal at arm's length with the heads of intelligence services
4 throughout the world and he must command the complete and total
5 confidence and trust of those with whom he will work.

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

14 Thank you, Mr. Chairman.

15 The Chairman. Thank you very much.

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

19 The Chair recognizes Senator Bayh.

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

22 I have known the witness over a long period of time. I
23 want to say it up front, and I am proud of the kind of contri-
24 bution he has made to our country under very difficult circum-
25 stances. There can be no question of the contribution he has

1 made.

2 He is now being proposed by President Carter for a
3 different role at a different time. All of us are painfully
4 aware of the activities that have been disclosed about the
5 Agency that is he now being called upon to head, that have
6 had a significant role in the slow erosion of confidence on the
7 part of the people of this country.

8 As the Subcommittee Chairman being asked by our distinguished
9 Chairman to chair the Subcommittee that has the responsibility
10 of looking into the area of the Rights of Americans, I feel
11 that our Subcommittee will be particularly concerned about
12 Mr. Sorensen's answers to some of the questions that will be
13 raised. We will be particularly anxious to hear his -- how
14 shall I say it -- in light of his experience, how we as a
15 Congressional body can work with an intelligence gathering
16 body to prevent the kind of abuses which have occurred in the
17 past.

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

20 The Chairman. Senator Hathaway?

21 Senator Hathaway. Thank you, Mr. Chairman. I have just
22 a few remarks I would like to make before listening to the
23 Witness testify.

24 Mr. Sorensen, I know you appreciate that the questions
25 that will be asked with respect to the classification of

1 documents are going to pose a terribly troublesome issue for
2 all of us here today, troublesome in my judgment because I have
3 admired your record in government, because you represent so
4 many thousands of Americans, the vision, the idealism, and
5 the intellectual excellence which were the hallmarks of some
6 very special years in American government and American history.
7 And I credit President-elect Carter for recognizing that the
8 restoration of faith in our intelligence community requires those
9 very qualities if our nation is to maintain the respect and
10 confidence of people throughout the world.

11 It also seems clear to me, however, that in order for our
12 intelligence agencies to best perform their very grave,
13 solemn and often dangerous tasks, we have a special responsi-
14 bility to ensure that the top leadership enjoys the total
15 respect, trust and confidence of the hundreds of dedicated
16 men and women who are the unsung heroes of this work, the
17 people to whom our government has entrusted one of its most
18 important and significant missions, that of ensuring the safety
19 and the security of our nation.

20 I don't know how these people will view the events which
21 we will discuss here today, your candid admission in the past
22 that the rules and methods designed to protect our country's,
23 most important secrets may not really be so inviolable after
24 all. I do know that from my recent travels for this Committee
25 that there is no greater concern to the intelligence agents of

1 our nation that we here at home be cognizant of the risk that
2 they undertake in our behalf, and that they will never take
3 any steps which would ever expose them to any greater danger
4 than they already knowingly and willingly face. And I am
5 concerned about exactly what it is that has happened over the
6 years that has brought about this state of affairs: is it only
7 a new post-Watergate morality and someone has changed all the
8 rules, and is that the plane of dialogue upon which this
9 issue should be discussed here today, or does the question
10 really involve what you will suggest, Mr. Sorensen, a day
11 in and day out breach of our nation's system for securing its
12 secrets? And if this is so, is it not the role and indeed the
13 responsibility of this Committee to look long and hard at the
14 facts and circumstances which have brought about this state
15 of affairs.

16 So if we are a nation of laws and not of men, and under
17 our form of government and in order for our system to work
18 effectively, individuals may not take it upon themselves to
19 separately determine which laws should be obeyed and which
20 ones may be ignored. I think that the task of changing bad
21 law is for the Congress, and to this end, I have and I know
22 many other members have also introduced bills in recent years
23 to change our classification procedure, realizing that it is
24 archaic, that it is out of date, that it needs to be
25 modernized.

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

10 Thank you, Mr. Chairman.

11 The Chairman. Senator Mathias?

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

20 There has been overclassification of information, and
21 without question, the rationale of national security has been
22 used to conceal unwise and improper actions by high officials.
23 At the same time, every recent administration has either
24 withheld or disclosed information using standards which at
25 best would be called arbitrary, and I think we have to face

1 the plain fact that our classification system is so faulty that
2 information the public should know has been withheld, that
3 injustices can take place, and that some improper disclosures
4 have resulted in harm to the country.

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

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

19 (The prepared statement of Senator Mathias follows:)
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1 The Chairman. Thank you very much.

2 It is now my pleasure to present to the Committee a very
3 distinguished American who has served this nation as a most
4 effective voice -- I'm sorry. Before proceeding, Senator
5 Huddleston?

6 Senator Huddleston. Mr. Chairman, in the interest of
7 time and I think the important thing is to hear our witness,
8 of course, today, the designate of the President to be
9 Director of Central Intelligence, I would just like to join
10 the Committee members in welcoming Ted Sorensen to this
11 hearing, and point out that I feel very strongly that this is
12 a very important occasion, not only for this Committee, but
13 for the Congress of the United States. This is the first time
14 that our Select Committee, which in turn, is the first Committee
15 ever to have jurisdiction over all of the national intelligence
16 activities of the United States, the first time we have had an
17 opportunity to review the background and the qualifications of
18 an official whose jurisdiction mirrors our own. The Congress,
19 I think, and the public have a right to see this as a test not
20 only of Mr. Sorensen, but of Congressional oversight of the
21 intelligence community.

22 As members have already indicated, there are areas in
23 which we have a particular concern, and of which I think
24 rightly this Committee and the Congress has a particular
25 concern in developing the qualifications of a person who is to

1 assume this very importnat post, with all of the responsi-
2 bilities that it entails to the security of this nation.

3 Mr. Chairman, I would submit my statement for the
4 record at this time, and permit the Chairman to go ahead with
5 the presentation of the Witness.

6 The Chairman. Without objection, the statement will be
7 made part of the record.

8 (The prepared statement of Senator Huddleston follows:).
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1 The Chairman. Senator Biden?

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

6 The Chairman. What is your wish, sir?

7 Senator Biden. It doesn't matter, whatever the Chair
8 would like.

9 The Chairman. Would you like to give it now?

10 Senator Biden. Okay.

11 Mr. Chairman, these hearings on the nomination of Mr.
12 Theodore Sorensen to be Director of the Central Intelligence
13 Agency are the first, in my opinion, the first great test
14 this Committee and the Congress will have to test its will
15 to conduct an objective and thorough oversight on hearings with
16 regard to the intelligence community.

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

25 I view the Office of Director of Central Intelligence, of

1 the Director of the Central Intelligence Agency as the most
2 sensitive position in the government. It demands a person of
3 excellent managerial skill, a person of intelligence, a person
4 of great discretion, but above all, a person who understands
5 his responsibilities, the limitations of his authority under
6 our laws and Constitution, a person who believes fervently in
7 the rule of law.

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

10 The hearings thus far have concentrated upon one document
11 which in many respects focuses upon several of these issues.
12 I am referring to the so-called Ellsberg Affidavit. This
13 affidavit in my opinion raises two fundamental questions with
14 respect to Mr. Sorensen's qualifications: can he effectively
15 balance the equally important competing interests of secrecy
16 and the right of the people to know what their government is
17 doing? Second, does he respect and understand the rule under
18 which he will serve?

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

23 In the case of the affidavit, both issues are intimately
24 interrelated. The affidavit and Mr. Sorensen's testimony
25 today create a very explicit record on his position on the

1 relative importance of secrecy and the public right to know.

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

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

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

22 I believe that a very strong case can be made that Mr.
23 Sorensen did not violate any statutes in the actions he took.
24 I believe the argument with respect to the various executive
25 orders on classification may be closer, but quite honestly, I

1 am not sure whether or not Mr. Sorensen could be indicted or
2 convicted under the Espionage statutes, or fired from his
3 White House job if that were the issue.

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

8 We expect that in the future intelligence agencies, and
9 we will hold the Director accountable in that way. If that is
10 to be the case, then we must hold the Director, DCI, accountable
11 as well.

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

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

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

1 for the state of affairs in this is the Congress. The fact
2 that neither the Committee nor Mr. Sorensen can say with
3 certainty whether the activity he described is illegal is
4 our responsibility. Congress is ultimately responsible for
5 the fact that the Espionage statutes are so vague that they
6 permit informal leaking, that they are so outdated, as the
7 Church Committee pointed out, that they permit focus on
8 modern espionage not contemplated when the current law was
9 drafted in 1917, that they are so vague that they permit
10 gross overclassification of information, thereby undermining
11 the people's right to know about government activity.

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

18 And lastly, Mr. Chairman, I think the question of the
19 confidence that Mr. Sorensen would be able to generate from
20 the members of the intelligence community, both our own and
21 those with whom we deal, is a question that will be considered
22 by me and I hope will be considered by the remainder of the
23 Committee.

24 Thank you very much.

25 The Chairman. Thank you very much.

1 I am pleased to recognize the distinguished Minority
2 Leader of the United States Senate, Mr. Baker.

3 Senator Baker. Mr. Chairman, I thank you very much.

4 It is a special privilege for me to have the opportunity
5 to appear today with this Committee and to sit here as I do
6 in the most junior seat on the Committee that I helped to
7 create.

8 After my election as Republican leader of the United
9 States Senate, as Minority Leader, it was brought quickly to
10 my attention that one of the provisions we wrote into the
11 statute that was adopted was that the Majority and Minority
12 Leader would both be ex officio members of this Committee but
13 not voting members, which seemed like a better idea at the
14 time we drafted the statute than it does now.

15 (General laughter.)

16 Senator Baker. But notwithstanding, Mr. Chairman, as
17 you know because of our relationship in the past, I have a
18 deep and continuing interest in the general field of intelli-
19 gence activities for the government of the United States. And
20 I hope it is not superfluous for me to say that I have a
21 genuine concern for the efficiency and the integrity of the
22 intelligence apparatus of this government. And that I say,
23 notwithstanding that on occasion I have been at least among
24 the most severe critics of the CIA and the intelligence
25 community, going back to the time of another hearing in this

1 room, the late, lamented Watergate hearings, when I filed a
2 separate report which came to be known as the Baker Report,
3 examining whether or not the CIA might have been involved in
4 the Watergate affair. Incidentally, I concluded while I was a
5 member of the Church Committee, and so stated in my separate
6 views, that I found no evidence that the CIA as an institution
7 was involved in Watergate. I felt, having first raised that
8 question, that I owed an obligation to put that period at the
9 end of the sentence, so I did that.

10 But I supported with great optimism and effort the
11 creation of the Church Committee, which I became a member of,
12 to examine further into the charges and allegations of mis-
13 conduct of the CIA and the intelligence community, particularly
14 relating to the charges of assassination plots, many of them
15 during the Kennedy Administration when Mr. Sorensen served
16 in the White House, and many of them against Premier Castro of
17 Cuba.

18 I tried as hard as I could to participate fully in those
19 proceedings, and to contribute to the deliberations of that
20 Committee. And then to become a member of this Committee after
21 its creation as the first intelligence oversight function of the
22 Senate was to me a signal opportunity and a great responsibility.

23 And so it is with great reluctance that I now assume the
24 role of an ex officio member of this Committee and a non-voting
25 member.

1 But being a non-voting member, maybe it also creates
2 certain other opportunities that I would not have had in a
3 more judicious, hopefully in a more judicious role as a voting
4 member of the Committee sitting in judgment on this nomination.
5 Maybe I can be a little more straightforward and frank than I
6 would be if I were going to vote on it in this Committee. Maybe
7 I would not say that I think this is a bad nomination, but I
8 do think that, not necessarily because I think Mr. Sorensen
9 is unqualified. I think he is a very qualified American, and
10 loyal and dedicated citizen, but because I think in view of the
11 extraordinary difficulty that the intelligence community has
12 been through in the last few years, the beating and the
13 battering that it has taken, partly at my behest, to investi-
14 gate these charges and allegations, because of the extraordinary
15 difficulty of the recent past with the intelligence community
16 I think that a good nominee for Director of Central Intelli-
17 gence ought to be someone who is beyond reproach and above
18 criticism, and would immediately and instantly engender the
19 confidence of the intelligence community of this country, of
20 other countries, and of this government and the Congress of
21 the United States.

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

24 And Mr. Chairman, if I were a member of the Committee
25 with a vote, I would say and do precisely what the members on

1 both sides of the aisle have done here today, and that is hear
2 and judge the proof rather than express the opinion that I have
3 just expressed as an ex officio and non-voting member of the
4 Committee.

5 And I reserve the right to change my mind. And I will
6 study these hearing records, I will listen carefully, and I
7 will reserve the right to change my mind.

8 But my great concern, Mr. Chairman, is that in the recent
9 past there has been so much controversy, there has been so
10 much suspicion, so much uncertainty, so many answered and
11 unanswered questions about the function and the propriety
12 of the intelligence apparatus in this country, so much debate
13 about the future of intelligence, the necessity or absence of
14 a necessity for covert action, the propriety of classification,
15 the question of Presidential knowledge or plausible deniability,
16 of the involvement of Presidents or the absence of involvement
17 of Presidents in assassination plots, not one or two, but
18 50 or 60 perhaps, in administrations going back to the '50s.
19 There has been so much controversy that I had very much hoped
20 that the President-elect would send us a nominee who was
21 beyond controversy and above suspicion.

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

1 The Chairman. . Are there any further remarks?

2 Senator Morgan. I reserve any further remarks to a
3 further time.

4 The Chairman.. Thank you.

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

11 Senator Moynihan has asked the Committee to be given the
12 opportunity and the privilege to present to us the nominee,
13 Mr. Theodore Sorensen.

14 Mr. Sorensen, I think you are most fortunate to have
15 Mr. Moynihan presenting you, sir.

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

18 Senator Moynihan. Thank you, Mr. Chairman, and may I
19 say I am more than sensible of the honor to appear before this
20 Committee and to you, sir and to the members of the Committee.

21 I now have the honor to introduce to the Committee Mr.
22 Theodore C. Sorensen of New York who is the designee of the
23 President-elect for the post of Director of Central Intelli-
24 gence.

25 I introduce him, of course, only in the formal sense of

1 presentation. There will not have been a single member of
2 this Committee who, upon learning of the President-elect's
3 intended nomination, did not instantly recognize the name and
4 immediately associate the man with a still shining moment in
5 American history, the Presidency of John F. Kennedy.

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

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

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

1 had thought that, notwithstanding what we said or how we acted.

2 Well, it didn't, of course. Not for us. And the lesson
3 of danger, of concealed threat, of ambush, of tragedy, mark
4 us, even now, I dare to say, as a kind of generation.

5 None learned this lesson more profoundly than Theodore
6 C. Sorensen. It was surely this fact, combined with his
7 formidable and undiminished powers of analysis and exposition,
8 these qualities in him which prompted Governor Carter to
9 offer him the post of Director of Central Intelligence, just
10 as we may also feel certain it was Mr. Sorensen's sense of the
11 present and prospective dangers faced by the American republic
12 which prompted his agreement to return to the public service,
13 a return which President Johnson in a parting letter thirteen
14 years ago predicted would one day come, for government would
15 necessarily turn once more to this extraordinary man before
16 too many years had passed.

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

22 Surely, we are not about to impose religious qualifica-
23 tions for public service at this late date, when persons of
24 conviction have become so few as to make the issue
25 increasingly moot.

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

7 Intelligence will breed intelligence. Theodore Sorensen
8 will carry on in the tradition, too brief but already produc-
9 tive stewardship of George Bush. The Agency and the Presidency
10 and the Nation will be well-served.

11 I feel certain that the members of this Committee will
12 share with me the conviction that in making this appointment,
13 the President must also be concerned that the interests and
14 sensibilities of the intelligence community -- of the men and
15 women who make up this community will also be taken into
16 consideration.

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

24 Theodore Sorensen is a man who will understand them and
25 who will know that they have not -- and in whom they will see --

1 not merely a channel for their work into the innermost
2 policy circles of the American government, but an advocate of
3 their work as well.

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

10 I thank you, Mr. Chairman, for the privilege of intro-
11 ducing my friend, Theodore Sorensen.

12 (The letter referred to follows:)

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1 The Chairman. Thank you very much, Senator Moynihan.

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

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

6 Mr. Sorensen. I do.

7 The Chairman. Mr. Sorensen, welcome to the Committee,
8 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 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

1 of the members of this Committee.

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

7 First, it has been said that I leaked or otherwise
8 conveyed classified information for political or personal
9 purposes, or took it upon myself to declassify documents, or
10 ignore or evade the law. That charge is totally false.

11 In the White House, I drew upon classified materials in
12 backgrounding the press only when I was specifically directed
13 to do so by the President, who clearly had such authority;
14 and I took documents home for review only in those rare
15 instances when I would otherwise have spent twenty-four hours
16 a day in that office.

17 Judging from some opening comments of some members of
18 this Committee, they have never leaked secret information to
19 the press, and I commend them for that unique standing, but
20 speaking for myself, I have never compromised the national
21 security of this country or approved of anyone else doing so.
22 My affidavits in the lawsuits brought against the New York
23 Times and Daniel Ellsberg regarding publication of the
24 Pentagon Papers accurately described the practices then
25 prevalent in Washington, not as I thought they should have

1 been, but as they were.

2 Senator Case. Mr. Chairman, are those affidavits in
3 the record?

4 The Chairman. Yes, sir.

5 Senator Case. I wonder if it should be done now, so
6 there would be no question; in Mr. Sorensen's testimony he has
7 referred to them. That is why I raise the matter..

8 The Chairman. Can you wait until he is finished?

9 Senator Case. We can, but he has referred to papers
10 that are not in the record. That is the reason I thought --
11 he may want to put them in himself.

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

19 Senator Case. Thank you, Mr. Chairman.

20 The Chairman. Mr. Sorensen, I will, in compliance with
21 the requests made, I will show you an affidavit in the case
22 of United States of America versus Anthony Joseph Russo, Jr.
23 and Daniel Ellsberg, Defendants, State of New York, County of
24 New York, and dated the 30th day of June, 1972.

25 Mr. Sorensen, this is a typed copy of the original, and

1 I will show this to you, sir.

2 I also have another affidavit in the case of The United
3 States of America versus the New York Times Company. This is
4 dated June 17, 1971. I show you this also.

5 The affidavits in the case of the United States of
6 America versus Russo and Ellsberg, is that an affidavit which
7 was submitted by you, sir?

8 Mr. Sorensen. I assume it is a copy of the original,
9 yes, sir.

10 The Chairman. In the case of United States versus the
11 New York Times, is that also an affidavit that was submitted
12 by you in this case?

13 Mr. Sorensen. I am assuming it is a copy of the original,
14 yes, sir.

15 The Chairman. Without objection, the Ellsberg affidavit
16 will be placed on the record as Exhibit A and the New York
17 Times affidavit as Exhibit B.

18 (The documents referred
19 to were marked as
20 Sorensen Exhibits A and
21 B.)
22
23
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25

1 The Chairman. Please proceed, sir.

2 Mr. Sorensen. I will repeat my last sentence. My

3 affidavits in the lawsuit brought against the New York Times

4 and Daniel Ellsberg regarding publication of the Pentagon

5 Papers accurately describe the practices then prevalent in

6 Washington, not as I thought they should have been, but as

7 they were.

8 Almost identical affidavits were submitted by a former

9 Assistant Secretary of State, a former State Department Legal

10 Advisor, and a former Ambassador. During my White House

11 service, I received the highest security clearances from the

12 CIA, and I received them again in the last few weeks.

13 Indeed, I have something of a reputation for guarding

14 secrets, whether they be something of my government, my

15 clients, or my friends. No one has ever charged me with

16 conveying classified information to others, or mislaying

17 classified materials.

18 Second, it has been said that I improperly took

19 classified documents with me from the White House when I left

20 government service, improperly used them in writing my book

21 on President Kennedy, and improperly obtained a tax deduction

22 for donating them to the John F. Kennedy Library. Those

23 charges are totally false.

24 Upon the announcement in early 1964 that I was leaving

25 the White House, I was visited by the Assistant Archivist of

1 the United States, an official of the General Services
2 Administration. He informed me that the papers in my files
3 that I had created and accumulated during the period of my
4 service in the White House were regarded by both law and
5 historical precedent as my personal property; and further,
6 that I was entitled to make any use of those papers that I
7 deemed appropriate, whether selling them as some former White
8 House aides had done, writing books based on them as other
9 former aides had done, or donating them to an appropriate
10 educational institution -- with a tax deduction on the value
11 of the gift -- as still others had done.

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

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

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

25 Naturally there were classified papers among them,

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

7 Like most of those named, I reviewed my papers, including
8 classified papers, in preparing a book on my experiences, just
9 as Gerald Ford at his confirmation hearing acknowledged
10 drawing upon Top Secret documents in his possession in writing
11 his book on the Warren Commission. In the decades since my
12 book was published no one has suggested that security was
13 in any way breached by anything in my book and it was, in
14 fact, submitted for clearance in advance to the National
15 Security Advisor to the President, to his former Deputy,
16 and to the former Deputy Secretary of Defense.

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

20 Upon donating my papers to the Kennedy Library -- instead
21 of selling them individually for a far larger amount -- I
22 received the tax deduction to which I was entitled by law,
23 just as many former government officials did over the years,
24 including, in addition to some or all of those already
25 mentioned, former Ambassador Galbraith, former White House

1 aide Arthur Schlesinger, and former Governor and Ambassador
2 Adlai Stevenson.

3 No doubt arguments can be made against the practice
4 begun by George Washington of White House occupants taking
5 their papers with them -- John Eisenhower has recently stated,
6 for example, that his father inherited from Truman and left
7 to Kennedy no papers other than the instructions on nuclear
8 attack procedures -- but at the time I took my papers in
9 1964, that was clearly the accepted view of the law.

10 No doubt arguments can be made against permitting of tax
11 deductions on the donation of papers by former government
12 officials. -- and such arguments were made when the law was
13 changed in 1969 -- but that was, nevertheless, the law prior
14 to that time.

15 All of the above actions were taken with the full
16 knowledge and approval of the United States government and
17 were publicly described in the well-publicized affidavits
18 which I filed in the New York Times case and subsequently
19 in the Ellsberg case.

20 Those two cases involved important First Amendment
21 issues, including the public's right to know the tragic history
22 of the Vietnam War. Whatever improvements might have been
23 made in the wording of my affidavit, I make no apology for
24 having responded to the requests of counsel in both cases to
25 attest to the inconsistencies and anomalies of government.

1 classification practices.

2 Third, it has been said that I avoided military service
3 as a pacifist during World War II and the Korean War. This
4 charge is totally false. I have never sought to avoid military
5 service, hazardous or otherwise, in wartime or any other
6 time. I have never advocated for the United States a policy
7 of pacifism, non-resistance to attack or unilateral disarm-
8 mament.

9 The facts are that I registered for the draft upon
10 becoming eighteen years of age in 1946, a year after World
11 War II ended, and shortly thereafter expressed the philosophy
12 of non-violence with which I had been reared by two deeply
13 idealistic parents by requesting, not an avoidance of military
14 duty or hazardous duty, but military service in a non-combatant
15 capacity (classification 1A0) preferring, by way of illus-
16 tration, to serve on the battlefield as a medical corpsman
17 saving lives instead of taking lives. This status was granted.

18 My action was largely symbolic inasmuch as our country was
19 not then at war, or expected to go to war. I have never, in
20 my service on the Executive Committee on the National Security
21 Council during the Cuban Missile Crisis or any other time,
22 permitted my preference for personal nonviolence to inhibit
23 in any way my advice to the President on the military and
24 other options available as a matter of national policy.

25 I would not have accepted Governor Carter's designation

1 to be Director of Central Intelligence were I not prepared
2 to carry out every lawful order of the President conceivably
3 connected with this post.

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

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

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

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

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

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

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

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

23 There are basically two such questions.

24 First is the question of my experience in intelligence.
25 I was an observer at National Security Council meetings and a

1 reader of intelligence reports in the White House, and I
2 worked closely with the CIA and other national officials
3 during the Cuban Missile Crisis. I have, since leaving the
4 White House, written and lectured widely on international
5 affairs, and engaged in negotiations with dozens if not
6 hundreds of top foreign officials.

7 I was requested by the Ford White House a year ago to
8 provide advice and consultation on its reorganization of
9 the intelligence effort. My qualifications for this post have
10 been endorsed by John McCone, Clark Clifford, Averell
11 Harriman, Admiral Elmo Zumwalt, General James Gavin, and others
12 who know of my work.

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

23 But I recognize that there are those, inside and outside
24 of the intelligence establishment, who disagree with the
25 Murphy Commission recommendation that an outsider always be

1 named to this post; who refuse to recognize the totally
2 non-partisan leadership provided by George Bush as DCI,
3 despite earlier concerns about his partisan background; or
4 who see no value for this post in a lawyer's sensitivities to
5 civil liberties and lawful conduct. These people believe
6 that only someone from inside the military or intelligence
7 establishment has the experience necessary for this job.
8 I disagree.

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

18 I believe as well in the application of moral and
19 legal standards to national security decision, including the
20 limitation of covert operations to extraordinary circum-
21 stances involving the vital national interests of our country,
22 with timely review by the appropriate Congressional Committees
23 and written authorization by the President and his senior
24 Cabinet officials.

25 There are those who disagree with these views and who

20

1 regard them as incompatible with the duties of a Director
2 of Central Intelligence. Paying little heed, apparently,
3 to the fact that the Director's real responsibility is to
4 provide leadership to the Intelligence Community and
5 objective intelligence, not policy, to the President and his
6 policymakers. These critics prefer to view this post as a
7 part of the national security decision-making apparatus and
8 prefer in that post understandably someone with policy
9 commitments more like their own.

10 Obviously, I disagree with that view as well.

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

10 It is therefore with deep regret that I am asking
 11 Governor Carter to withdraw my designation as Director of
 12 Central Intelligence. My regret stems not from my failure to
 13 get this post, but from my concern for the future of our
 14 country. I return to private life with a clear conscience.

15 When my nomination was announced on Christmas eve, my
 16 youngest son said to me, "Now you will have to do some things
 17 you don't want to do," and I replied, "I never will." I
 18 have never compromised my conscience, and I am unwilling to
 19 do so now in order to assure my nomination.

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

25 The Chairman. Mr. Sorensen, needless to say, this was not

1 expected. The Committee was prepared to proceed.

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

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

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

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

25 Mr. Sorensen, I hope that you will not leave this room

1 with bitterness, although there is justification for that.
2 I hope you will leave this room knowing that we have tried to
3 do our best as members of the United States Senate and as
4 members of this Committee.

5 I thank you for having considered this nomination, and
6 as Chairman of the Committee, I await the pleasure of the
7 President of the United States.

8 Senator Garn. Thank you, Mr. Chairman.

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

17 I also told him in that particular meeting that in the
18 research that we had gone into in great detail, that he was
19 an extremely moral man, finding in personal notes and so on
20 that he had written when he was in the White House, even turning
21 down the offer of a couple of theatre tickets because he did
22 not feel that it was proper in his position to accept a couple
23 of seven or eight dollar theatre tickets.

24 So, Mr. Sorensen, I wanted to say that to you publicly,
25 not just privately. You know I had some concerns about the

1 nomination, not to your honesty or your integrity or your
2 ability, but I used the phrase I felt the wrong man for the
3 wrong position, and that Secretary of HUD, HEW or someplace
4 else, that you would be an extreme asset to the new President
5 of the United States.

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

9 The Chairman. Senator Biden?

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

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

25 The Chairman. Senator Hart?

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

15 The Chairman. Senator Hatfield.

16 Senator Hatfield. Thank you, Mr. Chairman.

17 Mr. Sorensen, I think you know that I have been a long
18 time admirer of yours, and I applaud your statement here today,
19 not that I had to hear your statement today to be fully
20 convinced of the rather exaggerated claims made under the
21 charges.

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

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

4 The Chairman. Senator Morgan?

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

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

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

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

24 The Chairman. Senator Bayh.

25 Senator Bayh. Mr. Chairman, Mr. Sorensen, I am distressed

1 at the turn of events. It is rather obvious that some of
2 these political, personal references to you were the ultimate
3 in political poppycock, efforts to desecrate your character.
4 I think anybody who had studied the case knew it wasn't a
5 question of laws being violated, of a man in high public
6 trust intentionally undertaking to do damage to the country.
7 And you quite accurately pointed out, sir, never, in publishing
8 of your books and speeches and articles, never has anyone
9 laid a charge on you of damaging the security of this country.

10 The concern that I had, very frankly, were concerns that
11 came from your own mouth or pen, the disclosures in the affidavit
12 the recognition that one of the major responsibilities that
13 you had was, as I recall you said this morning, the task
14 of restoring public trust and confidence.

15 Now, I was hopeful, frankly, I was confident that in the
16 hearings as we heard about past practices, as we had a chance
17 to read into the record for all the world to know, as some
18 of us had known, your personal sensitivity to these problems,
19 that this matter would be laid to rest, and that the problem of
20 confidence restoring could be proceeded with.

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

23 The Chairman. Senator Huddleston?

24 Senator Bayh. Well, could I just -- it was a rather
25 gutsy thing. I was hoping that this Committee could take

1 advantage of your presence here -- and now, perhaps, Mr.
2 Chairman, it is inappropriate -- not only to move ahead with
3 the restoring of confidence with you as the Director of CIA,
4 but to take advantage of this rather unique experience you
5 have had of past classification, past practices, to advise
6 us as we proceed with our mandate, not only of oversight, but
7 of drafting wiretap legislation, mail opening, surreptitious
8 entry, the charters that our Subcommittee and this Committee
9 as a whole has to put together. I would hope, if this is
10 not the appropriate time, that we could get your assurance to
11 let us have the benefit, what information should be kept
12 secret.

13 You are in a unique position to tell us that.

14 And one last thought, Mr. Chairman, I have already
15 said more, I guess, than in the time is appropriate. It is
16 hard to separate one's personal feelings from one's responsi-
17 bilities, but I have to confess to you that one of the reasons
18 I was hoping we could put this matter to rest and proceed with
19 you as Director of the CIA is that I am painfully aware, as
20 I am sure you are, and hopefully most of this Committee is,
21 that some of the people are out to get you, not because of
22 what you said in that affidavit, but because they don't want
23 a clean broom at CIA.

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

1 The Chairman. Senator Hathaway?

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

9 Thank you very much.

10 The Chairman. Senator Huddleston.

11 Senator Huddleston. Mr. Chairman, as one who developed
12 some concern about this nomination, I, too, would like to say
13 that never in my consideration of this designee was there any
14 question in my mind about his loyalty, about his integrity,
15 his dedication to this country, and his intelligence, or even
16 in his ability to administer the job in which he was designated
17 for.

18 I voted against George Bush for that position. As a
19 member of the former Committee on investigations of our
20 intelligence, I felt that Mr. Bush did not have the sufficient
21 background to fill that job. I was wrong on that vote. I think
22 George Bush did become a very effective and competent
23 administrator of our Central Intelligence.

24 I would just like to say that I have never been persuaded
25 one ounce by those who I think had a personal axe to grind

1 in relation to the nomination of Ted Sorensen.

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

5 Thank you, Mr. Chairman.

6 The Chairman. Thank you.

7 The Chair has received requests from two Senators who are
8 not members of the Committee to make brief remarks. I am
9 certain there will be no objection.

10 I would like to recognize at this time Senator McGovern.

1 STATEMENT OF THE HONORABLE GEORGE MCGOVERN, A UNITED
2 STATES SENATOR FROM THE STATE OF SOUTH DAKOTA

3 Senator McGovern. Mr. Chairman, I am deeply distressed
4 at what has happened here today. I was not aware that Mr.
5 Sorensen was going to withdraw his name, but I have a brief
6 statement which I would like to give to the Committee, as I
7 had prepared it, because as far as I am concerned, nothing has
8 changed about these judgment.

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

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

1 place this morning.

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

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

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

25 But beyond this, he was a trusted advisor in every area

1 of government, including many matters involving the intelligence
2 function.

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

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

22 If certain Senators are so incensed about the practice of
23 leaking, how do they explain their own conduct in anonymously
24 leaking reports about Mr. Sorensen, and why don't they get more
25 incensed about the persons who in recent days have leaked the

1 classified CIA estimates of Soviet military strength relative
2 to American military strength? What about the constant
3 leaking by the Pentagon of classified information on weapons
4 systems?

5 One unnamed Senator was quoted in yesterday's Post
6 as follows: "The job requires a man of authority, a man who
7 can control the entire intelligence community, a Jim Schlesinger,
8 not a Sorensen. The Director of the largest intelligence
9 service in the world is a leaker. It undermines the whole
10 intelligence effort. It raises questions about his judgment."

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

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

24 Finally, Mr. Chairman, Mr. Sorensen is the kind of man
25 who would know what his Agency is supposed to do well, and what

1 it was not supposed to do, and I sincerely had hoped for the
2 sake of this country that he would be confirmed in the
3 imporant assignment for which President-elect Carter has
4 selected him.

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

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

16 The Chairman. Thank you very much.

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

25 As one member of the Committee, I can assure you that no

1 member of the press ever got to me. I would like to express
2 my apologies now for not answering the telephone. It was a
3 miserable day this weekend, yesterday and the day before.

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

11 Senator Metzenbaum.
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STATEMENT OF THE HONORABLE HOWARD METZENBAUM, A
UNITED STATES SENATOR FROM THE STATE OF OHIO

Senator Metzenbaum. Mr. Chairman, I came to this Committee today because I had sort of felt building up a kind of pressure against the confirmation of Mr. Sorensen and because I have known Mr. Sorensen over a period of many years, and because I was predisposed to support his nomination, I said I had to hear for myself what the evidence was, that 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 that before the evidence is in, before any evidence is heard, that his reputation, his personal reputation is put in the kind of aura that has occurred with respect to Mr. Sorensen.

I think Mr. Sorensen withdrawing 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

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

7 I think the country has suffered a great loss today, and
8 I am sorry Mr. Sorensen saw fit to withdraw his name from
9 consideration of this Committee and the United States Senate.

10 The Chairman. Senator Baker?

11 Senator Baker. Mr. Chairman, I thank you very much.

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

19 I think Mr. Sorensen has done a brave and generous thing
20 today. I think it was brave in that it required a degree of
21 personal determination and careful searching of his own
22 situation, his own viewpoints and ideas in this respect, a
23 generous thing in that it has I believe avoided a conflict
24 which was sure to ensue, which would have created an unfavorable
25 and probably an unpleasant, certainly an unpropitious beginning

1 for a new administration during inaugural week.

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

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

14 So I thoroughly agree with you. I know of no such leaks.
15 I personally would represent to you, Mr. Chairman, which I
16 believe needs no representation, that as far as I am concerned,
17 there have been no leaks of any information, classified
18 or otherwise, that has come into the possession of this Committee

19 I suppose the final thing I should say is that it is in
20 the nature of the American Congressional and political
21 system that there should be a nomination and a testing; that
22 is clearly so regardless of the power that is in the White
23 House, the party that is in the White House. It is often
24 misunderstood by foreign observers, our friends in the foreign
25 press in particular, but it is well understood in the United

1 States, intuitively and instinctively by our citizenry and
2 certainly by our press, that while politics may not be an
3 adversary proceeding, at least it is a system of testing,
4 and Congress is the only place to test. There is no minority
5 President. There is only a minority in the Congress.

6 And I think that the best interests of the minority, the
7 best interests of the country, and indeed, the best interests
8 of the Administration are best served by frank and open and
9 candid appraisal of the situation as it occurs.

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

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

17 Thank you.

18 The Chairman. Mr. Sorensen, in behalf of the Committee,
19 I thank you for your presence here this morning, and I wish
20 you well, sir.

21 The hearing is adjourned.

22 (Whereupon, at 11:41 o'clock a.m., the Committee
23 recessed subject to the call of the Chair.)

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