

Mr. CULVER. What has been the substantive effect of the Court's finding? Hasn't it been, the long and short of it, to essentially gut the statute or to do so on a piecemeal basis?

Mr. YEAGLEY. Yes, except for the organizational provisions that the Court has not ruled on. I suppose that this is the reason that the Congress amended the statute to accord with Court decisions earlier this year.

Mr. CULVER. So there has been generally a consistent finding of unconstitutionality or at least a frequent finding during the 18 years of this statute?

Mr. YEAGLEY. Except for the two areas I mentioned.

Mr. CULVER. I was interested also in Congressman Watson's statement with regard to your willingness to enforce the law and, as you are not unaware, there have been repeated demands in the Congress that the Attorney General take a more aggressive posture with regard to the implementation of the SACB legislative scheme.

With regard to that and with regard to the suggestion that this helps and doesn't hinder, has there been any reluctance to "enforce the law" because it will possibly risk the compromising of very valuable intelligence information if you were to implement fully and without administrative discretion concerning the directives of this statute?

In short, I am saying, if you did what the Congressman said to do, that is, enforce the law as aggressively and boldly as the statute permits, would not such an implementation, in your judgment, necessarily result in the compromise of valuable intelligence information that this Government now possesses?

Mr. YEAGLEY. I don't know that I would say so necessarily. I would have to point out again that each proceeding involves producing some FBI informants and removing them from their duties as informants, also, with the changing posture as to disclosure of electronic surveillances, we must determine in each proposed proceeding not only whether these may be tainted, but whether or not there is any problem in that area. Right now we are quite interested in knowing what the Supreme Court's decision is going to be in the *Kolod* case.

Mr. CULVER. If you were sitting in the White House in Mr. Truman's chair in 1950 and you were presented with this statute and you were conscientious in terms of the executive branch responsibility to "enforce the law" and you could reasonably anticipate congressional pressure to do so, can't you understand why the Attorney General might recommend on that occasion that at first blush this would call for the compromising of very valuable intelligent information if we were to "vigorously enforce the law"?

Is it not the thing that frustrates the Congress that we have had attorneys general that have exercised discretion and discrimination in the relatively few cases that they have seen fit to initiate under the statute and that has been a determination of the national interest which they administratively felt to be appropriate?

Mr. WATSON. Mr. Chairman, certainly Mr. Yeagley needs no defense at my hand, but I think it is grossly unfair for my friend to ask him as to what he would do if he were in Mr. Truman's shoes. We have tried personally to eliminate Mr. Truman and not reflect upon him, and the line of my questions was specifically concerned with certain points of that veto message.