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MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT OF THE SENATE

Under authority of the order of December 17, 1974, a message from the President of the United States was received on December 17, 1974, during the adjournment of the Senate.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:02 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 425. An act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

S. 939. An act to amend the Admission Act for the State of Idaho to permit that State to exchange public lands, and for other purposes.

S. 2343. An act to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands.

S. 3191. An act to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force.

S. 4013. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

H.R. 7978. An act to declare that certain federally owned lands shall be held by the United States in trust for the Hualapai Indian Tribe of the Hualapai Reservation, Arizona and for other purposes.

H.R. 8193. An act to regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on United States-flag vessels.

H.R. 8864. An act to amend the Act to incorporate Little League Baseball to provide that the league shall be open to girls as well as to boys.

S.J. Res. 224. A joint resolution to authorize and request the President to issue a proclamation designating January 1975, as "March of Dimes Birth Defects Prevention Month".

S.J. Res. 260. A joint resolution relative to the convening of the first session of the Ninety-fourth Congress.

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. JOHNSTON).

At 12:45 p.m., a message from the House by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 3022) to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the National Wild and Scenic Rivers System; to amend the Lower Saint Croix River Act of 1972 (86 Stat. 1174), and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TAYLOR of North Carolina, Mr. JOHNSON of California, Mr. RONCALIO of Wyoming, Mr. SKUBITZ, and Mr. STEIGER of Arizona were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1728) to increase benefits provided to American civilian internees in Southeast Asia, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. MOSS, Mr. STUCKEY, Mr. ECKHARDT, Mr. BROYHILL of North Carolina, Mr. WARE, and Mr. McCOLLISTER were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10701) to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities.

The message also announced that the House has passed the bill (S. 521) to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 16609) to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5773) to establish the Canaveral National Seashore in the State of Florida, and for other purposes.

The message further announced that the Speaker has appointed as a member of the District of Columbia Law Revision Commission Mrs. Patricia Roberts Harris, from Washington, D.C., pursuant to the provisions of section 2(a), Public Law 93-379.

The message also announced that the minority leader, pursuant to the provisions of section 2(a), Public Law 93-379, has appointed as a member of the District of Columbia Law Revision Commission, the Honorable HENRY P. SMITH.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 11607. An act for the relief of Tri-State Motor Transit Co.; and

H.R. 13869. An act for the relief of Carl C. Strauss and Mary Ann Strauss.

The message also announced that the House has passed the following bills, with amendments, in which it requests the concurrence of the Senate:

S. 2888. An act to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Okla.;

S. 3358. An act to authorize the conveyance of certain lands to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma;

S. 251. An act for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson;

S. 663. An act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission and for other purposes; and

S. 3548. An act to establish the Harry S. Truman memorial scholarship, and for other purposes.

The message further announced that the House insists upon its amendment to the bill (S. 2994) to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. DEVINE, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT were appointed managers of the conference on the part of the House.

At 3:38 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 15173) to extend for 1½ years the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17468) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The message also announced that the House has passed the joint resolution (H.J. Res. 1178) making further con-

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tinuing appropriations for the fiscal year 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 17045) to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. ROSTENKOWSKI, Mr. SCHNEEBELI, Mr. CONABLE, and Mr. PETTIS were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 421) to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. ROSTENKOWSKI, Mr. LANDRUM, Mr. SCHNEEBELI, Mr. BROYHILL of Virginia, and Mr. CONABLE were appointed managers of the conference on the part of the House.

At 4:53 p.m., a message from the House of Representatives by Mr. Berry announced that the House has passed the bill (H.R. 17655) to extend for two years the authorizations for the striking of medals in commemoration of the one hundredth anniversary of the cable car in San Francisco and in commemoration of Jim Thorpe, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the resolution (S.J. Res. 133) to provide for the establishment of the American Indian Policy Review Commission.

At 5:35 p.m., a message from the House of Representatives by Mr. Hackney announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 3418) to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 12113) to revise and restate certain functions and duties of the Comptroller General of the United States and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 14718) to discontinue or modify certain reporting requirements of law.

The message also announced that the House has passed the bill (S. 3359) to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Potawatomi Indians of Oklahoma with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1296) to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes.

The message also announced that the House has passed the joint resolution (H.J. Res. 1180) making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16596) to amend the Comprehensive Employment and Training Act of 1973 to provide additional jobs for unemployed persons through programs of public service employment.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 12884) to designate certain lands as wilderness, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

S. 184. An act to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union.

S. 194. An act to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands.

S. 1357. An act for the relief of Mary Red Head.

S. 2125. An act to amend the Act of June 9, 1906, entitled "An Act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended.

S. 2594. An act for the relief of Jan Sejna.

S. 2838. An act for the relief of Michael D. Manemann.

S. 3341. An act to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes.

S. 3397. An act for the relief of Jose Ismarnado Reyes-Morelos.

S. 3489. An act to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes.

S. 3518. An act to remove the cloud on title with respect to certain lands in the State of Nevada.

S. 3574. An act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Arizona.

S. 3578. An act for the relief of Anita Tomasi.

S. 3615. An act to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colorado.

S.J. Res. 234. A joint resolution transferring to the State of Alaska certain archives and records in the custody of the National Archives of the United States.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) subsequently signed the enrolled bills and joint resolution.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to exempt certain youth organizations, fraternities, and sororities from the operation of title IX of the Education Amendments of 1972, and for other purposes (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF VIOLATIONS OF ANTI-DEFICIENCY ACT

A letter from the Secretary of Defense transmitting, pursuant to law, a report of violation of Anti-Deficiency Act and of Department of Defense Directive 7200.1 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT OF THE ATTORNEY GENERAL

A letter from the Attorney General transmitting, pursuant to law, a report on identical bidding in advertised public procurement (with an accompanying report). Referred to the Committee on the Judiciary.

OPINION OF THE U.S. COURT OF CLAIMS

A letter from the Chief Commissioner of the U.S. Court of Claims transmitting a copy of the opinion and findings of fact in the case of Concrete Industries (Monier) Limited v. United States (with accompanying papers. Referred to the Committee on the Judiciary.

REPORT OF THE COMMISSION OF CIVIL RIGHTS

A letter from the Civil Rights Commission transmitting, pursuant to law, a report of the Commission entitled "The Federal Civil Right Enforcement Effort—1974)" (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 466. An original resolution to pay a gratuity to Reginald C. Vines.

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, without amendment:

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H. R. 510. A bill to authorize and direct the Secretary of Agriculture to convey any interest held by the United States in certain property in Jasper County, Georgia, to the Jasper County Board of Education (Rept. No. 93-1403).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 544. A bill to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes (Rept. No. 93-1404).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H. J. Res. 1178. A joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes (Rept. No. 93-1405).

By Mr. McCLELLAN, from the Committee on Appropriations, with an amendment:

H. J. Res. 1180. A joint resolution making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93-1406).

By Mr. ALLEN, from the Committee on Agriculture and Forestry, without amendment:

S. Res. 467. A resolution relating to agricultural credit and the current liquidity problem facing agricultural borrowers that threatens the viability of agriculture, rural comunities, and the national economy. (Rept. No. 93-1407).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 11144. An act to amend title 10, United States Code, to enable the Naval Sea Cadet Corps and the Young Marines of the Marine Corps League to obtain, to the same extent as the Boy Scouts of America, obsolete and surplus naval material (Rept. No. 93-1410).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry, with amendments:

S. 4206. A bill to provide price support for milk at not less than 90 per centum of the parity price thereof, and for other purposes (Rept. No. 93-1411).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry, with amendments:

S. 2792. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition (Rept. No. 93-1412).

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES—SENATE JOINT RESOLUTION 40—CONFERENCE REPORT (REPT. NO. 93-1409)

Mr. PELL submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the joint resolution (S.J. Res. 40) to authorize and request the President to call a White House Conference on Library and Information Services in 1976, which was ordered to be printed.

CONSUMER PRODUCT WARRANTY AND FEDERAL TRADE COMMISSION IMPROVEMENT ACT CONFERENCE REPORT (REPT. NO. 93-1408)—S. 356

Mr. MAGNUSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 356) to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Wilson K. Talley, of California, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Marcus A. Rowden, of Maryland;
Edward A. Mason, of Massachusetts;
Victor Gilinsky, of California; and
Richard T. Kennedy, of the District of Columbia, to be members of the Nuclear Regulatory Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Edward S. King, of New York, to be U.S. marshal for the western district of New York.

Ronald C. Romans, of Nebraska, to be U.S. marshal for the district of Nebraska.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

William S. Sessions, of Texas, to be U.S. district judge for the western district of Texas.

J. Calvitt Clarke, Jr., of Virginia, to be U.S. district judge for the eastern district of Virginia.

William J. Bauer, of Illinois, to be U.S. circuit judge for the seventh circuit.

Alfred Y. Kirkland, of Illinois, to be U.S. district judge for the northern district of Illinois.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 392

At the request of Mr. TAFT, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Resolution 392, concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1178) making further continuing appropriations for the fiscal year 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

The joint resolution (H.J. Res. 1180) making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, December 18, 1974, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 425. An act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

S. 939. An act to amend the Admission Act for the State of Idaho to permit that State to exchange public lands, and for other purposes.

S. 2343. An act to authorizes the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands.

S. 3191. An act to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force.

S. 4013. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

S. J.Res. 224. A joint resolution to authorize and request the President to isue a proclamation designating January 1975, as "March of Dimes Birth Defects Prevention Month".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

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By Mr. MOSS:

S. 4246. A bill to regulate commerce and to prohibit unfair or deceptive acts or practices in commerce, and for other purposes. Referred to the Committee on Commerce.

By Mr. PERCY:

S. 4247. A bill to amend the Internal Revenue Code of 1954 to increase the Federal excise tax on gasoline, to make such tax, as increased, a permanent tax, to provide that revenues derived from the increase in, and extension of, such tax are appropriated to the general fund rather than to the Highway Trust Fund, and to provide a credit for the increased tax paid with respect to not more than 500 gallons of gasoline purchased each year by a taxpayer;

S. 4248. A bill to repeal deduction for gasoline taxes;

S. 4249. A bill to terminate the Highway Trust Fund;

S. 4250. A bill to establish an automobile efficiency tax incentive program, and for other purposes; to the Committee on Finance.

S. 4251. A bill to amend title 23 of the United States Code in order to provide for standards for the enforcement of any maximum speed limit on any public highway required pursuant to Federal law. Referred to the Commitee on Public Works.

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, and Mr. TUNNEY):

S. 4252. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justic information a ndcriminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. JAVITS:

S. 4253. A bill to amend the Council on Wage and Price Stability Act to provide the Council the authority to issue subpenas and to delay inflationary wage or price increases. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, and Mr. TUNNEY):

S. 4252. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE DATA BANKS LEGISLATION

Mr. ERVIN. Mr. President, one of my great disappointments in leaving the Senate and the chairmanship of the Subcommittee on Constitutional Rights is that the subcommittee never finished its work on criminal justice data banks legislation. In February of this year my friend and colleague, the senior Senator from Nebraska and I introduced two bills, S. 2963 and S. 2964, legislation prepared by our staffs and the Department of Justice to regulate the collection and exchange of criminal justice records, investigative and intelligence files. We held hearings on that legislation a month later in which we heard from over 30 witnesses.

In the course of those hearings it became clear that there were at least three basic interests which must be protected by this legislation. The first interest is the right of an individual who has a file or record maintained by a law enforcement agency not to have his reputation sullied by improper dissemination of inaccurate or incomplete information. Second, there is the interest of law enforcement agencies to assure that this legislation not interfere unnecessarily with the administration of their departments. Third, members of the press and the public have a right to have access to certain records maintained by law enforcement agencies which are public in nature.

Senator HRUSKA, I, and the rest of the subcommittee have struggled with balancing these basic interests for the past 10 months. I regret to announce that despite the preparation of at least four different working drafts by the subcommittee staff we have not reached agreement on a bill. However, the most recent drafts of the legislation have been circulated to representatives of the news media and law enforcement and based on preliminary responses by some media and law enforcement groups, Senator HRUSKA, and the Department of Justice, I am confident that this latest draft could serve as the basis for a consensus on this legislation. The legislation I introduce today reflects the latest draft upon which we were working as the session ends.

An example of the growing consensus on this legislation is the fact that Project SEARCH, a national criminal justice organization composed of one gubernatorial representative from each State has endorsed the provisions of this bill. Project SEARCH's endorsement of this legislation is particularly significant because it was instrumental in developing the original prototype for a national criminal justice data bank. Indeed, SEARCH probably has more criminal justice expertise on the subject matter of this legislation than any other group of its kind.

I ask unanimous consent that a resolution of SEARCH endorsing this legislation be inserted at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SUGGESTIONS AND RECOMMENDATIONS OF SEARCH GROUP TO COMMITTEE PRINT NO. 3 OF SENATE BILL 2963

The members of SEARCH Group appreciate the recognition given by the Senate Judiciary Committee's Subcommittee on Constitutional Rights to the extensive studies and efforts conducted by SEARCH over the last five years on the subject of security and privacy in criminal justice information systems. The careful consideration given by the Committee to the policy recommendations of SEARCH as set forth in the testimony of its Chairman and in various SEARCH documents is rewarding. SEARCH is pleased to note that many of these recommendations have been incorporated in the language of S. 2963 as revised since the hearings.

The SEARCH Membership Group has reviewed Committee Print No. 3, dated September 20, 1974, from the perspective of state and local criminal justice agencies. The Group wishes to reemphasize its conviction that federal legislation on this subject is vitally needed. As the Committee Chairman and others have pointed out, confusion and inconsistency in the implementation and operation of criminal justice information systems will continue until the Congress has adopted national standards.

Based on its review, SEARCH finds the bill to be generally in the best interest of the criminal justice community and endorses it with the following strong suggestions and recommendations concerning the major provisions of the bill: *

1. *Law Enforcement Uses of Arrest Records.* (*Section 201.*)

SEARCH Group finds that the circumstances enumerated for the use of arrest records are sufficient. Consequently, SEARCH Group endorses the provisions of subsection (b) (2) of section 201.

2. *Use of Criminal Justice Records for Non-Law Enforcement Purposes.* (*Section 203.*)

SEARCH Group recommends deletion of the provision that a federal executive order is sufficient to authorize access to criminal justice information for non-law enforcement purposes. SEARCH Group suggests that federal and state statutes be the only proper basis for providing all such access.

3. *Access to Arrest Records.* (*Section 206.*)

Section 206(a).

SEARCH Group recommends against the requirement for positive (fingerprint-based) identification as the basis for inquiry of automated systems. Were this the case, it would severely limit the usefulness of the system for investigative purposes and for the uses described in Section 201. Preferable language would permit pre-arrest inquiry based on individual identifiers even though a positive identification may not be possible. However, post-arrest decisions concerning the individual that rely on criminal justice information should be based on information obtained only on the basis of fingerprints or other positive identification.

Section 206(b).

SEARCH Group recommends against the requirement that class access to arrest records be authorized by a court-issued access warrant. Given the other provisions of the bill governing the retention and use of arrest records, the procedures for class access to arrest records should be the same as for conviction records.

4. *Accuracy of Criminal Justice Information.* (*Section 207(b).*)

SEARCH Group recommends against the requirement that automated information systems must, before disseminating an arrest record, check first with the law enforcement agency which contributed the arrest record to determine whether a disposition is available. Automatically checking with the arresting agency for dispositions is contrary to the more logical approach of placing primary responsibility for supplying disposition data on courts and other agencies. This is particularly true in view of the Acts requirement to withhold arrest data where dispositions are not submitted and on the time limits in the Act beyond which such data

*The SEARCH Membership Group adopted this position on a vote of 31 for, 5 against, and one abstention.

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(c) COMPENSATION OF MEMBERS.—

(1) Each member of the Board who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, prorated on a daily basis for each day spent in the work of the Board, and shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended.

(2) Each member of the Board who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Board shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended.

(3) Members of the Board shall be considered "special Government employees" within the meaning of section 202(a) of title 18.

(d) AUTHORITY.—For the purpose of carrying out its responsibilities under the Act, the Board shall have authority,

(1) after notice and hearings to issue regulations as required by section 303;

(2) to issue an order prohibiting the exchange of criminal justice information (except wanted persons information), criminal justice investigative information, or criminal justice intelligence information with a criminal justice agency which has not satisfied the requirements of section 304;

(3) to exercise the powers set out in section 308;

(4) to bring actions under section 309 for declaratory and injunctive relief;

(5) to supervise the operation of an automated information system for the exchange of criminal justice information among the States and with the Federal Government pursuant to section 307;

(6) to supervise the installation and operation of any criminal justice information system, criminal justice investigative information system or criminal justice intelligence information system operated by the Federal Government;

(7) to issue an order prohibiting the establishment of any new information system covered by this Act and operated by the Federal Government or prohibiting the expansion of any such existing system where the Board finds such establishment or expansion to be either inconsistent with this Act or without adequate statutory authority;

(8) to conduct an ongoing study of the policies of various agencies of the Federal Government in the operation of information systems;

(9) to require any department or agency of the Federal Government or any criminal justice agency to submit to the Board such information and reports with respect to its policy and operation of information systems or with respect to its collection and dissemination of criminal justice information, criminal justice investigative information, or criminal justice intelligence information and such department or agency shall submit to the Board such information and reports as the Board may reasonably require;

(10) to conduct audits as required by section 306; and

(11) to create such advisory committees as it deems necessary.

(e) OFFICERS AND EMPLOYEES.—There shall be a full-time staff director for the Board who shall be appointed by the Board and who shall receive compensation at the rate provided for level V of the Federal Executive Salary Schedule, pursuant to section 5316 of title 5. Within the limitation of appropriations, the Board may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5.

(f) REPORT TO CONGRESS AND TO THE PRESIDENT.—The Board shall issue an annual report to the Congress and to the President. Such report shall at a minimum contain—

(1) the results of audits conducted pursuant to section 306;

(2) a summary of orders issued pursuant to subsections (d)(2), (d)(3), and (d)(7) and actions brought pursuant to subsection (d)(4) of this section;

(3) a summary of public notices filed by criminal justice information systems, criminal justice investigative information systems, criminal justice intelligence information systems, and criminal justice agencies pursuant to section 305; and

(4) any recommendations the Board might have for new legislation on the operation or control of information systems or on the collection and control of criminal justice information, criminal justice investigative information or criminal justice intelligence information.

HEARINGS AND WITNESSES

SEC. 302. (a) The Board, or on authorization of the Board, any subcommittee or three or more members may hold such hearings and act at such times and places as necessary to carry out the provisions of this Act. Hearings shall be public except to the extent that the hearings or portions thereof are closed by the Board in order to protect the privacy of individuals or the security of information protected by this Act.

(b) Each member of the Board shall have the power and authority to administer oaths or take statements from witnesses under affirmation.

(c) A witness attending any session of the Board shall be paid the same fees and mileage paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter, required by the Board for the performance of its duties under this Act, may be issued in accordance with rules or procedure established by the Board and may be served by any person designated by the Board.

(e) In case of contumacy or refusal to obey a subpena any district court of the United States or the United States court of any territory or possession, within the jurisdiction of which the person subpenaed resides or is domiciled or transacts business, or has appointed an agent for the receipt of service of process, upon application of the Board, shall have jurisdiction to issue to such person an order requiring such person to appear before the Board or a subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished as contempt.

(f) Nothing in this Act prohibits a criminal justice agency from furnishing the Board information required by it in the performance of its duties under this Act.

FEDERAL REGULATIONS

SEC. 303. (a) Except as provided in subsection (b) of this section, the Board shall, after consultation with representatives of State and local criminal justice agencies participating in information systems covered by this Act and other interested parties, and after notice and hearings, promulgate such interpretations, rules, regulations, and procedures as it may deem necessary to effectuate the provisions of this Act. The Board shall follow the provisions of the Administrative Procedures Act with respect to the issuance of such rules. At least sixty days prior to their promulgation, the Board shall refer any interpretations, rules, regulations, or procedures which will affect the collection and dissemination of information maintained by State or local criminal justice agencies to the Governor of each State, any agency created or designated pursuant to section 304, any other organizations or individuals in a State designated by the Governor and any other organizations or individuals requesting to be so notified. At least sixty days prior to their promulgation, the Board shall also refer any interpretations, rules, regulations, or procedure which will affect the collection and dissemination of information maintained by Federal criminal justice agencies to the Department of Justice, each such Federal criminal justice agency and the United States Judicial Conference for their review. The Board may in its discretion refer any interpretations, regulations, or procedures prior to promulgation to any other advisory committee it may create. All regulations issued by the Board or any criminal justice agency pursuant to this Act shall be published and easily accessible to the public.

(b) The Board shall not have authority to issue regulations involving criminal justice information on an arrest or indictment for a Federal offense; or criminal justice intelligence information or criminal justice investigative information resulting from the investigative activities of a Federal criminal justice agency: *Provided, however,* That the Board shall have authority to issue regulations involving criminal justice information on an arrest or indictment for a Federal offense if such information is maintained in an information system operated pursuant to section 307. Regulations concerning information exempted from the Board's jurisdiction pursuant to this subsection shall be issued by Executive order of the President upon recommendation of the Atttorney General, the two members of the Board designated by the President and the member designated by the Judicial Conference of the United States.

STATE REGULATIONS AND CREATION OF STATE INFORMATION SYSTEMS BOARDS

SEC. 304. No criminal justice agency shall disemminate criminal justice information (except wanted persons information), criminal justice intelligence information, or criminal justice investigative information to a criminal justice agency—

(a) which has not adopted all of the operating procedures required by title II of the Act; or

(b) which is located in another State which has failed to either create an agency or designate an existing agency which has statewide authority and responsibility for:

(1) the enforcement of the provisions of this Act and any State statute which serves the same goals;

(2) the issuance of regulations, not inconsistent with this Act, regulating the exchange of criminal justice information, criminal justice investigative information, and criminal justice intelligence information and the operation of criminal justice information systems, criminal justice intelligence information systems, and criminal justice investigative information systems; and

(3) the supervision of the installation of criminal justice information systems, criminal justice investigative information systems and criminal justice intelligence information systems, the exchange of information by such systems within that State and with

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similar systems and criminal justice agencies in other States and in the Federal Government.

PUBLIC NOTICE REQUIREMENT

SEC. 305. (a) Any criminal justice agency maintaining an automated criminal justice information system, an automated criminal justice investigative information system, or an automated criminal justice intelligence information system; any Federal criminal justice agency maintaining any such information system, whether or not automated, and any criminal justice agency maintaining a statewide or regional criminal justice information system, whether or not automated, or any such agency maintaining a criminal justice information system containing criminal justice information on more than 10,000 individuals shall give public notice of the existence and character of its system once each year. Any such agency maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any such agency proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall be transmitted to the Board and shall specify—

(1) the name of the system;

(2) the nature and purposes of the system;

(3) the categories and number of persons on whom data are maintained;

(4) the categories of data maintained, indicating which categories are stored in computer-accessible files;

(5) the agency's operating rules and regulations issued pursuant to title II of the Act, the agency's policies and practices regarding data information storage, duration of retention of information, and disposal thereof;

(6) the categories of information sources;

(7) a description of all types of use made of information, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them;

(8) the title, name, and address of the person immediately responsible for the operation of the system; and

(9) in the case of an agency proposing to establish a new system or to enlarge an existing system, a privacy impact statement describing the consequences to the individual, including his rights, privileges, benefits, detriments, and burdens, of the proposed new system or the proposed expansion of an existing system.

(b) Any criminal justice agency, criminal justice information system, criminal justice investigative information system, or criminal justice intelligence information system operated by the Federal Government shall satisfy the public notice requirement set out in subsection (a) of this section by publishing the information required by that subsection in the Federal Register.

ANNUAL AUDIT

SEC. 306. (a) At least once annually the Board shall conduct a random audit of the practices and procedures of the Federal agencies which collect and disseminate information pursuant to this Act to insure compliance with its requirements and restrictions. The Board shall also conduct such an audit of at least ten statewide criminal justice information systems each year and of every statewide and multistate system at least once every five years. The Board may at any time conduct such an audit of any criminal justice agency or information system covered by this Act when the Board has reason to believe the agency or information system is maintaining, disseminating, or using information in violation of this Act.

(b) Each criminal justice information system shall conduct a similar audit of its own practices and procedures once annually. Each State agency created pursuant to subsection 304(b) shall conduct an audit on each criminal justice information system, each criminal justice investigative information system, and each criminal justice intelligence information system operating in that State on a random basis, at least once every five years.

(c) The results of such audits shall be made available to the Board which shall report the results of such audits once annually to the Congress by May 1 of each year beginning on May 1 following the expiration of the first twelve-calendar-month period after the effective date of the Act.

(d) Notwithstanding any provision contained in title II of this Act, members and staff of the Board or any State agency designated or created pursuant to section 304 shall have access to such information covered by this Act as is necessary to conduct audits pursuant to this section.

A NATIONAL CRIMINAL JUSTICE INFORMATION SYSTEM

SEC. 307. (a) Subject to the limitations of subsections (b) and (c) of this section, the Board may authorize a Federal criminal justice agency or federally chartered corporation to operate an interstate criminal justice information system, either manual or automated or both. The Board shall have authority to determine the extent to which the Federal criminal justice agency or Federal corporation may maintain its own telecommunications system.

(b) Any information system operated by the agency or Federal corporation may include criminal history record information on an individual relating to a violation of the criminal laws of the United States, a violation of the laws of another nation or violations of the laws of two or more States. As to all other individuals criminal justice information included in the agency's information system shall consist only of information sufficient to establish the identity of the individuals, and the identities and locations of criminal justice agencies possessing other types of criminal justice information concerning such individuals.

(c) Notwithstanding the provisions of subsection (b), the agency or Federal corporation may maintain criminal history record information submitted by a State which otherwise would be unable to participate fully in an interstate criminal history record information system because of the lack of facilities or procedures but only until such time as such State is able to provide the facilities and procedures to maintain the records in the State, and in no case beyond the fifth twelve-calendar-month period after the date of enactment. Criminal history record information maintained in Federal facilities pursuant to this subsection shall be limited to information on offenses for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the offense occurred.

ADMINISTRATIVE PENALTIES

SEC. 308. If the Board finds that any criminal justice agency has violated any provision of this Act, after notice and hearings it may (1) issue orders or bring actions as authorized by section 301, (2) interrupt or terminate the exchange of information authorized to be exchanged by this act, or (3) interrupt or terminate the use of Federal funds for the operation of such a system or agency, or (4) require the system or agency to return Federal funds distributed in the past, or (5) require the system or agency to discipline any employee responsible for such violation or (6) take any combination of such actions.

CIVIL REMEDIES

SEC. 309. (a) Any person aggrieved by a violation of this Act or regulations promulgated thereunder shall have a civil action for damages or any other appropriate remedy against any person, system, or agency responsible for such violation. An action alleging a violation of section 209 shall be available only after he has exhausted the administrative remedies provided by that section.

(b) The Board shall have a civil action for declaratory judgments, cease and desist orders, and such other injunctive relief as may be appropriate against any criminal justice agency, criminal justice information system, criminal justice intelligence information system, or criminal justice investigative information system.

(c) If a defendant in an action brought under this section is an officer or employee or agency of the United States; the action shall be brought in an appropriate United States district court. If the defendant or defendants in an action brought under this section are private persons or officers or employees or agencies of a State or local government, the action may be brought in an appropriate United States district court or in any other court of competent jurisdiction. The district courts of the United States shall have jurisdiction over actions described in this section without regard to the amount in controversy.

(d) In any action brought pursuant to this Act, the court may in its discretion issue an order enjoining maintenance or dissemination of information in violation of this Act, or correcting records of such information or any other appropriate remedy except that in an action brought pursuant to subsection (b) the court may order only declaratory or injunctive relief.

(e) In an action brought pursuant to subsection (a), any person aggrieved by a violation of this Act shall be entitled to actual and general damages but not less than liquidated damages of a $100 recovery for each violation and reasonable attorneys' fees and other litigation costs reasonably incurred. Exemplary and punitive damages may be granted by the court in appropriate cases brought pursuant to subsection (a). Any person, system, or agency responsible for violations of this Act shall be jointly and severally liable to the person aggrieved for damages granted pursuant to this subsection: *Provided, however,* That good faith reliance by an agency or information system, or employee of such agency or system upon the assurance of another agency, information system or employee that information provided the former agency, information system, or employee is maintained or disseminated in compliance with the provisions of this Act or any regulations issued thereunder shall constitute a complete defense for the former agency, system, or employee to a civil damage action brought under this section but shall not constitute a defense with respect to equitable relief.

(f) For the purposes of this Act the United States shall be deemed to have consented to suit and any agency or system operated by the United States found responsible for a violation shall be liable for damages, reasonable attorney's fees, and litigation costs as provided in subsection (e) notwithstanding any provisions of the Federal Tort Claims Act.

(g) A determination by a court of a violation of internal operating procedures adopted pursuant to this Act should not be a basis for excluding evidence in a criminal case unless the violation is of constitutional dimension or is otherwise so serious as to

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cannot be disseminated. This recommendation is especially valid if the following recommendations on sealing is adopted.

5. *Sealing and Purging.* (*Section 208.*)

SEARCH Group endorses the sealing provision of S. 2963, provided that the 5-year period for sealing arrest records that are not prosecuted or where no conviction occurs be changed to 2 years.

6. *Access for Challenge.* (*Section 209.*)

SEARCH Group assumes that regulations will be issued under section 207(c)(1) of the Act that specify time periods for retention of dissemination records covered by the Act rather than requiring such records to be maintained indefinitely. Under this assumption, SEARCH Group endorses this section with the following changes:

(a) The agency to which the challenge is made shall give notice of the challenge to all persons or agencies to whom it disseminates the record after the challenge is made;

(b) If an individual prevails in his challenge, he may, upon request, obtain a list of the names of individuals and/or agencies to whom the incomplete or inaccurate records have been disseminated during the period for which such records must be maintained under other provisions of the Act;

(c) If the challenge prevails, the agency to which it was made shall be required to give notice of the correction to all persons or agencies to whom it disseminated the record during the period the Act requires such records to be maintained, and to request that those persons and agencies correct the record and notify others to whom they have disseminated the record to do likewise.

7. *Intelligence Information.* (*Section 210.*)

SEARCH Group recommends a modification of subsection (f) which prohibits direct remote terminal access to automated intelligence files on an inter-agency basis unless subsequently authorized by law. Although allegations and uncorroborated data should not be directly accessible by automated means to agencies outside of the collecting agency, there is a strong need to permit computer-based sharing of information already in the public domain and to enable investigators to determine the identity of other agencies which might hold additional information that might be obtained by personal contact. Such an index or "pointer" system would be very helpful in coordinating the investigation and prosecution or organized crime members whose mobility is well-known. Therefore, SEARCH Group recommends that a limited capability for the automated interstate exchange of identification and specified public record data be authorized by the Act.

8. *Criminal Justice Information Systems Board.* (*Section 310.*)

SEARCH Group endorses the concept of a governing board composed of federal and state representatives with administrative and enforcement responsibility for implementation of the Act, provided that—

(a) A majority of the members be officials of state and local criminal justice agencies representative of a full spectrum of the criminal justice system;

(b) The membership of the Board include private citizens; and

(c) The Board have authority to issue and enforce regulations governing state, local and interstate systems and records to the extent of federal participation in federal-state systems such as the national interstate system created by section 307.

In addition, some mechanism should be developed to clarify the apparent intent of the Act that the Board focus its efforts on state, local and interstate information systems. Regulations dealing with exclusively federal systems should be developed through some alternative means, such as by order of the President or by a separate Federal CJIS Board.

9. *CJIS Advisory Committee.* (*Section 302.*)

SEARCH Group advises against the statutory creation of a new national committee, since its authority would be merely hortatory and its staff functions would be largely duplicative of the activities of the Board. Instead, it is recommended that the advisory role be handled by a statutory requirement that the Board consult with SEARCH Group before issuing regulations, interpretations, procedures and the like that impact on state, local or interstate systems.

Since SEARCH Group consists of members appointed by the governors of all 50 states and the several territories and has for several years provided broad representation for the views of all segments of the criminal justice system, it already has considerable expertise in acting as exactly the sort of forum for the presentation of state and local views to the Congress and federal agencies as was envisioned by the drafters of section 302.

10. *Wanted Persons Information.* (*Section 304.*)

SEARCH Group recommends appropriate modification of the provisions of section 304 and a related provision in section 301(d)(2) to permit the dissemination of wanted persons information to criminal justice agencies located in states that have failed to satisfy the requirements of section 304. These modifications should make it clear that the CJIS Board may not prohibit such disseminations solely on the basis of failure to comply with section 304.

11. *National Criminal Justice Information System.* (*Section 307.*)

SEARCH Group agrees with the concept of maintaining only an index of state records at the federal level. However, the practicalities of operating state systems have demonstrated that it is more economical to allow the federal system to maintain records of offenders active in more than one state in addition to records of federal offenders. Consequently, SEARCH Group recommends that section 307 be amended to permit the national index to maintain records of individuals with violations in two or more states.

Mr. ERVIN. Incidentally, the SEARCH resolution refers to committee print 3 of S. 2963 and also suggests a number of changes in that bill as a condition of its support. The bill I introduce today contains all of the provisions of committee print 3 plus all of the changes requested by SEARCH.

I understand that SEARCH is not the only law enforcement organization considering endorsement of this legislation. The National Conference of Criminal Justice Administrators, composed of the LEAA State Planning Administrators from each State, are considering endorsement of this legislation.

There is also support beginning to emerge among press organizations. For example, the staff of the subcommittee has been working very closely with the American Society of Newspaper Editors and the American Newspaper Publishers Association. Although neither group has endorsed the bill it is my understanding that they would not oppose a bill containing the provisions of the bill I have introduced today.

In conclusion, it was clear from the hearings we held in March that there is a consensus within law enforcement, within the administration including the Justice Department and the FBI, as well as among the members of the subcommittee, that legislation in this field is absolutely essential. From a law enforcement point of view progress on the development of a system of nationwide exchange of records is impossible without the development of a uniform body of law on the subject. From the point of view of the individual data subject only Federal legislation can provide a comprehensive legal protection of his right to privacy and protection of his reputation. Finally, there is emerging a consensus among interested parties on this legislation. Therefore, I hope that the members of the subcommittee, its new chairman, and the rest of my colleagues in the Senate will seriously consider reintroducing this bill next Congress and acting on it or a variation thereon.

I ask unanimous consent that the bill and a section-by-section analysis be inserted at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 4252

A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Information Control and Protection of Privacy Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS; APPLICABILITY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 101. The Congress finds and declares that the several States and the United States have established criminal justice information systems, criminal justice investigative information systems, and criminal justice intelligence information systems which have the capability of transmitting and exchanging criminal justice information, criminal justice investigative information, and criminal justice intelligence information between or among each of the several States and the United States; that the exchange of this information by Federal agencies is not clearly authorized by existing law; that the exchange of this information has great potential for increasing the capability of criminal justice agencies to prevent and control crime; that the exchange of inaccurate or incomplete records of such information can do irreparable injury to the American citizens who are the subjects of the records of the information; that the increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from misuse of these systems; that citizens' opportunities to secure employment and credit and their right to due process, privacy, and other legal protections are endangered by misuse of these systems; that in order to secure the constitutional rights guaranteed by the first amendment, fourth amendment, fifth amendment, sixth amendment, ninth amendment, and fourteenth amendment, uniform Federal legisla-

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tion is necessary to govern these systems; that these systems are federally funded, and they contain information obtained from Federal sources or by means of Federal funds, or are otherwise supported by the Federal Government; that they utilize interstate facilities of communication and otherwise affect commerce between the States; that the great diversity of statutes, rules, and regulations among the State and Federal systems require uniform Federal legislation; and that in order to insure the security of criminal justice information systems, criminal justice investigative information systems, and criminal justice intelligence information systems, and to protect the privacy of individuals named in such systems, it is necessary and proper for the Congress to regulate the exchange of such information.

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) "Information system" means a system, whether automated or manual, operated or leased by Federal, regional, State, or local government or governments, including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of information.

(2) "Criminal justice information system" means an information system which contains only criminal justice information.

(3) "Criminal justice investigative information system" means an information system which contains criminal justice investigative information.

(4) "Criminal justice intelligence information system" means an information system which contains criminal justice intelligence information.

(5) "Automated system" means an information system that utilizes electronic computers, central information storage facilities, telecommunications lines, or other automatic data processing equipment used wholly or in part for data dissemination, collection, analysis, or display as distinguished from a system in which such activities are performed manually.

(6) "Dissemination" means the transmission of information, whether orally, in writing, or by electronic means.

(7) "The administration of criminal justice" means any activity by a criminal justice agency directly involving the apprehension, detention, pretrial release, posttrial release, prosecution, defense, adjudication, or rehabilitation of accused persons or criminal offenders or the collection, storage, dissemination, or usage of criminal justice information.

(8) "Criminal justice agency" means a court and any other governmental agency created by statute or any submit thereof created pursuant to statute, or State or Federal constitution which performs as its principal function, as authorized pursuant to statute, the administration of criminal justice, and any other agency or subunit thereof which performs a function which is the administration of criminal justice but only to the extent that it performs that function. A criminal justice agency also includes an organization which by contract with a criminal justice agency performs a function which is the administration of criminal justice but only to the extent that it performs that function. Any provision of this Act which relates to the activities of a criminal justice agency also relates to any information system under its management control or any such system which disseminates information to or collects information from that agency.

(9) "Criminal justice information" means identification record information, wanted persons record information, arrest record information, nonconviction record information, conviction record information criminal history record information, and correctional and release information. The term does not include—

(A) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable,

(B) criminal justice investigative information,

(C) criminal justice intelligence information, or

(D) records of traffic offenses maintained by departments of transportation, motor vehicles, or the equivalent, for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' licenses.

(10) "Identification record information" means fingerprint classifications, voice prints, photographs, and other physical descriptive data concerning an individual which does not include any indication or suggestion that the individual has at any time been suspected of or charged with a criminal offense.

(11) "Wanted persons record information" means identification record information on an individual against whom there is an outstanding arrest warrant including the charge for which the warrant was issued and information relevant to the individual's danger to the community and such other information that would facilitate the regaining of the custody of the individual.

(12) "Arrest record information" means notations of arrest, detention, indictment, filing of information, or other formal criminal charge on an individual which does not include the disposition arising out of that arrest, detention, indictment, information, or charge. The term shall not include an original book of entry or police blotter whether automated or manual maintained by a law enforcement agency at the place of original arrest or detention, not indexed or accessible by name and required to be made public nor shall it include records of public criminal proceedings or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross-reference to the original court records by docket or file number.

(13) "Nonconviction record information" means criminal history record information which is not conviction record information.

(14) "Conviction record information" means criminal history record information disclosing that a person has pleaded guilty or nolo contendere to or was convicted of any criminal offense in a court of justice, sentencing information, and whether such plea or judgment has been modified or reversed.

(15) "Criminal history record information" means information on an individual consisting of notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising from those arrests, detentions, indictments, informations, or charges. The term shall not include an original book of entry or police blotter whether automated or manual maintained by a law enforcement agency at the place of original arrest or place of detention, not indexed or accessible by name and required to be made public nor shall it include court records of public criminal proceedings or official records of pardons or paroles or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross-reference to the original court pardon or parole records by docket or file number.

(16) "Disposition" means informtaion disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, deceased, deferred disposition, dismissed-civil action, extradited, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, or executive clemency.

(17) "Correctional and release information" means information on an individual compiled by a criminal justice or noncriminal justice agency in connection with bail, pretrial or posttrial release proceedings, reports on the physical or mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports.

(18) "Criminal justice investigative information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific criminal act including information pertaining to that criminal act derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal justice information nor does it include initial reports filed by a law enforcement agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(19) "Criminal justice intelligence information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting an investigation of an individual relating to possible future criminal activity of an individual or relating to the reliability of such information including information derived from reports of informants, investigators, or from any type of surveillance. The term does not include criminal justice information nor does it include initial reports filed by a law enforcement agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(20) "Law enforcement agency" means a criminal justice agency which is empowered by State or Federal law to make arrests for violations of State or Federal law.

(21) "Seal" means to close a record possessed by a criminal justice agency so that the information contained in the record is available only in the circumstances set out in section 208(b)(5).

(22) "Judge of competent jurisdiction" means (a) a judge of a United States district court or a United States court of appeals; (b) a Justice of the Supreme Court of the United States; (c) a judge of any court of

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general criminal jurisdiction in a State; or (d) any other official in a State who is authorized by a statute of that State to enter orders authorizing access to criminal justice information.

(23) "Attorney General" means the Attorney General of the United States.

(24) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

APPLICABILITY

SEC. 103. (a) This Act applies to criminal justice information, criminal justice investigative information, or criminal justice intelligence information maintained in information systems which are—

(1) operated by the Federal Government,

(2) operated by a State or local government and funded in whole or in part by the Federal Government,

(3) operated as interstate systems,

(4) operated by a State or local government and engaged in the exchange of information with a system covered by paragraph (1), (2), or (3) but only to the extent such information is available for exchange or dissemination with a system covered by paragraph (1), (2), or (3).

(b) The provisions of this Act do not apply to—

(1) origial books of entry or police blotters, whether automated or manual, maintained by a law enforcement agency at the place of original arrest or place of detention, not indexed or accessible by name and required to be made public;

(2) court records of public criminal proceedings or official records of pardons or paroles or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross reference to the original pardon or parole records by docket or file number;

(3) public criminal proceedings and court opinions, including published compilations thereof;

(4) records of traffic offenses maintained by departments of transportation, motor vehicles, or the equivalent, for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' licenses;

(5) records relating to violations of the Uniform Code of Military Justice but only so long as those records are maintained solely within the Department of Defense; or

(6) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable.

TITLE II—COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION, CRIMINAL JUSTICE INVESTIGATIVE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

DISSEMINATION, ACCESS AND USE OF CRIMINAL JUSTICE INFORMATION—CRIMINAL JUSTICE INFORMATION

SEC. 201. (a) With limited exceptions hereafter described, direct access to criminal justice information should be limited to authorized officers or employees of criminal justice agencies, established pursuant to Federal or State statute, and the use of such information should be limited to purposes of the administration of criminal justice.

(b) Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed to insure—

(1) Conviction Record Information.—That routine exchange between criminal justice agencies are limited to conviction record information:

(2) Arrest Record Information.—That exchange of arrest record information or nonconviction record information between criminal justice agencies are carefully restricted to the following purposes—

(A) The screening of an employment application or review of employment by the criminal justice agency requesting the exchange with respect to its own employees or applicants,

(B) The commencement of prosecution, determination of pretrial or posttrial release or detention, the adjudication of criminal proceedings, or the preparation of a presentence report,

(C) The supervision by a criminal justice agency of an individual who had been committed to the custody of that agency prior to the time on which the arrest occurred or the charge was filed,

(D) The investigation by a law enforcement agency of an individual when that individual has already been arrested or detained,

(E) The development of investigative leads by a law enforcement agency concerning an individual who has not been arrested, when the law enforcement agency requesting the information assures that there are specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and the information requested may be relevant to that act,

(F) The alerting of a law enforcement officer in the requesting agency that a particular individual may present a danger to his safety, or

(G) Similar essential purposes to which the information is relevant as defined in the procedures prescribed by the criminal justice agency;

(3) Correctional and Release Information.—That correctional and release information is disseminated only to criminal justice agencies or to the individual to whom the information pertains, or his attorney, where authorized by Federal or State statute, court rule, or court order.

DISSEMINATION OF IDENTIFICATION RECORD INFORMATION AND WANTED PERSONS RECORD INFORMATION

SEC. 202. Identification record information may be used or disseminated for any authorized purpose. Wanted person information may be used or disseminated for any authorized purpose relating to the administration of criminal justice.

DISSEMINATION, ACCESS AND USE OF CRIMINAL JUSTICE INFORMATION—NONCRIMINAL JUSTICE AGENCIES

SEC. 203. (a) Except as otherwise provided by this Act, conviction record information may be made available for purposes other than the administration of criminal justice only if expressly authorized by applicable Federal statute or State statute or if the information is to be made available to a Federal agency for such purpose if expressly authorized by Federal Executive order: *Provided, however,* That conviction record information may not be used for such purpose where prohibited by a State statute in the State where the conviction occurred.

(b) (1) Arrest record information indicating that an indictment, information, or formal charge has been made against an individual, has been made within twelve months of the date of the request for information, and is still pending, may be made available for a purpose other than the administration of criminal justice if the Criminal Justice Informaton Systems Board determines that access to that information is expressly and specifically authorized by a Federal statute or State statute or if the information is to be made available to a Federal agency for such purpose if expressly authorized by Federal Executive order: *Provided, however,* That conviction record information may not be used for such purpose where prohibited by a State statute in the State where the arrest occurred.

(2) Arrest record information furnished pursuant to this subsection may be used only for the purpose for which it was sought and may not be retained or copied by the requesting agency beyond the time necessary to accomplish the statutory purpose for which it was sought in the particular instance.

(c) When conviction record information or arrest record information is requested pursuant to this subsection, the requesting agency has the obligation to put the individual on notice that such information about him will be requested and that he has the right to seek review of his record for the purpose of challenge or correction.

(d) Criminal justice information may be made available to qualified persons for research related to the administration of criminal justice under rgulations issued by the Criminal Justice Information Systems Board. Such regulations shall require that the researcher preserve the anonymity of the individuals to whom such information relates, that nondisclosure agreements by all participants in the research program be completed, and that such additional requirements and conditions are met as the Board finds necessary to assure the protection of privacy and the security of the information. In formulating regulations pursuant to this section, the Board shall develop procedures designed to prevent this section from being used by criminal justice agencies to deny arbitrarily access to criminal justice information to qualified persons for research purposes where they have otherwise expressed a willingness to comply with regulations issued pursuant to this section.

(e) Where an organization is a criminal justice agency only by virtue of the fact that it has a contractual relationship with a Government agency to perform a function which is the administration of justice, or where a subunit of an agency is a criminal justice agency only by virtue of the fact that it performs a function which is the administration of criminal justice, such organization or subunit shall be treated as a qualified person for research purposes pursuant to subsection (d) of this section. Such organization or subunit shall be required to complete nondisclosure agreements, shall comply with such requirements imposed upon it by this Act by virtue of its being a criminal justice agency, and such additional requirements and conditions as the Board finds necessary to assure protection of privacy and the security of information.

(f) No provision of this Act shall prohibit an employee of a criminal justice agency from confirming to members of the news media or any other citizen that an individual is being detained, or incarcerated and the location of his detention or incarceration, or that an individual was arrested, detained, indicted, or that an information or other formal criminal charge was filed against the individual on a particular date at a particular place based on the employee's personal recollection or by reference to an original book of entry or police blotter maintained by a law enforcement agency at the place of original arrest or detention, not indexed or accessible by name and required to be made public, or by reference to court records of public criminal proceedings or official records of pardons or paroles indexed or accessible by date or indexed by name so long as such index only contains docket or file numbers of original court records. Where a court or criminal justice agency which maintains a record of pardons or paroles, also maintains a name index to original court, pardon or parole records

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containing criminal justice information in addition to docket or file numbers then unless prohibited by Federal or State statute the court or criminal justice agency must either maintain a separate name index which contains only cross-references to the docket or file numbers to the original records, or it must provide upon request the docket number or numbers corresponding to any name in their index file.

(g) This Act applies to criminal justice information obtained from a foreign government or an internatitonal agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

DISSEMINATION, ACCESS, AND USE OF CRIMINAL JUSTICE INFORMATION—APPOINTMENTS AND EMPLOYMENT INVESTIGATIONS

SEC. 204. (a) A criminal justice agency may disseminate criminal justice information, whether or not sealed pursuant to section 208, criminal justice intelligence information, and criminal justice investigative information to a Federal, State, or local government official who is authorized by law to appoint or to nominate executive officers of law enforcement agencies, members of the Criminal Justice Information Systems Board, or any board or agency created or designated pursuant to section 304, and to any legislative body authorized to approve such appointments. The criminal justice agency shall only disseminate such information concerning an individual upon notification from such official that he is considering that individual for such an office or from the legislative body that the individual has been nominated for the office and that the individual has been notified of the request for such information and has given his written consent to the release of the information.

(b) A criminal justice agency may disseminate arrest record information and criminal history information, whether or not sealed pursuant to section 208, to a Federal, State, or local government official who is not a criminal justice agency but who is authorized by law to appoint or nominate judges or executive officers of criminal justice agencies and to any legislative body authorized to approve such nominations. The criminal justice agency shall only disseminate such information concerning an individual upon notification from such official that he is considering that individual for such an office or from the legislative body that the individual has been nominated for the office and that the individual has been notified of the request for such information and has given his written consent to the release of the information.

(c) A criminal justice agency may disseminate arrest record information, criminal history record information, whether or not sealed pursuant to section 208, to an agency of the Federal Government for the purpose of an employment application investigation, an employment retention investigation, or the approval of a security clearance for access to classified information, when the Federal agency requests such information as a part of a comprehensive investigation of the history and background of an individual, pursuant to an obligation to conduct such an investigation imposed by Federal statute or Federal Executive order, and pursuant to agency regulations setting forth the nature and scope of such an investigation. At the time he files his application, seeks a change of employment status, applies for a security clearance, or otherwise causes the initiation of the investigation, the individual shall be put on notice that such an investigation will be conducted and that access to this type of information will be sought.

(d) A criminal justice agency may disseminate criminal justice investigative information and criminal justice intelligence information to an agency of the Federal Government for the purpose of determining eligibility for security clearances allowing access to information classified as top secret when the Federal agency requests the criminal justice investigative or criminal justice intelligence information as a part of a comprehensive investigation of the history and background of an individual, pursuant to an obligation to conduct such an investigation imposed by Federal statute or Federal Executive order, and pursuant to agency regulations setting forth the nature and scope of such an investigation. At the time he applies for a security clearance, the individual shall be put on notice that such an investigation will be conducted and that access to this type of information will be sought.

(e) Arrest record information, criminal history record information, criminal justice investigative information, and criminal justice intelligence information furnished pursuant to this section to an agency, official, or legislative body, may be used only for the purpose for which it is sought and may not be redisseminated, retained, or copied by the requestor beyond the time necessary to accomplish the statutory purpose for which it was sought in the particular instance.

SECONDARY USE OF CRIMINAL JUSTICE INFORMATION

SEC. 205. Any agency having access to, or receiving criminal justice information is prohibited, directly or through any intermediary, from disseminating such information to any individual or agency not authorized to have such information or from using such information for a purpose not authorized by this Act: *Provided, however,* That rehabilitation officials of criminal justice agencies with the consent of an individual under their supervision to whom the information refers may orally represent the substance of the individual's criminal history record information to prospective employers or other individuals if such representation is, in the judgment of such officials and the individual or his attorney, if represented by counsel, helpful to obtaining employment or rehabilitation for the individual. In no event shall such correctional officials disseminate records or copies of records of criminal history record information to any unauthorized individual or agency. A court may disclose criminal justice information, criminal justice investigative information or criminal justice intelligence information on an individual in a published opinion or in a public criminal proceeding.

METHOD OF ACCESS AND ACCESS WARRANTS FOR CRIMINAL JUSTICE INFORMATION

SEC. 206. (a) Except as provided in section 203(d) or in subsection (b) of this section, an automated criminal justice information system may disseminate arrest record information, criminal history record information or conviction record information on an individual only if the inquiry is based upon identification of the individual by means of name or other identification record information. The Criminal Justice Information Systems Board shall issue regulations to prevent dissemination of such information, except in the above situations, where inquiries are based upon categories of offense or data elements other than name and identification record information and to require that, after the arrest of an individual, such information concerning him shall be available only on the basis of positive identification of him by means of fingerprints or other reliable identification record information.

(b) Notwithstanding the provisions of subsection (a) an automated criminal justice information system may disseminate arrest record information and conviction record information to law enforcement agencies where inquiries are based upon categories of offense or data elements other than identification record information if the information system has adopted procedures reasonably designed to insure that such information is used only for the purpose of developing investigative leads for a particular criminal offense and that the individuals to which such information is disseminated have a need to know and a right to know such information. Access to nonconviction record information contained in automated criminal justice information systems on the basis of data elements other than identification record information shall be permissible for the purpose of developing investigative leads for a particular criminal offense if the law enforcement agency seeking such access has first obtained a class access warrant from a United States Magistrate or a judge of competent jurisdiction. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the law enforcement agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method. A summary of each request for such a warrant, together with a statement of its disposition, shall within ninety days of disposition be furnished to the Criminal Justice Information Systems Board by the law enforcement agency.

SECURITY, ACCURACY, AND UPDATING OF CRIMINAL JUSTICE INFORMATION

SEC. 207. Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed at a minimum—

(a) To insure the physical security of the system, to prevent the unauthorized disclosure of the information contained in the system, and to insure that the criminal justice information in the system is currently and accurately revised to include subsequently received information. The procedures shall also insure that all agencies to which such records are disseminated or from which they are collected are currently and accurately informed of any correction, deletion, or revision of the records. Such procedures adopted by automated systems shall provide that any other information system or agency which has direct access to criminal justice information contained in the automated system be informed as soon as feasible of any disposition relating to arrest record information on an individual or any other change in criminal justice information in the automated system's possession.

(b) To insure that criminal justice agency personnel responsible for making or recording decisions relating to dispositions shall as soon as feasible report such dispositions to an appropriate agency or individual for entry into criminal justice information systems that contain arrest record information to which such dispositions relate.

(c) To insure that records are maintained with regard to—

(1) requests from any other agency or person for criminal justice information. Such records shall include the identity and authority of the requestor, the nature of the information provided, the nature, purpose, and disposition of the request, and pertinent dates;

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(2) the source of arrest record information and criminal history information.

(d) To insure that information may not be submitted, modified, updated, or removed from any criminal justice information system without verification of the identity of the individual to whom the information refers and an indication of the person or agency submitting, modifying, updating, or removing the information.

(e) If the Criminal Justice Information Systems Board finds that the additional cost of implementation of this section outweigh the interests of privacy which would be served by the implementation it may exempt the provisions of this section from application to information entered into a criminal justice information system prior to the effective date of this Act. The Criminal Justice Information Systems Board shall determine (by applying the same standard) the extent to which information entered into a criminal justice information sytem prior to the effective date of this Act should be exempted from other provisions of or requirements of this Act.

SEALING AND PURGING OF CRIMINAL JUSTICE INFORMATION

SEC. 208. (a) DISCRETIONARY SEALING OF PURGING—GENERALLY.—Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed to insure that criminal justice information is purged or sealed when required by State or Federal statute, State or Federal regulations, or court order.

(b) MANDATORY SEALING.—Consistent with regulations adopted by the Criminal Justice Information Systems Board each criminal justice information system shall adopt procedures reasonably designed to insure that criminal justice information is sealed when, based on considerations of age, nature of the record, or the interval following the last entry of information indicating that the individual is under the jurisdiction of a criminal justice agency, the information is unlikely to provide a reliable guide to the behavior of the individual. Procedures adopted pursuant to this subsection shall at a minimum provide—

(1) CONVICTION, NONCONVICTION, OR ARREST RECORDS.—For the prompt sealing or purging of criminal justice information relating to an individual who has been free from the jurisdiction or supervision of any criminal justice agency for—

(A) FELONY RECORDS.—A period of seven years, if the individual has previously been convicted of an offense for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the conviction occurred and such offense has not been specifically exempted from sealing by a Federal or State statute,

(B) NONFELONY RECORDS.—A period of five years, if the individual has previously been convicted of an offense for which the maximum penalty is not greater than imprisonment for one year under the laws of the jurisdiction where the conviction occurred, or

(C) NONCONVICTION OR ARREST RECORDS.—A period of two years following an arrest, detention, or formal charge, whichever comes first, if no conviction of the individual occurred during that period, no prosecution is pending at the end of the period, and the individual is not a fugitive; and

(2) NO PROSECUTION NONCONVICTION RECORDS.—For the prompt sealing of criminal history record information in any case in which a law enforcement agency has elected not to refer the case to the prosecutor or in which the prosecutor has elected not to file an information, seek an indictment or other formal criminal charge.

(3) PROMPTNESS OF SEALING.—That information eligible for sealing, contained in automated criminal justice information systems shall be sealed as soon as feasible. The Board may, in its discretion, permit a criminal justice information system which is not completely automated to determine the eligibility of information for sealing and to seal information at the time that access to that information is requested.

(4) INDEX OF SEALED RECORDS.—That an index of sealed records, consisting of identification record information on the individual whose record is sealed, is maintained in the jurisdiction where the arrest or detention occurred or where the individual was prosecuted or at a central repository of records. Information on such an index shall only be disseminated to a criminal justice agency for the purpose of identifying an individual or determining whether a sealed record exists on an individual when the latter agency is able to point to specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act. Within a criminal justice agency, access to and dissemination of information on such an index shall be on a need-to-know, right-to-know basis.

(5) ACCESS TO SEALED RECORDS.—That notwithstanding subparagraph (b)(1) or (b)(2) of this section, a record shall not be considered sealed—

(A) in connection with research pursuant to subsection 203(d).

(B) in connection with a review pursuant to section 209 by the individual or his attorney,

(C) in connection with an audit conducted pursuant to section 306 or 311,

(D) where a record has been sealed pursuant to subparagraph (b)(1)(A) or (b)(1)(B) and the individual is subsequently arrested for an offense which is subject to imposition of a higher sentence under a Federal or State statute providing for additional penalties for repeat or habitual offenders,

(E) where the criminal justice agency seeking such access has obtained an access warrant from a State judge of competent jurisdiction if the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the information sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the criminal justice agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method,

(F) where pursuant to section 204 an official, agency, or legislative body is permitted access to conviction record information for the purpose of screening an individual to be a judge, or an executive in a criminal justice agency or where an official or agency is permitted access to such information for the purpose of determining eligibility for a security clearance, or

(G) where an indictment, information, or other formal criminal charge is subsequently filed against the individual.

ACCESS BY INDIVIDUALS TO CRIMINAL JUSTICE INFORMATION FOR PURPOSES OF CHALLENGE

SEC. 209. (a) Any individual who believes that a criminal justice agency maintains arrest record information, criminal history information or wanted persons information concerning him, shall upon satisfactory verification of his identity, be entitled to review such information in person or through counsel in a method convenient to the individual; and to obtain a copy of it if needed for the purpose of challenge, correction, or the addition of explanatory material, or other specific purpose; and in accordance with rules adopted pursuant to this section, to challenge, purge, seal, delete, correct, and append explanatory material.

(b) Each criminal justice agency shall adopt and publish regulations to implement this section which shall, as a minimum, provide—

(1) the time, place, fees to the extent authorized by statute, and procedure to be followed by an individual or his counsel in gaining access to criminal justice information;

(2) that if on the basis of the review of such information, the individual believes such information to be inaccurate, incomplete, or maintained in violation of this Act, that he shall have a right to challenge such information in writing, and if there is no factual controvery concerning the allegations in the individual's challenge, that the criminal justice agency maintaining the record shall expeditiously purge, seal, modify, or supplement the information. A failure to do so shall constitute a final action for the purpose of subsection 209(b)(7);

(3) that if there is a factual controversy concerning the allegations in the challenge, the agency shall request the agency responsible for original entry of the information to determine expeditiously the validity of the allegations; and that if the latter agency finds that there is a factual controversy, the agency shall upon written request of that individual convene a hearing on the challenge before an official of the agency authorized to purge, seal, modify, or supplement the information at which time the individual may appear with counsel, present evidence, and examine and cross-examine witnesses;

(4) any record found after such a hearing to be inaccurate, incomplete, or improperly maintained shall expeditiously be appropriately modified, supplemented, purged, or sealed;

(5) each criminal justice agency shall keep, and upon such a finding and upon request by the individual, disclose to such individual the name and authority of all persons, or organizations, to which and the date upon which such incomplete, inaccurate, or improperly maintained criminal justice information was disseminated during the period that the agency is required under section 207(c)(1), and regulations implementing that section, to retain such records of dissemination;

(6)(A) the criminal justice agency to which the challenge is made shall give notice of the challenge each time it disseminates the challenged information and any agency or individual receiving such notice shall give similar notice each time it further disseminates the challenged information until such time as the challenge is finally resolved; and

(B) if any corrective action is taken as a result of a review or challenge filed pursuant to this section, the correcting agency shall give notice of such correction to each agency or individual to which it has disseminated the uncorrected information during the period that the agency is required to retain records of such disseminations, and shall instruct each such recipient to correct the information and to give similar notice to all agencies or individuals to which it has disseminated the uncorrected information during such record retention period; and

(7) the final action of a criminal justice agency on a request to review and challenge criminal justice information in its possession as provided by this section shall be reviewable pursuant to a civil action under section 309. The failure to act expeditiously as defined by regulations issued pursuant to section 303 shall be deemed a final action under this section.

(c) No individual who, in accord with this section, obtains information regarding him-

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self may be required or requested to show or transfer records of that information to any other person or any other public or private agency or organization.

CRIMINAL JUSTICE INTELLIGENCE INFORMATION

SEC. 210. (a) Criminal justice intelligence information may be collected by a criminal justice agency only for official law enforcement purposes. It shall be maintained in a physically secure environment and shall not be entered in a criminal justice information system.

(b) Within the criminal justice agency maintaining the information, direct access to criminal justice intelligence information shall be limited to those officers or employees who have both a need to know and a right to know such information.

(c) Criminal justice intelligence information regarding an individual may be entered into a criminal justice intelligence information system only if grounds exist connecting such individual with known or suspected criminal activity and if the information is pertinent to such criminal activity. Criminal justice intelligence information shall be reviewed at regular intervals but at a minimum at the time such information is disseminated to determine whether such grounds exist, and if grounds do not exist such information shall likewise be purged.

(d)(1) Criminal justice intelligence investigative information may be disseminated from the criminal justice agency which collected such information only to a criminal justice agency or to a Federal agency authorized to receive the information pursuant to section 204 which has a need to know and a right to know such information and to individuals within the latter agency who have a need to know and a right to know such information.

(2) Criminal justice intelligence information on an individual may be disseminated from the criminal justice agency which collected such information only to a criminal justice agency—

(A) which needs the information to confirm the reliability of information supplied to the latter agency; or

(B) which is able to point to specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act.

(e) When access to a criminal justice intelligence file is permitted under subsection (b) or information is disseminated pursuant to subsection (d) a record shall be kept of the identity of the person having access or the agency to which information was disseminated, the date of access or dissemination, and the purpose for which access was sought or information disseminated.

(f) Direct remote terminal access to automated criminal justice intelligence information shall not be permitted outside the agency which collected and automated such information except where authorized by Federal statute or State statute: *Provided, however,* That remote terminal access shall be permitted to public record information maintained in intelligence files and to identification record information sufficient to provide an index of individuals included in the automated system and the names and locations of criminal justice agencies possessing additional information concerning such individuals and automatically referring the requesting agency's request to the agency maintaining more complete information.

(g) An assessment of criminal justice intelligence information may be provided to a governmental official or to any other individual when necessary to avoid imminent danger to life or property.

(h) The dissemination of criminal justice intelligence information to any government agency or employee of an agency by a criminal justice agency, or the use of such information by any government agency or employee of an agency, to influence a political campaign, discredit a candidate for office, or otherwise intimidate an individual in the exercise of rights guaranteed by the first amendment to the United States Constitution, shall constitute a violation of section 310.

(i) The Criminal Justice Information Systems Board shall conduct a study of the policies of criminal justice agencies concerning the collection of criminal justice intelligence information, and criminal justice investigative information, and the practices followed in the collection and dissemination of such information and shall issue guidelines setting forth the policies and practices necessary to insure protection of the privacy of individuals and the security of such information. It shall recommend to the Congress such additional measures as it deems necessary to insure the proper collection and use of criminal justice intelligence information and ciminal justice investigative information.

(j) This Act applies to criminal justice intelligence obtained from a foreign government or an international agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice intelligence information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

CRIMINAL JUSTICE INVESTIGATIVE INFORMATION

SEC. 211. (a) Criminal justice investigative information may be disclosed pursuant to subsection 552(b)(7) of title 5 of the United States Code or any similar State statute, or pursuant to any Federal or State statute, court rule, or court order permitting access to such information in the course of court proceedings to which such information relates.

(b) Except when such information is available pursuant to subsection (a), direct access to it shall be limited to those officers or employees of the criminal justice agency which maintains the information who have a need to know and a right to know such information and it shall be disseminated only to other governmental officers or employees who have a need to know and a right to know such information in connection with their civil or criminal law enforcement responsibilities. Records shall be kept of the identity of persons having access to files containing criminal justice investigative information or to whom such files are disseminated, the date of access or dissemination, and the purpose for which access is sought or files disseminated.

(c) Direct remote terminal access to automated criminal justice investigative files shall not be permitted outside the agency which collected and automated such information except where authorized by Federal statute or State statute.

(d) Criminal justice investigative information shall not be entered in a criminal justice information system.

(e) Criminal justice investigative information may be made available to officers and employees of government agencies for the purposes set forth in section 204.

(f) The dissemination of criminal justice investigative information to any government agency or employee of an agency by a criminal justice agency, or the use of such information by any government agency or employee of an agency, to influence a political campaign, discredit a candidate for office, or otherwise intimidate an individual in the exercise of rights guaranteed by the first amendment to the United States Constitution, shall constitute a violation of section 310.

(g) This Act applies to criminal justice investigative information obtained from a foreign government or an international agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice investigative information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

TITLE III — ADMINISTRATIVE PROVISIONS; REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

CRIMINAL JUSTICE INFORMATION SYSTEMS BOARD

SEC. 301. (a) CREATION AND MEMBERSHIP.—There is hereby created a Criminal Justice Information Systems Board (hereinafter the "Board") which shall have overall responsibility for the administration and enforcement of this Act. The Board shall be composed of thirteen members. One of the members shall be the Attorney General and two of the members shall be designated by the President as representatives of other Federal agencies outside of the Department of Justice. One of the members shall be designated by the Judicial Conference of the United States. The nine remaining members shall be appointed by the President with the advice and consent of the Senate. Of the nine members appointed by the President, seven shall be officials of criminal justice agencies from seven different States at the time of their nomination, representing to the extent possible all segments of the criminal justice system. The two remaining Presidential appointees shall be private citizens well versed in the law of privacy, constitutional law, and information systems technology. The President shall designate one of the seven criminal justice agency officials as Chairman and such designation shall also be confirmed by the advice and consent of the Senate. Not more than seven members of the Board shall be of the same political party.

(b) TERMS OF OFFICE AND VACANCIES.—The two members of the Board designated by the President as representatives of other Federal agencies outside of the Department of Justice shall serve at the pleasure of the President. The member designated by the United States Judicial Conference shall serve at the pleasure of the Conference. Four of the Presidential appointees first appointed pursuant to this Act shall continue in office for terms of six years. The remaining Presidential appointees first appointed pursuant to this Act shall continue in office for the terms of one, two, three, four, and five years, respectively, from the date of the effective date of this Act, the term of each to be designated by the President: *Provided, however,* That their successors shall be appointed for terms of six years and until their successors are appointed and have qualified, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office. Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he succeeds. No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. Seven members shall constitute a quorum for the transaction of business.

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west quarter northeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 120.00 acres more or less.

TRACT NUMBERED 2

That part of the northwest quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southwest corner of said northwest quarter southeast quarter; thence east 1,320 feet; thence north 1,320 feet; thence west 1,320 feet to the center of said section; thence south 167 feet; thence east 183 feet to the intersection with the west line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along the west right-of-way line a distance of 856 feet to the intersection with a point in the west line of the northwest quarter southeast quarter, said point being 983 feet south of the center of section 31; thence south along the west line of the northwest quarter southeast quarter, a distance of 337 feet, to the point of beginning, containing 38.29 acres, more or less.

TRACT NUMBERED 3

That part of the southeast quarter northwest quarter section 31, township 10 north, range 4 east, Indian meridian Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said southeast quarter northwest quarter; thence south 1,320 feet to the center of said section 31; thence west along the south line of said southeast quarter northwest quarter, a distance of 1,255.4 feet to the intersection with the centerline of Oklahoma State Highway Numbered 18; thence northwesterly along the centerline of the highway a distance of 660.58 feet to a point on the south line of the northwest quarter southeast quarter northwest quarter; thence east 38 feet to the intersection with the east right-of-way line of Oklahoma State Highway Numbered 18; thence northwesterly along the east right-of-way line to a point in the north line of said southeast quarter northwest quarter, said point being 58 feet east of the northwest corner of said southeast quarter northwest quarter; thence east a distance of 1,262 feet to the point of beginning; containing 38.63 acres, more or less.

TRACT NUMBERED 4

That part of the northeast quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said northeast quarter southwest quarter, said point being the center of section 31; thence south 167 feet; thence west 1,302 feet to the intersection with the west line of the right-of-way of Oklahoma State Highway Numbered 18; thence northeasterly along the west right-of-way line a distance of 167 feet to the north line of said northeast quarter southwest quarter; thence east along said north line a distance 1,297.4 feet to the point of beginning; containing 4.678 acres, more or less.

TRACT NUMBERED 5

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described, as: Beginning at the southeast corner of said northeast quarter southwest quarter; thence north along the east line of said northeast quarter southwest quarter a distance of 337 feet to the intersection with the west right-of-way line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along said west right-of-way line a distance of 367 feet to the intersection with the south line of said northeast quarter southwest quarter; thence east along the south line a distance of 129 feet to the point of beginning; containing .498 acre, more or less.

TRACT NUMBERED 6

The reserved mineral deposits, including the right to prospect for and remove the same, in and under lands described as the south half of lot 2 (southwest quarter northwest quarter), and that part of the southwest quarter southeast quarter northwest quarter lying west of the centerline of Oklahoma State Highway Numbered 18 and adjacent to the south half of said lot 2, all in section 31; township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 19.87 acres, more or less, which lands were previously conveyed to Pottawatomie County, Oklahoma, by quitclaim deed dated December 17, 1959, pursuant to the Act of June 4, 1953 (67 Stat. 71; 25 U.S.C. 293a), said deed appearing of record in Pottawatomie County, Oklahoma, in deed book 174 at page 367 of the land records of said county.

TRACT NUMBERED 7

That part of lot 1 (northwest quarter of northwest quarter) and north half of lot 2 (north half of southwest quarter of northwest quarter) and the part of the north half of the southeast quarter of the northwest quarter lying west of the east right-of-way line of Oklahoma State Highway Numbered 18, all in section 31, township 10 north, range 4 east of the Indian meridian, Pottawatomie County, Oklahoma, containing 57.99 acres, more or less, subject to the right of the Absentee Shawnee Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Indians of Oklahoma, the Kickapoo Tribe of Indians of Oklahoma, and the Iowa Tribe of Indians of Oklahoma to use the Potawatomi community house that may be constructed and maintained thereon.

Amend the title so as to read: "An Act to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Potawatomi Indians."

Mr. BARTLETT. Mr. President, while the House has amended S. 3359, the change is technical in nature and does not detract from the version of the bill as passed by the Senate. The amendment is acceptable to both the majority and minority sides of the aisle.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 3359.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (Mr. BARTLETT).

The motion was agreed to.

Mr. BARTLETT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Minnesota would allow me, I would like to suggest that the distinguished Senator from North Carolina be recognized at this time.

FEDERAL PRIVACY ACT

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3418.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the amendments of the House to the bill (S. 3418) to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes as follows:

(1) Page 16, strike out lines 1 through 10, inclusive, and insert:

"(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

"(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(2) Page 24, strike out all after line 10 over to and including line 24 on page 25, and insert:

"(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compelled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section."

(3) Page 42, strike out lines 11 through 21, and insert:

"(h)(1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

Mr. ERVIN. Mr. President, the House amendments to the Senate amendments

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to the House amendments are merely technical in nature and there is no opposition to them, so far as I can find.

I would therefore move that the Senate concur in the House amendments to the Senate amendments to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina (Mr. ERVIN).

The motion was agreed to.

ALLEVIATION OF SUFFERING FROM HUNGER AND MALNUTRITION—S. 2792

Mr. HUMPHREY. Mr. President, there is at the desk a report from the Committee on Agriculture and Forestry relating to the modification of Public Law 480, a bill that was unanimously reported by the Committee on Agriculture and Forestry, which has the support of the President and the Office of Management and Budget.

I ask unanimous consent for the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

There being no objection, the Senate proceeded to consider the bill (S. 2792) to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

PUBLIC LAW 480

SECTION 1. The last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act: *Provided*, That no commodity may be made available for disposition under this Act to any country in any fiscal year unless the Secretary determines, and certifies such determination to the Congress, that all domestic feeding programs, including, but not limited to, the programs provided for under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, will be provided in such fiscal year with the same types and kinds of agricultural commodities and in the same or greater quantities at which each such type and kind of commodity was provided for such programs during the fiscal year ending June 30, 1974, and in determining the types, kinds, and quantities of commodities made available for any such program during the fiscal year ending June 30, 1974, the Secretary shall include commodities made available from every source, including, but not limited to, those made available under section 416 of the Agricultural Act of 1949, those made available with funds from section 32 of the Act of August 24, 1935, and those made available with funds of the Commodity Credit Corporation as authorized by section 709 of the Food and Agriculture Act of 1965."

FOOD STAMP ACT

SEC. 2. Section 4(a) of the Food Stamp Act of 1964, as amended, is amended by striking out the period at the end thereof and adding the following: "*Provided*, That effective March 1, 1975, no less than 20 per centum of the total value of coupons issued to an eligible household during each month or other time period shall be so coded as to be usable only for the purchase of beef, pork, poultry or dairy products unless the State agency finds that such coding is impractical with regard to a specific household.".

Amend the title so as to read: "A bill to amend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes."

The amendments was agreed to.

The bill was ordereed to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes."

Mr. HUMPHREY. Mr. President, I ask unanimous consent that an excerpt from the report of the committee (No. 99-1183) be printed in the RECORD, which will save us some time and will help explain the purposes.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

This bill would—

(1) permit the Secretary of Agriculture to waive the availability criteria for commodities which may be disposed of under the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) if he determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of the Act;

(2) require the Secretary of Agriculture to determine and certify that all domestic feeding programs will be provided with the same types and kinds of agricultural commodities at not les than the levels provided in fiscal year 1974 before being made available under P. L. 480; and

(3) amend the Food Stamp Act to require that effective March 1, 1975, not less than 20 percent of the total value of coupons issued to eligible households be usable only for beef, pork, poultry, or dairy product purchases.

COMMITTEE AMENDMENT

The Committee amended S. 2792 in two major respects. First, it would require the Secretary of Agriculture to determine and certify that all domestic feeding programs will be provided with the same types and kinds of agricultural commodities at not less than the levels provided in fiscal year 1974 before being made available under P. L. 480; and second, it amended the Food Stamp Act to require that effective March 1, 1975, not less than 20 percent of the total value of coupons issued to eligible households be usable only for beef, pork, poultry, or dairy product purchases.

BACKGROUND

The last sentence of section 401 of Public Law 480 provides that "no commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity."

The bill would add to the last sentence of section 401 the words "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act," with the proviso that no agricultural commodity may be made available for disposition under this Act to any foreign country in any fiscal year unless the Secretary determines, and certifies such determination to the Congress, that all domestic feeding programs, including, but not limited to, the programs provided for under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, will be provided in such fiscal year with the same types and kinds of agricultural commodities and in the same or greater quantities at which each such type and kind of commodity was provided for such programs during the fiscal year ending June 30, 1974.

The Committee is extremely concerned about the hardship that will be imposed on food stamp recipients as a result of the new food stamp regulations issued on December 6, 1974. These regulations, which will require that all food stamp recipients pay 30 percent of their adjusted net monthly income for food stamps, will substantially increase the amount of money that many poverty level families will have to pay for the food stamps. In some cases, especially in the case of single individuals receiving social security payments, the monthly purchase requirement will be increased so much that the food stamp bonus will not be worthwhile. The poverty level families who are currently receiving food stamps have been most cruelly affected by the current inflationary spiral. The added burden of the increased purchase requirement for food stamps is unthinkable. Therefore, the Committee hopes that the administration will forego the implementation of these regulations until Congress has an opportunity to consider legislation on this subject next year.

The Committee also noted that while vegetable protein supplies are currently at below normal levels in relation to demand, there is a surplus of animal protein in the United States. Consequently, the Committee urges the President and his advisers to explore all possible avenues with regard to the use of meat, poultry, and dairy products under Public Law 480 and other United States Government food aid programs.

In addition, the Committee adopted an amendment to S. 2792 with regard to the Food Stamp Act of 1964. This amendment provides that no less than 20 percent of the total value of food stamps issued after March 1, 1975, to eligible households be coded so as to be usable only for the purchase of beef, pork, poultry, or dairy products. The amendment authorizes the administering State agency to make exceptions to this requirement in cases where it is impractical with regard to a specific household.

The Food Stamp Act provides that coupons shall be issued in such amount as the Secretary of Agriculture determines to be the cost of a nutritionally adequate diet. It has been determined that about 15 percent of the value of a nutritionally adequate diet involves the cost of beef, pork, or poultry. The Committee strongly believes in the nutritional value of dairy products also, and, therefore, included these products in the requirement.

In a letter to the President pro tempore of the Senate dated November 18, 1974, the Administration urged the enactment of legislation almost identical to S. 2792. Under the Administration's proposal, the last sentence of section 401 of Public Law 480 would be amended by adding the words "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest or humanitarian objectives of this Act."

TRANSACTION OF ROUTINE MORNING BUSINESS

(By unanimous consent the Senate transacted the following routine morning business today.)

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call for the exercise of the supervisory authority of the court.

CRIMINAL PENALTIES

SEC. 310. Any government employee who willfully disseminates, maintains, or uses information knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $5,000 or imprisoned for not more than five years, or both.

AUDIT AND ACCESS TO RECORDS BY THE GENERAL ACCOUNTING OFFICE

SEC. 311. (a) The Comptroller General of the United States shall from time to time, at his own initiative or at the request of either House or any committee of the House of Representatives or the Senate or any joint committee of the two Houses, conduct audits and reviews of the activities of the Board under this Act. For such purpose, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine all books, accounts, records, reports, files, and all other papers, things, and property of—

(1) the Board,

(2) any Federal agencies audited by the Board pursuant to section 306(a) of this Act, and

(3) any statewide and multistate information systems, including organizations and agencies thereof, audited by the Board pursuant to section 306(a) of this Act,

which, in the opinion of the Comptroller General, may be related or pertinent to his audits and reviews of the activities of the Board. In the case of agencies and systems referred to in paragraphs (2) and (3), the Comptroller General's right of access shall apply during the period of audit by the Board and for three years thereafter.

(b) Notwithstanding any other provision of this Act, the Comptroller General's right of access to books, accounts, records, reports, and files pursuant to and for the purposes specified in subsection (a) shall include any information covered by this Act. However, no official or employee of the General Accounting Office shall disclose to any person or source outside of the General Accounting Office any such information in a manner or form which identifies directly or indirectly any individual who is the subject of such information.

PRECEDENCE OF STATE LAWS

SEC. 312. (a) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information, criminal justice intelligence information, or criminal justice investigative information or the operation of criminal justice information systems, criminal justice investigative information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in this Act shall take precedence over this Act or regulations issued pursuant to this Act.

(b) Except with respect to information maintained by an information system created pursuant to section 307, any State law or regulation which places greater restrictions upon the dissemination of criminal justice information, criminal justice intelligence information or criminal justice investigative information or the operation of criminal justice information systems, criminal justice intelligence information systems or criminal justice investigative information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in the State law or regulations of another State shall take precedence over the law or regulations of the latter State where such information is disseminated from an agency or information system in the former State to an agency, information system, or individual in the latter State. Subject to court review pursuant to section 309, the Board shall be the final authority to determine whether a State statute or regulation shall take precedence under this section and shall as a general matter have final authority to determine whether any regulations issued by a State agency, a criminal justice agency, or information system violate this Act and are therefore null and void.

(c) The Board may in its discretion suspend the application of this section for criminal justice information maintained by a Federal corporation or Federal criminal justice agency pursuant to section 307(c). The Board may not suspend the application of this section beyond the date of expiration of the fifth twelve-calendar-month period following the date of enactment of this Act.

APPROPRIATIONS AUTHORIZED

SEC. 313. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated such sums as the Congress deems necessary.

SEVERABILITY

SEC. 314. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPEALERS

SEC. 315. The second paragraph under the headings entitled "Federal Bureau of Investigation; Salaries and Expenses" contained in the "Department of Justice Appropriations Act, 1973" is hereby repealed.

EFFECTIVE DATE

SEC. 316. The provisions of this Act shall take effect upon the date of expiration of the second twelve-calendar-month period following the date of the enactment of this Act: *Provided, however,* That section 313 of this Act shall take effect upon the date of enactment of this Act and that members, officers, and employees of the Board may be appointed and take office at any time after the date of enactment. The Board may delay the effective date of any provision of this Act: *Provided, however,* That the effective date of no provision of this Act shall be delayed beyond the third twelve-calendar-month period following the date of enactment of this Act.

Amend the title so as to read: "A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information, criminal justice investigative information, and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information, criminal justice investigative information, and criminal justice intelligence information, and for other purposes."

SECTION-BY-SECTION ANALYSIS

TITLE I. FINDINGS AND DECLARATION OF POLICY; DEFINITIONS

Section 101 summarizes the constitutional, legal and practical reasons Congress is taking action to regulate the exchange of criminal justice information. It also states the constitutional authority to legislate the Commerce clause and the Federal participation in state and interstate information systems.

Section 102 lists definitions of terms used in the proposed legislation, and Section 103 sets out the types of information systems covered by the Act. The definitions are important because they along with section 103 establish the scope of coverage of the legislation. For example "criminal justice agency" is defined so that the restrictions on data collection and dissemination contained in the bill cover any state, local or Federal governmental agency maintaining such data. Also any interstate information system or any information system receiving Federal funds is covered by the Act as well as any agency which exchanges records with the above systems.

"Criminal justice information" is defined so that limited exchange of routine information reflecting the status of a criminal case and its history, or reports compiled for bail or probation between governmental agencies is not impaired. The definition of "criminal history" and "arrest record information" is drafted so that they only cover filing systems indexed by name but not public records indexed by date, such as police blotters, incident reports or court records. The public, for example members of the press, would still have access to such records.

The bill also defines "criminal justice investigative" and "criminal justice intelligence information." The former encompasses confidential reports compiled by an arresting officer or by a detective on a particular investigation into a particular crime. Intelligence information may be collected on an individual only in anticipation of his involvement in criminal activity.

TITLE II. COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION, CRIMINAL JUSTICE INVESTIGATIVE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

Sections 210 and 202 set the general restrictions on the use of criminal justice information within the criminal justice community. The general rule is that criminal justice information is to be used for the most part within the criminal justice community. Subsection 201(b) deals with the exchange of criminal justice information among criminal justice agencies. It is written in terms of minimum operating procedures. Therefore the restrictions set out in the provisions are what each criminal justice agency must adopt at a minimum. The provision is drawn in general language so that the Criminal Justice Information System Board, created pursuant to Title III and heavily weighted with persons representing criminal justice would have latitude in interpreting these provisions. Furthermore the Committee assumes that these provisions will be enforced, not so much by the civil remedies provision of section 309 but by the audit and fund or information cut off sanctions embodied in sections 306 and 308. A civil remedy would lie only when the agency fails to adopt and publish procedures pursuant to this section or where it refuses to comply with its own procedures.

Generally, conviction records may be exchanged freely within the criminal justice community: corrections and release information can only be disseminated to other criminal justice agencies and to the subject if permitted by statute or court rule; fingerprint and other identifying information may be freely diseminated so long as no stigma is attached: wanted persons information, that is, identifying information on a fugitive, may be disseminated liberally for the purpose of apprehending the fugitive.

Raw arrest records and criminal history records which terminated in the defendant's favor may be routinely disseminated to another criminal justice agency only where the individual has applied for a job at that agency, a case has been referred to that agency for adjudication or the individual for supervision. Such records could also be made available on a relatively routine basis to law enforcement agencies once the agency had already arrested the individual in question.

These records should be made available only on a very limtied basis to law enforcement agencies prior to arrest when the information will be used to develop investigative leads and the officer can point to "specific

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and articulable facts which taken together with rational inferences from those facts warrant that conclusion that the individual has committed or is about to commit a criminal act and that the information should be relevant to that act." The information should only be available on a "need-to-know", "right-to-know" basis. This means that the agency receiving the information has established procedures designed to assure that the person receiving the information has demonstrated that he is a detective or patrolman performing detective functions and that he needs the information for a particular case.

The "specific and articulable facts" standard derives from the Supreme Court opinion in the case of *Terry* v. *Ohio* 392 U.S. 1 (1968) in which the court permitted stop and frisk on such grounds. Based on the *Terry* language in evaluating the reasonableness of a request for records for investigative purposes ". . . due weight must be given, not to (the officer's) inchoate and unparticularized suspicion or 'hunch' but to the specific reasonable inference which he is entitled to draw from the facts in light of his experience." 392 U.S. 27. Although this standard is obviously less than probable cause, the court still requires in stop and frisk that the officer "be able to point to specific and articulable facts which taken together with rational inferences from those facts, reasonably warrant that intrusion (into fourth amendment protected rights)," 392 U.S. 21. In using the identical language the Committee intends that an officer should be able to justify requests for information with similar specificity.

The section also permits criminal justice agencies to allow information to be used for other "essential purposes" and to permit information of any kind to be made available to an officer where that information might alert him of a danger to his life. It is intended that were information is used for these last two functions that its utility clearly outweighs any risk to the rights of the subject of the information such circumstances will be set out in regulations issued by the Board.

Section 203 sets the general policy on the collection and dissemination of criminal justice information outside the criminal justice community. Criminal justice information can only be used for criminal justice purposes unless a state or Federal statute specifically authorizes dissemination of conviction records to non-criminal justice agencies. Arrest record information on an individual, that is the record of an arrest without a disposition, may also be available to the public, if specifically authorized by a state or Federal statute, the arrest is less than a year old and the charge arising from that arrest is still actively pending.

The information can only be released where its use is relevant to the purpose for which it is sought and the statute sets out in detail precisely how the information may be used by the non-criminal justice user. The subject of information must be informed of each instance in which it is used for a non-criminal justice purpose. The section permits qualified researchers access to the information only if the privacy of the subjects of the information is protected. A limited amount of discretion is provided the criminal justice agency in determining whether the individual seeking access does so with the good faith intent of using the information for research purposes. It is the intent of the committee that the types of individuals permitted access be rather liberally construed as long as the applicant intends to seek statistical rather than individually identifiable information. As long as the individual has a research plan which relies upon such statistical information it is not the responsibility of the criminal justice agency to pass upon the qualifications of the individual to do the research or validity of the research design. The Committee assumes that this provision will be invoked mostly by scholars and students of the criminal justice system including investigative reporters from both the print and electronic media. It is not the intent of this provision that the criminal justice agency use the privacy safeguards set out in this act to shroud its activities in secrecy and indeed this very section and section 309 provide that an individual who has expressed a willingness to comply with the privacy safeguards and sign nondisclosure agreements but is denied access might seek injunctive relief in the Federal courts.

This section and the definition of "criminal justice agency" provide that any governmental or private reorganization which performs a criminal justice function via contract with a governmental agency will be treated as a criminal justice agency in the performance of that function. Also any subunit of a non-criminal justice agency which performs a criminal justice function is treated as a criminal justice agency to the extent that it performs that function. The organization or subunit must sign special nondisclosure agreements and be subject to the specialized regulation applying to research organizations.

Section 203 also makes explicit the intent of the drafters of S. 2963 that the act not be used to deny members of the press confirmation via police officers of the fact that an individual was arrested on a particular date at a particular precinct where that practice is permitted under existing law. The legislation also permits reporters direct access to police blotters or court records where such access is permitted by existing law. The legislation is only designed to prohibit private citizens, whether members of the press or private employers, from asking police officials for a general search of their records or reference to a criminal history file for the criminal background of a person.

Therefore members of the press will be able to check a police blotter or to ask a police officer—"Was John Smith arrested and booked on June 18, 1974 at the second precinct office, Washington, D.C.?" An officer at that precinct or the reporter himself could answer that question by reference to the police blotter at that precinct station. However, the police officer could not respond to a request phrased as follows—"What's John Smith's criminal record?"

The Committee approved bill would also not affect access to an index to court records which lists parties to litigation, e.g., United States v. Jones plus a docket number or citation. Such an index could be used by members of the press and the general public as an index to the docket number and ultimately to the actual court records, but it could not contain criminal history information itself.

Finally, the secttion provides that the act applies to information obtained from foreign governments or organizations. Information contained in systems covered by this act can only be disseminated to foreign governments or organizations if assurances have been made that the information will be treated in a manner consistent with this Act when it leaves this country.

Section 204 permits the disclosure of some criminal justice information intelligence and investigative information to non-criminal justice agencies for the purpose of screening individuals for appointment to criminal justice agencies and for access to top secret information. As a general matter access to such information for appointments or security clearances is only permitted after the individual to whom the information applies has given his written consent. Where access is permitted by this section to conviction record information, any such information which has become sealed is automatically unsealed.

One exception to the consent requirement involves background investigations by the federal government. Subsection 204(c). Federal investigators who are conducting the most comprehensive "background investigations" for high level federal appointments can use raw arrest records for the development of investigative leads. Since this section permits access to raw arrests for "background investigation" without the subject's consent, the commitee intends that it be narrowly constructed so that such information would be available only for "full field background investigations" similar to those conducted pursuant to section 3(b) of Executive Order 10450 on "Security Requirements for Government Employment" and described in greater detail in Chapter 736. Subchapter 2, Section 2-5 of the Federal Personnel Manual.

Section 205 prohibits agencies or persons who lawfully gain access to information from using the information for a purpose or from disseminating the information in a manner not permitted by the legislation.

Section 206 is based on a provision contained in Project SEARCH's model state statute and the Massachusetts arrest records statute. It places limitations on access to criminal justice information via categories other than name. It would require investigators to get a court order before gaining access to a criminal justice data bank by offense—i.e., a print-out on all persons certain physical descriptions or with a certain *modus operandi* and from a certain geographical area. Although few criminal justice data banks have this capability, the Committee sees grave risks to the rights of data subjects if the computer were used routinely as a substitute for the experienced and cautious detective. Obviously, permitting unbridled access to computer print-outs of names of individuals based on racial characteristics, geographical area or crime (e.g., persons arrested for engaging in unlawful demonstrations) would present grave policy and constituitonal questions.

Section 206 provides for unlimited class access to a data bank containing cases which resulted in convictions or where charges are still pending but where the charges result in a disposition in the defendant's favor, a special judicial access warrant must be obtained. According to the commentary on the SEARCH model statute: "(the provision) is modeled on the provisions which now govern wiretapping and electronic eavesdropping. It is intended to interpose the judgment of an impartial magistrate to control the usage of an investiagtive method that may, if misused, create important hazards for individual privacy."

Section 207 requires every agency or information system covered by the act to promulgate regulations on security, accuracy and updating and sets out in general terms what those regulations must provide. The regulations must provide a method for informing users of changes in disseminated information, including an audit trail of individuals using information.

A new subsection (e) has been added to this section authorizing the Board to suspend application of the provisions of this section or any other section of the Act with regard to information collected on or before the effective date of this Act. The Board is authorized to suspend provisions only after it finds that "the cost of implementation of this section outweighs the interests of privacy which would be served by the implementation". The Committee intends that the Board explore all other alternatives before actually suspending a provision for old records. Therefore, the Committee intends that the provisions of this section might be more loosely constructed with regard to old records rather than actually suspending application. For example, subsection (c) requires an audit trail of records including the name of every

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requestor of a record and the "nature and purpose" of the request. It might be argued to the Board that it would be too burdensome to require the Identification Division of the FBI to go back and actually add the "nature and purpose" to audit trails of old records where the identity of the requestor might be sufficient to tell the agency by implication the "nature and purpose" of the request. Obviously some state licensing agencies could only request a rap sheet for one purpose and if the agency's name appears on the audit trail the FBI could assume the request for that purpose. Rather than actually suspend the application of this subsection to old rap sheets it would be preferable for the Board to permit such flexibility in its application to old files.

Section 208 requires every agency or information system covered by the act to promulgate regulations on sealing or purging of information. Such regulations or procedures must provide for sealing or purging of information where required by a federal or a state statute other than this Act or by federal or state court order. Furthermore, the section requires that each agency promptly seal certain old conviction records unless a class of offenses are exempted by state or federal law. The Committee intends that sealing a record might be accomplished by moving a record from a routinely available status to a status requiring a special procedure to gain access. In manual systems this might mean moving a record from open filing drawers to microfilm while in automated systems a record might be considered sealed by moving the information from on-line to off-line. An index of sealed records may be maintained but access to the index would be limited to law enforcement employees. Records can be unsealed by court order or automatically in certain circumstances, such as where the individual requests review pursuant to section 209 or where special access is permitted pursuant to section 204 in screening security clearances.

Section 209 requires every agency or information system covered by the act to establish a process for access and challenge of incorrect or inaccurate information. The section sets out what those regulations must provide. This section should be read along with Section 309 which provides court review procedures where the agency fails to comply with Section 209 or any other provision of the Act.

Sections 210 and 211 place limitations on the dissemination of criminal justice intelligence information (Section 210) and criminal justice investigative information (Section 211). As a general rule such information would be exchanged between criminal justice agencies only where a "need to know" and "right to know" had been demonstrated by the requesting agency and by officers and employees within the agency. (See subsection 210(b) and 211(b)) "Need to know" and "right to know" means that the agency making the request must establish that it is conducting an investigation as part of its responsibilities in the administration of criminal justice and that it has good reason for needing the information for the investigation. Within the agency only those employees conducting the investigation or their superiors would have access to the incoming intelligence or investigative information.

Section 210 also provides that intelligence information should be collected on individuals only if there are grounds existing connecting that person with known or suspected criminal activity. It also provides for routine review of files to determine whether such "grounds" continue to exist (Subsection 210(c)). The same section also provides that intelligence information on an individual may be disseminated to a second agency only if that agency is able to "point to specific and articulable facts which, taken together with rational inferences from those facts, warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act." (Subsection 210(d)). This language, similar to that contained in section 201, is based on the *Terry* case and it is intended that it be interpreted in the same manner.

The section prohibits the entry of criminal justice investigative or intelligence information in an information system whch maintains criminal history information. Although investigative and intelligence information may be automated, remote access to such automated systems is generally prohibited.

However the bill would permit the maintenance of an index to intelligence files which could be accessed by remote terminal from outside the agency. The index might maintain the name, identification record information, criminal history record information and other public record information on individuals upon whom more complete intelligence files exist. The requesting agency's request could be referred automatically via the index to another criminal justice agency possessing more complete information on the individual in question. The committee intends that this index be operated in such a manner that it not undermine subsections (b), (c) and (d) of section 210 which provide the maintaining agency with a right to review all requests for access to its intelligence files. Therefore, such an index must be designed so that a requesting agency is not automatically informed of the existence of a file or the name of the maintaining agency but that the maintaining agency might be immediately and automatically informed of the request so that it can in its discretion respond to the requesting agency if it determines that the requirements of subsections (b), (c) and (d) have been met.

Section 211 also contains a provision permitting an individual to see his own investigative file where such disclosure is permitted under the Freedom of Information Act and other statutes or court rules. This provision would continue the practice of discovery in criminal cases in both the federal and state courts. For example section 3500 of title 18 of the United States Code, the so-called "Jencks Act" permits disclosure to a defendant of prior statements by witnesses to the police. Section 209 would not affect that type of disclosure.

Although intelligence and investigative information is generally restricted to criminal justice agencies, a limited exception is permitted for intelligence assessments. The committee understands that an intelligence assessment is an assessment provided to a government official about the impact which certain intelligence information will have upon the operations of the official's agency or as an aid to making official decisions within his authority. Intelligence files are not made available in the course of such an assessment but only a summary of the contents of such file. The exceptions to the general prohibitions embodied in the "assessment" role are to be narrowly construed. Information should be made available to private persons only where there is imminent danger to their life or property. Also intelligence and investigative information would be available to noncriminal justice agencies pursuant to Section 204.

TITLE III. ADMINISTRATIVE PROVISIONS: REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

Title III creates a cooperative Federal-State administrative structure for enforcement of the Act. *Section 301* establishes a Criminal Justice Information Systems Board, an independent agency with general responsibility for administration and enforcement of the Act. The Board would be composed of representatives of the Department of Justice and two other Federal agencies with law enforcement responsibilities, plus nine other members nominated by the President, with the advice and consent of the Senate. Of the later nine members, seven must be representatives of state or local criminal justice agencies, and two private citizens well versed in constitutional law and computer technology. The President would also designate a chairman from the latter nine members. The latter nine would serve staggered six-year terms. The first three, the Attorney General plus the members designated by the President, would serve at the pleasure of the President.

A thirteenth member is allocated to the judiciary sincethese criminal justice information systems are also of great importance to the judicial function. However, because of the traditional reluctance of members of the Judiciary to participate in such arrangements, perhaps because of separation of powers concerns, the appointment of the thirteenth member is made discretionary with the Judicial Conference. The representative of the United States Judicial Conference would serve at the pleasure of the Conference.

The Board would have the authority to issue general regulations applying the Act's policies. It could bring actions pursuant to Section 309 and issue cease and desist orders and impose administrative penalties as provided in Section 308. It would supervise the operation of the interstate information system authorized by Section 307. It would conduct audits pursuant to Section 306, and would have other necessary enumerated powers, as well as authority to conduct general studies of information systems and make recommendations to the Congress for additional legislation.

Section 302 authorizes the Board to conduct hearings and compel the attendance of witness. The Board would have the power to enforce its subpena in Federal Court.

Section 303 requires the Federal Information Systems Board to issue regulations which implement this Act. At least 60 days prior to their promulgation, the Board must refer proposed regulations to the Department of Justice and to other Federal criminal justice agencies for comment.

The Committee intends that the notification provisions of this section be followed religiously and that dissemination of proposed rules be widespread. The provision requires advance notification to the governor of each state, any individuel or agency in each state designated by the governor and by any organization or individual requesting the Board to be so notified. The Committee feels that there is a special obligation upon the Board to notify and consult with organizations which are representative of state and local criminal justice agencies and information systems such as the Project SEARCH group, the National Law Enforcement Telecommunications system, and the National Conference of State Criminal Justice Administrators.

The Board's authority to issue regulations is limited to State-created records. In the case of federal offender records and ferderally created intelligence and investigative records, regulations would be issued by the President upon recommendation of the federal members of the Board (the Attorney General, the two Presidential designees and the representative of the Judicial Conference).

Section 304 requires each state to establish a central administrative agency, or designate an existing agency, with broad authority to oversee and regulate the operation of criminal justice data banks in that state. This section is based upon the concept embodied in the Project SEARCH model

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statute and the Massachusetts statute. Beginning two years after enactment no information system or agency could exchange information with a system or agency in a state which has not created such an agency. The system or agency must by that time have adopted all the regulations required by the title II or elsewhere in the Act.

Section 305 is based upon a suggestion contained in the Report of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare. It requires every automated information system covered by the Act to give public notice, once annually, of the type of information it collects and disseminates, its sources, purpose, function, administrative director or other pertinent information. It also requires every new system or expanded system to give public notice before it becomes operational so that interested parties will have an opportunity to comment. Section 305 also contains a provision, based on a suggestion made by then Vice President Ford, that a privacy impact statement be filed with each new expansion. The privacy impact statement would require the agency proposing creation or expansion of its data bank to anticipate the impact of that expansion on privacy and security considerations.

Section 306 requires audits of systems and agencies which collect and disseminate information. The audits are to be conducted by the Criminal Justice Information Systems Board, by a state agency created or designated pursuant to Section 304 and by each criminal justice agency. The GAO would have overall responsibility for auditing, as well, under Section 311.

Section 307 is a general grant of authority permitting the Federal Government to operate an interstate criminal justice information system under the policy control of the Federal-state board. However, the Federal role is carefully circumscribed. Information contained in such a Federal system is limited to a simple index containing the subject's name and the name of the state or local agency which possesses a more complete file. The Criminal Justice Information Systems Board could maintain more complete files on violations of a criminal law of the United States, of two or more States or violations of the laws of another nation. Only persons charged with felonies could be listed in the data banks. If a given State lacks the facilities to operate an automated information system, the Criminal Justice Information Systems Board could provide the facilities for a period of five years.

The Board would have the authority to designate an existing federal criminal justice agency such as the FBI to perform these functions or it could recommend to the Congress the chartering of a special corporation or organization similar to the Tennessee Valley Authority to operate the national criminal justice information system. This latter course has been suggested to the Committee by a number of state criminal justice officials as the best means to accommodate the state interests. Such a corporation could be composed of members from each of the 50 states. Of course, whichever course is followed, either the existing federal agency or the corporation would have to be under the policy control of the Board.

The Board would also have authority to determine the extent to which the national criminal justice information system could operate its own telecommunications system or rely upon existing systems such as the National Law Enforcement Telecommunications System (NLETS). The Committee has been quite concerned about recent suggestions that the Justice Department has authorized the Federal Bureau of Investigation to establish its own telecommunications system within the National Crime Information System. The Committee would prefer that existing state-based organizations such as NLETS be relied upon in the operation of a national criminal justice information system because an overconcentration of powers and responsibility in the federal government for telecommunications would be unhealthy and might be an inappropriate encroachment upon state and local law enforcement. In respect to the concept of a federally chartered corporation and Board control of the telecommunications system the Committee shares the view of Richard Velde of LEAA:

"... with respect to NLETS and any future developments that might occur, as far as an expanded telecommunications network for State and local criminal justice, as I indicated in my prepared testimony, we believe that the Project SEARCH model, of a policy board with an executive committee, much the same as is suggested in the chairman's bill, would be a very appropriate vehicle for policy determination and regulation of this kind of system."

There is a danger, when any single agency, be it Federal, State, or local, has policy control over a network of this kind. We think the responsibility should be shared.

The Committee views all of Title III, in particular the creation of the Board and its authority over a national criminal justice information system and the telecommunications question, as a mechanism for sharing decisionmaking on these issues among local, state and federal agencies.

This provision would supply the missing but necessary statutory foundation for the Identification Division's Rap Sheet Files and the National Crime Information Center or their successors. Section 307 would not apply to these two information systems or any information system until the Act becomes fully effective 2 years after enactment.

Section 308 lists certain administrative actions that may be taken by the Criminal Justice Information Systems Board in the event that a criminal justice information system is found to have violated any provision of the Act.

Section 309 provides the judicial machinery for the exercise of the rights granted in Section 208 and elsewhere in the Act. The aggrieved individual may obtain both injunctive relief and damages, $100 recovery for each violation, actual and general damages, attorney's fees, and other litigation costs whether violations were willful or negligent. An "aggrieved individual" covers an individual upon whom information is maintained, or used in violation of this Act or who is denied access to information to which he is entitled pursuant to subsection 203(d) or 203(g) or any other section of this Act. An "aggrieved individual" might also be a person requested information in violation of subsection 209(c). It does not require that the individual have suffered some further harm from the violation, such as loss of job or benefit, in order to have a cause of action. The Committee intends that the Board may in its discretion intervene in any case in which it is not already a party and use in such litigation the results of any audit it might have conducted pursuant to Section 306.

New provisions have been added to the civil remedies section which would limit unnecessary interference by litigants with legitimate law enforcement activities. First, the section now provides an employee of a criminal justice agency or information system or the agency or information system with a complete defense to a damage action when he relies in good faith upon the representation of another agency or employee that information it disseminates is being handled in compliance with the Act. This provision would avoid the imposition of liability in circumstances where it would be impossible for an agency to recognize that information it receives or maintains is not in conformity with the Act. For example, it would exculpate a telecommunications systems such as the National Law Enforcement Telecommunications System from liability for information it transmits in violation of the Act. Liability in that circumstance should fall on the agency which enters the information in the telecommunications system.

Second, the section would provide that a mere violation of this section could not be the basis for motion to suppress evidence in a criminal proceeding. Of course, the provision does not limit the courts general supervisory authority to suppress evidence in circumstances of gross violation or in circumstances where the violation is of constitutional dimensions.

Section 310 provides criminal penalties for willful violations of the Act.

Section 311 provides authority for the Comptroller General to conduct certain audits and studies of the operations of the Board on behalf of the Congress. In a letter to the Subcommittee requesting inclusion of this provision the Comptroller General stated that although he thought the General Accounting Office's general statutory authority might be sufficient, that explicit authority should be included in this legislation "because of the sensitive nature of the data involved." The Comptroller General also stated:

"While we fully support the intention of both bills that the administering executive agencies should be primarily responsible for properly managing the provisions of the bills, we also believe it is important that a specific provision be included in the bill providing the means for an independent congressional assessment of executive agencies' actions. In this way the Congress can have better assurance that the detailed audit by the executive agencies are adequate."

The Committee concurs and has included a provision almost identical to that proposed by the Comptroller General.

Section 312 provides that any state statute, state regulation or Federal regulation which imposes stricter privacy requirements on the operation of criminal justice data banks or upon the exchange of information covered by this Act takes precedence over this Act or any regulations issued pursuant to Section 303. The Board would make the administrative decision as to which statute or regulation governs, and whether a regulation comports with this Act.

A new subsection has been added to this section authorizing the Board to suspend the application of this provision with regard to state records maintained at a federal agency pursuant to section 307. However, the Board could not authorize such suspension beyond the 5-year period during which the federal agency may maintain state files pursuant to section 307(c). Furthermore, this provision like any provision can be suspended with regard to records collected on or before the effective date, pursuant to subsection 207(e).

Section 313 authorizes the appropriation of such funds as the Congress deems necessary for the purposes of the Act.

Section 314 is a standard severability provision.

Section 315 repeals a temporary authority for the Federal Bureau of Investigation to disseminate Rap sheets to non-criminal justice agencies.

Section 316 makes this Act effective two years after its enactment, except that the Board can suspend the application of any provisions of the Act for up to one additional year.

By Mr. JAVITS:

S. 4253. A bill to amend the Council on Wage and Price Stability Act to provide

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the Council the authority to issue subpenas and to delay inflationary wage or price increases. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, today I am introducing a bill which will grant two additional and extremely important powers to the Council on Wage and Price Stability: subpena power and the power to order a cooling-off period of up to 60 days on seriously inflationary wage and price increases. The latest price increases announced by United States Steel, up to 11.6 percent on about two-thirds of its product line, are avid demonstration of the need for these powers. At a time when President Ford has asked the Wage and Price Board to look into the United States Steel price increases, which permeate every sector of the economy, we find that the Board really has no powers. New price increases in construction and automobiles may well result, to mention two industries hardest hit by the current recession, and those two industries will attempt to justify their price increases by blaming it on steel.

The President is correct in demanding a justification for the steel price increases. However, the President has his hands tied by the lack of power I call for today.

The President can only jawbone, but it has no teeth. Mr. Rees, the Director of the Council, gives it all away when he says:

> If the U.S. Steel executives don't respond pretty soon, I'll get on the phone.

We cannot stand a new round of big price increases in basic steel, which will feed a new burst of inflation and create new wage demands. We need to review it now in this Congress, and we can do it with the amendments I have offered. To wait until the 94th Congress may let the situation run out of control.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4196

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. HART), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 4196, a bill to provide public financing for primary and general elections for Senate and House of Representatives.

S. 4203

At the request of Mr. BROOKE, the Senator from Maine (Mr. HATHAWAY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 4203, a bill to repeal exemptions in the antitrust laws relating to fair trade laws.

S. 4209

At the request of Mr. MUSKIE, the Senator from Indiana (Mr. BAYH) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 4209, a bill to strengthen the intergovernmental response to the current energy emergency.

S. 4216

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 4216, a bill to provide a priority system for certain agricultural uses of natural gas.

S. 4225

At the request of Mr. BROCK, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 4225, a bill to amend the Consumer Credit Protection Act to prohibit discrimination of credit.

SENATE RESOLUTION 466—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 466

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Reginald C. Vines, Administrator of the estate of John H. Vines, an employee of the Senate at the time of his death, a sum equal to ten months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 467—ORIGINAL RESOLUTION REPORTED RELATING TO AGRICULTURAL CREDIT

(Placed on the Calendar.)

Mr. ALLEN, from the Committee on Agriculture and Forestry, reported the following resolution:

S. RES. 467

Whereas a strong and viable agriculture is essential to the well-being of the Nation's economy; and

Whereas agriculture is the economic base of most rural communities; and

Whereas farmers and ranchers have sharply expanded their use of credit in response to domestic and world demand for food and fiber; and

Whereas skyrocketing production costs and plummeting farm prices have forced agricultural producers into a position of limited liquidity; and

Whereas inclement weather has further limited cash flows of farmers and ranchers this year; and

Whereas this situation of limited liquidity at a time of record indebtedness and high rates of interest threatens the welfare of producers and consumers as well as the long run economic well-being of this Nation; and

Whereas the problem is immediate and proposed major legislative efforts will be too late unless all agricultural lenders immediately respond to the needs of agriculture: Now therefore, be it

Resolved, That it is the sense of the Senate that all agricultural lenders, including commercial banks, insurance companies, Production Credit Associations, Federal Land Banks Associations, and merchants and dealers, during this period of economic distress, use every means possible to assure agricultural solvency and, therefore, long-term agricultural production; and, therefore be it further

Resolved, That it is hereby declared to be the sense of the Senate, that—

(1) The Farmers Home Administration facilitate and fully implement all lending authority in law including the Emergency Livestock Credit Act of 1974 and other disaster loan programs; and

(2) The Farm Credit Administration use its good offices to the fullest extent possible to support and continue agricultural producers with necessary financial support including necessary refinancing; and

(3) The Federal Reserve Board fully support those commercial banks which represent the largest source of agricultural production credit, in their efforts to maintain their agricultural borrowers.

AMENDMENTS SUBMITTED FOR PRINTING

DUTY-FREE ENTRY OF A TELESCOPE AT MAUNA KEA, HAWAII—H.R. 11796

AMENDMENT NO. 2093

(Ordered to be printed and to lie on the table.)

Mr. BEALL (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 11796) to provide for the duty-free entry of a 3.60-meter telescope and associated articles for the use of the Canada-France-Hawaii telescope project at Mauna Kea, Hawaii.

AMENDMENT NO. 2094

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 11796), supra.

FURTHER CONTINUING APPROPRIATIONS, 1975—HOUSE JOINT RESOLUTION 1178

AMENDMENT NO. 2095

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. CHILES, Mr. NUNN, Mr. BARTLETT, Mr. COOK, Mr. DOMENICI, Mr. PROXMIRE, Mr. EAGLETON, Mr. ROTH, Mr. BROCK, Mr. BELLMON, and Mr. DOMINICK) submitted an amendment intended to be proposed by them jointly to the joint resolution (H.J. Res. 1178) making further continuing appropriations for the fiscal year 1975, and for other purposes.

ADDITIONAL STATEMENTS

S. 3267, STANDBY ENERGY AUTHORITIES ACT

Mr. JACKSON. Mr. President, last Thursday I reported to the Senate on the status of negotiations with the administration on S. 3267, the Standby Energy Emergency Authorities Act.

The purpose of this bill is to provide the President with a statutory basis for the implementation of urgently needed measures for rationing and mandatory conservation, for limiting petroleum imports, and for establishing a system of strategic energy reserves. Passage of this measure by this Congress would provide the Nation with the appropriate standby authority to deal fairly, equitably, and in an orderly manner with the growing economic consequences of world oil prices and the possibility of another embargo by the OPEC cartel.

Title I of the bill provides standby legislative authority to deal with shortage conditions. These include:

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End-use rationing of gasoline and other petroleum products;

Mandatory energy conservation authorities;

A statutory basis for allocation of materials in scarce supply which are essential to energy production;

Authority to increase oil production during periods of shortage;

Export limitations on all forms of energy and equipment vital to energy production such as pipe and drilling rigs;

Grant-in-aid for State and local government; and

Delegation of conservation authority to State government.

Title II establishes a policy of reducing high priced oil imports from insecure foreign oil sources. The title:

Sets forth a congressional policy of reducing oil imports;

Directs a study of various alternatives for reducing oil imports; and

Requires a report to the Congress within 60 days together with legislative recommendations.

Title III establishes a policy to commit the Nation to the development of a system of strategic energy reserves. This title:

Creates an Office of Strategic Energy Reserves in FEA;

Mandates prototype salt-dome oil storage demonstration projects;

Requires studies and reports on the establishment of industry storage reserves, electrical utility storage reserves, national strategic energy reserves; and

Requires a report and recommendations on the naval petroleum reserves and their potential for use as an active, "ready to use" oil reserve, for national defense purposes.

Mr. President, there is no dispute as to the need for these authorities.

Every knowledgeable observer who has reviewed the Nation's current energy situation has concluded that the provisions of the pending bill constitute the authority needed for a minimum policy to deal with our short-term energy problems.

Spokesmen for the administration have in recent months repeatedly endorsed in principle and stated the urgent need for the authorities contained in this bill.

The Committee for Economic Development, the Ford Foundation's energy policy project, and other recent studies of national energy policy have all concluded that adoption of authorities like those contained in S. 3267 are essential and of urgent importance.

Mr. President, the administration's own blueprint for Project Independence concludes that these authorities are needed options which should be rapidly developed into legislative programs and set in place at an early date.

The "Comprehensive Energy Plan" submitted to the Congress by the Federal Energy Administration in response to section 22 of the Federal Energy Administration Act of 1974 calls for a 1-million-barrel per day reduction in imports in 1975. The plan states that such a reduction—

> . . . would put pressure on the international oil-producing cartel to lower crude oil prices or to further decrease production. The latter could well result in loss of revenues to the oil producers. Achievement of the goal would have international significance through a demonstration to the cartel that the U.S. can control consumption levels.

The international energy program which the United States has now signed together with 15 other nations requires that the United States adopt the authorities contained in the amendment as a means of carrying out the duties and obligations incurred under this agreement.

Other signatory nations have already taken action under the agreement. Germany has reduced its energy consumption by 10 percent. France has mandated a reduction in petroleum imports. The British have initiated a mandatory program for energy conservation.

The United States, however, has yet to take any meaningful action. Instead, administration representatives "view with alarm," pursue "voluntary" programs, and engage in meaningless rhetoric.

Meanwhile, during the last 3 weeks for which data is available, U.S. petroleum consumption has continued to grow and now exceeds 18 million barrels per day. During those same weeks our dependency on imported oil grows larger and now exceeds 7 million barrels per day.

As a result, our credibility and determination to deal with economic and energy problems is seriously questioned.

It is my strong belief that the national interest is best served by expeditiously moving this critically needed legislation on a bipartisan basis. To that end, I wrote to President Ford first on September 27, and again on December 5, offering to work with the administration to resolve any policy or technical problems which the administration may have with the bill.

Last week and over the weekend the staff of the Interior and Commerce Committees met with representatives of the White House, the Office of Management and Budget, the Federal Energy Administration, and the Department of State to ascertain whether the administration would support the bill and join in opposing controversial amendments. These representatives of the executive branch proposed a number of suggestions for perfecting amendments. As I stated last Thursday, in the interest of giving the President this vitally needed authority, I am prepared to accept almost all of the suggestions made by the administration.

Mr. President, one of the ground rules that governed our negotiations on this emergency bill was to confine it to relatively noncontroversial items that are vital in the next few months. With that understanding I was prepared to exclude and to oppose all controversial and nongermane amendments. I deleted a rollback of oil prices to reasonable levels. In the interest of enacting needed authority with a minimum of debate I was prepared to oppose the addition of other amendments such as oil industry tax reform and other measures which I believe to be in the public interest.

In these circumstances I was extremely disappointed to learn that the administration's position is apparently that they will support a natural gas deregulation amendment to this bill even though they recognize that this will mean the death of the bill in this Congress. I have stated that I will oppose any such effort. It has been my earnest hope that Members who favor other such measures, will not undertake an effort which will be devisive and which will kill this bill.

I regret, Mr. President, that despite the extensive negotiations we have had and despite the ability of the administration and the Interior and Commerce Committees to agree on the text of the standby bill, we are unable to agree that all controversial and nongermane amendments will be opposed.

As the author of S. 2589, the National Energy Emergency Act, which President Nixon vetoed on March 6, and as chairman of the Committee on Interior and Insular Affairs, I have made every reasonable effort since October 24, 1973, to work with the administration to develop a national policy for mandatory energy conservation and contingency planning policy which both the Congress and the administration could support. I have repeatedly made major concessions on policy issues of the utmost importance—oil price rollback, unemployment compensation, assistance to low-income families, and many other matters. These concessions were made with the sincere hope that a reasonable compromise could be struck which would provide the executive branch, the legislative authority, and the tools to deal with the increasingly dangerous financial and national security crises presented by our growing reliance on high-priced oil imports.

On September 27, in a letter to the President, I stated that:

> The separation of the Branches of government, partisan rivalries and the jealousies among executive agencies and among Committees of Congress, would in ordinary times make a proposal such as I have set out here unrealistic. These are, however, extraordinary times. Our security, our economic system and our way of life are at stake.

On December 5, I again wrote to the President. After describing the provisions of the amendment in the nature of a substitute to S. 3267, I stated that:

> It is my earnest hope that your Administration will be able to support this measure. I fully recognize that the Administration and the Congress have different views on many specific energy policy issues. There is, however, broad consensus on goals and essential major programs which are necessary to the maintenance of our national security and to the vitality of our economic system.

Mr. President, the administration's latest response indicates that the Congress will have to continue to act unilaterally and without the support or cooperation of the administration in developing a legislative response to the ravaging impact of world oil prices and the threat of political embargoes.

The administration's inaction and irresponsibility in this area over the past year have contributed to the deterioration of the national economy and the international financial system. Continued indecision threatens to push the Nation from the serious recession we are now experiencing into a catastrophic depression unparalleled since the 1930's.

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Last Friday, at their meeting in Vienna, the OPEC oil ministers announced that the price set by OPEC last October will be again increased by 4 percent on January 1, 1975. Secretary of the Interior Rogers Morton has stated that as a result of the OPEC price increase, oil consuming nations "will pay an additional $4 billion a year for imported oil and further depress their economic activity."

Mr. President, our only possible deterrent to a continuing series of exorbitant price increases lies in our demonstration of the will and the ability to reduce our vulnerability to the pricing decisions of the cartel by reducing our dependency on oil imports.

The prices set by this latest increase will remain in effect until October. We, thus, have 9 months in which to prevent further oil price escalation. Therefore, the administration's decision to again prevent the enactment of a statutory basis for meaningful action is particularly grave, because it effectively precludes the achievement of such results in the necessary time frame.

There lies before us a long and difficult road to economic recovery. And that road is strewn with dangers of blackmail in the form of oil embargoes. One would expect the administration to lead us forward on that road. That failing, one would hope that the administration would follow. However, the undisputed record to date is one of inability to lead and unwillingness to follow. Instead, the administration remains squarely planted, immobile and obstinate, blocking all needed efforts to protect the well-being of the Nation.

Mr. President, the American people have had enough delay, enough studies, and enough of official appeals for voluntarism. What they want now is action. This measure, if supported by the administration could be adopted by the Congress before adjournment. It would equip the President with the necessary authority to take the actions which are needed to meet the problems we face in an increasingly uncertain future.

Unfortunately, Mr. President, as a result of the refusal of the administration to cooperate in our effort to keep the bill clean of all controversial amendments, the American people will not get action until the next session of the Congress. The administration seems more interested in profits for the oil and gas industry than in enacting the authority necessary to conserve energy.

I do not intend to ask the Senate to engage in a futile and divisive effort on this bill when there is no hope of purposeful achievement. The Senate and the Congress have other items of important public business which require decision.

I do, however, intend to make clear that the administration must accept full responsibility for the Nation's vulnerability and lack of preparedness to deal with world oil prices and embargoes. The administration must assume the responsibility for the failure to have standby rationing and mandatory energy conservation authority.

Finally, Mr. President, the public should also understand that failure to do that which is possible in this Congress means a delay not of weeks, but rather of many months. It means that no action will now be taken until: First, Congress organizes and adopts rules, and makes committee assignments in the new Congress; second, the President submits his recommendations for an energy program; third, hearings are held on the new bills; fourth, action is taken on those bills by both Houses of Congress; and fifth, conference committees meet and agree on the measures.

Mr. President, I do not believe this course of action is in the national interest. I see, however, no way in which purposeful and constructive action can be taken in view of the administration's decision to support an amendment to the bill to deregulate the price of natural gas.

ADMINISTRATION DEREGULATION BID BLOCKS PASSAGE OF ENERGY BILL

Mr. STEVENSON. Mr. President, last weekend two members of the President's Cabinet, his new energy Administrator, the Chairman of his Council of Economic Advisers, and others went to Camp David to formulate a national energy policy.

After the first day, one of the participants was asked what kind of program would emerge, and was quoted as saying:

> I won't bet exactly how it's going to come out, but what I will bet is that it's to little, too late.

That frustration is shared by the Congress and the public.

The administration still has no energy program. The pronouncements of its energy czars, one after another, even the czars themselves, are repeatedly rendered inoperative. This administration has only one consistency in its approach on energy policy. It moves in lockstep with the major oil companies.

The major oil companies do not want standby emergency legislation that could conserve energy, reduce consumption and profits and force them to choose between the United States and the Arabs in the event of another flare-up in the Middle East.

When the Congress passed emergency legislation during the Arab embargo early this year, it was vetoed because the administration and the major oil companies objected to ceilings on domestic oil prices.

Another effort to enact emergency legislation was undertaken last spring, but it, too, came up against the opposition of the administration and the oil industry.

Emphasizing the need to prepare for another embargo, Senator JACKSON urged the President in September and again in early December to support the development of bipartisan standby legislation. In an effort to remove obstacles to its enactment, Senator JACKSON, I and other Members proposed to deal separately with such controversial questions as price ceilings and tax reform.

With time running out, it became clear that the Congress would have to move without the support of the administration. I joined Senator JACKSON and several of our colleagues earlier this month to draft new legislation providing standby authorities for use in the event of another emergency.

Last week, on the very day we introduced that bill, we finally heard from the administration. After months, more literally years, of foot-dragging, the administration asked us to delay Senate consideration of our bill and negotiate mutually acceptable legislation.

Those negotiations have been going on for the past week. We have sought to concentrate on objectives upon which we could all agree—mandatory conservation authority, steps to limit oil imports and establishment of strategic reserves. To assure passage of these standby provisions, we agreed to forego consideration at this time of such additional steps as a rollback of domestic oil prices.

Now, Mr. President, after reaching substantial agreement on minimal emergency energy legislation, the administration informed us that it was unwilling to forego deregulation of the wellhead price of natural gas.

The administration's efforts to tie natural gas deregulation to this emergency bill now will deprive the American people of the protection which would be assured by passage of this legislation. There is no time left in this session of Congress to debate an issue as controversial as deregulation and little disposition on the part of the Congress to increase the oil industry's windfall profits at the further expense of the economy. The administration's position insures that the interests of the Nation's major oil companies will once again be served at the expense of the public interest.

Natural gas supplies about one-third of the Nation's energy requirements. Deregulation would further inflate the already obscene profits of the major oil companies at the expense of virtually every home, every firm, and every industry in the Nation. It would cost the American consumer an estimated $11 billion during the first year alone, with no assurance of increased natural gas supplies. The impact would be felt not only by household consumers but in the cost of innumerable products whose manufacture requires natural gas, including fertilizer and chemicals. The costs of alternative sources of energy, such as coal, would tend to rise to the higher price levels of deregulated natural gas.

Clearly, legislation is needed to help assure adequate supplies of natural gas. At the present time, large quantities of natural gas are being withheld from the market by the oil industry in anticipation of the Government's capitulation to its demands for still higher prices. In just 168 leases in the Gulf of Mexico studied by the Federal Power Commission, producible, commercial wells with estimated recoverable gas reserves of almost 5 trillion cubic feet were found to be shut in. These wells are located on public property, but the Department of Interior steadfastly refuses to compel their production or forfeiture.

The major oil companies' primary interest is making money—not making oil and gas. If, like the OPEC nations they can produce more money by producing

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less oil and gas, that is what they will do. It is the Government's job to protect its citizens from that kind of economic blackmail. But instead, this administration persists in acting as big oil's agent.

The administration's own Project Independence blueprint forecasts no appreciable increase in natural gas supplies through 1985 for prices in excess of 60 cents per MCF. Yet the administration chooses to ignore its own findings and advocate a policy that will raise the price of natural gas as high as $2 per MCF. The difference between 60 cents and $2 will not assure added supplies of natural gas; it will simply mean more windfall profits for the oil industry and more inflation for consumers.

There are 3 legislative days remaining in this session of Congress. After stalling all year, the administration is now holding a needed energy emergency bill—upon which we can agree—hostage to an oil industry sponsored ripoff.

I am well aware of the need for reforming the regulation of natural gas and compelling the production of withheld supplies. After chairing hearings during which I heard more than 150 witnesses on the question of natural gas regulation, Senator PEARSON and I sought the collaboration of the administration last June in an effort to develop legislation that would protect the interests of natural gas producers and consumers. In July and August, we met and talked with John Sawhill and his staff seven times as we worked toward the introduction of a bipartisan compromise that would increase production incentives without allowing gas prices to rise to the oil price levels established by the Organization of Petroleum Exporting Countries (OPEC). We made substantial progress in those negotiations. By early August we were confident we had reached an agreement.

But the oil companies did not agree. Increased prices were not enough for them; they wanted total deregulation. And in this administration, it appears that what the major oil companies want, they get. So both the agreement we thought we had in August, and John Sawhill, are now gone.

If the administration had been willing to strike a reasonable balance between the interest of the oil industry and the public interest, the natural gas question would have been resolved months ago. As it is, the compromise bill we drafted in August has been further improved by the Commerce Committee and is now ready for markup. As Chairman MAGNUSON has stated, we expect to bring this legislation to the floor of the Senate early in the next session.

The bill now before the committee would reform the regulatory process, establish higher ceiling prices for newly discovered natural gas, freeze the price of old gas and allocate it to residential and commercial uses, forbid the waste of premium fuel under boilers, compel the production of commercially producible wells in the public domain, and exempt from regulation the independent producers who run most of the risks in exploration of new supplies of gas. That legislation is reasonable. It does not forfeit responsibility for the regulation of domestic energy prices to foreign governments. It provides new incentives for the industry without sacrificing the public's interest. The Senate will have an opportunity to consider this legislation early in the next session.

The administration's insistence on deregulation of natural gas in the final days of this session underscores the bankruptcy of an energy policy written in the board rooms of the major oil companies.

By the administration's own admission, if we deregulated the price of natural gas this afternoon, it would have no effect on natural gas supplies this winter. But if we fail to pass the standby authorities bill and there is another embargo in the next several months, we will have gambled with the Nation's future.

By insisting that natural gas deregulation be tied to emergency legislation, the administration must accept the responsibility for the lack of any emergency authority over the next several months.

By signing the International Energy Agreement in Brussels last month, the administration made a solemn commitment to develop mandatory conservation plans, limit imports of high priced foreign crude and develop standby emergency energy reserves. Germany, France, Britain, and now Japan have all either undertaken or announced mandatory conservation programs aimed at lessening their dependence on high priced foreign oil.

The United States is the only major industrialized nation which has not yet established any program or enacted any of the standby authorities necessary to fulfill its commitments under the Brussels agreement.

The fact is that we have been long on rhetoric, and short on action. On September 23 in Detroit, the President finally acknowledged the relationship between high energy costs and looming worldwide depression. In diplomatic terms, he came close to threatening war against the foreign oil producers for establishing extortionate energy prices.

Yet, when the threat of economic disaster demanded decisive action at home, the President joined with the major oil companies to advocate the same high foreign prices for domestic energy he had condemned—and at the expense of killing the only legislation that could have given the administration in this session the authority it needs to initiate energy conservation and stockpiling programs.

While the administration continues its attempts to formulate some kind of energy policy, domestic energy consumption is soaring. The Nation is no better prepared to face an Arab oil embargo today than it was when the first one began a year ago.

The lack of leadership from the White House on energy policy is one of the most serious threats the Nation faces today.

Over the course of the last year, Senator JACKSON has made a relentless effort to see to it that the Congress passed a responsible energy emergency bill. Those of us who have worked with him know first-hand that it has not been easy. The truth is that it has not been possible to overcome the combined power of the oil industry and the administration.

We have been vetoed, stalled, and pressured by an administrative and an industry which speaks with one voice; proposing more inflation, more recession, more windfall profits, and more shattered public confidence in the wisdom and fairness of Government. We have been frustrated by an administration that would leave us vulnerable to another embargo for the sake of helping the oil industry satisfy its insatiable appetite for profit.

We will not be threatened into supporting deregulation of natural gas. So, we will not be able to pass an emergency bill in this session.

If this administration does not end its alliance with the oil industry, the 94th Congress will enact a mandatory energy program without it. And in this session we must also move rapidly to reform the regulation of natural gas, striking a fair balance between the needs of producers and the economy.

EMERGENCY ENERGY LEGISLATION

Mr. MAGNUSON. Mr. President, it is with deep regret that I must report that the administration is not willing to cooperate in enacting emergency energy legislation in this session.

The Senate committees with responsibility in this area, are organized as a team under the leadership of Senator JACKSON. We have prepared a clean amendment to provide standby emergency authority to assure that essential energy needs of the Nation are met. Our representatives have engaged in good-faith negotiations with the administration and we have accepted most of their suggestions. The remaining differences on the emergency bill are minor, but negotiations over the weekend and into this week were to no avail.

Mr. President, it is painfully evident that the administration is not really interested in obtaining the standby emergency authority. The minor differences that remain could be quickly resolved if there were any spirit of cooperation.

A basic ground rule for enacting emergency legislation at this late hour is that the bill must be limited to noncontroversial measures which are truly urgent to meet an emergency—such as another embargo—that could take place before the Senate could act next year. Our bill provides such items as standby rationing and energy conservation plans for such an emergency.

In an effort to pass such an emergency bill in this session, Senator JACKSON removed his oil price rollback provision and other controversial items from the bill. Despite these concessions, the administration in the past few days has injected its proposal to decontrol natural gas prices as a part of the energy emergency legislation. Changes in natural gas pricing are important, but are competely separate from the measures needed in an emergency. Secretary Morton conceded before the Senate Commerce Committee on December 4 that nothing the Congress could do on natural gas pricing would have any appreciable supply im-

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pact this year, or for that matter, until nearly 1980.

Mr. President, the Senate Commerce Committee is committed to bringing natural gas reform legislation to the Senate floor at the earliest possible date in the new Congress. The committee this session held the most intensive review ever conducted of the Natural Gas Act. We recognize that the current regulatory system is deficient because of lengthy delays and great uncertainty. Producers need an adequate price, but that price must also be fair to consumers. Deregulation does not meet that essential test of fairness, nor does it deal with the many other issues that must be addressed, such as curtailment priorities. I might add that we have made progress in these matters despite the obstinate refusal of the administration and the industry to cooperate in working out a reasonable compromise. But even the administration must realize that nothing could be accomplished by considering this highly controversial matter on the floor of the Senate in the dying days of this session.

The administration insistence on hooking natural gas decontrol onto the emergency bill forces me to conclude that the President does not want the authority contained in the emergency bill to cope with an energy emergency. It would appear that his support for the oil industry's efforts to remove the consumers' protection against higher natural gas prices is stronger than his desire to pass this emergency legislation. We were promised communication, compromise, cooperation, and conciliation. But in energy policy, that particular approach has not yet become administration policy. For the good of the country, I hope in the new year the administration will begin to practice what it preaches in a cooperative relationship with the Congress.

EMERGENCY ENERGY PROVISIONS

Mr. TALMADGE. Mr. President, I not only wish to join the distinguished chairman of the Senate Interior Committee, Mr. JACKSON, and the distinguished chairman of the Senate Commerce Committee, Mr. MAGNUSON, in expressing consternation over the failure of the Ford administration to come to terms regarding the provisions of the Energy Emergency Authorities Act, but also with respect to an amendment to this this bill which I offered last Saturday, which I understand, also has been rejected by the President and his advisors.

Senators JACKSON and MAGNUSON, on the other hand, have indicated their willingness to accept my amendment, for which I wish to express my appreciation and thanks.

My amendment would have provided a 6-month natural gas priority to fertilizer and farm chemical manufacturers to maintain capacity production of these essential farm inputs for use by farmers to achieve maximum production of 1975 crops.

U.S. fertilizer producers are now trying to build inventories of fertilizers to meet peak demand during the spring planting period next spring. And to the extent that such manufacturers are denied needed natural gas supplies, the availability and price of fertilizers next year will be affected accordingly, namely, fertilizer supplies will be sharply reduced and prices will be sharply increased.

Current estimates of natural gas curtailments affecting nitrogen fertilizer production may result in the loss of 1.5 million tons of nitrogen fertilizer. If this is permitted to happen—which apparently the Ford Administration and the Federal Power Commission are now willing to let happen—our Nation could lose between 500 and 600 million bushels of food and feed grain production in 1975.

Mr. President, last year, with the help of the Federal Power Commission, fertilizer producers were granted emergency natural gas relief to maintain maximum production capacity. Due to the granting of such relief last year, plus the availability of some fertilizer inventory buildup going into the 1974 crop year, farmers were able to just "get by" in 1974 in meeting their fertilizer requirements. However, going into the 1975 crop year, fertilizer inventories were much lower than they were a year earlier, thus putting even greater pressure and importance on U.S. fertilizer manufacturers producing at maximum levels throughout this 1975 crop and fertilizer year.

In view of the Ford administration's and the Federal Power Commission's refusal to cooperate in avoiding this fertilizer-food crisis, I hereby wish to provide every fertilizer dealer and farmer in this Nation with the addresses and telephone numbers of the White House and the Federal Power Commission, so all complaints registered next year regarding either the supply or price of fertilizer can be directed to their offices. The same applies to complaints received from consumers next year regarding continued shortages of food caused by lost farm production due to fertilizer shortages.

The telephone numbers and addresses of their offices are as follows:

The President of the United States, the White House, Washington, D.C., area code 202 456-1414.

The Honorable John N. Nassikas, Chairman, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, area code 202 386-4513.

Those of us on the Senate Committee on Agriculture and Forestry have done everything within our power this past year to get fertilizer supplies up and prices paid for them down. We have held numerous hearings, passed two Senate resolutions, and have proposed a mandated natural gas priority relief system to maximize the production of these essential farm products.

Prices paid by farmers for fertilizer supplies since October 1973, have risen sharply—over 100 percent for nitrogen, in particular. USDA is now predicting that further price increases of between 10 and 15 percent can be expected during 1975—and that assumes near maximum production of these materials. However, natural gas curtailments of these plants will now push prices for these essential farm input supplies even higher due to further shortages caused by such curtailments. World demand for nitrogen fertilizer during this 1975 crop year is expected to increase by as much as 50 percent, adding further to price and supply problems regarding this material. The United States is now a net importer of nitrogen fertilizer due to our Nation's failure to expand production capacity to meet domestic requirements.

Any loss in existing production capacity now, will mean farmers will have less than needed fertilizer supplies next spring when they plant their 1975 crops. For every pound of lost fertilizer production now, we can expect a loss of from 7 to 10 pounds of food in 1975. That is the essence of what we as a Nation are now faced with concerning this situation. In my book, that is a bad tradeoff, especially when one considers the dangerously short supply situation we and the rest of the world are now faced with concerning food reserves.

Pork supplies available to the American public during 1975 are now forecast to be the lowest in 47 years. Poultry supplies are expected to be down over 10 percent in 1975 from what they were in 1974. Dairy farmers are now going out of business by the thousands due to increased operating costs, much of which is related to shortages of feed and the higher costs which accompany such shortages.

Carryover supplies of wheat next summer are again expected to remain at all time lows. Grain fed beef supplies are expected to be down by as much as 30 percent next year.

American consumers during 1974 are expected to pay almost $20 billion more for food than they paid in 1973. And unless we get substantial increases in 1975 harvests of wheat, soybeans, corn and other farm commodities, U.S. consumers may be faced with even further increases in their food expenditures during 1975 over that which they are paying this year, maybe by as much as another $20 billion or more.

The Ford administration, in cooperation with Congress, has within its power the means to help minimize such inflationary pressures. It can start, by insuring American farmers that U.S. fertilizer and farm chemical manufacturers will be able to produce at maximum production levels during at least the next 6 months.

Assuming near normal weather conditions next year, and assuming maximum production of fertilizer and farm chemical supplies, we could have expected bountiful crop harvests next summer and fall.

Unfortunately, this now appears unlikely due to the Ford administration and Federal Power Commission's refusal to cooperate regarding this vitally important national matter.

Therefore, they—and not this Congress—will have to answer for the food crisis that will now likely develop next year as a result of their decisions:

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FAILURE TO CONSIDER S. 3267

Mr. MUSKIE. Mr. President, I am very disappointed that the Senate will not consider S. 3267, the Standby Energy Authorities Act, during this session. I am particularly distressed because the administration's intransigence has prevented a compromise on this bill.

I had planned to offer an amendment to S. 3267 which provides needed emergency financial assistance to families unable to afford the high price of fuel this winter. The amendment would have been identical in thrust to S. 4209, a bill I introduced earlier this month which has been cosponsored by 17 Senators.

Mr. President, the high cost of home heating fuel is a very real problem for low- and moderate-income families. Winter has already struck in many parts of the country. And people in many States are already struggling to keep warm.

Officials in my State have already reported that nearly 300 families have called them in the past 3 weeks in need of money to pay for fuel.

Mr. President, the inability to pay for heating fuel is a very human problem.

It is a retired woman in Portland, Maine, who recently wrote to tell me how difficult it was for her to afford to heat two rooms in her home and buy enough to eat on her monthly income of $132 from social security.

It is a pregnant mother in Maine with two children who seeks help from the State energy office because her $2,600 a year income does not allow enough to pay for fuel.

It is an unemployed worker in my State who needs heating oil now but cannot afford it—and does not qualify for any public assistance at all.

It is a disabled husband with a wife and four children who has no money at all to pay for heat.

These examples are not fantasies. They are actual cases handled by the energy office in Maine.

The problem of high fuel costs, however, is not restricted to one State or one region. Recently, my Subcommittee on Intergovernmental Relations surveyed the directors of State energy offices throughout the Nation.

While the results of that survey are not yet complete, one thing is clear—that most State energy officials believe the high price of fuel to be the most serious problem their States will face this winter.

Under the provisions of the amendment I had hoped to offer, the Federal Government would have assisted States that developed programs to provide heating assistance to families whose annual incomes are $8,000 or less. Funds would have been apportioned among the States according to the number of families in each State earning $8,000 or less and the State's relative temperature.

Mr. President, I am distressed that the administration's intransigence on the standby authorities bill has ended all hope that my proposal will be enacted in this session. I intend to reintroduce it when Congress returns next month.

OCCUPATION OF VACANT SUITES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask unanimous consent that there be printed in the RECORD a letter dated December 18, 1974, written to all Senators by Mr. CANNON, calling attention to the need for quick decisions by Senators with respect to the occupation of vacant suites.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 18, 1974.

Attention: Administrative Assistant.

DEAR ———: Since I wrote you on December 2 about the urgent need for quick decisions by Senators when their names are reached on the seniority list regarding whether they wish to move into the vacant suites, the Rules Committee staff has (as of yesterday) obtained decisions from 37 Senators, three of whom chose to move.

This represents excellent cooperation by the Senators concerned, but it is imperative that the process continue during the impending recess, even though Senators will be away from their offices.

I hope every Senator will direct his Administrative Assistant or other senior staff member present in the office to call the Senator by telephone to settle the question regarding a possible move when his name is reached on the seniority list.

The Rules Committee staff will notify each Senator's office at least a day or so before his name will probably be reached so that the Senator's staff can look over the then-existing vacancies to eliminate the ones least desirable to the Senator, thus making it easier for a quick decision to be made when the Senator's name comes up.

As I said in my earlier letter, eleven new Senators must be given temporary suites (effective January 3 in all cases except for those who are sworn in earlier because of resignation by incumbents). All eleven will work under difficult circumstances until the permanent assignment of suites can be completed.

We are making a strenuous effort to complete this process much earlier than has been the case in past years and if we are to succeed, the fullest cooperation by all Senators will be necessary. I earnestly hope that most Senators will find it possible to make the decision in an hour or so rather than taking the maximum twenty-four hours allotted for such decisions.

I suggest that before you leave for the recess you designate the staff member authorized to act for you, or to telephone you for your own decision, and ask him or her to telephone the Rules Committee staff at 224-6352 *NOW* to leave his or her name and office and home telephone numbers.

With all best wishes,

Sincerely,

HOWARD W. CANNON,
Chairman.

(Senate Proceedings of Today Will Be Continued in the Next Issue of the Record)

ORDER FOR ADJOURNMENT TO 8:30 TOMORROW

Mr ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VACATING ORDERS FOR RECOGNITION OF SENATORS PREVIOUSLY ENTERED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that orders for the recognition of Senators previously entered be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HUGH SCOTT AND SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees are recognized under the standing order, Mr. HUGH SCOTT, of Pennsylvania, be recognized for not to exceed 15 minutes, and that I be recognized then for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF URGENT SUPPLEMENTAL APPROPRIATIONS BILL, 1975; HOUSE JOINT RESOLUTION 1180

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of those two orders tomorrow, the Senate proceed to the consideration of the urgent supplemental appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OF THE UNITED STATES DURING ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States during adjournment over until tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE CONFERENCE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Fi-

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nance Committee be authorized to have until midnight tonight to file conference reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR TOMORROW DURING SWEARING-IN CEREMONIES OF THE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no clerks or aides to Senators have the privilege of the floor during the swearing-in ceremony of Mr. Rockefeller tomorrow, and that only the secretary to the majority, the secretary to the minority, the assistant to the secretary to the majority, the assistant to the secretary to the minority, the two members of the Democratic policy staff, the Parliamentarian, the Assistant Secretary of the Senate, the Sergeant at Arms, the Deputy Sergeant at Arms, and the Administrative Assistant to the Sergeant at Arms have the privilege of the floor during that ceremony.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, in attempting to designate those persons who will have the privilege of the floor tomorrow, I have inadvertently overlooked two or three. I ask unanimous consent that the three aides to the Sergeant at Arms be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the aide to Mr. SCOTT and the aide to Mr. GRIFFIN be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SWEARING-IN CEREMONY OF THE VICE PRESIDENT TOMORROW TO BE IN EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the swearing-in ceremony tomorrow be in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO SUBMIT CLOTURE MOTIONS ON CONFERENCE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with reference to the conference report on H.R. 10710, the Trade Act, that at any time that conference report is at the desk, it be in order to offer a cloture motion thereon; provided further that if such cloture motion is offered, the Senate then proceed to vote on the motion to invoke cloture 1 hour after the cloture motion is introduced, with the usual required quorum call intervening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the same request with respect to the conference report on the social services bill, H.R. 17045, and

I make the same request with respect to the conference report on H.R. 421, the tariff schedules amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, do I correctly state the situation with respect to any one of these three conference reports I have just enumerated, that situation being as follows: That at any time a conference report on any one of the three measures is at the desk, it would be in order to offer a cloture motion on that conference report; and that, one hour after the cloture motion has been stated by the clerk, the clerk will call the roll to establish the presence of a quorum; that, following the establishment of a quorum, a mandatory rollcall vote will occur on the motion to invoke cloture?

The PRESIDING OFFICER. According to the unanimous-consent agreement, that would be the procedure.

Mr. ROBERT C. BYRD. That would be the procedure with respect to the conference reports on each of the three measures: H.R. 10710, H.R. 17045, and H.R. 421?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I want to be sure that it is understood that any cloture motion to any of the bills that I have just enumerated—the three in particular—would cover not only the conference report but also any amendments in disagreement. I make that request.

The PRESIDING OFFICER. Without objection, that will be considered the order.

AUTHORIZATION FOR SENATORS TO INSERT STATEMENTS IN THE RECORD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I apologize to Senators who had asked for orders to speak tomorrow morning. I ask unanimous consent that they be permitted at any time during the day tomorrow to insert their statements in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 8:30 tomorrow morning.

Mr. SCOTT will be recognized for 15 minutes, the junior Senator from West Virginia will be recognized for 15 minutes, and at about 9 a.m. the Senate will proceed to the consideration of the urgent supplemental appropriations bill under a time agreement of 40 minutes to be equally divided.

ORDER FOR TIME LIMITATION ON URGENT SUPPLEMENTAL APPROPRIATIONS BILL

Mr. President, I ask unanimous consent that there be a time limitation on any amendment to the urgent supplemental appropriations bill of 20 minutes, to be equally divided—and the same with respect to any debatable motion or appeal, reduced to one-half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, after the time for the supplemental has run, the Senate will proceed to the consideration of the continuing resolution under a time agreement, and after the time on that measure has expired, the Senate will take up the Eximbank amendment conference report under a time limitation.

There will be no rollcall votes prior to the hour of 12:30 p.m. tomorrow, but any rollcalls that are ordered prior to that time will be stacked up back to back beginning at 12:30 p.m., with the first rollcall vote being a 15-minute rollcall and all other rollcall votes being limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There are other conference reports that will be called up tomorrow. I am not in a position at this time to state what conference reports will be called up, but I understand that there is a good likelihood that the conference reports that are under the jurisdiction of the Finance Committee will be ready to be called up tomorrow.

ORDER TO RECESS THE SENATE FOR AT LEAST 1 HOUR TOMORROW

Mr. President, I ask unanimous consent, upon receipt of information from the other body tomorrow that the nomination of Mr. Rockefeller has been confirmed, that it be in order for me to secure recognition at that time for the purpose of recessing the Senate for at least 1 hour for security reasons, after which the swearing in ceremony will proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 8:30 tomorrow morning.

The motion was agreed to; and at 8:20 p.m. the Senate adjourned until tomorrow, Thursday, December 19, 1974, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1974:

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DEPARTMENT OF JUSTICE

D. Dwayne Keyes, of California, to be U.S. attorney for the eastern district of California for the term of 4 years.

Peter C. Dorsey, of Connecticut, to be U.S. attorney for the district of Connecticut for the term of 4 years.

Frank X. Klein, Jr., of California, to be U.S. marshal for the northern district of California for the term of 4 years.

Kenneth M. Link, Sr., of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

James R. Durham, Sr., of North Carolina, to be U.S. marshal for the eastern district of North Carolina for the term of 4 years.

Jose A. Lopez, of Puerto Rico, to be U.S. marshal for the district of Puerto Rico for the term of 4 years.

Marshall F. Rousseau, of Texas, to be U.S. marshal for the southern district of Texas for the term of 4 years.

Irvin W. Humphreys, of West Virginia, to be U.S. marshal for the southern district of West Virginia for the term of 4 years.

William E. Amos, of Maryland, to be a member of the Board of Parole for the term expiring September 30, 1980.

George J. Reed, of Oregon, to be a member of the Board of Parole for the term expiring September 30, 1980.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Marjorie W. Lynch of Washington, to be Deputy Administrator of the American Revolution Bicentennial Administration.

COMMISSION ON CIVIL RIGHTS

Murray Saltzman, of Indiana, to be a member of the Commission on Civil Rights.

FEDERAL COUNCIL ON THE AGING

Selden G. Hill, of Florida, to be a member of the Federal Council on the Aging for a term of 2 years.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for terms expiring July 19, 1979:

Joseph Becker, of California.
Carlos A. Cuadra, of California.
John E. Velde, Jr., of Illinois.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

The following-named persons to be members of the National Council on Educational Research for terms expiring June 11, 1977:

Larry A. Karlson, of Washington.
Arthur M. Lee, of Arizona.
James Gardner March, of California.
Carl H. Pforzheimer, Jr., of New York.
Wilson C. Riles, of California.

NATIONAL SCIENCE FOUNDATION

Robert E. Hughes, of New York, to be an Assistant Director of the National Science Foundation.

RAILROAD RETIREMENT BOARD

Neil P. Speirs, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1974.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Donald D. Alsop, of Minnesota, to be U.S. district judge for the district of Minnesota.

Joel M. Flaum, of Illinois, to be U.S. district judge for the northern district of Illinois.

John F. Gerry, of New Jersey, to be U.S. district judge for the district of New Jersey.

Edward N. Cahn, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Juan R. Torruella del Valle, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

James M. Fitzgerald, of Alaska, to be U.S. district judge for the district of Alaska.

James P. Churchill, of Michigan, to be U.S. district judge for the eastern district of Michigan.

H. Dale Cook, of Oklahoma, to be U.S. district judge for the northern, eastern, and western districts of Oklahoma.

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