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File

EARLIER COMMENCING DATES FOR RETIREMENT  
ANNUITIES

\* Under H.R. 8289, passed by the House September 14, civil service retirement annuities will commence the first day after separation from the service if immediate benefits are payable or, in the case of deferred benefits payable at a certain age, the first day after the prescribed age is reached. Benefits of surviving widows and children will begin the day after the death of the employee or annuitant on whose service they are based. Under present law, annuities and survivor benefits commence the first of the month following separation from the service or death, as the case may be. The bill is particularly helpful for widows and children, since their survivor benefits will become payable immediately after death of the employee or annuitant whereas under existing law the benefits are not payable for periods of as much as 30 days after death.

to brotherhood, tolerance and men-of-good-will. They see little connection between such words and the practical exigencies that confront them.

The present system, which might best be described as biracial, developed during the 80 years following Reconstruction. It is the result of natural forces, the end product of a massive accommodation of two separate and distinct racial groups to each other. It is the consequence of generations of trial and error, conflict, mediation, patience, endurance, and the demands of grim necessity.

In the South, white and colored people mingle freely and familiarly in their daily pursuit of bread. In social areas, including homes, schools, parks, swimming pools, restaurants, and hotels, the line is strictly drawn, and both races respect it. Under our biracial system, the Negro has steadily improved his lot economically and educationally as the entire South has risen from the ashes of devastation. Whites and blacks live in a physical proximity and on terms of personal cordiality that seldom fail to surprise the uninitiated northerner who may come loaded to the gills with brotherhood, but whose personal knowledge of Negroes has been confined to a few intellectuals in the literary salons of northern universities, or to faceless mass-men jamming the concrete canyons of the northern metropolis.

This biracial system obviates the fear that pervades race relations in northern cities. Southern blacks and whites live in an easy-going atmosphere which includes mutual respect and a frank recognition of differences. The well-defined code of personal decorum between the races that is so thoroughly understood in Dixie has been the object of much ridicule from social experts in the North. They are unable to see the extent to which it arises from a consideration of the feelings of the Negro himself, and a desire to spare him the cold, cutting personal humiliations he is subject to in the North.

The point is that we live by a system that works. It is based on reality. It is based on law. It is based on the human experience of generations, not on the social theories of a Scandinavian sociologist named Gunnar Myrdal. The tendency of our national publications to dismiss the folkways of a whole region as superficial prejudice is curious social science.

If the people of the North want to integrate, it's all right with us. It's their privilege. We don't believe in meddling with other folks' business. And we don't take too kindly to their meddling with ours. But we were taught to be polite, and despite extreme provocation we're trying hard.

If the people in New York want to transport children across Manhattan and the Bronx for the privilege of being in integrated schools, it's their business. If they want to keep police stationed in integrated schools to keep order, as a grand jury demanded, it's their business. If Washington, D.C., wants to adopt an integrated school system that runs white families out of the District, it's their business. If the big cities of the North want political machines based on irresponsible, purchasable bloc votes, it's their business. If they wanted to integrate with the buffaloes on the western plains, it would still be their business. We might have our opinions, but we'd keep them to ourselves.

But if we in the South want to have a biracial social system, that's our business.

Let's put the shoe on the other foot. Suppose the South began piously demanding that the schools in the North be segregated "with all deliberate speed." Suppose we sent swarms of reporters combing over the North to magnify every incident involving individuals of different races, and had somber-faced announcers on television screens constantly denouncing northerners as biased, bigoted,

prejudiced, racist, ignorant, un-Christian, reactionary, un-American hate-mongers. Would not Yankee patience and long suffering wear a bit thin?

We read about the chaos and violence in the "blackboard jungles" of Brooklyn, St. Louis, and Kansas City. Forty-one schools in New York requested police protection last year. Southerners don't understand this as progress. Such conditions are unknown south of the Mason-Dixon line. There are no organized gangs terrorizing students and teachers. As far as I know there is not a single incident on record where police have been needed to keep order in a southern segregated school. Is it surprising that conservative southern parents are reluctant to exchange this peace for the discord that would inevitably accompany integration?

Until the last few years, the conservative South has remained unorganized, but the militancy of liberal pressure groups has forced it to unite in self defense. We have watched unorganized majorities manipulated by tightly organized integrationist minorities. We have watched integrationist and collectivist ideologies permeate the opinion-forming professions and publications. We have seen northern politics veer radically in response to the gravitational pull of left-wing labor and Negro leaders. The northern conservative political position has eroded under the relentless grind of bloc voting until little semblance of its once great national influence remains. Our two-party political system has virtually been welded into a single "me-too" chorus of appeasement to the demands of the liberals. We have seen our Supreme Court, in the school segregation cases, issue an ukase which handed the National Association for the Advancement of Colored People a quasi-legal weapon it can use to wreck our public school system if permitted free rein. Other strictly social areas of our life have been similarly laid open to invasion by court edicts, areas which historically in our country have been absolutely free of Government control. These developments have precipitated a constitutional crisis, the end of which no man can see. Highly organized pressure groups have turned whole sections of American life upside down. The nature of our constitutional form of government is being changed before our very eyes.

The groups behind these moves have enormous power, and they know how to use it. Their leaders have mastered techniques of social revolution that are a closed book to most of our political leaders and private citizens. They have been overwhelmingly successful in the North and at the national political level because there has been no organized force in being of sufficient size and power to check their advance. Courageous individuals and small groups have been crushed and eliminated or simply ignored.

Integration of the races is not the only battle front in this wide-ranging social conflict. The rapid growth of big Government and centralization of power in Washington under an overweening bureaucracy, welfare statism, invasion of the reserved rights of the States, the replacement of a salvational by a social gospel, the collectivization of American life, confiscatory taxes, all are components of a total, all-out assault against American conservatism. Many conservatives consider other aspects of their position more important than their stand on race, but my own view is that no other issue in the galaxy of conflicts besetting us is comparable to this one in its permanent impact on the lives and fortunes of conservative white Americans.

For what do the liberals have in mind for us? Leaders of the highly organized Negro pressure groups have made their objective crystal clear. It is to alter totally the patterns of southern life and custom. Achievement of this objective would change our

national politics at a stroke. The Old South with its familiar voices in Congress would be dead. The voices that replaced it would be elected in large part by colored votes and would speak in very different accents. With the rudder of Congress thus changed, our Government would indeed lurch into new, uncharted seas.

Of course there is self-interest in this issue. Our region is now beginning to come again into its own. Despite dire predictions of what would happen to our economy if we didn't integrate, the South has continued to boom. Several authoritative business publications of national standing have placed Jackson, Miss., "the segregation capital of the United States," at the top of the Nation's cities in business growth during the past year. The South is filling up with upper class white refugees from the race friction and labor troubles of strife-ridden northern cities. Simultaneously, the South is exporting Negroes by the trainload. Lured by promises of easy welfare checks and enticements of civil rights from vote-hungry politicians, these people are beelining it for northern slums in ever-increasing numbers. We don't want this trend stopped.

Under the fiscal policies enforced by the pressures of collectivist organizations, the once-powerful State of Michigan has been brought close to bankruptcy. Mississippi may be accused of everything under the sun, but we happen at the moment to be enjoying a pleasant surplus.

Perhaps we may be pardoned, then, in our reluctance to see our land reduced to the abject fate of many northern cities where the Negro-collectivist element has the upper hand. We have no desire to see our law enforcement machinery break down because Negro lawbreakers have to be coddled for the bloc vote. We want our streets to continue as places where white and black circulate freely without fear of bodily harm.

Once we, the white conservatives of the South, sized up the forces arrayed against us, we felt no inclination to roll over and play dead. Nor were we seduced into the alternative of burying our heads in the sand and pretending that everything was rosy, as were many of our northern contemporaries under the anesthesia of personal affluence.

Being down-to-earth folk, we did something else. Instead of being taken in by the cloud of "brotherhood and tolerance" talk that was drifting down from the North, we looked under this cloud. And what we saw was that the "democracy" that was beamed our way should be translated "Negro political domination"; the "tolerance" should be read as "the integration of our children." We looked further. We saw that the current commotion had been raised because those who wanted it were organized and worked hard to achieve what they wanted. So the white conservative South began to organize in return. In the 11 States of the former Confederacy, the chief organized forms of the South's resistance include the citizens' councils and similar local groups under different names, coordinated through State associations which form the citizens' councils of America. In the northern and border States, the strongest resistance has come from property owners' protective associations. In the Deep South, this mobilization has stopped the integration drive cold. There is no integration whatever in the Deep South.

The conservative South is not made up of Ku Kluxers. We are not anti-Negro. We have always drawn a sharp distinction between the great masses of southern Negroes and the NAACP, which we regard as a pressure group and not the Negro's true spokesman. In these difficult times we continue to enjoy the same pleasant relations with our colored friends, within the framework of our biracial system, that we have always enjoyed. We have been subjected to vicious personal attacks, but that is simply a price that has had to be paid.

What will be the outcome of the present turbulence in race relations? Now that the conservative South is mobilized, with its influence deeply rooted in the power structure of hundreds of communities, we believe that the ideals under which our country has grown great will be preserved for ourselves and our children. And what are these? The conservative white southerner believes with his northern counterpart that the best government is the least government. He believes in governing himself. He believes in the fundamental right of each individual to pursue his own destiny, free from the cold social regimentation of distant authority but in compliance with the customs and mores of his own people.

Why has the conservative white southerner responded to the threat to his position while the conservative white northerner has not?

For one thing, the southerner is not physically intimidated by the Negro. He is accustomed to dealing with his Negro neighbor on the basis of a personal acquaintance that may be difficult for the nonsoutherner to understand. Moreover, the white population of the South is more homogeneous than in the rest of the country, and is united by a feeling of racial solidarity. The fact that one-fourth of its population is of African origin stands as a constant call to group identification.

I think the answer also lies in something that might be called southern patriotism. The South was once a Nation, with a short and tragic history it is true, but a nation nonetheless. It has a proud, military tradition, and the memory of common suffering. These things evoke an almost mystic attachment to the region, an attachment which has provided the theme of some of the finest American literature. The South is home to its inhabitants in a way that the North or West are not to those who live there. The southerner is aware of a deep sense of kinship with the land of his fathers. He has a personal sense of history, an awareness of proud tradition.

On a crisp, frosty, autumn morning, when he steps out on his porch to see the day quicken into life and watches the lazy curl of smoke from a neighbor's chimney lift into the softness of light blue haze, it is as if still he can hear, faintly in the distance, the bugle strains of the "Bonnie Blue Flag," lingering where his grandfather once rode. He knows he's home. And he will fight for his home.

#### ESTONIAN INDEPENDENCE DAY

(Mr. McCORMACK (at the request of Mr. ALBERT) was given permission to extend his remarks at this point in the RECORD.)

Mr. McCORMACK. Mr. Speaker, in the early days of 1918, when the chains that held down freedom-loving peoples seemed to be snapping loose, Estonians regained their freedom and proclaimed their independence on February 24. Thenceforth these sturdy Estonians, numbering a bare million in their historic homeland on the northeastern shores of the Baltic, instituted their own democratic form of government, took their destiny into their own hands and became masters of their fate. For some two decades they worked hard at the task of rebuilding their devastated country, and in the course of years when that was accomplished, they lived happily in their almost recreated homeland. As one of the smallest independent and sovereign states in Europe, the people of Estonia gave a good account

of themselves in all walks of life. Economically, socially, culturally, and politically their leaders showed remarkable gifts and rare tact. Wishing to remain at peace and live on friendly terms with all their neighbors, they were content to be left alone. But as we know today, they were not allowed to live in peace; nor were they allowed to enjoy their well-earned freedom. Early in the last war the Soviet Union seemed determined to crush and eliminate all these democracies on its western borders. Early in 1940 with one treacherous blow all three Baltic democracies, including the Estonian Republic, were destroyed, the country was occupied by the Red army, and in mid-1940 it was incorporated into the Soviet Union. Thus ended the Estonian Republic that was born on February 24.

It is ironic to state, but there appears, perhaps by accident, some chronological symmetry in the modern and recent Estonian history. These people were brought under the oppressive czarist regime of Russia in 1710. For exactly 208 years they suffered under it. Then they had their freedom which ran for a period not much more than one-tenth of the time they lived under the autocratic czars. Their independence was allowed to last for just a little over two decades. And today, for almost another period of two decades, they have been suffering under the unspeakable yoke of Communist totalitarian tyranny. Would that this chronological symmetry be maintained, and that such these unfortunate souls could look forward to a period of freedom? On this 42d anniversary of their Independence Day, I can wish them nothing less than that, full liberty and freedom to live in peace in their beloved homeland.

#### CONFLICTS OF INTEREST IN THE EXECUTIVE BRANCH

(Mr. LINDSAY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LINDSAY. Mr. Speaker, I have introduced in the House a bill, H.R. 10575, which is an omnibus bill relating to conflicts of interest in the executive branch of the Government of the United States. This bill is the work product of a special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York. The project was funded by the Ford Foundation.

I have been honored to serve as a member of this committee from its beginnings, which was prior to my election to Congress. This committee has spent over 2 years in researching and developing an approach to this difficult problem. It has met in New York City as a regular matter 2 full days and an evening every month.

The committee's report is unanimous. The committee also drafted the bill which I have introduced. There were many, many long hours of labor that went behind this report and bill, but the committee worked well together and

each member contributed in his own way. Speaking personally, I have never worked with a finer group of men, and I am deeply appreciative of having been one of their colleagues. I should like to mention the other members of the committee: Roswell B. Perkins, of New York, former Assistant Secretary of Health, Education, and Welfare, chairman; Howard F. Burns, of Cleveland, Ohio, member of the Council of the American Law Institute; Charles A. Coolidge, of Boston, former Assistant Secretary of Defense for legal and legislative affairs; Paul M. Herzog, of New York, former Chairman, National Labor Relations Board; Alexander C. Hoagland, Jr., of New York; Everett L. Hollis, former General Counsel, Atomic Energy Commission; Charles A. Horsky, former assistant prosecutor at Nurnberg with the chief of counsel for war crimes; John E. Lockwood, of New York, former General Counsel, Office of Inter-American Affairs; and Samuel I. Rosenman, of New York, former special counsel to Presidents Roosevelt and Truman.

The committee staff included Prof. Bayless Manning, of the Yale Law School, staff director; Prof. Marver H. Bernstein, of the Department of Politics of Princeton University, associate staff director; and Miss Ruth D. Carter, committee secretary.

Mr. Speaker, under unanimous consent, I include in the RECORD at this point the text of the bill and, in addition, a brief explanatory statement about the bill.

The report of the committee will be published in book form in the late spring or early summer. Prepublication mimeographed copies were released by the committee in order to make available the committee's work product to the House Committee on the Judiciary which is currently holding hearings on this important subject.

H.R. 10575

A bill to supplement and revise the criminal laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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**TITLE I—PROHIBITED CONDUCT, ADMINISTRATION AND PROCEDURE**

**§ 1. Preamble; declaration of policy and purpose**

(a) The proper operation of a democratic government requires that officials be independent and impartial; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The attainment of one or more of these ends is impaired whenever there exists, or appears to exist, an actual or potential conflict between the private interests of a government employee and his duties as an official. The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to employee conduct in situations where actual or potential conflicts exist.

(b) It is also fundamental to the effectiveness of democratic government that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, legal protections against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are most qualified to serve it. An essential principle underlying the staffing of our governmental structure is that its employees should not be denied the opportunity, available to all other citizens to acquire and retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public cannot be avoided.

(c) It is the policy and purpose of this Act to promote and balance the dual objectives of protecting Government integrity and of facilitating the recruitment and retention of the personnel needed by Government by prescribing essential restrictions against conflicts of interest in the executive branch of the Government without creating unnecessary barriers to public service.

**§ 2. Definitions**

Unless the context of this Act otherwise clearly requires, for purposes of this Act the terms defined in this section shall have the respective meanings hereinafter set forth. The terms defined in this section include: "agency"; "agency head" and "head of an agency"; "assist"; "compensation"; "Government action"; "Government employee"; "intermittent Government employee"; "participate"; "person"; "regular Government employee"; "responsibility"; "State"; "thing of economic value"; and "transaction involving the Government".

(a) "Agency" means—

- (1) the Executive Office of the President;
- (2) an executive department;

(3) an independent establishment within the executive branch; and

(4) a Government corporation.

For purposes of this subsection (a)—

(i) the executive departments are the Departments of State; Defense; Treasury; Justice; Post Office; Interior; Agriculture; Commerce; Labor; and Health, Education, and Welfare; and

(ii) "independent establishment within the executive branch" means any establishment, commission, board, committee or other unincorporated instrumentality of the United States which is not—

(A) part of an executive department or Government corporation; or

(B) part of the legislative or judicial branches of the United States.

(iii) "Government corporation" means any corporation which is either defined as a "wholly owned Government corporation" in the Government Corporations Control Act of 1946 or is designated as a Government corporation for purposes of this Act by the President by regulations issued pursuant to section 10.

(b) "Agency head" and "head of an agency" mean the chief executive officer of an agency, who shall be the chairman in the case of an independent establishment which is a commission, board, or committee. The Secretary of Defense may delegate to the Secretaries of the Army, the Navy, and Air Force such of his responsibilities as an agency head as he may deem appropriate.

(c) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to, another person with knowledge that such action is of help, aid, advice, or assistance to such person and with intent so to assist such person.

(d) "Compensation" means any thing of economic value, however designated, which is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person or to the United States.

(e) "Government action" means any action on the part of the executive branch of the United States, including, but not limited to—

(1) any decision, determination, finding, ruling, or order, including the judgment or verdict of a military court or board; and

(2) any grant, payment, award, license, contract, transaction, sanction or approval, or the denial thereof, or failure to act with respect thereto.

(f) "Government employee" means any individual who is—

(1) appointed by one of the following acting in his official capacity—

(A) the President of the United States, or

(B) a person who qualifies as an employee under this definition; and

(2) engaged in the performance of a Federal function under authority of the Constitution, an Act of Congress, or an Executive act; and

(3) under the supervision or authority of one of the persons listed in (A) or (B) under (1).

Notwithstanding the foregoing, the term "Government employee" shall not include any of the following—

(1) officers and employees in the legislative and judicial branches of the United States;

(ii) employees of the District of Columbia;

(iii) employees of corporations other than Government corporations as defined in subsection (a) (iii) of this section; and

(iv) a reserve of the Armed Forces, when he is not on active duty and is not otherwise a Government employee.

An individual shall not be deemed an employee solely by reason of his receipt of a pension, disability payments, or other payments not made for current services, or by

reason of his being subject to recall to active service.

Every Government employee shall be deemed either "intermittent" or "regular", as determined by the definitions contained in subsections (g) and (j), respectively, of this section.

(g) "Intermittent Government employee" means any Government employee who has performed services as such employee on not more than fifty-two working days (which shall not include Saturdays, Sundays, and holidays) out of the preceding three hundred and sixty-five calendar days: *Provided, however, That—*

(1) The President may issue an order increasing to not more than one hundred and thirty days the number of working days within a three hundred and sixty-five calendar day period on which a particular Government employee may perform services while still being classified as an intermittent Government employee for purposes of this Act: *Provided, That* the President shall make a determination that the national interest requires the retention of such employee's services during a further specified period. A statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register;

(2) a Reserve of the Armed Forces, unless otherwise a regular Government employee, shall be classified as an intermittent Government employee for purposes of this Act while on active duty solely for training, irrespective of the number of working days of such training;

(3) irrespective of the fact he has performed services on less than fifty-two working days, a Government employee shall be deemed a regular Government employee, as defined in subsection (j) of this section, and not an intermittent Government employee, if—

(A) he was appointed to a position calling for regular and continuing full-time services, and

(B) his appointment did not evidence an intent that his services would be for a period of less than one hundred and thirty working days in the three hundred and sixty-five calendar day period following such appointment.

The termination of any particular term of employment of an intermittent Government employee shall take effect on the day when the earliest of the following events occurs:

(1) He becomes a regular Government employee, as defined in subsection (j) of this section;

(ii) He resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced; or

(iii) Three hundred and sixty-five calendar days shall have elapsed since the last working day on which he shall have performed services as an intermittent Government employee, unless his appointment was expressly for a longer period.

An intermittent Government employee shall be in such status on days on which he performs no services as well as days on which he performs services.

(h) "Participate," in connection with a transaction involving the Government, means to participate in Government action or a proceeding personally and substantially as a Government employee, through approval, disapproval, recommendation, decision, the rendering of advice, investigation, or otherwise.

(1) "Person" means any—

(1) individual;

(2) partnership, association, corporation, firm, institution, trust, foundation, or other entity (other than the United States or an agency), whether or not operated for profit;

(3) State or municipality of the United States or any subdivision thereof, including public districts and authorities; and

(4) foreign country or subdivision thereof.

(j) "Regular Government employee" means any Government employee other than an intermittent Government employee, as defined in subsection (g) of this section. The termination of any particular term of employment of a regular Government employee shall take effect when he resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced.

(k) "Responsibility," in connection with a transaction involving the Government, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, effectively to approve, disapprove, or otherwise direct Government action in respect of such transaction.

(l) "State" means any State of the United States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(m) "Thing of economic value" means any money or other thing having economic value, and includes, without limiting the generality of the foregoing—

(1) any loan, property interest, interest in a contract, or other chose in action, and any employment or other arrangement involving a right to compensation;

(2) any option to obtain a thing of economic value, irrespective of the conditions to the exercise of such option; and

(3) any promise or undertaking for the present or future delivery or procurement of a thing of economic value.

In the case of an option, promise, or undertaking, the time of receipt of the thing of economic value shall be deemed to be, respectively, the time the right to the option becomes fixed, irrespective of the conditions to its exercise, and the time the promise or undertaking is made, irrespective of the conditions to its performance.

(n) "Transaction involving the Government" means any proceeding, application, submission, request for a ruling, or other determination, contract, claim, case, or other such particular matter—

(1) which the Government employee or former Government employee in question believes, or has reason to believe, is, or will be, the subject of Government action; or

(2) in or to which the United States is a party; or

(3) in which the United States has a direct and substantial proprietary interest.

### § 3. Acts affecting a personal economic interest

(a) **ECONOMIC INTERESTS OF A GOVERNMENT EMPLOYEE.**—No Government employee shall participate in a transaction involving the Government in the consequences of which he has a substantial economic interest of which he may reasonably be expected to know.

(b) **ECONOMIC INTERESTS OF PERSONS IN WHICH A GOVERNMENT EMPLOYEE HAS AN INTEREST.**—No Government employee shall participate in a transaction involving the Government in the consequences of which, to his actual knowledge, any of the following persons has a direct and substantial economic interest:

(1) His spouse or child; or

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know; or

(3) Any person of which he is an officer, director, trustee, partner, or employee; or

(4) Any person with whom he is negotiating or has any arrangement concerning prospective employment; or

(5) Any person who is a party to an existing contract with such Government employee or an obligee of such Government employee as to a thing of economic value and who, by reason thereof, is in a position to affect directly and substantially such employee's economic interests.

(c) **DISQUALIFICATION.**—Every Government employee shall disqualify himself from participating in a transaction involving the Government when a violation of subsection (a) or (b) would otherwise result. The procedures for such disqualification shall be established by regulations issued pursuant to section 10.

(d) **SUBSTANTIAL ECONOMIC INTEREST.**—The term "substantial economic interest" may be defined by regulations issued by the President pursuant to section 10, but the term shall not include—

(1) the interest of a Government employee in his grade, salary, or other matters arising solely from his Government employment;

(2) the interest of a Government employee, or of a person referred to in subsection (b) solely as a member of the general public, or of any significant economic or other segment of the general public.

(e) **PRESIDENTIAL EXEMPTION.**—The President may issue an order suspending the operation of subsections (a) and (b), in whole or in part, as to a particular employee with respect to transactions involving the Government of a particular category or in connection with a particular assignment, provided that the President shall make a determination that under all the circumstances the national interest in such employee's participation exceeds the public interest in his disqualification. A full statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register.

### § 4. Assisting in transactions involving the Government

(a) **GENERAL RULE FOR ALL EMPLOYEES.**—Except in the course of his official duties or incident thereto, no Government employee shall assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he has at any time participated; or

(2) if such transaction involving the Government is or has been under his official responsibility at any time within a period of two years preceding such assistance.

(b) **ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.**—Except in the course of his official duties or incident thereto, no regular Government employee shall—

(1) assist another person for compensation in any transaction involving the Government;

(2) assist another person by representing him as his agent or attorney, whether or not for compensation, in any transaction, involving the Government.

(c) **NO SHARING IN COMPENSATION.**—No Government employee shall share in any compensation received by another person for assistance which such Government employee is prohibited from rendering pursuant to subsection (a) or (b).

(d) **PARTNERSHIPS.**—No partnership of which a Government employee is a partner, and no partner or employee of such a partnership, shall assist another person in any transaction involving the Government if such Government employee is prohibited from doing so by subsection (a).

(e) **PERMITTED EXCEPTIONS.**—(1) Nothing in this section shall prevent a Government employee, subject to conditions or limitations set forth in regulations issued pursuant to section 10, from assisting, in a transaction involving the Government—

(A) his parent, spouse, or child, or any thereof for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary;

(B) a person other than his parent, spouse, or child for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary;

(C) another Government employee involved in disciplinary, loyalty, or other personnel administration proceedings; or

(D) another person in the performance of work under a contract with or for the benefit of the United States:

*Provided, however, That—*

(E) in the case of clauses (A) and (B), such Government employee shall not have at any time participated in such transactions, nor, in the case of clause (B), shall such transaction have been under his official responsibility; and

(F) in the case of clauses (A), (B), (C), and (D), the circumstances of the assistance shall have been disclosed to the head of the employee's agency and approved by him in advance of the assistance; and

(G) in the case of clause (D), the head of such employee's agency shall have certified in writing that in his opinion the national interest will be promoted by permitting the special knowledge or skills of such Government employee to be made available to assist such other person in connection with such performance.

(2) Nothing in this section shall prevent a Government employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

### § 5. Compensation for regular Government employees from non-Government sources

(a) **UNCOMPENSATED EMPLOYEES.**—For purposes of this section the term "regular Government employee" shall not include any Government employee who, in accordance with the terms of his appointment, is serving without compensation from the United States or is receiving from the United States only reimbursement of expenses incurred or a predetermined allowance for such expenses.

(b) **PAYMENTS FOR SERVICES TO THE UNITED STATES.**—No regular Government employee shall receive any thing of economic value, other than his compensation from the United States, for or in consideration of personal services rendered or to be rendered to or for the United States. Any thing of economic value received by a regular Government employee prior to or subsequent to his Government employment shall be presumed, in the absence of a showing to the contrary by a clear preponderance of evidence, not to be for, or in consideration of, personal services rendered or to be rendered to or for the United States.

(c) **COMPENSATION FOR SERVICES TO OTHERS.**—No regular Government employee shall receive any thing of economic value (other than his compensation from the United States) in consideration of personal services rendered, or to be rendered, to or for any person during the term of his Government employment unless such services meet each of the following qualifications:

(1) The services are bona fide and are actually performed by such employee;

(2) The services are not within the course of his official duties;

(3) The services are not prohibited by section 4 or by applicable laws or regulations governing non-Government employment for such employee; and

(4) The services are neither performed for nor compensated by any person from whom such employee would be prohibited by section 6(b) from receiving a gift; or, alternatively, the services and compensation are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(d) **PAYMENTS FOR FUTURE SERVICES TO OTHERS.**—No regular Government employee shall receive, directly or indirectly, any thing of economic value during the term of his Government employment in consideration of

personal services to be rendered to or for any person subsequent to the term or such employment. Nothing contained in this subsection (d) shall be deemed to prevent a Government employee from entering into a contract for prospective employment during the term of his Government employment.

(e) **COMPENSATION FROM LOCAL GOVERNMENTS.**—Nothing contained in this section shall prevent a Government employee from receiving compensation contributed out of the treasury of any State, county, or municipality if—

(1) the compensation is received pursuant to arrangements entered into between such State, county, or municipality and such employee's agency; or

(2) the compensation and the services for which it is received are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(f) **CONTINUATION IN CERTAIN PENSION AND OTHER PLANS.**—(1) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide pension, retirement, group life, health, or accident insurance, or other employee welfare or benefit plan maintained by a former employer but to which such former employer makes no contributions on behalf of such employee in respect of the period of his Government employment.

(2) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide plan, maintained by a former employer and to which such former employer makes contributions on behalf of such employee, in the case of—

(A) a pension or retirement plan qualified under the provisions of the Internal Revenue Code, or

(B) a group life, health, or accident insurance plan: *Provided*, That the contributions by such employer are not made for a period longer than five consecutive years of Government employment (or an aggregate of five years out of the preceding ten).

(3) Nothing contained in this section shall require the termination of the rights of a Government employee acquired under a bona fide profit-sharing or stock bonus plan maintained by a former employer and qualified under the provisions of the Internal Revenue Code: *Provided*, That no contributions are made by such former employer on behalf of the Government employee based on profits attributable to any portion of the period of his Government employment.

(4) The provisions of this subsection (f) shall be subject to any additional conditions or limitations, including limitations on maximum amounts, set forth in regulations issued pursuant to section 10.

(g) **TRAVEL AND RELATED EXPENSES.**—Travel and related expenses received other than from the United States shall be deemed to be for or in consideration of personal services rendered to or for a person only to the extent provided in regulations issued pursuant to section 10.

#### § 6. Gifts

(a) **GENERAL RULE FOR ALL EMPLOYEES.**—No Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person if such Government employee has reason to believe the donor would not give the gift, gratuity, or favor but for such employee's office or position within the Government.

(b) **ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.**—No regular Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person, or from any officer or director of such person, if such regular Government employee has reason to believe such

(1) has or is seeking to obtain contractual or other business or financial relationships with such employee's agency; or

(2) conducts operations or activities which are regulated by such employee's agency; or

(3) has interests which may be substantially affected by such employee's performance or nonperformance of official duty.

(c) **PERMITTED EXCEPTIONS.**—Exceptions to subsections (a) and (b) may be made by regulations issued pursuant to section 10 in situations where the circumstances do not lead to the inference that the official judgment or action of the Government employee receiving, directly or indirectly, the gift, gratuity, or favor was intended to be influenced thereby.

#### § 7. Abuse of office

Except in the course of his official duties or incident thereto, no Government employee shall, in his relationships with any person specified in the succeeding sentence, use the power or authority of his office or position within the Government in a manner intended to induce or coerce such other person to provide such Government employee or any other person with any thing of economic value, directly or indirectly. This section shall apply to relationships with any person, or any officer or director of such person, from whom such Government employee, if he were a regular Government employee, would be prohibited by section 6(b) from receiving a gift.

#### § 8. Postemployment

(a) **GENERAL RULE.**—No former Government employee shall at any time subsequent to his Government employment assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he at any time participated during his Government employment; or

(2) if such transaction involving the Government was under his official responsibility as a Government employee at any time within a period of two years preceding such assistance.

(b) **NO SHARING IN COMPENSATION.**—No former Government employee shall share in any compensation received by another person for assistance which such former Government employee is prohibited from rendering by subsection (a).

(c) **PARTNERSHIPS.**—(1) No partnership of which a former Government employee is a partner, and no partner or employee of such a partnership, shall, for a period of two years following the termination of his Government employment, assist another person in any transaction involving the Government in which such former Government employee at any time participated during his Government employment. For purposes of this subsection (c)(1), the termination of the former Government employee's employment with the agency by which he was employed when he so participated shall be deemed to be the termination of his Government employment.

(2) Whenever subsection (c)(1) would be applicable but for the expiration of the period of 2 years referred to therein, the circumstances of the former Government employee's participation in the transaction during his Government employment, if the individuals acting for the partnership are aware of such participation, shall be disclosed to the agency principally involved in the transaction involving the Government, and an affidavit of such former employee to the effect that he has not assisted in such transaction involving the Government shall be furnished to such agency.

(d) **SPECIAL RULE FOR COMPUTATION OF 2 YEAR PERIOD FOR CERTAIN FORMER INTERMITTENT EMPLOYEES.**—For purposes of this section, a former intermittent Government employee whose employment terminated under clause

(iii) of section 2(g) shall be deemed to have terminated such employment on the last working day on which he performed services as an intermittent Government employee.

(e) **PERSONS FORMERLY ON ACTIVE DUTY AS COMMISSIONED OFFICERS OF ARMED FORCES.**—The President shall, in furtherance of this section 8, issue regulations of the nature herein described applicable to persons who have been commissioned officers on active duty in one of the armed forces of the United States. Such regulations shall have the effect of prohibiting such persons, for the periods therein specified, from personally dealing with personnel of the Department of Defense, or of such units thereof as may be specified in such regulations, with the purpose of assisting in the sale of anything, including services, to the United States through the Department of Defense of such units thereof as may be specified in such regulations. The retirement pay of any retired commissioned officer who violates such regulations shall be terminated pursuant to the regulations issued hereunder for the periods therein specified.

(f) **PERMITTED EXCEPTIONS.**—The permitted exceptions applicable to Government employees under section 4(e) shall also be applicable to former Government employees under this section 8, subject to conditions or limitations set forth in regulations issued pursuant to section 10. For purposes of this section 8, references in such section 4(e) to the Government employee providing assistance shall be deemed to be to the former Government employee, and references to his agency shall be deemed to be to his former agency.

#### § 9. Illegal payments

(a) **PAYMENTS AS COMPENSATION, ETC.**—No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of section 4, 5, or 8.

(b) **GIFTS.**—No person shall give, transfer, or deliver, directly or indirectly, to a Government employee any thing of economic value as a gift, gratuity, or favor if either—

(\*) such person would not give the gift, gratuity, or favor but for such employee's office or position within the Government; or

(2) such person is in a status specified in clause (1), (2), or (3) of section 6(b).

Exceptions to this subsection (b) may be made by regulations issued pursuant to section 10 in situations referred to in section 6(c).

#### § 10. Administration

(a) **RESPONSIBILITY OF THE PRESIDENT.**—(1) The President shall be responsible for the establishment of appropriate standards to protect against actual or potential conflicts of interest on the part of Government employees and for the administration and enforcement of this Act and the regulations and orders issued hereunder.

(2) The President may, and shall do so when required by this Act, issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act. Such regulations shall take precedence over any regulations issued by agency heads pursuant to subsection (c).

(3) The President shall have particular responsibility for the enforcement of this Act as applied to employees of the Executive Office of the President and to agency heads, and for this purpose the President shall have all the powers of an agency head.

(4) The President may conduct investigations of facts, condition or conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (a) and in obtaining information to serve as a basis for recommending further

legislation related to the purposes of this Act. In connection with any such investigation the President shall have all the powers with respect to oaths, affirmations, subpoenas, and witnesses as are provided in section 12(b)(2). The President may delegate any or all of his powers under this subsection (a)(4) to the Administrator referred to in subsection (b) or to others, either generally or in particular instances.

(b) EXECUTIVE CONFLICT OF INTEREST ACT ADMINISTRATOR.—(1) the President shall designate an official from within the Executive Office of the President or create an office within the Executive Office of the President (such official or the head of such office being hereinafter referred to as the "Administrator") to perform the following functions:

(A) To assist the President in carrying out his responsibilities under subsection (a);

(B) To receive copies of all regulations issued by agency heads pursuant to subsection (c), to analyze the same, and make recommendations to agency heads with respect thereto;

(C) To receive reports from agencies and to collect information with respect to, and conduct studies of, personal conflicts of interest of Government employees within the executive branch;

(D) To consult with the Attorney General, the Chairman of the Civil Service Commission, the Comptroller General, and other appropriate officials with respect to conflict-of-interest matters affecting more than one agency;

(E) To consult with agency heads, and with appropriate officers designated by them, as to the administration of this Act within their respective agencies and the regulations issued hereunder applicable to their respective agencies;

(F) To give advice with respect to the application of this Act and regulations issued hereunder, when so requested by the President or agency heads;

(G) To undertake and conduct, in conjunction with agency heads, a study of the extent to which any of the principles of this Act should be made applicable to persons and to the employees of persons having contracts, subcontracts, licenses, or similar relationships with or from the United States; and

(H) To provide reports and information to the President and the Congress concerning the administration of this Act and conflict-of-interest matters generally.

(2) The Administrator is authorized to employ personnel and expend funds for the purposes of this Act, to the extent of any appropriations made for the purposes hereof.

(c) RESPONSIBILITY OF AGENCY HEADS.—(1) Each agency head shall be responsible for the establishment of appropriate standards within his agency to protect against actual or potential conflicts of interest on the part of employees of his agency, and for the administration and enforcement within his agency of this Act and the regulations and orders issued hereunder.

(2) Each agency head may, subject to the regulations issued by the President under subsection (a)(2), issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act as applied to his agency. He shall file copies of all such regulations with the Administrator.

(3) Each agency head may conduct investigations of facts, conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (c). In connection with any such investigation the agency head shall have all the powers with respect to oaths, affirmations, subpoenas, and witnesses as are provided in section 12(b)(2). The agency head may delegate any or all of his powers under this subsection (c)(3) to any officer designated by him, either generally or in particular instances.

### § 11. Preventive measures

The head of an agency may, and shall do so if so provided in regulations issued by the President, require—

(a) individuals entering Government employment with such agency and, periodically, the employees or particular categories of employees of such agency, to sign a statement that they have read an appropriate summary of the rules established by this Act and the regulations issued hereunder;

(b) employees of such agency, or particular categories thereof, to report periodically as to their non-Government employment or self-employment, if any;

(c) representatives of other persons before an agency to certify that, to the best of their knowledge, their representation will not violate section 4 or 8 or the regulations issued thereunder; and

(d) persons who are principals in transactions involving the Government to certify that, to the best of their knowledge, they have not received assistance under circumstances which would violate section 4 or 8 or the regulations issued thereunder.

### § 12. Remedies; civil penalties; procedure

(a) ADMINISTRATIVE ENFORCEMENT AS TO CURRENT GOVERNMENT EMPLOYEES.—

(1) Remedies and Civil Penalties: The head of an agency may dismiss, suspend, or take such other action as may be appropriate in the circumstances in respect of any Government employee of his agency upon finding that such employee has violated this Act or regulations promulgated hereunder. Such action may include the imposition of conditions of the nature described in subsection (b)(1).

(2) Procedure: The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; and any such action shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of employees of the same category and grade.

(b) ADMINISTRATIVE ENFORCEMENT AS TO FORMER GOVERNMENT EMPLOYEES AND OTHERS.—

(1) Remedies and Civil Penalties: The head of an agency, upon finding that any former employee of such agency or any other person has violated any provision of this Act, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon—

(A) the appearance before such agency of such former employee or other person, and

(B) the conduct, or negotiation or competition for, business with such agency by such former employee or other person, for such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this Act.

(2) Procedure:

(A) Hearings.—Findings of violations referred to in subsection (b)(1) shall be made on the record after notice and hearing, conducted in accordance with the provisions governing adjudication in title 5, United States Code, secs. 1005, 1006, 1007, 1008, and 1011 (Administrative Procedure Act). For the purposes of such hearing any agency head, or any officer designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the agency head finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the agency head to appear shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(B) Judicial review.—(i) Any party to a proceeding under subsection (b) aggrieved by an order issued by the agency head pursuant hereto, may obtain a review of such order in the court of appeals of the United States for any circuit wherein said party is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court within sixty days after the order of the agency upon a written petition praying that such order be modified or set aside in whole or in part.

(ii) A copy of such petition shall forthwith be transmitted by the clerk of the court to the agency head involved, and thereupon such agency head shall file with the court the record upon which the order complained of was entered. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part.

(iii) No objection to the order of the agency head shall be considered by the court unless such objection shall have been urged before the agency or there is reasonable ground for failure to do so.

(iv) The findings of the agency head as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material in that there were reasonable grounds for failure to adduce such evidence in the proceedings before the agency, the court may order such additional evidence to be taken before the agency and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper.

(v) The agency head may modify his findings as to the facts by reason of the additional evidence so taken and shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside in whole or in part, any such order of the agency head, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of title 28. The commencement of proceedings for review under this subsection shall not, unless specifically ordered by the court, operate as a stay of the agency head's order.

(c) RESCISSION OF GOVERNMENT ACTION.—The President or any agency head may cancel or rescind any Government action without contractual liability to the United States where—

(1) he has found that a violation of this Act has substantially influenced such Government action; and

(2) in his judgment the interests of the United States so require under all of the circumstances, including the position of innocent third parties.

The finding referred to in clause (1) shall be made in accordance with the procedures set forth in subsection (b)(2) and shall be subject to judicial review in accordance with the provisions of subsection (b)(2)(B): *Provided*, That the President or such agency head may suspend Government action pending the determination, pursuant to this subsection, of the merits of the controversy. The exercise of judgment pursuant to clause (2) of this subsection shall not be subject to judicial review.

(d) CIVIL REMEDY FOR DAMAGES AGAINST EMPLOYEES AND FORMER EMPLOYEES.—The Attorney General of the United States may bring a civil action in any district court of the United States against any Government em-

ployee or former Government employee who shall, to his economic advantage, have acted in violation of this Act, and in such action may recover on behalf of the United States, in partial reimbursement of the United States for its expenses of administering this Act, damages in an amount equal to three times the amount of such economic advantage.

(e) CIVIL PENALTIES FOR ILLEGAL PAYMENTS.—Any person who shall violate section 9 shall pay a civil penalty of not more than \$5,000, in partial reimbursement of the United States for its expenses of administering this Act. The Government employee or former Government employee involved shall not be subject to prosecution under title 18, United States Code, section 2, or title 18, United States Code, section 371, or any other provision of law dealing with criminal conspiracy, by reason of the receipt of any such payment.

(f) PUBLICATION OF CERTAIN FINDINGS AND DECISIONS.—Whenever the head of any agency, or the President, exercises the authority conferred by subsections (a), (b), or (c) of this section, copies of the findings and decision therein shall be filed with the President and shall be published at least once each year as part of a volume collecting such findings and opinions. Such volumes shall be made available for public inspection and shall also be available for distribution or sale to interested persons.

(g) INTERESTS OF NATIONAL SECURITY.—When any provision of this Act requires publication of information and the President finds that publication of part or all of such information is inconsistent with national security, he may suspend the requirement of such publication to the extent and for such period of time as he shall deem essential for reasons of national security.

(h) STATUTE OF LIMITATIONS.—No administrative or other action under subsections (b), (c), (d), or (e) of this section to enforce any provision of this Act shall be commenced after the expiration of six years following the occurrence of the alleged violation.

#### TITLE II—CRIMINAL PENALTIES

##### § 21. Acts in violation of Executive Conflict of Interest Act

Title 18 of the United States Code is amended by adding a new chapter thereto, to be designed chapter 16 and reading as follows:

###### "Chapter 16—Conflicts of Interest"

##### "§ 301. Acts in violation of Executive Conflict of Interest Act

"Any person who shall purposely or knowingly violate any provision of the Executive Conflict of Interest Act shall be fined not more than \$10,000, or imprisoned for not more than one year, or both. For purposes of this section, the terms 'purposely' and 'knowingly' shall have the respective meanings set forth in subsections (a) and (b):

"(a) 'Purposely': A person acts purposely with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and

"(2) if the element involves the attendant circumstances, he knows of the existence of such circumstances:

"(b) 'Knowingly': A person acts knowingly with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or the attendant circumstances, he knows that his conduct is of that nature or he knows of the existence of such circumstances; and

"(2) if the element involves a result of his conduct, he knows that his conduct will necessarily cause such a result."

#### TITLE III—AMENDMENT AND REPEAL OF EXISTING LAWS

##### § 31. Amendment of title 18, United States Code, sections 216 and 1914

Section 216 of chapter 11 and section 1914 of chapter 93 of title 18 of the United States Code are each amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to (1) any person who is a Government employee as defined in section 2(f) of that Act, and (2) any act of another person which is directed toward such a Government employee."

##### § 32. Amendment of title 18, United States Code, sections 281, 283, and 434

Sections 281 and 283 of chapter 15 of title 18 of the United States Code are each amended by deleting the second paragraph thereof. Each of such sections is further amended and section 434 of chapter 23 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to any person who is a Government employee as defined in section 2(f) of that Act."

##### § 33. Amendment of title 18, United States Code, section 284

Section 284 of chapter 15 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to any person who has been a Government employee as defined in section 2(f) of that Act."

##### § 34. Amendment of title 22, United States Code, section 1792(a)

Section 532(a) of the Mutual Security Act of 1954 (68 Stat. 859), as amended by section 10(d) of the Act of July 18, 1956 (70 Stat. 561; 22 U.S.C. 1792(a)), is amended to read as follows:

"(a) Service of an individual as a member of the Board established pursuant to section 308 of this Act or as an expert or consultant under section 530(a) shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 6 of the Act of May 22, 1920 (5 U.S.C. 715), or section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities. Contracts for the employment of retired military personnel with specialized research and development experience, not to exceed 10 in number, as experts or consultants under section 530(a), may be renewed annually, notwithstanding section 15 of the Act of August 2, 1946 (5 U.S.C. 55(a))."

##### § 35. Amendment of title 5, United States Code, section 30r(d)

Section 29(d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(d)), is amended to read as follows:

"(d) When he is not on active duty, or when he is on active duty for training, a reserve is not considered to be an officer or employee of the United States or a person holding an office of trust profit or discharging any official function under, or in connection with, the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity: *Provided, however,* That a reserve on active duty for training shall be deemed an employee

of the United States for purposes of the Executive Conflict of Interest Act."

##### § 36. Repeal of particular substantive restraints

The following sections are repealed:

(a) Section 190 of the Revised Statutes (5 U.S.C. 99) (relating to postemployment prosecution of claims by employees in departments); and

(b) Section 244 of the Revised Statutes (5 U.S.C. 254) (relating to certain business interests of clerks in the Treasury Department).

##### § 37. Repeal of particular substantive restraints applicable to retired officers

The following sections are repealed:

(a) Section 1309 of the Act of August 7, 1953 (67 Stat. 437; 5 U.S.C. 59c), (relating to loss of retirement pay by retired commissioned officers engaged in certain selling activities).

(b) Section 6112 of chapter 557 of title 10 of the United States Code (relating to the loss of pay or retirement pay by certain officers who sell naval supplies to the Navy Department).

##### § 38. Repeal of exemptions from particular conflict-of-interests statutes

The following sections are repealed:

(a) Section 173(c) of chapter 7 of title 10 of the United States Code (providing certain conflicts exemptions for advisers to the Secretary of Defense).

(b) Section 1583(b) of chapter 81 of title 10 of the United States Code (authorizing conflicts exemptions for persons employed by the Secretary of Defense to serve without compensation).

(c) Section 5153(d) of chapter 513 of title 10 of the United States Code (providing certain conflicts exemptions for members of the Naval Research Advisory Committee).

(d) Section 807 of the Act of August 2, 1954 (68 Stat. 645; 12 U.S.C. 1701h) (providing certain conflicts exemptions for members of advisory committees of the Housing and Home Finance Agency).

(e) Section 5 of the Act of June 4, 1956 (70 Stat. 243; 16 U.S.C. 943) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Great Lakes Fishery Act of 1956).

(f) Section 5 of the Act of September 7, 1950 (64 Stat. 778; 16 U.S.C. 954) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Tuna Conventions Act of 1950).

(g) Section 5 of the Act of September 27, 1950 (64 Stat. 1068; 16 U.S.C. 984) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Northwest Atlantic Fisheries Act of 1950).

(h) Section 5 of the Act of August 12, 1954 (68 Stat. 698; 16 U.S.C. 1024) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the North Pacific Fisheries Act of 1954).

(i) Section 1003 of the Act of September 2, 1958 (72 Stat. 1603; 20 U.S.C. 583) (providing certain conflicts exemptions for members of advisory committees and information councils appointed under the National Defense Education Act of 1958).

(j) Section 14(f) of the Act of May 10, 1950 (64 Stat. 154, 155; 42 U.S.C. 1873(f)) (providing certain conflicts exemptions for members of the National Science Board and committees and commissions appointed under the National Science Foundation Act of 1950).

(k) Section 163 of the Atomic Energy Act of 1954 (68 Stat. 951), as amended by section 2 of the Act of September 21, 1959 (73 Stat. 574; 42 U.S.C. 2203) (providing cer-



tain conflicts exemptions for members of the General Advisory Committee and Advisory boards appointed under the Atomic Energy Act of 1954).

(l) Section 1(t) of the Act of June 19, 1951 (65 Stat. 87; 50 U.S.C. App. 463(a)) (providing certain conflicts exemptions for particular Selective Service officials).

(m) Section 113 of the Renegotiation Act of 1951 (65 Stat. 22), as amended by section 13 of the Act of August 1, 1956 (70 Stat. 792; 50 U.S.C. App. 1223) (providing certain conflicts exemptions for employees of departments and agencies to which the Renegotiation Act of 1951 is applicable and of the Renegotiation Board).

(n) Section 7(b)(4) of the Act of August 9, 1955 (69 Stat. 582; 50 U.S.C. App. 2160(b)(4)) (providing certain conflicts exemptions for persons serving without compensation under the Defense Production Act of 1950).

#### TITLE IV—MISCELLANEOUS PROVISIONS

##### § 41. Short title

This Act shall be known and may be cited as the "Executive Conflict of Interest Act".

##### § 42. Effective date

This Act shall take effect ninety days after the date of its enactment, except that section 37 shall not take effect until the effective date of the regulations issued by the President pursuant to section 8(e).

#### RECOMMENDATIONS

The committee recommends a thorough reconstruction of the entire legal and administrative machinery for dealing with the problem of conflict of interest in the executive branch of the Government. A summary of its principal recommendations appears below:

##### RECOMMENDATION 1

"Conflict-of-interest problems should be recognized and treated as an important complex, and independent subject of attention and concern in the management of the governmental establishment."

Up until the present time, the subject of conflict of interest in the executive branch has been conceived of and dealt with only peripherally as an aspect of the general problem of ethics in Government. The fact is that its unique and complex nature and the variety of difficult problems it raises, particularly the problem of recruitment, demands that it be isolated and identified as an independent subject of governmental concern. Until it receives the consideration and attention which it deserves, the problem of conflict of interest cannot be adequately resolved.

##### RECOMMENDATION 2

"The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed."

One of the principal shortcomings of the present law is that it is composed of many diverse elements scattered throughout the statute books and containing inconsistencies, overlapping and exemptions. The chaotic nature of the law is an impediment to understanding and a deterrent to recruitment.

The proposed act would unify the general law of conflict of interest in one comprehensive statute. Basic terms would be defined and then used consistently throughout. Examples of key terms, carefully defined at the outset and then, used consistently throughout the proposed act, include: "Government action"; "transaction involving the Government"; "assist"; "participate" and "responsibility".

The proposed act would treat the basic forms of conflict of interest in a logical

progression. The first of the six substantive restraints deals with action by a Government employee in his official capacity in a matter in which he has a personal interest. The second deals with action by a Government employee in his private capacity in furtherance of an interest adverse to the Government. The third deals with receipt of pay from outside sources. The fourth deals with respect of gifts from outside sources. The fifth deals with action as a Government official designed to induce payments from outside sources. The sixth deals with postemployment activities in furtherance of an interest adverse to the Government.

As an example of the close integration of these sections, the second and sixth prohibition are almost precisely parallel in their application to the intermittent Government employee and the recent former employee, reflecting the basic similarity of the two situations from the conflict-of-interest viewpoint.

The points in the total statutory scheme where it is important to supplement the statutes by regulator, are clearly identified.

A few archaic statutory restraints superseded by the new act would be repealed. Others of the existing statutes would be amended to exclude from their coverage all executive branch employees (i.e., those covered by the new act).

Fourteen special exemption provisions contained in present law for members of various advisory committees and persons holding other part-time posts would be repealed, as being unnecessary in the light of the realistic approach of the new act to the intermittent employee problem. (See recommendation 6 below.)

Such a unified act would be more enforceable and more rational in its application. It would, by its very drafting, remedy many of the fundamental shortcomings of the present law.

##### RECOMMENDATION 3

"The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government."

Six of the seven conflict-of-interest statutes on the books today have their roots in the problems of a century ago; they are directed primarily against corruption in the prosecution of claims against the Government and the process of letting contracts by the Government. Claim prosecution and, to a lesser degree, procurement procedures have, however, been brought largely under control by administrative devices other than the conflict-of-interest statutes. In their places have grown up other risks that the draftsmen of the present statutes did not foresee and provide for. The proposed act strikes hard at those deficiencies.

The proposed act would extend the conflict-of-interest restraints to every kind of transaction in which today's Government engages with the private segment of the economy. The term "transaction involving the Government" is broadly defined as "any proceeding, application, submission, request for a ruling or other determination, contract, claim, case or other such particular matter" which will be the subject of Government action. The effect of this broad definition in expanding the scope of the present restraints would be very great.

In this respect recommendation 3 is consistent with one made by the Justice Department to Congress several years ago in response to a court decision holding that the present postemployment restraints apply only to assisting in the prosecution of claims against the Government for money or property. In that case an application for a pre-merger clearance ruling from the Antitrust Division of the Justice Department was held

not to be a "claim" within the scope of the statute.

The proposed act would expand present offenses in other respects. To cite a few examples, present law forbids a governmental employee to transact business as an agent of the Government with any "business entity" in the pecuniary profits of which he is interested. The comparable rule in the proposed act would apply not only to business transactions with business organizations, but to any kind of transaction with any kind of entity in which the employee has a substantial economic interest. Furthermore, unlike the present law, the statute specifies a number of specific situations where the employee is deemed to hold an economic interest, such as where that interest is in fact owned by his wife or child, or where he has an understanding as to future employment with a private person or firm.

##### RECOMMENDATION 4

"Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office."

Present law would be further strengthened by the addition of two important areas of conduct heretofore treated only in regulations or not at all.

The first would forbid an employee of the Government to receive a thing of economic value as a gift, gratuity, or favor from anyone who the employee has reason to believe would not give the gift but for the employee's office or position with the Government. Furthermore, regular Government employees are forbidden to receive gifts or favors from anyone who does business with or is regulated by his agency. Some room is left in the statute for minimal exceptions to be provided for in regulations.

The second new offense would forbid a Government employee to use his office or position with the Government in a manner intended to induce or coerce a person or company doing business with him to provide him with any thing of economic value.

##### RECOMMENDATION 5

"The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans."

Hallmarks of modern American society are the pension plan, the group insurance plan, and other kinds of security-oriented arrangements. They are the basis of long-range economic planning by millions. Under present conflict-of-interest laws—passed when no such plans existed—there is some doubt whether an employee of the Government may legally continue as a member of some plans maintained by his former employer, at least if contributions to the plan by the employer are regularly made which benefit the Government employee. This overhanging doubt falls hard upon the non-career employee.

The proposed act permits Government employees to continue their participation in certain private plans under some circumstances and with adequate safeguards. For example, it would permit a Government employee to remain a member of a pension, group insurance or other welfare plan maintained by his former private employer so long as the employer makes no contribution to the plan on behalf of the man in Government service. Similarly, a Government employee could continue to belong to certain of these plans even if the former employer does make contributions on his behalf, so long as the plans are qualified under the Internal Revenue Code and so long as the payments by the former employer continue for no longer than 5 years of Government service.

## RECOMMENDATION 6

"Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants."

To an ever-increasing extent the Government is dependent for information and advice—for learning not only how to do it, but what to do—upon part-time, temporary, and intermittent personnel. These serve individually, or as members of committees, but that service is in addition to their regular private work as scientists, technicians, scholars, lawyers, businessmen and so on. Technically, they are, however brief their service, employees of the Government and at present, all of the conflict-of-interest statutes apply to them. This fact has brought about both refusals to serve and conscious or unconscious ignoring of the statutes by those who do serve. It has also resulted in a welter of special statutory exemptions.

The proposed act distinguishes, in a few key places where it is safe and proper, between rules for regular full-time Government employees and rules for what are defined as "intermittent employees." Under the proposed act, an "intermittent employee" is anyone who, as of any particular date, has not performed services for the Government on more than 52 out of the immediately preceding 365 days. For such individuals, there are certain special rules under the proposed act. For example, regular full-time employees are forbidden to assist private parties for pay in transactions involving the Government; intermittent employees, who have to earn a living in addition to their occasional Government work, are allowed to assist others for pay in such transactions, except in cases where the particular transaction is, or within 2 years has been, under the intermittent employee's official responsibility or where he participated in the transaction personally and substantially on behalf of the Government.

Similarly, since intermittent employees, by definition, are employed by organizations in addition to the Government, they are not subject to the rule forbidding their Government pay to be supplemented from private sources in return for personal services. Finally, the rules as to receipt of gifts are different for the two classes of employees.

## RECOMMENDATION 7

"Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies, rather than the clumsy criminal penalties of present law."

The basic purpose of a system of conflict-of-interest restraints is to help maintain high ethical behavior in the executive branch of the Government. It is the judgment of this committee that the flexible and multiple weapons of the modern administrative process are more fitted to that task than the criminal law.

Because the present statutes rely on criminal sanctions, they are rarely enforced. They are, in many respects, too harsh for offenses they declare. Furthermore, enforcement by criminal law is difficult, expensive and time consuming. Accordingly, the proposed act relies basically on ordinary disciplinary procedures, including dismissal, for its sanctions. These procedures are supplemented by civil remedies particularly apt for former employees and nonemployees dealing with the particularly agency—such as bans against appearances before the agency and civil damage actions.

The proposed act retains classical criminal penalties for the most flagrant violations: those committed "knowingly" or "purposely." The definitions of these terms are

adopted from a draft Model Penal Code prepared by the American Law Institute.

## RECOMMENDATION 8

"The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function."

One of the greatest deficiencies in the present statutes is their failure to recognize the importance of a continuing administrative structure to deal with the problem of conflict-of-interest. The proposed act would specifically provide for such an administrative machinery.

Clear overall responsibility would be placed upon the President "for the establishment of appropriate standards to protect against actual or potential conflicts of interest on the part of Government employees and for the administration and enforcement of this act and the regulations and orders issued hereunder."

To assist the President in carrying out this responsibility, the act calls for the designation by him, from within the Executive Office of the President, of an "Administrator." He would be answerable directly to the President. He is given a series of coordinating, consultative and advisory functions under the act. He would work closely with the Department of Justice and agency heads or their designees, but his would be a small office, and in no sense charged with centralized operation or enforcement of conflict-of-interest restraints.

## RECOMMENDATION 9

"In addition to the statutes themselves, there should be a 'second tier' of restraints, consisting of Presidential regulations amplifying the statutes, and a 'third tier,' consisting of agency regulations tailored to the needs of particular agencies. The responsibility of day-to-day enforcement of the statutes and regulations should rest upon agency heads."

The proposed act contemplates the issuance by the President of a set of regulations extending, supplementing, implementing and interpreting the provisions of the act. The act also visualizes another set of regulations at the next lower level—that of the agency heads. The Presidential regulations would take precedence over any regulations issued by agency heads.

Agency regulations would tend to follow the present pattern, namely, particularized rules adapted to the special risks of the particular agency. For example, some agencies may have special rules on use of confidential information available within the agency. Others may adopt special post-employment restraints which go beyond the statutory provision. This diversity and particularization is realistic and desirable.

## RECOMMENDATION 10

"At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules."

Much can be done to fight the conflict-of-interests problem by preventive measures. Section 11 of the proposed statute makes several suggestions. New employees can be required to certify that they have read the conflict-of-interest rules and to report on their outside employment. In particular, an effective orientation program would be helpful. Agents and attorneys appearing before agencies can also be required to file an affidavit stating that they are not, by such appearance, violating any conflict-of-interest law.

## RECOMMENDATION 11

"There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws."

Not infrequently a Government employee is found in a conflict-of-interest situation and penalized for it while the person responsible for placing him in the situation remains unscathed.

The proposed act contains a new and broad section making it a violation for a person to make a payment (or transfer any other thing of economic value) to a Government employee while "believing or having reason to believe that there exist circumstances making the receipt thereof a violation of" certain sections of the act. This prohibition also covers the making of gifts in the situations corresponding to the situations in which an employee may not receive a gift.

Both administrative and criminal sanctions are applicable to these violations by persons dealing with Government employees.

## RECOMMENDATION 12

"Each committee of the Senate considering a presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect."

There is substantial evidence that the Government's efforts to recruit top-level executives have been impeded by the requirements of stock divestment imposed by the Armed Services Committee of the Senate.

This problem cannot be dealt with by statute. The confirmation power is a constitutional prerogative. However, this problem should be a subject of joint concern and increased cooperation between the executive branch and the Senate. There is some evidence that recently the executive departments have taken more pains to prepare their nominees for confirmation. Legal opinions have on occasion been furnished by the Justice Department; plans have been worked out in advance of hearing as to what need be said and what could be kept, and representatives of the appointing department or agency confer in advance of hearing with appropriate authorities of the committee.

If the proposed act were passed, the "Administrator" would become the central repository for all information concerning conflict-of-interest, and he would be expected to assist the executive branch in working out regular procedures for preparing nominees for confirmation. He could, in cooperation with the Department of Justice and general counsel to the agency in question, prepare a full analysis of the conflict-of-interest problems of the particular nominee. Over a period of time, these analyses might be given substantial weight by the confirming committees.

Furthermore, if a modern and effective system of statutory restraints is adopted by Congress and implemented by active executive branch administration, the confirming committees might be willing to place greater reliance on the statutory rules and procedures. One clear example is the procedure for disqualification recognized by the proposed act where a Government official holds a particular economic interest in a private entity.

## RECOMMENDATION 13

"The Congress should initiate a thorough study of the conflict-of-interest problems of

Members of Congress and employees of the legislative branch of the Federal Government."

Primarily because of their representative function, Members of Congress and legislative branch employees are, in matters of conflict of interests, in a significantly different position from that of executive branch employees. As such, Congress must be considered separately.

A fresh examination of these problems by Congress, or by a study group initiated by Congress, is needed. However, such a study should in no way deter immediate action with respect to the executive branch along the lines of the proposed act.

The committee's proposed program can be best assessed against the background of the more general discussion, analysis, and findings in the report. Appendix A to this statement summarizes some of the more salient features of this background.

#### SUPPLEMENTAL APPROPRIATIONS, 1960, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(Mr. HECHLER asked and was given permission to extend his remarks at this point in the Record.)

Mr. HECHLER. Mr. Speaker, on February 23, when this body passed House Joint Resolution 621 appropriating \$23 million in the supplemental appropriation for the fiscal year 1960 for the National Aeronautics and Space Administration, I would like the Record to show that I was present and voted "No" on the voice vote.

I wish to make it clear why I voted against the NASA appropriation.

My personal feeling, deepened and reinforced by my work on the House Committee on Science and Astronautics, is that education constitutes the very foundation of both national defense and our progress in the space effort. With Admiral Rickover, I believe that the whole question of the importance of education must be placed in perspective. It does little good to purchase military hardware today or put a man in space tomorrow if we do not train the brains to produce better hardware and improved technology in the future.

Therefore, I have come to the conclusion that the most important single issue facing this country today is how to train the young people who will lead and keep America strong in the future. When people stress the value of basic research, I say that to produce basic research you need trained and educated people.

Of course we are going to need people trained in the natural sciences. But we are also going to need social scientists who can point the way for mankind to reduce human poverty and suffering, to secure disarmament and better international understanding—and ultimately to maintain a lasting peace. And as automation produces more and more leisure time, we shall need more people trained in the humanities as well. Perhaps better training in the humanities would help raise the moral tone of our society too. It certainly could use some improvement.

What does all this have to do with a supplemental appropriation for the National Aeronautics and Space Administration? These funds will be used for

the Mercury—man-in-space—program, and for improving tracking facilities. Both of these objectives are sound. In voting against this supplemental appropriation, I do not wish my vote to be interpreted as opposition to the value of either of these projects.

However, in this troubled world, I am concerned at the perspective with which we view and approach issues. I happen to feel that the need for education is so fundamental, and so serious, that I believe it deserves the top priority in the Nation. I believe it deserves an even higher priority than the money authorized or appropriated for either our national defense or space programs.

Therefore, I am reluctantly opposing, and will oppose in the future any authorizations or appropriations in the fields of national defense or the space program until the passage of an adequate general education bill.

#### PRESIDENTIAL LEADERSHIP AND NATIONAL SECURITY—II

(Mr. HECHLER asked and was given permission to extend his remarks at this point in the Record.)

Mr. HECHLER. Mr. Speaker, on February 18, I addressed the House on the issue of presidential leadership, urging the President to exercise his full powers to arouse the Nation to the threat it faces. The people are yearning for the leadership which the President alone could supply. As the occupant of the most powerful office in the free world, the President has a rare opportunity for leadership in these most critical times when America faces a great watershed of history.

I was impressed yesterday by the testimony of two outstanding Americans who called attention to the nature of the crisis we face.

Dr. William Pickering, Director of the Jet Propulsion Laboratory, California Institute of Technology, testified February 24 before the House Committee on Science and Astronautics. Dr. Pickering repeated what President Eisenhower has declined to state, despite the unanimous opinion of the President's top administrators. In Dr. Pickering's own expression:

In other words, we should frankly admit what the rest of the world knows—that we are indeed in a race with the U.S.S.R. in space. One can come to no other conclusion.

I would also like to call attention to an excellent statement on February 24 by Robert C. Sprague, Chairman of the Federal Reserve Bank of Boston, who was cochairman of the Gaither Committee. Mr. Sprague describes himself as a conservative Republican. He pulls no punches in calling on the President to exert the leadership to awaken the American people to the nature of the current threat.

The statement follows:

STATEMENT OF ROBERT C. SPRAGUE TO THE SENATE SUBCOMMITTEE ON NATIONAL POLICY MACHINERY, FEBRUARY 24, 1960

Mr. Chairman, I welcome this opportunity to talk to your committee. The subject you have asked me to cover is one to which I have given a great deal of prayerful thought

during the past 7 years and concerns matters about which I feel very strongly.

Advancing military technology is rapidly precipitating us into an unstable security position. The problems we now face and will increasingly face in the years ahead, make it most important that some significant changes be made in our organization for security.

In my prepared statement, I wish to emphasize six major points:

First, the Nation faces a clear and imminent threat to its survival, but we have not yet fully awakened to this very unpleasant fact.

Second, the Nation can and should do much more to put its back into the job of meeting the threat. We certainly have the resources to do those things required for our survival, provided we allocate them wisely.

Third, key officials concerned with our national security frequently do not have all the facts they need to make many important decisions, or they have the wrong facts.

Fourth, I believe our key officials, particularly the Secretary of Defense, need better staff assistance for securing objective military advice.

Fifth, the Congress should, by appropriate legislation, give the President and the Secretary of Defense more flexibility in assigning roles and missions to the three Services and to the Marines.

Sixth, the Congress could and should play a more active role in stiffening our response to the Communist challenge.

On the first and second points:

I do not wish to speak at length about the challenge we face. This is a subject on which others have expressed themselves with great authority before this subcommittee.

It is said, with some justice, that generals prepare for the last war, especially if they happened to be on the winning side. Civilians may make the same mistake.

I suggest that Mr. Khrushchev does not make the same distinctions between peace and war that we do. The Communist views life as a struggle to be waged all the time until final victory has been achieved. He chooses his weapons in light of his opportunities. If it is advantageous, he will use military force. But if a means short of military force seems more advantageous, he will use that means.

One of our basic problems today stems from the failure of most Americans to realize that we have actually been at war with the Communists, in their sense of the word, since 1946. We find it comfortable to think that peace is the norm, that situations like Korea and Berlin are variations from the norm. The truth is that since 1946 war has been the norm. We are very slow to appreciate that very distasteful fact. And that is why, although we have done much, we have not done a great deal that urgently needs to be done.

World war III, in the sense of a thermonuclear holocaust, may never come. Indeed, to be prepared for it is the best means to avoid it. But if the test of war is not whether there is shooting, but whether someone is trying to defeat us, we are fighting world war III right now—and we could lose it without a shot being fired on either side.

I think that Mr. Khrushchev has a very simple view of history. It can be put into three words: Power is supreme. He plans to win by being more powerful—militarily, economically, psychologically.

This ambition is supported by:

(1) A high degree of centralized control and great power over the Soviet people achieved by the small, ruling group in Russia—probably the greatest such control over a vast population in history.

(2) The obvious ruthlessness with which the Russians hierarchy is willing to act to