The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date; and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, and $1.90 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act.

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed.

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months of employment on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act.

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts.

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90-202) to extend its coverage to federal, state and local government employees.

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Technical amendments.

SECTION 14

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of Labor to promulgate regulations necessary to carry out such amendments.

STATEMENT BY SENATOR TAFT

Minimum wage legislation has been the subject of considerable discussion during the last two years, with extensive debate in this body and the other body. Senator Dominick and I today have introduced a bill that we feel is a very constructive approach to increasing the minimum wage. I understand Senators Williams and Javits also plan to introduce a minimum wage proposal in the near future. I am sure their proposal will be a great help in considering this important topic.

It is important to remember, however, that the Congress must be very careful in acting to amend the Fair Labor Standards Act. If we enact increases to the minimum wage too quickly, many employees may lose their jobs. Many of our nation's small businesses would also be severely affected if the minimum is increased too quickly. We must remember that the Fair Labor Standards Act is basically small business legislation, and any attempt to make it other than that can be fatal to many of our nation's small employers and their employees.

Another extremely important concept with regard to the minimum wage question is the concept of a youth differential. Any way you examine the unemployment situation for our nation's youth, you are readily apprised of extremely pressing problems. It is truly discouraging to see that many of our nation's youth, especially minority youth, do not have a job, nor do they have the prospect of obtaining one. Senator Dominick and I have suggested a sub-minimum wage proposal to be applicable for youth 18 years of age and under. We feel this proposal has merit and will help alleviate part of this youth unemployment problem. I realize the strong feeling of organized labor against this concept, but I also know that they are quite aware and quite concerned about the problem of youth unemployment. I hope that they will again carefully consider this question and provide constructive alternatives in this area if they continue to oppose any type of youth sub-minimum.

Senator Dominick has already gone over the provisions of our proposal and included a summary thereof. I will not duplicate this effort. I would ask, however, that each Senator carefully examine the issues raised with respect to increasing the minimum wage and then consider our proposal.

All Americans desire to see the elimination of sub-standard and exploitive wage practices. Let us in the Congress work together in this session toward this goal.

By Mr. GRAVEL:

S. 1726. A bill to provide guidelines and limitations for the classification of information and material, to insure the integrity of the Congress as a separate branch of the Government by preventing the unwarranted interference in congressional functions by the executive and judicial branches, to establish an Office of the General Counsel to the Congress, to require the disclosure of information to Congress by the executive branch, to protect the confidentiality of information and sources of information of the news media, and for other purposes. Referred to the Committee on Government Operations.

THE PEOPLE'S NEED TO KNOW

Mr. GRAVEL. Mr. President, the prerequisite of a free, self-governing people is an enlightened citizenry. If the American people are to be meaningful participants in the operation of their Government, they must have easy access to virtually all information. The Government's shrill claims of a "need" for secrecy must give way to the higher priority of the citizen's need to know, his right to know.

I have identified five areas in which it seems to me crucial, that we act in order to preserve the free flow of information:

First. We must control excessive secrecy by establishing guidelines and limitations for classification and declassification. This does not mean mandating secrecy itself, as the administration has proposed.

Second. We must assure the congressional role in gathering and disclosing information by protecting Members of Congress from intimidation by the Executive.

Third. We must put a stop to the abuse of Executive privilege. While the adviser relationship should be kept sacrosanct, it should never be used to keep information from the Congress.

Fourth. We should establish our own general counsel to preserve congressional immunity, defend our membership from Executive harassment, and act aggressively to halt Executive usurpation of power.

Fifth. We must grant newsmen immunity from disclosure of information and sources. A free press will assist Congress in informing the people, and it will keep the Congress itself honest.

I have attempted to deal with the problems in each of these areas in separate titles of a comprehensive bill, the "Public Information Act of 1973," which I am introducing today. I ask unanimous consent that this bill, to-

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gether with an accompanying section-by-section analysis, be printed at this point in the RECORD.

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

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Information Act of 1973".

TITLE I—AMENDMENTS TO FREEDOM OF INFORMATION ACT

SHORT TITLE

SECTION 101. This title may be cited as the "Freedom of Information Act Amendments of 1973".

ATTORNEYS' FEES

SEC. 102. Section 552(a)(3) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The court shall award reasonable attorneys' fees and court costs to the complainant if it issues any such injunction or order against the agency."

CONFORMING AMENDMENTS

SEC. 103. Section 552(b) of title 5, United States Code, is amended—

(1) by striking out "(b) This section" and insertion in lieu thereof "(b)(1) subsection (a)";

(2) by redesignating paragraphs (1) through (9) as subparagraphs (A) through (I), respectively;

3) by striking out subparagraph (A), as redesignated by clause (2), and inserting in lieu thereof the following: "(A) designated Secret Defense Data in accordance with subsection (d);"; and

(4) by inserting at the end thereof the following new paragraph:

"(2) Subsection (a) applies to any matter which is declassified under subsection (e)."

CLASSIFICATION OF INFORMATION

SEC. 104. Section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(d)(1) The Congress finds and declares that the free flow of information among individuals, between the Government and the citizens of the United States, and among the separate branches of the Government is essential to the proper functioning of the Constitutional processes of the United States. The Congress further finds that certain unwarranted policies and procedures for the classification of information and to material have in the past unduly inhibited this free flow of information, and that in order to correct this situation it is necessary to prescribe certain guidelines and limitations for the classification of information and material which the President or the head of an agency determines to require limited dissemination in the interest of national defense. By prescribing such guidelines and limitations, it is not the intention of the Congress either to encourage the classification of information and material or to establish as a criminal offense, in itself, the unauthorized disclosure of any such classified information or material.

"(2) The President and the heads of those agencies listed under subparagraph (A) of paragraph (1) are authorized to classify as 'Secret Defense Data' any official information or material originated or acquired by them, the unauthorized disclosure of which may reasonably be expected to cause damage to the national defense. Official information or material may be classified as Secret Defense Data only if its unauthorized disclosure would adversely affect the ability of the United States to protect and defend itself against overt or covert hostile action. In no case shall information or material be classified in order to conceal incompetence, inefficiency, wrongdoing, or administrative error, to avoid embarrassment to any individual or agency, to restrain competition or independent initiative, or to prevent or delay for any reason the release of information or material the dissemination of which will not damage the national defense.

"(3) Except as otherwise provided by law, no designation other than 'Secret Defense Data' shall be used to classify information or material in the interest of national defense. The President or the head of the agency originating or receiving Secret Defense Data may use such routing indicators as may be appropriate to assist in limiting the dissemination of individual items of such Secret Defense Data to designated recipients.

"(4) (A) Official information or material may be originally classified as Secret Defense Data by the heads of—

"(i) such offices within the Executive Office of the President as the President may designate by Executive Order;

"(ii) the Department of State;

"(iii) the Department of Defense and the military departments, as defined in section 102 of this title;

"(iv) the Department of the Treasury;

"(v) the Department of Justice;

"(vi) the Department of Commerce;

"(vii) the Department of Transportation;

"(viii) the Atomic Energy Commission;

"(ix) the Central Intelligence Agency; and

"(x) the National Aeronautics and Space Administration.

"(B)(i) The President and the head of each agency listed under subparagraph (A) may authorize in writing senior principal deputies, assistants, and subordinate officials within each such agency to classify official information or material as Secret Defense Data. In no case may any individual occupying a position lower than the level of section chief or its equivalent be authorized to classify official information or material as Secret Defense Data, and no individual may be granted such authority unless his daily operational responsibilities require that he have such authority.

"(ii) Officers and employees of agencies other than agencies listed under subparagraph (A) may not classify official information or material, and the authority to classify may not be delegated or transferred to any other agency except by Act of Congress. An officer or employee of an agency who is not authorized to classify official information or material under this subsection, but who originates or supervises the origination of official information or material which he believes to qualify for classification as Secret Defense Data, may recommend classification of any such information or material by the head of the agency having both a direct official interest in the information or material and the authority to classify it.

"(iii) Each individual authorized by the head of an agency listed under subparagraph (A) to classify official information or material shall be furnished within written instructions advising him of the subject matter which he may classify and of any other requirements applicable to him in the exercise of his classification authority. The head of each such agency shall semiannually review his designation of authority to classify official information or material and shall revoke such designation in the case of any individual whose operational responsibilities no longer require that he have such authority.

"(iv) No individual authorized to classify information or material may redelegate such authority to any other individual.

"(v) Any individual who, acting in a clerical capacity, handles any classified information or material need not have authority to classify such information or material in order to copy or otherwise reproduce or to put classification markings on such information or material.

"(5) The head of each agency listed under paragraph (4)(A) shall compile and maintain a complete list of the names and official addresses of all individuals within such agency who are authorized to classify official addresses of all individuals within such list shall be submitted quarterly by each such agency head to the Comptroller General of the United States. A copy of each such list shall be made available, upon written request to the appropriate agency head by any Member or committee of Congress, to such Member of committee.

"(6) Official information and material shall be classified according to what it contains or reveals and not according to its relationship with or reference to other information or material. No document or other material may be classified unless it contains or reveals an element of official information specifically designated as Secret Defense Data pursuant to this subsection.

"(7) Any document or other material object, including communications transmitted by electrical means, containing or revealing information designated as Secret Defense Data shall be appropriately and conspicuously marked or other identified to show—

"(A) the designation 'Secret Defense Data';

"(B) any routing designator which may have been assigned;

"(C) the office of origin;

"(D) the date of origin;

"(E) the name and title of the individual who classified the document or object; and

"(F) the date of original classification.

The marking or other identification shall be limited to those paragraphs or other separate segments of the document or other object which require protection, and the classification authority shall (i) mark or identify only those paragraphs or segments which require protection, or (ii) include with the document or other object a statement specifically describing those paragraphs or segments which require protection.

"(8) Information or material furnished to the United States by a foreign government or international organization, the unauthorized disclosure of which could reasonably be expected to cause damage to the national defense or to the defense of a foreign government with which the United States is allied, may be designated as 'secret defense data', except that any such information or material shall be provided to any Member or committee of Congress upon written request to the appropriate agency, notwithstanding any contrary agreement or stipulation.

"(9) Official information or material originated or acquired by an agency and classified as 'confidential', 'secret', or 'top secret' pursuant to any Executive order shall be subject to the provisions of this subsection. Subject to review procedures established by the President or the head of an agency, any officer or employee having custody of a document or other material classified as 'confidential,' 'secret', or 'top secret', which is in use or withdrawn from file or storage for use, shall mark it in accordance with the provisions of this subsection to show that it has been designated as Secret Defense Data, or to show that it has been declassified and cite this subsection or subsection (e) as the authority for such marking, unless declassification was accomplished before the effective date of this subsection.

"(e)(1)(A) Any official information or other material which—

"(i) is classified pursuant to the provisions of subsection (d) after the effective date of such subsection; and

"(ii) at any time thereafter ceases to meet the requirements of subsection (d) (2), or can no longer be protected against unauthorized disclosure,

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shall be declassified promptly by the President or an individual within the appropriate agency who has the authority to classify such information or material.

"(B) Except as provided in paragraph (2), any official information or material which is classified pursuant to subsection (d) on or after the effective date of such subsection and which is not declassified as provided in subparagraph (A), shall be declassified automatically upon the expiration of two years after the end of the month of its classification, by the President or an individual within the appropriate agency who has authority to classify such information or material, regardless of whether or not the document or other material has been marked to show the declassification.

"(C) Except as provided by paragraph (2), any official information or material which was originally classified as 'confidential, 'secret', or 'top secret' pursuant to any Executive order during the two-year period immediately preceding the effective date of subsection (d), and which is classified as 'confidential', 'secret', or 'top secret' on such effective date, shall be declassified automatically upon the expiration of two years after the end of the month of the original classification of such information or material, by the President or an individual within the appropriate agency who has the authority to classify such information or material, regardless of whether or not the document or other material has been marked to show the declassification. If the original date of classification of such information or material is not known, it shall be declassified automatically not later than the expiration of two years after the effective date of subsection (d).

"(D) Except as provided by paragraph (2), any official information or material which was originally classified pursuant to any Executive order, directive, memorandum, or other authority prior to the two-year period immediately preceding the effective date of subsection (d), and which continues to be classified on such effective date, shall be declassified automatically upon the expiration of six months after such effective date, by the President or an individual within the appropriate agency who has authority to classify such information or material, regardless of whether the document or other material has been marked to show the declassification.

"(2)(A) Any official information or material which is classified and which is subject to automatic declassification as provided in subparagraph (B), (C), or (D) of paragraph (1) may be assigned a deferred automatic declassification date by the President or the head of the agency which originally classified such information or material or by the head of the agency which has responsibility for such information or material in the case of a transfer of functions from one agency to another, upon a determination by the President or the agency head that the information or material is of such sensitivity and importance to continue to satisfy the requirements for classification as Secret Defense Data. For each item of information or material for which the President or the head of an agency makes such a determination, he shall submit, in writing, to the Committee on Government Operations of the Senate, the Committee on Government Operations of the House of Representatives, and the Comptroller General of the United States a detailed justification for the continued classification of such information or material. Both such committees shall compile and print at least annually as a public document all such reports received by them, except that upon recommendation of the President or the head of the agency concerned, such committee may delete from printing any material which itself satisfies the requirements for classification as Secret Defense Data. Each such deletion shall be indicated in the printed document, and the complete document without deletions shall be kept in committee files and made available, upon request, to any Member or committee of Congress. In no case may the President or the head of an agency assign a deferred automatic declassification date of more than two years after the date of declassification provided for under subparagraph (B), (C), or (D) of pargaraph (1), except that such official may assign an additional deferred automatic declassification date upon determination that the classified information or material continues to satisfy the criterion for classification as Secret Defense Data. For each such deferral such official shall submit a written justification as provided herein. The authority to defer declassification shall not be redelegated by the head of any agency. Any information or material assigned a deferred automatic declassification date may at any time be declassified in accordance with paragraph (1)(A).

"(B)(i) Any person may bring a civil action on his own behalf against the President or the agency head who is alleged to have deferred the automatic declassification date of official information or material which does not satisfy the requirements (as described in subsection (d)(2)) for classification as Secret Defense Data. The district court of the United States in the district in which the complainant resides, or has his principal place of business, or the district court for the District of Columbia, has jurisdiction to enjoin the President or the agency head from deferring the automatic declassification date of information or material and to order such declassification upon finding that such information or material does not satisfy the criterion for classificatin as Secret Defense Data. In such a case the court shall determine the matter de novo and the burden is on the President or the agency head to sustain his action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible official. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(ii) The court, if it issues any injunction or order against the President or the agency head in any action brought pursuant to subparagraph (B)(i), shall award reasonable attorneys' fees and court costs to the complainant.

"(3) The declassification of Secret Defense Data shall be accomplished by issuance of an official announcement describing or otherwise identifying the information or material to be declassified, or by the classification authority authenticating the declassification according to the procedures described in paragraph (4) on the record copy of a document or other material and notifying all holders of copies of such document or material that the information or material has been declassified.

"(4) Any information or material which is declassified, including information or material automatically declassified, shall be marked as soon as practicable in order clearly to show that it has been declassified. Such information or material also shall be annotated to show the date of the declassification and the name and title of the person who authorized the declassification. Information or material which is in storage when declassified need not be marked or annotated until it is withdrawn for use, and information or material which is declassified and which is designated for destruction need not be marked or annotated but may be destroyed according to procedures applicable to other non-classified material.

"(5) The head of an agency which has responsibility for functions transferred from another agency shall exercise declassification authority for such Secret Defense Data as falls within the purview of the transferred functions, even if such agency does not have original classification authority. The Administrator of Services shall exercise declassification authority for such Secret Defense Data as has been transferred to the General Services Administration in order to be placed in the Archives of the United States. In order to carry out the provisions of this paragraph, heads of agencies may designate such senior principal deputies, assistants, and subordinate officials as they may require to accomplish declassification.

"(6) An officer or employee who has custody of Secret Defense Data which he believes no longer requires classification, and concerning which he does not have declassification authority, may recommend immediate declassification by the person or office having both a direct official interest in such Secret Defense Data and the authority to declassify it.

"(f)(1) The head of each agency which exercises authority to classify or declassify official information or material shall, in conjunction with the Comptroller General of the United States, prescribe such regulations as he considers necessary or appropriate to carry out the provisions of subsections (d) and (e) of this section, including regulations which prescribe administrative reprimand, suspension, or other disciplinary action for the improper classification of official information or material.

"(2) The Comptroller General of the United States shall monitor the actions taken by agencies to implement and adhere to the policies and provisions of subsections (d) and (e) of this section. To this end the Comptroller General shall perform, among others, the following functions:

"(A) Prescribe, in conjunction with heads of agencies, such regulations as may be necessary to achieve uniformity among agencies in the implementation of subsections (d) and (e) of this section.

"(B) Obtain and review agency implementing regulations and those of such subordinate components as may be necessary to determine the effectiveness of agency actions.

"(C) Inquire on a periodic basis regarding the need for assignment or retention of the Sector Defense Data designation on selected documents and other material.

"(D) Conduct visits on a periodic basis to observe the practical application of classification and declassification policy and the safeguarding of Secret Defense Data by officers and employees of agencies.

"(E) Investigate, when deemed appropriate, inquiries initiated by private citizens, officers or employees of the United States, or any other person concerning any allegation of improper classification of information or material, or concerning any allegation of the failure of any agency, or any officer or employee thereof, to comply with the policies and provisions of subsection (d) or (e) of this section, or any regulation prescribed under this subsection.

"(F) Transmit semi-annual reports not later than March 1 and September 1 of each year to both the Senate Committee on Government Operations and the House Committee on Government Operations, setting forth the findings of such reviews, inquiries, visits, and investigations as may have been conducted pursuant to subparagraphs (B) through (E) during the reporting period, as well as any other matters pertaining to the implementation of subsections (d) and (e) which may be of interest to the committees. Such reports also shall contain any recommendations for action by the committees relating to this Act which the Comptroller General may deem appropriate.

"(g) No person may withhold or authorize withholding information or material from

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the Congress, or any committee or Member thereof, or from any court of the United States on the basis that such information or material is classified or qualifies for classification as Secret Defense Data or is otherwise classified pursuant to any law. Executive order, directive, memorandum, or other authority."

ATOMIC ENERGY RESTRICTED DATA

SEC. 105. The provisions of this title shall not affect any requirement made by or under the Atomic Energy Act of 1954, as amended, regarding the designating and protection of Restricted Data, as defined in that Act.

EFFECTIVE DATE

SEC. 106. (a) Except as provided in subsection (b), the provisions of this title shall take effect on the first day of the fourth month that commences after the date of its enactment.

(b) Section 552(f), as added by section 104 of this title, shall take effect upon the date of enactment of this Act.

TITLE II—CONGRESSIONAL PROTECTION

SEC. 201. Part II of title 18, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 239—CONGRESSIONAL PROTECTION

"Sec.

"3791. Congressional protection.

"§ 3791. Congression protection.

"(a) Notwithstanding any other provision of law, the courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Commissioners, and the United States magistrates shall have no jurisdiction to conduct any criminal proceeding with respect to offenses against the laws of the United States if such proceeding relates to a legislative activity of a Member of Congress.

"(b)(1) If an attorney for the United States intends to issue a subpoena to any person, and such attorney has reason to believe that the subpoena, or any part thereof, relates to a legislative activity of a Member of Congress, then such attorney shall immediately notify the Attorney General of the United States. The Attorney General shall approve personally the issuance of the subpoena, and shall notify in writing such Member and the President pro tempore of the Senate, in the case of a Senator, or the Speaker of the House of Representatives, in the case of a Representative, a Resident Commissioner, or a Delegate of the House of Representatives, not less than 48 hours in advance of the issuance of the subpoena.

"(2) If at any time in the course of any criminal proceeding it appears that testimony which relates to the legislative activity of a Member of Congress is being heard or may be heard, and the provisions of paragraph (1) have not been complied with, then the court shall stay the proceedings and give such Member an opportunity to move, as provided in subsection (c), to quash the subpoena or subpoenas pursuant to which testimony is being taken.

"(c) If any subpena is issued to any person with respect to any activity of a Member of Congress, that Member may file a motion, before the court under whose seal the subpena was issued, asking that the subpena, or any part thereof, be quashed on the grounds that such subpena or part thereof relates to a legislative activity of such Member and is therefore beyond the jurisdiction of such court, commissioner, or magistrate, as the case may be. Upon the filing of such motion, the subpena, or part thereof, sought to be quashed shall be stayed. In any hearing on a motion to quash the subpena, the United States (1) is required to state with particularity the information it intends to receive as the result of the issuance of the subpena, and (2) shall have the burden of proving, beyond a reasonable doubt, that such subpena, or part thereof, does not relate to any legislative activity of such Member. If the United States fails to satisfy the provisions of both clauses (1) and (2) of this subsection, the subpena or part thereof shall be quashed. If the court finds that both such clauses have been satisfied, the court may order the enforcement of the subpena or part thereof. However, the order shall specify with particularity, and as narrowly as practicable, the information about which the United States may inquire or obtain under such subpena in order to assure that such information will not relate to any legislative activity of such Member.

"(d) For purposes of this section—

"(1) 'court of the United States' has the same meaning given that term under section 451 of title 28;

"(2) 'legislative activity' means any activity of a Member of Congress, while a Member of the Congress, relating to the due functioning of the legislative process and carrying out the obligations a Member of Congress owes to the Congress and to his constituents, and includes, but is not limited to, speeches, debates, and votes, in either House of Congress, committee or subcommittee conduct, gathering or receipt of information for use in legislative proceedings, speeches or publications outside of Congress informing the public on matters of national or local importance, and the motives and processes by which a decision was made with respect thereto; and

"(3) 'Member of Congress' means either a present or former Senator, or a present or former Representative, Resident Commissioner, or Delegate of the House of Representatives."

SEC. 202. The table of chapters of part II of such title 18, preceding section 3001, is amended by adding at the end thereof the following:

"239 Congressional protection."

TITLE III—OFFICE OF THE GENERAL COUNSEL TO THE CONGRESS

ESTABLISHMENT

SEC. 301. There is established in the Congress an office to be known as the office of the General Counsel to the Congress, referred to hereinafter as the "Office".

PURPOSE AND POLICY

SEC. 302. The purpose of the Office shall be to provide legal advice, legal representation, legal counseling, and other appropriate legal services to the Congress, its two Houses, and their respective committees, Members, officials and employees in those matters relating to their institutional or official capacities and duties. The Office shall maintain impartiality as to matters brought before it, and it shall provide services indiscriminantly to any committee or Member of Congress unless directed otherwise by either House or Congress as a whole. The Office shall maintain the attorney-client relationship with respect to all communications between it and any committee or Member of Congress.

FUNCTIONS

SEC. 303. The functions of the Office shall be as follows:

(a) Upon the request of the Congress, either of its two Houses, any joint committee of the Congress, or any committee of either House of the Congress, to commence civil action against the President or any other officer of the Government to compel compliance with any law.

(b) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to commence civil action against the President or any other officer of the Government to compel compliance with any request for information.

(c) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to represent the Congress, either of its two Houses, or any of their respective committees, Members, former Members, officers or employees before any grand jury proceeding or in any civil or criminal action arising from their performing or not performing any action relating to their institutional or official capacities and duties.

(d) Upon the request of the Congress, either of its two Houses, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee, to intervene as a party before any grand jury proceeding or in any civil or criminal proceeding.

(e) Upon the request of the Congress, either of its two Houses, any joint committee of the Congress, or any committee of either House of the Congress, to appear before the Supreme Court or any other court of the United States as amicus curiae in cases involving the intent and meaning or constitutionality of legislation or of any action of either House of Congress.

(f) To review rules and regulations from time to time issued by the various agencies of the Government and to report to the Congress as to whether such rules and regulations are authorized by the legislation under which they purport to be issued.

(g) To bring to the attention of the Congress such legal proceedings, actions of the Government, and other matters which relate to the institutional or official capacities or duties of the Congress or its Members.

(h) To furnish advice and other appropriate services to any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee in connection with the foregoing.

CONGRESSIONAL COUNSEL

SEC. 304. The management, supervision, and administration of the Office are invested in the General Counsel to the Congress who shall be appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives and the majority leaders and minority leaders of the Senate and House of Representatives (referred to hereinafter as the "Leaders") acting unanimously, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. In the event of the failure of the Leaders to act, the appointment shall be made by majority vote of both the Senate and the House of Representatives. Any person so appointed shall serve for only one term of ten years, but may be removed from office by the Leaders, acting unanimously.

STAFF

SEC. 305. With the approval of the Leaders, or in accordance with policies and procedures approved by them, the General Counsel shall appoint such attorneys and other employees as may be necessary for the prompt and efficient performance of the functions of the Office. Any such appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed may be removed by the General Counsel to the Congress with the approval of the Leaders, or in accordance with policies and procedures approved by the Leaders.

COMPENSATION

SEC. (a) The General Counsel to the Congress shall be paid at a per annum gross rate equal to the rate of basic pay, as in

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effect from time to time, for level III of the Executive Schedule of section 5314 of title 5, United States Code.

(b) Members of the staff of the Office other than the General Counsel to the Congress shall be paid at per annum gross rates fixed by the General Counsel with the approval of the Leaders, or in accordance with policies approved by the Leaders, but not in excess of a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level V of the Executive Schedule of section 5316 of title 5, United States Code.

EXPENDITURES

SEC. 307. In accordance with policies and procedures approved by the Leaders, the General Counsel to the Congress may make such expenditures as may be necessary or appropriate for the functioning of the Office.

OFFICIAL MAIL

SEC. 308. The Office shall have the same privilege of free transmission of official mail matter as other offices of the United States Government.

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. There are authorized to be appropriated, for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, such sums as may be necessary to carry out this title and to increase the efficiency of the Office and the quality of the services which it provides.

TITLE IV—PRIVILEGED INFORMATION

SEC. 401. Chapter 6 of title 2, United States Code, is amended by adding the following new section:

"§ 192a. Privileged Information

"(a) The Congress declares that information or material of, or under the custody or control of, any agency, officer, or employee of the Government is to be made available to the Congress so that the Congress may exercise, in an informed manner, the authority conferred upon it by article I of the Constitution to make laws necessary and proper to carry into execution the powers vested in the Congress and all other powers vested in that Government or any department or officer thereof.

"(b) For the purpose of this section—

"(1) 'agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

"(A) the Congress;

"(B) the courts of the United States; or

"(C) the governments of the territories or possessions of the United States;

"(2) 'employee' means—

"(A) an employee in or under an agency;

"(B) a member of the uniformed services; and

"(C) an employee engaged in the performance of a Federal function under authority of an Executive act; and

"(3) 'Government' means the Government of the United States and the government of the District of Columbia.

"(c) Any officer or employee of the Government summoned or requested to testify or produce information or material before Congress, any joint committee of the Congress, any committee of either House of the Congress, or any subcommittee of any such committee (hereinafter the 'requesting body'), shall not refuse to appear on the grounds that the requested testimony, information, or material is privileged. Any such officer or employee appearing as a witness may be required to answer questions with regard to, or required to produce, any—

"(1) information or material within such person's immediate knowledge or jurisdiction; and

"(2) policy decisions that such person personally has made or implemented.

If such witness asserts that the requested information or material is privileged and refuses to supply the same, such person immediately shall provide a justification for the assertion of privilege, whereupon it shall then be a question of fact for the requesting body to determine whether or not the plea or privilege is well taken. If not well taken, the witness shall be ordered to supply the requested information or material. Upon such order, if the witness continues to refuse to supply the requested information or material, such person shall be held in contempt of Congress.

"(d) Any information or material of, or under the custody or control of, any agency, officer, or employee of the Government shall be made available to any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee, or the general accounting office, upon written request of any such Member, committee, subcommittee, or office to the head of the agency or other officer or employee of the Government who has custody or control of such information or material. Any information or material so requested shall be furnished within fifteen days of receipt of the request unless within such time the head of the agency or other governmental authority which receives the request asserts that the information or material is privileged and provides in writing to such Member, committee, subcommittee, or office a justification for the assertion of privilege. In the case of information or material requested by a committee or subcommittee, upon receipt of a plea of privilege it shall then be a question of fact for the committee or subcommittee to determine whether or not such plea is well taken. If not well taken, the head of the agency or other governmental authority which receives the request shall be ordered to supply the requested information or material, and if such information or material is still refused, such person shall be held in contempt of Congress.

"(e) Nothing in this section shall be construed to require any officer or employee of the Government to make available to the Congress, any Member of the Congress, any joint committee of the Congress, any committee of either House of the Congress, any subcommittee of any such committee, or the General Accounting Office the nature of any advice, recommendation, or suggestion (as distinct from any form of information or material included within or forming the basis of such advice, recommendation, or suggestion) made to or by such person in connection with matters solely within the scope of such person's official duties, except to the extent that such information may be required by some other provision of law to be made available to Congress or made public.

"(f) Nothing in this section is intended to recognize or sanction a doctrine of 'executive privilege' or to permit the refusal of information or material on the grounds that such information or material constitutes 'internal working papers'."

SEC. 402. The analysis of such chapter is amended by adding the following new item: "192a. Privileged information."

TITLE V—COMMUNICATIONS MEDIA PRIVILEGE SHORT TITLE

SEC. 501. This Title may be cited as the "Communications Media Privilege Act of 1973".

DEFINITIONS

SEC. 502. For the purpose of this Title, the term—

(1) "Federal or State proceeding" includes any proceeding or investigation before or by any Federal or State judicial legislative, executive, or administrative body;

(2) "medium of communication" includes, but is not limited to, any newspaper, magazine, other periodical, book, pamphlet, news service, wire service, news or feature syndicate, broadcast station or network, or cable television system;

(3) "information" includes any written, oral or pictorial news, or other material;

(4) "published information" means any information disseminated to the public by the person from whom disclosure is sought.

(5) "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes, or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated;

(6) "processing" includes compiling, storing, and editing of information; and

(7) "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

SEC. 503. No person shall be required to disclose in any Federal or State proceeding—

(1) the source of any published or unpublished information obtained in the gathering, receiving, or processing of information for any medium of communication to the public, or

(2) any unpublished information obtained or prepared in gathering, receiving, or processing of information for any medium of communication to the public.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO FREEDOM OF INFORMATION ACT

Sec. 101. Short title. This title, would would regulate and limit the classification of material by the Executive branch, amends the Freedom of Information Act to emphasize that the intention is to make much more information available to the public.

Sec. 102. Amends paragraph (a) (3) of the Freedom of Information Act to provide the award of attorneys' fees and court costs to individuals who show that they have been improperly denied information by an agency.

Sec. 103. Housekeeping amendments.

Sec. 104. Adds paragraphs (d) through (g) to the Freedom of Information Act.

(d) Classification of information.

(1) States that the purpose of providing guidelines and limitations for Executive branch classification is to control the abuse of classification as it has come to be practiced. This abuse is so severe that security experts agree that somewhere between 75 and 99 percent of all current classification is unnecessary. Such examples of classification of newspaper articles and the classification of whole documents, no individual part of which is itself classified, are common. Such overclassification has been accomplished not under law, but solely on the authority of Executive order. The Executive order under which classification is now carried out (No. 11652) became effective June 1, 1972, with the announced purpose of bringing the classification system under rein. It has failed to do so, and many think the situation has worsened since its issuance.

This paragraph specifically states that by passing legislation governing classification the Congress would have no intention of encouraging classification or making the unauthoritzed disclosure of classified material a criminal offense. Classification would remain an executive *prerogative*—it would *not be mandated* by the Congress. Consequently, it would not be illegal to disclose classified matters, just as it is not now illegal. It would continue, however, to be illegal under the Espionage Act to disclose information with intent or reason to believe that it could be used to the injury of the United States. This is as it should be. To make simple disclosure a crime, without intent to injure, would be tantamount to creating an Official Secrets

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Act—something the United States has always avoided. To make mere disclosure a criminal offense would give any person who could use a classification stamp the authority to make criminals of other citizens. Such a law would certainly show little respect for the First Amendment.

(2) Stipulates that only one designation, "Secret Defense Data", may be used to classify information. The present use of three categories of classification—"Confidential", "Secret", and "Top Secret"—serves no useful purpose in protecting the national defense; it only inhibits the availability to the public of large volumes of information. Information either deserves protection, or it does not. This was the practice followed by the Congress in the Atomic Energy Act of 1954, the only place where classification has a sanction in law. Information to be protected is there designated "Restricted Data". The use of only one category of classification will not prevent the limited dissemination of information within the executive branch. Paragraph (d)(3) provides for the use of appropriate routing indicators, which would be not unlike such present designations as "Eyes Only" and "Lim Dis".

The criterion of classification would be protection of the national defense against either overt or covert hostile action. The term "national defense" is chosen purposefully, rather than "national security". The latter term is much broader, including the economic condition of the United States for instance, and its use as the criterion of classification would more severely restrict the availability of information to the public. Of course no criterion should justify the use of classification to conceal incompetence, wrongdoing, etc., and this is specifically spelled out in the bill.

(3) Requires that "Secret Defense Data" will be the exclusive designation used in classification. Provides for the use of routing indicators, as explained above.

(4) Limits the authority to classify to the President and such offices within the Executive Office of the President as he designates; the heads of the Departments of State, Defense, Treasury, Justice, Commerce, and Transportation; the heads of the military departments; and the heads of the AEC, CIA, and NASA. The needless proliferation of wielders of classification stamps has had a significant effect in denying information to the public. The bill meets this problem by lodging the authority to classify in only those agencies where it is operationally necessary, and then only in the heads of the agencies and such principal deputies as they designate in writing. Only those individuals whose daily operational responsibilities require such authority will be allowed to classify, and the heads of agencies will be required to review this authority twice a year, to determine each individual's continuing "need to classify". Any individual exercising classification authority will be furnished written instructions which set the boundries within which he may classify. The redelegation of classification authority will not be permitted, but the mere handling of classified material, in a clerical capacity, will not require the authority to classify.

(5) The heads of agencies exercising classification authority will be required quarterly to submit to the Comptroller General lists of all individuals with the authority to classify. Such lists shall also be available to the Congress This will insure a public check on who is classifying public information.

(6) Prevents the classification of information by association. Under the present system it is common practice to classify an entire document, even though only a very small portion is actually sensitive. In come cases, a document is classified even when *no* part of it, taken separately, is classified.

(7) Requires that all classified material will clearly show: the designation "Secret Defense Data", any routing designator which may have been assigned, the office of origin, the date of origin, the name and title of the classification authority, and the date of classification. It will be further shown what part or parts of the material require protection, so that the remainder may be used without the encumbrance of classification.

(8) Allows the classification of information received from foreign governments and international organizations if unauthorized disclosure could be expected to damage the national defense or the defense of an allied government. Any such information would be available to the Congress, however, even if the foreign government or international organization had stipulated otherwise.

(9) Brings information classified by the present system under coverage of the bill.

(e) Declassification of information.

(1)(A) Provides that information which no longer needs to be classified to protect the national defense, or which simply no longer can be protected from unauthorized disclosure, will be declassified promptly. The Pentagon Papers are a good example for both these cases. They were first kept classified unnecessarily, and then, even after they were released, not all released portions were declassified.

(B) Except as provided in paragraph (2) below, requires that information classified under the provisions of this bill will be declassified automatically at the end of two years, regardless of whether or not it was marked to show the declassification. The following points from the 1970 Report of the Defense Science Board Task Force on Secrecy are relevant:

"It is unlikely that classified information will remain secure for periods as long as 5 years, and it is more reasonable to assume that it will become known to others in periods as short as 1 year."

"Classification of information has both negative as well as positive aspects. On the negative side, in addition to the dollar costs of operating under conditions of classification and of maintaining our information security system, classification establishes barriers between nations, creates areas of uncertainty in the public mind on policy issues, and impedes the flow of useful information within our own country as well as abroad."

"The volume of scientific and technical information that is classified could profitably be decreased by perhaps as much as 90 percent through limiting the amount of information classified and the duration of its classification."

"More might be gained than lost if our nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information . . ."

(C) Except as provided in paragraph (2) below, requires that information classified during the two-year period preceding the establishment of the new classification system will be declassified automatically two years from the date of its classification, unless that date is not known, in which case it will be declassified two years from the effective date of the bill.

(D) Except as provided in paragraph (2) below, requires that information classified prior to the two-year period preceding the effective date of the bill will be declassified automatically six months after the effective date.

(2)(A) Provides that the President or the head of an agency (but no one else) may assign a deferred automatic declassification date of up to two years to any information, rather than allow it to become declassified as set out in paragraphs (B), (C), or (D) above. Any such deferred classification date would itself automatically expire in not more than two years, but it could always be deferred for another two years. In order to assign any such deferred declassification date, however, the President or head of an agency would be required to submit, in writing, to the Senate and House Committees on Government Operations and the Comptroller General a detailed justification for the continued classification. The committees, in turn, would be required to print these justifications as a public document at least annually. This process leaves the determination of whether or not information should be declassified in the hands of the agency which knows the material and circumstances best, but it assures periodic high level review and makes the Congress and the public aware that information exists, albeit in classified form. (Of course, some justifications for continued classification might themselves reveal information which should be kept secret. In this circumstance the bill provides that the justification will not be publicly printed, but will be available to the Congress.) This overall procedure also is in accord with the recommendation of the Defense Science Board Task Force on Secrecy that in each instance of classification there be set "a limit on the classification, as short as possible, which could be extended with detailed justification."

(B) Provides that any person (which would include the Congress) may bring a civil action to seek to enjoin a deferral of declassification or to order declassification on the grounds that such a deferral does not satisfy the requirements for classification, namely, protection of the national defense. In any such case, the burden would be on the President or the head of an agency to sustain his deferral. This procedure parallels the provision for judicial relief already contained in the Freedom of Information Act. It is essential if citizens are to have recourse in the face of needless governmental secrecy.

(3) Requires that the declassification of information will be made widely known through either an announcement describing the information declassified or notification of all holders of material which contains the declassified information.

(4) Provides that when material is declassified it will be so marked, showing the date of declassification and the name and title of the person who authorized the declassification. This requirement would not apply to material in storage or material to be destroyed.

(5) Provides that in cases of transferred functions or materials, the head of an agency need not have classification authority in order to declassify information if that information is under his jurisdiction.

(6) Provides that any officer or employee of the executive branch who has custody of classified material which he thinks should be declassified may recommend immediate declassification by the appropriate authority.

(f) Implementation.

(1) Provides that implementing regulations shall be prescribed jointly by the head of an agency and the Comptroller General. This will provide congressional oversight of executive classification procedures.

(2) Charges the Comptroller General with monitoring executive classification procedures.

(g) Prevents the withholding of information from the Congress or federal courts on the grounds that such information is classified. Although the Executive is reluctant to admit that it withholds information from the Congress on the basis of classification, it in fact does so. There can be only two possible justifications for this executive withholding. One would be that there is no "need to know" on the part of Congress, and the other would be that in the hands of the Congress information would soon lose its confidentiality. Neither answer suffices. There is assuredly a "need to know", for Congress must legislate, and it must have

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facts to do so. The argument for withholding information because Congress will destroy its confidentiality also fails. In the first place. Congress handles classified information all the time without "leaking" it. Executive withholding is selective. Secondly, it is a well-established constitutional principle that the fact that a power might be abused is no argument against its existence. Every power may be abused. Thirdly, the public release of information by the Congress is an important separation-of-powers check on excessive executive secrecy.

The need to specify that classification of information will not form the basis for withholding such information from the courts arises from the recent decision of the Supreme Court in *Environmental Protection Agency* v. *Mink*. In that case, it was the opinion of the Court that an examination of the Freedom of Information Act and the surrounding legislative history "negates the proposition that Exemption 1 [of the Freedom of Information Act, which allows withholding of information classified pursuant to executive order] authorizes or permits *in camera* inspection of a contested document bearing a single classification so that the court may separate the secret from the supposedly nonsecret . . ."Of course, the majority went on to say that ". . . in some situations, *in camera* inspection will be necessary and appropriate." But this concession is qualified by the further statement that *in camera* inspection may be ordered only after an agency first has been given the opportunity to ". . . demonstrate, by surrounding circumstances [without producing the documents], that particular documents are purely advisory and contain no separable, factual information." In the words of the majority opinion itself, an agency is ". . . entitled to attempt to demonstrate the propriety of withholding any documents, or portions thereof, by means short of submitting them for *in camera* inspection." The Court has in this decision adopted something less than careful judicial review of the executive's inclination to keep its secrets secret, and legislative clarification appears necessary to assure the free flow of information to the public.

SEC. 105. Exempts from the provisions of this title the classification of atomic energy information by the Atomic Energy Commission, which already is regulated by law and has not posed problems of the same order as other executive classification.

SEC. 106. Effective date.

TITLE II—CONGRESSIONAL PROTECTION

Sec. 201. Amends part II of title 18, United States Code, by adding at the end a new chapter 239 and a new section 3791.

§ 3791. Congressional protection.

(a) Provides that the courts shall have no jurisdiction to conduct criminal proceedings which relate to a legislative activity of a Member of Congress. Such an alteration of the jurisdiction of the courts—which the Congress has the undoubted power to regulate—is made necessary by the decisions in *United States* v. *Brewster* and *Gravel* v. *United States*, in which a majority of the Supreme Court held that the "Speech or Debate" clause of article I, section 6 of the Constitution does not bar grand jury investigations and criminal prosecutions against Members of Congress for deciding how to speak and vote, and for informing themselves and their constituents about maladministration and corruption in the Executive branch.

The Speech or Debate clause—which states that "for any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other place"—has historically been construed broadly by the courts, to include much more than just speeches and debates delivered within the four walls of the Capitol. As Senator Sam Ervin has stated, it is the Congress' "First Amendment", preserving broad freedom to speak and act when Members of Congress do the people's business. The Constitution's Speech or Debate clause derives directly from a similar provision in the English Bill of Rights of 1689, which itself arose out of the case of Sir William Williams, Speaker of the House of Commons. Williams had republished, after it first appeared in the Commons Journal, a report about an alleged pilot between the Crown and the King of France to restore Catholicism as the established religion of England. During the reign of James II, Williams was charged with libel and fined 10,000 pounds even though he had pleaded that the publication was privileged as necessary to the "counseling" and "enquiring" functions of Parliament. Shortly after Williams' conviction James II was sent into exile, and a committee was appointed by the House of Commons to report upon "such things as are absolutely necessary for securing the Laws and Liberties of the Nation." In reporting to the House, the chairman of the committee stated that the provision for freedom of speech and debate was included "for the sake of one . . . Sir William Williams, who was punished out of Parliament for what he had done in Parliament."

Flying in the face of this historical precedent, the Supreme Court in *Gravel* stated that "the English legislative privilege was not viewed as protecting republication"; and while acknowledging that prior cases have read the Speech or Debate clause "broadly to effectuate its purposes," and have included within its reach anything "generally done in a session of the House by one of its members in relation to the business before it," the Court severely narrowed its application by stating that:

"Legislating acts are not all-encompassing. The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House."

While the *Gravel* case involved the question of protection of a Senator's aide from interrogation about republication of the Pentagon Papers, the *Brewster* case concerned the very different issue of an indictment of a former United States Senator for the solicitation and acceptance of bribes "in return for being influenced . . in respect to his action, vote, and decision" on certain legislation. Though Senator Brewster's actions centrally involved legislative activity, the Court drew a distinction between the *performance* of a legislative act and an *agreement to perform* the same. It thus was able further to erode the protection of the Speech or Debate clause by holding that ". . . a Member of Congress may be prosecuted under a criminal statute provided that the Government's case does not rely on legislative acts or the motivation for legislative acts." Chief Justice Burger, writing for the majority, then went on to devise an apparently gratuitous distinction between political acts and legislative acts:

"It is well known, of course, that Members of Congress engage in many activities other than the purely legislative activities protected by the Speech and Debate Clause. These include a wide range of legitimate 'errands' performed for constituents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called 'news letters' to constituents, news releases, speeches delivered outside the Congress . . . Although these are entirely legitimate activities, they are political in nature rather than legislative. . ."

Thus, in the *Brewster* and *Gravel* decisions, the Court restrictively defined "legislative acts" and limited the scope of Speech or Debate immunity to those acts. The legislator has been left with no protective immunity from Executive branch harrassments such as subpoenaing him to testify as to his confidential sources of information and prosecuting him for unpopular legislative acts on the grounds that they are improperly motivated. This danger was recognized by Justices White, Douglas, and Brennan, dissenting in *Brewster*:

"[T]he opportunities for an executive, in whose sole discretion the decision to prosecute rests . . ., to claim that legislative conduct has been sold are obvious and undeniable. These opportunities, inherent in the political process as it now exists, create an enormous potential for executive control or legislative behavior by threats or suggestions of criminal prosecution—precisely the evil which the Speech or Debate Clause was designed to prevent"

Similarly, Justice Brennan, writing in dissent for himself, Justice Douglas, and Justice Marshall, warned of the dangers to public dialogue posed by the majority's opinion in *Gravel:*

"Whether the Speech or Debate Clause extends to the informing function is an issue whose importance goes beyond the fate of a single Senator or Congressman. What is at stake is the right of an elected representative to inform, and the public to be informed, about matters relating directly to the workings of our Government. The dialogue between Congress and people has been recognized, from the days of our founding, as one of the necessary elements of a representative system. We should not retreat from that view merely because, in the course of that dialogue, information may be revealed that is embarrassing to the other branches of government or violates their notions of necessary secrecy. A member of Congress who exceeds the bounds of propriety in performing this official task may be called to answer by the other members of his chamber. We do violence to the fundamental concepts of privilege, however, when we subject that same conduct to judicial scrutiny at the instance of the Executive."

(b)(1) Provides that before a subpoena which relates to legislative activity of a Member of Congress can be issued it must be personally approved by the Attorney General. The Attorney General is also required to notify, at least 48 hours in advance of its issuance, the Member concerned and the President pro tempore of the Senate in the case of a Senator and the Speaker of the House in the case of a Representative. This procedure will assure that legislative immunity is not infringed upon without the Member or his House being aware of the government action. It also will allow time for the Member to move to quash the subpoena, as provided in subsection (c).

(2) Provides that if a Member and his House have not been notified as provided in paragraph (1), and if testimony is being taken in a criminal proceeding which relates to that Member's legislative activity, then the court will stay the proceedings and give the Member an opportuntiy to move to quash those subpoenas pursuant to which the testimony is being taken, as provided in subsection (c).

(c) Provides that if a subpoena is issued to anyone with respect to any activity of a Member of Congress, that Member may move to quash the subpoena on the grounds that it relates to his legislative activity, and hence is beyond the jurisdiction of the court. Upon such a motion, the subpoena in question shall be stayed and a hearing held to determine its proper disposition. The subpoena shall be quashed unless the government (1)

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states with particularity the information it intends to receive as the result of the issuance of the subpoena and (2) proves beyond reasonable doubt that the subpoena does not relate to the Member's legislative activity. If the government satisfies these conditions the court may order the enforcement of the subpoena, but the order shall specify as narrowly as practicable the information about which the government may inquire in order to prevent questioning concerning legislative activity.

These procedures provide Members of Congress a mechanism by which they can prevent executive inquiry into their legislative activity, either through requiring them to testify directly or through the testimony of third parties. This will prevent the abuses countenanced by the Supreme Court in *Brewster* and *Gravel*, where third party inquiry was in no way circumscribed and where protection against even direct questioning was limited to only the most narrowly conceived legislative activities.

(d) Definitions.

(1) "Court" is defined as under section 451 of title 28.

(2) "Legislative activity" is defined generally as any activity of a Member of Congress relating to the due functioning of the legislative process and carrying out the obligations a Member of Congress owes to the Congress and his constituents. This broad language includes all constitutionally delegated responsibilities of the Congress, and is meant to encompass legislative oversight of the executive departments and the function of informing one's constituents and one's colleagues. The term is further specifically defined to include speeches, debates, and votes, whether on the floor or in committee; gathering or receipt of information for use in legislative proceedings; speeches of publications outside of Congress informing the public on matters of national or local importance; and the motives and processes by which a decision was made with respect to any of the foregoing. This definition includes several activities specifically supposed by the Supreme Court not to be a part of legislative activity.

(3) "Member of Congress" is defined to mean either a present or a former Member, a protection clearly shown to be necessary by government prosecution of former Senator Brewster. Legislative integrity will not be preserved if Members are subject to executive harrassment when they are no longer in office.

SEC. 202. Amends the table of chapters of part II of title 18.

TITLE III—OFFICE OF THE GENERAL COUNSEL TO THE CONGRESS

SEC. 301. Establishes a new entity within the Congress, to be known as the Office of the General Counsel to the Congress.

SEC. 302. Stipulates that the purpose of this new office will be to provide legal advice, representation, counseling, etc. to the Congress and its committees and Members in those matters relating to their official responsibilities. The services of the office could not be used on personal legal matters. The office would be required to serve all committees and Members equally, and to perform those functions set out in section 303 when requested to do so by the appropriate authority, unless directed otherwise by the House or the Senate or the Congress as a whole. This procedure will assure that each Member and committee will be able to obtain legal assistance in protecting his or its legislative prerogatives, even if the matter in question is an unpopular cause, unless there is in effect disciplining of the Member or committee by the body as a whole. This is in keeping with the constitutional provision that "Each House may determine the Rules of its Proceedings, [and] punish its Members for disorderly Behavior . . ."

The Congress and its committees and Members are, from time to time, involved as parties litigant. This has been increasingly true in recent years, and in the 92nd Congress alone some 205 Members were directly concerned with litigation affecting Congress. Many of these cases have been private suits against Members; some, such as *Mink v. Environmental Protection Agency*, have involved efforts by Members of Congress to obtain information from the Executive; and still others, such as *United States* v. *Brewster*, *Gravel* v. *United States*, and *Doe* v. *McMillan*, have concerned the question of legislative immunity under the Speech or Debate clause of the Constitution. Historically, representation in such cases has been by private counsel or by the Department of Justice. In a few cases—for example, *Powell* v. *McCormack*—the Congress has had its own counsel under special arrangement.

If the Congress is to preserve its independence as a separate branch of the government, it is important that it establish its own General Counsel to defend it, to compel executive compliance with the law and with requests for information, and to preserve its integrity through strong assertion of legislative immunity. The cost of retaining private counsel for these purposes is almost prohibitive, and in other ways not as satisfactory as having representation by an official of the Congress itself. The alternative of turning such matters over to the Department of Justice is not always available, as when congressional positions run counter to executive policy, but even when it is, such representation is often not particularly aggressive or enthusiastic. Each branch of the government, under the constitutional separation of powers, must ultimately discharge its responsibilities based on independent judgments, and one branch cannot and should not be dependent on the other branches for guidance and direction.

SEC. 303. Functions of the Office of the General Counsel to the Congress.

(a) Provides that upon request of the Congress, either of its Houses, or any of its committees, civil action may be commenced against any officer of the government to compel compliance with any law. For example, the Congress might wish, under this provision, to bring action against the President to force him to release impounded funds.

(b) Provides that upon request of the Congress, either of its Houses, any Member or any committee or subcommittee, civil action may be commenced against any officer of the government to compel compliance with any request for information. The legal assistance provided under this provision could have been used by Representative Patsy Mink and 32 other Members of the House when they sought to obtain several documents relating to the proposed underground nuclear test at Amchitka Island, Alaska. It also could be used, for instance, by the Senate or House Committee on Government Operations to challenge the assignment of a deferred declaration date, as provided by subsection (e)(2)(B) of the Freedom of Information Act, as amended by section 104 of title I of this bill.

(c) Provides that upon request of the Congress, either of its Houses, any Member, or any committee or subcommittee, the Office of General Counsel may represent any of the aforenamed or any former Member of Congress or any officer or employee of Congress in any civil or criminal action arising in connection with their official responsibilities. This provision would provide legal assistance to the man Members of Congress and the several committees against whom suits are brought. It also would have provided assistance to former Senator Daniel Brewster when he was indicted on charges of soliciting and accepting a bribe, if the Congress had so requested.

(d) Provides that upon request of the Congress, either of its Houses, any Member, or any committee or subcommittee, the Office of General Counsel may intervene as a party before any grand jury proceeding or in any civil or criminal proceeding. Under this provision Senator Mike Gravel could have received legal assistance when he moved to intervene in an action brought by aide Leonard Rodberg to quash a subpoena issued by a federal grand jury convened to investigate matters relating to the public disclosure of the Pentagon Papers.

(e) Provides that upon request of the Congress, either of its Houses, or any of its committees, the Office of General Counsel may appear before any federal court as amicus curiae in cases involving the intent and meaning or constitutionality of legislation or of any action of either House. This provision would have applied, for instance, when the Senate filed an amicus brief before the Supreme Court in the Gravel case.

(f) Provides that the Office of General Counsel will review periodically the rules and regulations issued by the various agencies, to determine if they are authorized by the legislation under which they purport to be issued. Oversight of this type would significantly increase congressional control over the agencies which often issue regulations which substantially alter the law enacted.

(g) Charges the Office of General Counsel with the responsibility of bringing to the attention of the Congress any matters which relate to the functions and duties of the Congress or its Members.

(h) Provides that the Office of General Counsel will furnish advice and other appropriate services in connection with its other functions.

Sec. 304. Provides that the Office will be under the direction of the General Counsel to the Congress, who will be appointed by unanimous action of the President pro tempore of the Senate, the Speaker of the House, and the majority and minority leaders of the two Houses. The General Counsel would serve for only one ten-year term, and he could be removed from office by unanimous action of the leaders.

Sec. 305. Provides that the General Counsel may appoint such staff as is required for the Office, subject to approval of the leaders. All appointments would be made solely on the basis of fitness to perform the duties of the position.

Sec. 306. Provides that compensation of the General Counsel will be at the rate of Executive level III, and that compensation of other staff will be at rates not to exceed that of Executive level V.

Sec. 307. Authorizes expenditures for the operation of the Office, in accordance with policies and procedures approved by the leaders.

Sec. 308. Provides that the Office will have the privilege of free transmission of mail.

Sec. 309. Authorization of appropriations.

TITLE IV—PRIVILEGED INFORMATION

Section 401. Amends chapter 6 of title 2, United States Code, by adding a new section 192a.

§ 192a. Privileged information.

(a) Declares it to be the policy of the United States that any information in the possession of the Executive branch is to be made available to the Congress in order that it may discharge in an informed manner those duties and responsibilities given it by the Constitution. In 1927, a unanimous Supreme Court in *McGrain* v. *Daugherty*, 273 U.S. 135, 174–5, stated that:

". . . the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. . . . A legislative body cannot legislate wisely or ef-

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fectively in absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which frequently is true—recourse must be had to others who possess it. . . ."

The principle of Executive accountability to Congress was asserted from the outset of the nation's history. In 1789 Congress adopted a statute stating that:

"[I]t shall be the duty of the Secretary of the Treasury . . . to make report, and give information to either branch of the legislature in person or in writing (as he may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office. . ." [1 Stat. 65–66 (1789) (now 31 U.S.C. 1002)]

This provision was drafted by Alexander Hamilton himself, and the satute makes no provision for executive discretion to withhold. Not only was this a constitutional interpretation by the First Congress, but it also was approved by President Washington, who signed it. Since the First Congress, many other statutes have been passed requiring the various agencies to turn over information to the Congress upon request. But the original statute was itself at an early date applied by extension to all departments. In 1854 Attorney General Cushing furnished this advice to the President:

"By express provision of law, it is made the duty of the Secretary of the Treasury to communicate information to either House of Congress when desired: and it is practically and by legal implication the same with the other secretaries, and with the Postmaster and the Attorney General."

(b) Defines the terms "agency", "employee", and "Government" in such a way as to impose the requirements of the section upon all individuals within the Executive branch, including advisors to the President.

(c) Stipulates that any officer or employee of the Government summoned or requested to testify or produce information before the Congress or any of its committees may not refuse to appear on the grounds that the requested testimony or information is privileged. Although it is almost undeniable that some information will be privileged, the privilege clearly runs to *information* and not to individuals. Accordingly, if an employee of the Executive branch is requested to testify, even if he plans to claim that the requested testimony is privileged, he should appear to explain the reasons for his refusal. There is no reason to immunize the Executive from the burden of justifying its failure to testify. The Congress is entitled to at least an appearance.

This subsection further stipulates that any individual appearing as a witness may be questioned concerning (1) information within his immediate knowledge or jurisdiction and (2) policy decisions that he personally made or implemented. This procedure will assure that the Congress gets the information it needs, while at the same time preventing abuse of lesser officials by congressional committees. It is somewhat unseemly, not to say unproductive, for Congress to badger minor bureaucrats about matters over which they have no real control.

If a witness is questioned about matters within his authority, and he refuses to answer and asserts that the information requested is privileged, he will be required to justify his claim of privilege, and it shall then be a question of fact for the committee to determine whether or not the plea of privilege is well taken. There are several grounds on which a claim of privilege might be asserted, and which the committee would need to evaluate in the individual case. For example: (a) the information is made confidential by statute (b) the information is solely of the nature of advice to a superior (c) the information concerns pending litigation and must be protected to assure an individual his right of privacy. Each of these pleas of privilege, which might be considered well taken in a given instance, have frequently been included under the rubric "executive privilege", but a claim of executive privilege should not be accepted in such unrefined form.

Executive privilege—the alleged power of the President to withhold information, the disclosure of which he feels would impede the performance of his constitutional responsibilities—supposedly has its constitutional basis in article II section 3, where the President is charged with seeing that the laws are faithfully executed. But this can be no grounds for refusing information to the Congress, which, as shown above, has both a constitutional and a statutory right to require whatever information it needs to make those laws which shall be "necessary and proper" for carrying out its responsibilities. As early as 1838 the Supreme Court asserted in *Kendall* v. *United States* that: "To contend that the obligation imposed upon the president to see the laws faithfully executed implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible."

A congressional request for information is too important to be blocked even by a refusal from the President. For this reason, it would be a mistake simply to require that the President personally direct an assertion of the privilege, as some have suggested. Although it is best that an assertion of privileged communication with the President, for instance, not be made without presidential approval, it would be a grave error to concede that the President has any such uncontrolled discretion to deny the Congress information. This is not a decision which can be made by the Executive alone. In a case in which the Congress has legitimate authority, but in which the President contends that disclosure would hinder the discharge of his constitutional powers, recourse must be had to the courts.

Subsection (c) provides this recourse by requiring that if a witness is ordered by a committee to comply with a request for information even after he has asserted the information to be privileged, he may be held in contempt if he still continues to refuse. If a standoff of this sort were reached, there would be two ways to get the matter before the court. One would be for the Congress to punish the contempt by having the Sergeant at Arms seize the offender and imprison him in the common jail of the District of Columbia or the guardroom of the Capitol Police. The case would then be brought before the court through the issuance of a writ of habeus corpus. Alternatively, under section 303(b) of title III of this bill, the committee could direct the General Counsel to the Congress to commence civil action against the recalcitrant official to compel compliance with the request for information. That the court would have authority to decide between the claims of the contending parties in such a circumstance is fairly well established. In *United States* v. *Reynolds* in 1953, the Supreme Court asserted that executive privilege was "not to be lightly invoked," that "the Court itself must determine whether the circumstances are appropriate for the claim of privilege," and that "judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers." In a much earlier case, *United States* v. *Burr*, Chief Justice Marshall ruled in 1807 that:

"That the president of the United States may be subpoenaed, and examined as a witness, and required to produce any paper in his possession, is not controverted. . . .

The occasion for demanding it ought, in such a case, to be very strong, and to be fully shown to the court before its production could be insisted on."

The Chief Justice did in fact require President Jefferson to produce the letter in question in this case.

(d) This subsection is the same as (c) above, except that it pertains to written requests for information rather than oral testimony, and it includes the individual Members of Congress and the General Accounting Office in its provisions as well as the committees of Congress. Individual Members and the GAO would not, however, have the contempt power.

(e) Provides that this section cannot be used as authority to require any member of the Executive branch to make available to the Congress the nature of any advice, recommendation, or suggestion made to or by such person in connection with matters solely within the scope of such person's official duties. Just as aides to Members of Congress and clerks for judges should not be required to reveal the advice they give their employers, so members of the Executive branch should not be so compelled. This exemption does not include, however, any information or material included within or forming the basis of such advice.

(f) Disclaims any intention of sanctioning a doctrine of executive privilege or permitting the refusal of information on the grounds that it constitutes "internal working papers".

Sec. 402. Amends the chapter analysis to include this new section.

TITLE V—COMMUNICATIONS MEDIA PRIVILIGE

Sec. 501. Short title.

Sec. 502. Definitions.

(1) "Federal or State proceeding" is defined to include proceedings or investigations before judicial, legislative, executive, and administrative bodies. State, as well as federal, proceedings are included because most of the current controversy over press freedom has arisen at the State level, and the law in even those States which have so-called "shield laws" has not been adequate to protect newsmen.

(2) "Medium of communication" is defined to include books as well as more traditional sources of news, and includes electronic as well as print media.

(3) "Information" is defined to include oral and pictorial, as well as written, news.

(4) "Published information" is defined to include all information disseminated to the public by the person from whom disclosure is sought.

(5) "Unpublished information" is defined to include all information not disseminated to the public by the person from whom disclosure is sought, regardless of whether published information based upon such material has been disseminated.

(6) "Processing" is defined to include compiling, storing, and editing of information.

(7) "Person" is defined to include partnerships, corporations, associations, etc. as well as individuals.

Sec. 503. Stipulates that no person will be required to disclose in any federal or State proceeding (1) the source of any published or unpublished information obtained in the gathering, receiving, or processing of infor- to the public, or (2) any unpublished information for any medium of communication mation obtained or prepared in gathering, receiving, or processing of information for any medium of communication to the public.

This section grants the unqualified privilege from disclosure recommended by the American Newspaper Publishers Association. Legislation to provide this immunity is required in face of the 5 to 4 Supreme Court decision in *United States* v. *Caldwell* that the First Amendment does not relieve a news-

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paper reporter of the obligation that all citizens have to respond to a grand jury subpoena and answer questions relevant to a criminal investigation. As Justice Stewart stated, writing for the minority:

"The Court's crabbed view of the First Amendment reflects a disturbing insensitivity to the critical role of an independent press in our society. . . . The Court . . . invites state and federal authorities to undermine the historic independence of the press by attempting to annex the journalistic profession as an investigative arm of government."

If newsmen are required to reveal their confidential sources and information, press informants will "dry up", and the public will receive nothing but the official line on government actions. Similarly, inside coverage of crime and unpopular organizations and ideas will also be severely diminished.

It has been argued that the proposed unqualified immunity should not apply when a newsman is the defendant in a libel action. However, because of the decision in *New York Times Company* v. *Sullivan*, in which the Supreme Court ruled that in libel actions brought by public officials and public figures recovery can be had for a defamatory falsehood only if it is published with actual malice, there is almost no possibility of succeeding in sucha case against a newsman, so little is lost by making the privilege absolute. On the other hand, to allow libel suits against newsmen when they are otherwise protected from government intimidation might simply subject them to harassment through frequent libel actions, even though they in all probability would not be successful.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. CRANSTON, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. HOLLINGS, Mr. HUGHES, Mr. PASTORE, Mr. RIBICOFF, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG):

S. 1727. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I have introduced a bill to incorporate the Pearl Harbor Survivors Association. This measure would bestow Federal recognition on this private nonprofit association but would not affect its legal, corporate, or other status.

The association is comprised of men and women who defended our Nation against the historic Japanese attack on the U.S. Pacific Fleet and bases around Pearl Harbor on December 7, 1941. Since 1941, survivors of the Pearl Harbor attack have formed many local and regional groups, and there are now 101 active chapters located in almost every State. Their national organization, the Pearl Harbor Survivors Association, was incorporated in Missouri in 1958.

An estimated 12,500 surviving members of the U.S. Armed Forces served at Pearl Harbor and in the area of Oahu Island during the December 7 attack. Of that number, the Pearl Harbor Survivors Association has an active membership of 5,259 men and women. Anyone who was a member of the Armed Forces on Oahu or who was stationed aboard a ship located within 3 miles of the island on December 7, 1941, is eligible to join. Members must either have been honorably discharged or still be a member of our Armed Forces. The association conducts regular chapter, district, and State meetings, and a biennial national convention.

The motto of the organization is "Keep America Alert," which the association seeks to accomplish by preserving historical momentos and chronicles of the Pearl Harbor attack, protecting graves of Pearl Harbor victims; and stimulating Americans to take a more active interest in the affairs and future of the United States. The association has been particularly active in veterans' causes and national preparedness.

The association is unique because it will exist only as long as there are Pearl Harbor survivors. In order for the association to be more effective, it is imperative that it be recognized through the granting of a Federal charter. I believe the association fulfills all of the necessary requirements.

I am proud to sponsor this legislation as are the cosponsors who joined me in this effort. I ask unanimous consent to have printed in the CONGRESSIONAL RECORD a statement by the Pearl Harbor Survivors Association. I believe it best summarizes the purpose of the organization.

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

REMEMBER PEARL HARBOR

On that peaceful Sunday morning, December 7th, 1941, an enemy attack force hit Pearl Harbor with all it's fury of death and destruction. In only 30 short minutes the attackers accomplished their most important mission, they had wrecked the battle force of the United States Pacific Fleet. We also lost half of the military aircraft on the island. We accounted for ourselves as military, by fighting back, not yet aware that history had been thrust upon us. Pearl Harbor was the actual beginning of the great war which was to change the entire political structure of the world. We Americans who were there, demonstrated that we were prepared to give our lives, and did give them when necessary. Our sacrifice at Pearl Harbor united the nation and gave rise to a determination to protect and keep the American freedom. Our sacrifice alerted a relaxed nation, brought it to it's feet and caused it to win World War II. The lesson we learned by our sacrifice will not be easily forgotten. Many of us are no longer of use as sailors, soldiers, marines and airmen. We must make ourselves useful at home, by dedicating ourselves to the principals of freedom; by doing everything within our power to bring about a commitment of patriotism. We survivors who are still alive, and to those that did not survive, we can never permit ourselves to become vulnerable again.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 151

At the request of Mr. HARTKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 151, the Foreign Trade and Investment Act of 1973.

S. 608

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 608, a bill to authorize certain retirement and pay benefits to military and civilian personnel who were prisoners of war.

S. 1035

At the request of Mr. CASE, the Senator from Illinois (Mr. PERCY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. HART), the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. STAFFORD), the Senator from California (Mr. TUNNEY), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 1005, a bill to amend the National School Lunch Act, as amended, to assure that the school food service program is maintained as a nutrition service to children in public and private schools, and for other purposes.

S. 1167

At the request of Mr. HART, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1167, a bill to supplement the antitrust laws, and to protect trade and commerce against oligopoly power or monopoly power, and for other purposes.

S. 1255

At the request of Mr. MUSKIE, the Senator from North Dakota (Mr. BURDICK) and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 1255, the Property Tax Relief and Reform Act of 1973.

S. 1423

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. WILLIAMS, I ask unanimous consent that at the next printing the following names be added as cosponsors of the bill (S. 1423) to amend the Labor-Management Relations Act to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services: Messrs. RANDOLPH, DOMINICK, GURNEY, PELL, NELSON, MONDALE, CRANSTON, and HATHAWAY.

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

S. 1500

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the next printing the name of the Senator from Colorado (Mr. HASKELL) be added as a cosponsor of my bill (S. 1500) to establish a tenure of office of 7 years for the office of the FBI Director and the Deputy Director, and for other purposes.

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

S. 1541

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that at the next printing his name be aded as a cosponsor of S. 1541, the Congressional Budgetary Procedure Act of 1973.

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

S. 1563

At the request of Mr. TUNNEY, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 1563, a bill to enable domestic growers or canners of seasonal fruits or vegetables or of fruit juices, fruit nectars, or fruit drinks prepared from such seasonal fruits, which were packed in hermetically sealed containers and sterilized by heat

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