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16 May 1975

George--

Several items of interest regarding legislation from Thursday's RECORD.

The Senate passed S. 200, which establishes a nonregulatory agency for consumer advocacy to represent the interests of consumers in Federal agency and court proceedings. Section 16(a) of the bill exempts CIA and other intelligence agencies. The bill is attached.

The House began debate on H.R. 6674, Fiscal 1976 Defense Authorization bill. The committee bill has no sections restricting CIA and so far no amendments to that effect have been offered on the floor. The RECORD also indicates the House will recess Thursday, May 22nd, and return Monday, June 2nd.

Don

Consumer Protection Act

1975

Counsel

9:00

1/20

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

The result was announced—yeas 61, nays 28, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—61

Abourezk	Hart, Gary W.	Moss
Beall	Hart, Philip A.	Muskie
Bentsen	Hartke	Nelson
Biden	Haskell	Packwood
Brock	Hatfield	Pastore
Brooke	Hathaway	Pearson
Bumpers	Hollings	Pell
Burdick	Huddleston	Percy
Cannon	Humphrey	Proxmire
Case	Inouye	Randolph
Chiles	Jackson	Ribicoff
Church	Javits	Roth
Clark	Kennedy	Schweiker
Cranston	Leahy	Scott, Hugh
Culver	Magnuson	Stafford
Dole	Mathias	Stevens
Domenici	McGovern	Stone
Eagleton	McIntyre	Weicker
Fong	Mondale	Williams
Ford	Montoya	
Glenn	Morgan	

NAYS—28

Allen	Garn	Nunn
Bartlett	Goldwater	Scott, William L.
Bellmon	Griffin	Sparkman
Buckley	Hansen	Stennis
Byrd, Harry F., Jr.	Helms	Symington
Byrd, Robert C.	Hruska	Taft
Curtis	Laxalt	Talmadge
Eastland	Long	Tower
Fannin	McClellan	Young
	McClure	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—

Mansfield, for.

NOT VOTING—9

Baker	Johnston	Stevenson
Bayh	McGee	Thurmond
Gravel	Metcalf	Tunney

So the bill (S. 200) was passed, as follows:

S. 200

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 "Consumer Protection Act of 1975".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that the interests of consumers are inadequately represented and protected within the Federal Government; that regulations have been adopted and statutes have been enacted by the Federal Government without first securing available information as to the estimated costs and benefits of such regulations and statutes; and that vigorous representation and protection of the interests of consumers are essential to the fair and efficient functioning of a free market economy. Each year, as a result of this lack of effective representation before Federal agencies and courts, consumers suffer personal injury, economic harm, and other adverse consequences in the course of acquiring and using goods and services available in the marketplace. Federal programs which fail to provide benefits that are commensurate with the costs thereof may be a factor in the economic problems of the United States.

(b) The Congress therefore declares that—

(1) A governmental organization to represent the interests of consumers before Federal agencies and courts could help the agencies in the exercise of their statutory responsibilities in a manner consistent with the public interest and with effective and responsive government. It is the purpose of this Act to protect and promote the interests of the people of the United States as consumers of goods and services which are made available to them through commerce or which affect commerce by so establishing an independent Agency for Consumer Advocacy.

(2) It is the purpose of the Agency for Consumer Advocacy to represent the interests of consumers before Federal agencies and courts, receive and transmit consumer complaints, develop and disseminate information of interest to consumers, and perform other functions to protect and promote the interests of consumers. The authority of the Agency to carry out this purpose shall not be construed to supersede, supplant, or replace the jurisdiction, functions, or powers of any other agency to discharge its own statutory responsibilities according to law.

(3) It is the purpose of this Act to promote protection of consumers with respect to the—

(A) safety, quality, purity, potency, healthfulness, durability, preference, reparability, effectiveness, dependability, availability, and cost of any real or personal property or tangible or intangible goods, services, or credit;

(B) preservation of consumer choice and a competitive market;

(C) price and adequacy of supply of goods and services;

(D) prevention of unfair or deceptive trade practices;

(E) maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or other supplier of such property, goods, services, and credit;

(F) furnishing of full, accurate, and clear instructions, warnings, and other information by any such supplier concerning such property, goods, services, and credit;

(G) protection of the legal rights and remedies of consumers; and

(H) providing of estimates of the costs and benefits of programs and activities established by Federal Government regulations and legislation.

(4) It is the purpose of section 24 of this Act to establish a means for estimating in advance the costs and benefits of Federal legislation or rules that have substantial economic impact, and to prevent the adoption of Government programs which entail unreasonable or excessive costs.

(5) This Act should be so interpreted by the executive branch and the courts so as to implement the intent of Congress to protect and promote the interests of consumers, and to achieve the foregoing purposes.

ESTABLISHMENT

SEC. C. (a) There is hereby established as an independent agency of the United States within the executive branch of the Government the Agency for Consumer Advocacy. The Agency shall be directed and administered by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term coterminous with the term of the President, not to exceed four years. The Administrator shall be an individual who by reason of training, experience, and attainments is exceptionally qualified to represent the interests of consumers. There shall be in the Agency a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, powers, and duties as may be prescribed from time to time by the Administrator and shall act for, and exercise the powers of, the Administrator during the absence or disability of, or in the event of a vacancy in the office of, the Administrator. scribed from time to time by the Administrator shall continue in office until he is reappointed or his successor is appointed and qualifies. The Administrator may be removed by the President for inefficiency, neglect of duty or malfeasance in office.

(b) No employee of the Agency while serving in such position may engage in any business, vocation, other employment, or have other interests, inconsistent with his official responsibilities.

(c) There shall be in the Agency a General Counsel who shall be appointed by the Administrator.

(d) The Administrator is authorized to appoint within the Agency not to exceed five Assistant Administrators.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 4. (a) The Administrator shall be responsible for the exercise of the powers and the discharge of the duties of the Agency, and shall have the authority to direct and supervise all personnel and activities thereof.

(b) In addition to any other authority conferred upon him by this Act, the Administrator is authorized, in carrying out his functions under this Act, to—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for Grade GS-18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) appoint advisory committees composed of such private citizens, including consumers and business representatives, and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act, and pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees or otherwise serving at the request of the Administrator compensation and travel expenses at the rate provided for in paragraph (2) of this subsection with respect to experts and consultants: *Provided,* That all meetings of such committees shall be open to the public and interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe;

(4) promulgate, in accordance with the applicable provisions of the Administrative Procedure Act, title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act, and assure fairness to all persons affected by the Agency's actions, and to delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and to transfer funds made available under this Act to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the provisions of this Act, on such terms as the Administrator may deem appropriate, with any agency or instrumentality of the United States, with any State, or any political subdivision thereof, or with any person;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of

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mulgate any binding regulations, but simply would be allowed to intervene as an advocate before other Federal agencies and departments in support of consumer interests.

In addition, there are two features of S. 200 that have helped me quiet misgivings I have had about this concept. For one thing, small businesses are exempted from section 10, which gives the Agency power to direct interrogatories to businesses about activities that affect the interest of consumers. Small business, in my view should be fostered and encouraged by governmental action, because it can provide a useful competitive check upon the larger conglomerations of industrial power.

Furthermore, an entirely new concept has been added to the bill this session that I believe to be promising. Section 24 would require every existing Federal agency and department, before it issues a proposed rule or regulation, to formulate a cost and benefit assessment statement. The purpose of this statement would be to make explicit consideration by the agency of costs and benefits that would be occasioned by the issuance of its proposed rule, as opposed to those costs and benefits that would accrue if the rule were not issued. Industry, labor, and the general public alike in this country have long suffered from an excess of duplicative and suffocating economic regulations.

Section 24 of this bill would be a warning signal to all Federal agencies not to issue new rules and regulations without first carefully considering the costs and benefits that such rules and regulations would produce. This approach, I trust, will cause the Federal Government to be much more careful in the future about increasing the level of regulation of private and business activity.

Mr. President, I point out also that the ACA under S. 200, would be a temporary agency only. Funds are authorized to be appropriated for its operation for a period of only 3 fiscal years. I am by no means committed to vote to renew the life of this Agency at the expiration of this initial term, and if the Agency's contribution to the welfare of consumers is not substantial, I would find it impossible to do so.

Mr. GLENN. Mr. President, when we vote on final passage of S. 200, I intend to vote for the bill. The legislation is an important consumer protection measure. I view establishment of the Agency for Consumer Advocacy, however, as merely part of a larger effort toward the reform of Federal regulatory agencies which, in my opinion, in many instances have failed to carry out the functions assigned to them. In fact, if the regulatory agencies had been properly doing the consumer representation job that is their mandate, it is questionable whether the ACA would be necessary today. This unsettled situation has had an adverse effect on the businesses which are regulated and upon the American public.

We need to take a hard look at our regulatory system, a look which already has bipartisan support — emphasizing how important it has become. The President has proposed a "regulatory summit" to consider problems in this area, and recently I reported to the Senate on behalf of the Senate Committee on Government Operations a resolution which provides for an in-depth study of our whole regulatory system by the Senate Committee on Government Operations and the Senate Commerce Committee. This reassessment is vital, for it strikes at the root problem.

I think it would be wrong to look upon the establishment of an Agency for Consumer Advocacy as a final solution to the problems in this area. Indeed, the passage of S. 200 must not permit us to take our eye off the real problem, the reform of the regulatory agencies themselves.

The bill provides a 3-year life for the ACA during which time the other proposed legislation should provide an ample look at the basic regulatory problem, with an evaluation of the ACA at the end of that time. The Agency now appears to be essential for adequate representation of consumer interests during this interim time period while we reassess our regulatory system.

If in light of this overall reassessment, the Agency for Consumer Advocacy is found to be unnecessary or does not work well during the 3-year life span provided for in the bill, I will not be able to support its continuation.

Mr. MATHIAS. I wish to engage the distinguished managers of S. 200 in a brief but important colloquy on the question of the low-income consumer's relationship to the proposed Agency for Consumer Advocacy.

I know that Senator RIBICOFF as the sponsor of one of the most forward looking welfare reform proposals before the 92d Congress, is keenly aware that the problems and adversities of low-income consumers are daily reminders that they are poor; that they lack the power and resources in the marketplace of their more affluent fellow citizens.

S. 200, which I am cosponsoring, contains a finding that the interests of the American consumer are inadequately represented and protected within the Federal Government and that such representation and protection are essential to the fair and efficient functioning of a free-market economy. As a result of this finding, S. 200 establishes an Agency for Consumer Advocacy as an independent agency within the executive branch to represent the interest of consumers before Federal agencies and courts, receive and transmit consumer complaints, develop and disseminate information of interest to consumers, and perform other functions to protect and promote the interests of consumers.

My question is this: Is it the expectation of the manager and principal sponsors of S. 200 that the Agency for Consumer Advocacy will vigorously represent the interests of low-income consumers to at least the same extent that the ACA will represent more affluent consumers?

Mr. RIBICOFF. The Senator from Maryland is absolutely correct.

Mr. MATHIAS. Given the fact that the low-income consumer's needs are not being adequately met by the present marketing and distribution system, that the poor lack the necessary cash with which to make quantity purchases of food; that the low-income consumer, by virtue of being poor, does not have access to credit under the standards imposed by most reputable businesses; that the poor pay more for lower quality produce; and if they can buy furniture or hard goods at all, that these purchases are usually at exorbitant prices on credit terms which leave them even deeper in debt, does the floor manager expect that the proposed ACA, particularly, under sections 6, 7, 8, and 9 of the bill shall devote special attention to the needs and interests of the low-income consumer?

Mr. RIBICOFF. I most certainly do.

Mr. MATHIAS. I anticipated receiving the answers which the distinguished manager has given. For the purpose of establishing legislative history, however, I did wish to have this exchange with the managers to make it clear that the ACA is being established for all consumers and will not become an agency to represent the needs and interests of solely the middle class and more affluent citizenry.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from California (Mr. TUNNEY) is absent on official business.

On this vote, the Senator from California (Mr. TUNNEY) is paired with the Senator from Louisiana (Mr. JOHNSTON).

If present and voting, the Senator from California would vote "yea" and the Senator from Louisiana would vote "nay."

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

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section 3679(b) of the Revised Statutes (31 U.S.C. (b));

(8) adopt an official seal, which shall be judicially noticed;

(9) establish such regional offices as the Administrator determines to be necessary to serve the interests of consumers;

(10) conduct conferences and hearings and otherwise secure data and expression of opinion;

(11) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible;

(12) designate representatives to serve or assist on such committees as he may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies carrying out programs and activities related to the interests of consumers; and

(13) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Agency in the performance of its functions. An agency shall not be required to provide such services, personnel, or facilities to the Administrator where to do so would seriously affect in an adverse manner the agency's ability to carry out its responsibilities, including any responsibility the agency has to protect the public health or safety.

(d) The Administrator shall prepare and submit simultaneously to the Congress and the President, not later than April 1 of each year beginning April 1, 1976, an annual report, which shall include a description and analysis of—

(1) the activities of the Agency, including its representation of the interests of consumers before Federal agencies and Federal courts;

(2) the major Federal agency actions and Federal court decisions affecting the interests of consumers;

(3) the assistance given the Agency by other Federal agencies in carrying out the purposes of this Act.

(4) the performance of Federal agencies and the adequacy of their resources in enforcing consumer protection laws and in otherwise protecting the interests of consumers, and the prospective results of alternative consumer protection programs;

(5) the appropriation by Congress for the Agency, the distribution of appropriated funds for the current fiscal year, and a general estimate of the resource requirements of the Agency for each of the next three fiscal years; and

(6) the extent of participation by consumers in Federal agency activities, and the effectiveness of the representation of consumers before Federal agencies, together with recommendations for new legislation, new budget authority for the Agency, and administrative actions to deal with problems discussed in the report, to protect and represent the interests of consumers more effectively, and to carry out the purposes of this Act.

FUNCTIONS OF THE AGENCY

SEC. 5. (a) The Agency shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and shall protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

(b) The functions of the Administrator shall be to—

(1) represent the interests of consumers before Federal agencies and courts to the extent authorized by this Act;

(2) conduct and support research, studies, and testing to the extent authorized in section 9 of this Act;

(3) submit recommendations annually to the Congress and the President on measures to improve the operation of the Federal Government in the protection and promotion of the interests of consumers;

(4) obtain information and publish and distribute material developed in carrying out his responsibilities under this Act in order to inform consumers of matters of interest to them, to the extent authorized in this Act;

(5) receive, transmit to the appropriate agencies and persons, and make publicly available consumer complaints to the extent authorized in section 7 of this Act.

(6) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal agencies;

(7) cooperate with State and local governments and encourage private enterprise in the promotion and protection of the interests of consumers;

(8) keep the appropriate committees of Congress fully and currently informed of all the Agency's activities, when asked or on his own initiative;

(9) publish, in language readily understandable by consumers, a consumer register which shall set forth the time, place, and subject matters of actions by Congress, Federal agencies, and Federal courts, and other information useful to consumers;

(10) encourage the adoption and expansion of effective consumer education programs;

(11) encourage the application and use of new technology, including patents and inventions, for the promotion and protection of the interests of consumers;

(12) encourage the development of informal dispute settlement procedures involving consumers;

(13) encourage meaningful participation by consumers in the activities of the Agency;

(14) promote the consumer interests of farmers in obtaining a full supply of goods and services at a fair and equitable price;

(15) coordinate its activities with the activities of other executive departments and agencies with respect to consumers; and

(16) perform such other related activities as he deems necessary for the effective fulfillment of his duties and functions.

REPRESENTATION OF CONSUMERS

SEC. 6. (a) (1) Whenever the Administrator determines that the result of any Federal agency proceeding or activity may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing an interest of consumers, as provided in paragraph (2) or (3) of this subsection. In any proceeding, the Administrator shall refrain from intervening as a party, unless he determines that such intervention is necessary to represent adequately an interest of consumers. The Administrator shall comply with Federal agency statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with laws and agency rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Administrator in any Federal agency proceeding or activity shall not affect the obligation of the Federal agency conducting such proceeding or activity to assure procedural fairness to all participants.

(2) Whenever the Administrator determines that the result of any Federal agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code, relating to administrative procedure, or which involves a hearing pursuant to the administrative procedural requirements of any other statute, regulation, or practice, or which is conducted on the record after opportunity for any agency hearing, or which provides for public notice and opportunity for comment, may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing an interest of consumers in such proceeding.

(3) With respect to any Federal agency proceeding not covered by paragraph (2) of this subsection, or any other Federal agency activity, which the Administrator determines may substantially affect an interest of consumers, the Administrator may participate by presenting written or oral submissions, and the Federal agency shall give full consideration to such submissions of the Administrator. Such submissions shall be presented in an orderly manner and without causing undue delay. Such submission need not be simultaneous with that of any other person.

(b) At such time as the Administrator determines to intervene or participate in a Federal agency proceeding under subsection (a)(2) of this section, he shall issue publicly a written statement setting forth his findings under subsection (a)(1), stating concisely the specific interest of consumers to be protected. Upon intervening or participating he shall file a copy of his statement in the proceeding.

(c) To the extent that any person, if aggrieved, would by law have such right, the Administrator shall have the right, in accordance with the following provisions of this subsection, to initiate or participate in any Federal court proceeding involving a Federal agency action—

(1) The Administrator may, as of right, and in the manner prescribed by law, initiate any civil proceeding in a Federal court which involves the review of a Federal agency action that the Administrator determines may substantially affect an interest of consumers. If the Administrator did not intervene or otherwise participate in the Federal agency proceeding or activity out of which such agency action arose, the Administrator, before initiating a proceeding to obtain judicial review, shall petition such agency for rehearing or reconsideration thereof, if the statutes or rules governing such agency specifically authorize rehearing or reconsideration. Such petition shall be filed within sixty days after the Federal agency action involved, or within such longer period as may be allowed by applicable procedures. The Administrator may immediately initiate a judicial review proceeding if the Federal agency does not finally act upon such petition within sixty days after the filing thereof, or at such earlier time as may be necessary to preserve the Administrator's right to obtain effective judicial review of the Federal agency action. Where the Administrator did not intervene or otherwise participate in a Federal agency proceeding or activity, the Administrator shall not be permitted to initiate a judicial proceeding with respect to such agency proceeding or activity unless the court shall first have determined that initiation of such a proceeding by the Administrator would advance the interests of justice. In advance of the initiation of such a proceeding by the Administrator, he shall file a statement setting forth the reasons why he did not intervene or otherwise participate in the Federal agency proceeding or activity out of which the contemplated judicial proceeding arises, for the court's consideration in connection with its determination whether the initiation of such judicial proceeding would advance the interests of justice.

(2) The Administrator may, as of right, and in the manner prescribed by law, intervene or otherwise participate in any civil

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proceeding in a Federal court which involves the review or enforcement of a Federal agency action that the Administrator determines may substantially affect an interest of consumers.

(3) The initiation or other participation of the Administrator in a judicial proceeding pursuant to this subsection shall not alter or affect the scope of review otherwise applicable to the agency action involved.

(d) When the Administrator determines it to be in the interest of consumers, he may request the Federal agency concerned to initiate such proceeding, or to take such other action, as may be authorized by law with respect to such agency. If the Federal agency fails to take the action requested, it shall promptly notify the Administrator of the reasons therefor and such notification shall be a matter of public record.

(e) Appearances by the Agency under this Act shall be in its own name and shall be made by qualified representatives designated by the Administrator.

(f) In any Federal agency proceeding in which the Administrator is intervening or participating pursuant to subsection (a) (2) of this section, the Administrator is authorized to request the Federal agency to issue, and the Federal agency shall, on a statement or showing (if such statement or showing is required by the Federal agency's rules of procedure) of general relevance and reasonable scope of the evidence sought, issue such orders, as are authorized by the Federal agency's statutory powers, for the copying of documents, papers, and records, summoning of witnesses, production of books and papers, and submission of information in writing.

(g) The Administrator is not authorized to intervene or participate in proceedings or activities of State or local agencies and State courts, or to engage directly or indirectly in lobbying activities before State or local agencies, or the Congress, in the manner prohibited by section 1913 of title 18, United States Code.

(h) Nothing in this section shall be construed to prohibit the Administrator from communicating with, or providing information requested by any Federal, State, or local agencies and State courts at any time and in any manner consistent with law or agency rules.

(i) Each Federal agency shall review its rules of procedure of general applicability, and, after consultation with the Administrator, issue any additional rules which may be necessary to provide for the Administrator's orderly intervention or participation, in accordance with this section, in its proceedings and activities which may substantially affect the interests of consumers. Each Federal agency shall issue rules determining the circumstances under which the Administrator may be allowed to make simultaneous submissions under subsection (a) (3) of this section. Any additional rules adopted pursuant to the requirements of this subsection shall be published in proposed and final form in the Federal Register.

(j) The Administrator is authorized to represent an interest of consumers which is presented to him for his consideration upon petition in writing by a substantial number of persons or by any organization which includes a substantial number of persons. The Administrator shall notify the principal sponsors of any such petition within a reasonable time after receipt of any such petition of the action taken or intended to be taken by him with respect to the interest of consumers presented in such petition. If the Administrator declines or is unable to represent such interest, he shall notify such sponsors and shall state his reasons therefor.

(k) The Administrator may not intervene or otherwise participate in any Federal agency proceeding or activity or in any civil proceeding in a Federal court, if such intervention, initiation, or participation is intended to restrict or limit, or have the effect of restricting or limiting, the manufacture, sale, or possession of firearms, antique firearms, ammunition, or components of ammunition. As used in this paragraph, "firearm" means any firearm as defined in section 921(a)(3) of title 18 of the United States Code. As used in this paragraph, "antique firearm" shall mean any antique firearm as defined in section 921(a)(16) of title 18 of the United States Code. As used in this paragraph, "ammunition" means any ammunition, or components of ammunition, including fixed cartridges and shells, primers, bullets, propellants, cartridge cases, and shells designed for use in any firearm. As used in this paragraph, "ammunition, or components of ammunition", shall also mean commercially manufactured blackpowder, percussion caps, safety and protechnic fuses, quills, quick and slow matches and friction primers, intended to be used solely for sporting, recreation, or cultural purposes in antique firearms as defined in section 921 (a) (16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921 (a) (4) of title 18 of the United States Code.

CONSUMER COMPLAINTS

SEC. 7. (a) Whenever the Administrator receives from any person any complaint or other information which discloses—

(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a State or Federal court relating to an interest of consumers; or

(2) a commercial, trade, or other practice which is detrimental to an interest of consumers;

he shall, unless he determines that such complaint or information is frivolous, promptly transmit such complaint or information to any Federal, State, or local agency which has the authority to enforce any relevant law or to take appropriate action. Federal agencies shall keep the Administrator informed to the greatest practicable extent of any action which they are taking on complaints transmitted by the Administrator pursuant to this section.

(b) The Administrator shall promptly notify producers, distributors, retailers, lenders, or suppliers of goods and services of all complaints of any significance concerning them received or developed under this section unless the Administrator determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

(c) The Administrator shall maintain a public document room containing, for public inspection and copying (without charge or at a reasonable charge, not to exceed cost), an up-to-date listing of all consumer complaints of any significance which the Agency has received, arranged in meaningful and useful categories, together with annotations of actions taken in response thereto. Unless the Administrator, for good cause, determines not to make any specific complaint available, complaints listed shall be made available for public inspection and copying: *Provided*, That—

(1) the party complained against has had a reasonable time to comment on such complaint and such comment, when received, is displayed together with the complaint;

(2) the agency to which the complaint has been referred has had a reasonable time to notify the Administrator what action, if any, it intends to take with respect to the complaint;

(3) the complainant's identity is to be protected when he has requested confidentiality. Whenever the complainant requests that his identity be protected, the Administrator shall place an appropriate designation on the complaint before making it available to the public;

(4) no unsigned complaints shall be placed in the public documents room.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) In order to carry out the purposes of this Act the Administrator shall develop on his own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as he determines to be most effective, information, statistics, and other data including, but not limited to matter concerning—

(1) the functions and duties of the Agency;

(2) consumer products and services;

(3) problems encountered by consumers generally, including annual reports on interest rates and commercial and trade practices which may adversely affect consumers; and

(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrator, possess information which would be useful to consumers are authorized and directed to cooperate with the Administrator in making such information available to the public.

STUDIES

SEC. 9. The Administrator is authorized to conduct, support, and assist research, studies, plans, investigations, conferences, demonstration projects, and surveys concerning the interest of consumers.

INFORMATION GATHERING

SEC. 10. (a) (1) The Administrator is authorized, to the extent required to protect the health or safety of consumers, or to discover consumer fraud or substantial economic injury to consumers, to obtain data by requiring any person engaged in a trade, business, or industry which substantially affects interstate commerce and whose activities he determines may substantially affect an interest of consumers, by general or specific order setting forth with particularity the consumer interest involved and the purposes for which the information is sought, to file with him a report or answers in writing to specific questions concerning such activities and other related information. Nothing in this subsection shall be construed to authorize the inspection or copying of documents, papers, books, or records, or to compel the attendance of any person. Nor shall anything in this subsection require the disclosure of information which would violate any relationship privileged according to law. Where applicable, chapter 35 of title 44, United States Code, shall govern requests for reports under this subsection in the manner in which independent Federal regulatory agencies are subject to its provisions. The Comptroller General shall, prior to issuance of any request for information pursuant to this section by the Administrator, promptly review such requests to assure that it does not impose an undue burden upon persons receiving such request. In the event the Comptroller General determines that the Administrator's request for information shall impose an undue burden upon the person receiving such request, the Comptroller General and the Administrator shall make every reasonable effort to modify such request so as to alleviate such burden prior to issuance of said request.

(2) The Administrator shall not exercise the authority under paragraph (1) of this subsection if the information sought—

(A) is available as a matter of public record; or

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

(B) can be obtained from another Federal agency pursuant to subsection (b) of this section; or

(C) is for use in connection with his intervention in any agency proceeding against the person to whom the interrogatory is addressed if the proceeding is pending at the time the interrogatory is requested.

(3) In the event of noncompliance with any interrogatories or requests submitted to any person by the Administrator pursuant to paragraph (1), any district court of the United States within the juridiction of which such person is found, or has his principal place of business, shall issue an order, on conditions and with such apportionment of costs as it deems just, requiring compliance with a valid order of the Administrator. The district court of the United States shall issue such an order upon petition by the Administrator or on a motion to quash, and upon the Administrator's carrying the burden of proving in court that such order is for information that may substantially affect the health or safety of consumers or may be necessary in the discovery of consumer fraud or substantial economic injury to consumers, and is relevant to the purposes for which the information is sought, unless the person to whom the interrogatory or request is addressed shows that answering such interrogatory or request will be unnecessarily or excessively burdensome.

(4) The Administrator shall not have the power to require the production or disclosure of any data or other information under this subsection from any small business. For the purpose of this paragraph, "small business" means any person that, together with its affiliates, including any other person with whom such person is associated by means of a franchise agreement, does not have assets exceeding $7,500,000; or does not have net worth in excess of $2,500,000; or at the time of proposed discovery by the Administrator does not have more than the equivalent of one hundred and fifty full-time employees. Nothing in this paragraph shall be construed to prohibit the Administrator from requesting the voluntary production of any such data or information. Notwithstanding this paragraph, the Administrator shall have the power, pursuant to paragraph (1), to obtain information from a small business if necessary to prevent imminent and substantail danger to the health or safety of consumers and the Administrator has no other effective means of action.

(b) Upon written request by the Administrator, each Federal agency is authorized and directed to furnish or allow access to all documents, papers, and records in its possession which the Administrator deems necessary for the performance of his functions and to furnish at cost copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny the Administrator access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(2) policy and prosecutorial recommendations by Federal agency personnel intended for internal agency use only;

(3) information concerning routine executive and administrative functions which is not otherwise a matter of public record;

(4) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(5) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency, including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(6) information which would disclose the financial condition of individuals in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or

(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets and commerical or financial information described in section 552(b)(4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall, notwithstanding section 21(b), afford him a reasonable opportunity, not to exced ten working days after receipt of such notice, to comment or seek injunctive relief. Whenever notice is served by mail, such notice shall be considered to be received three days after the date on which it is mailed. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections.

(c) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known in any manner whatever to the Administrator, solely from an income tax return, the amount or source of income, profits, losses, expenditures, or any particular thereof, or to permit any Federal income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954, or copy thereof, or any book containing any abstracts or particulars thereof, to be seen or examined by the Administrator, except as provided by law.

LIMITATION OF DISCLOSURES

SEC. 11. (a) Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any officer or employee of the Agency.

(b) No officer or employee of the Agency shall disclose to the public or to any State or local agency any information which was received solely from a Federal agency when such agency has notified the Administrator that the information is within the exceptions stated in section 552(b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public; except that if such Federal agency has specified that such information may be disclosed in a particular form or manner, such information may be disclosed in such form or manner.

(c) The following additional provisions shall govern the release of information by the Administrator pursuant to any authority conferred by this Act, except information released through the presentation of evidence in a Federal agency or court proceeding pursuant to section 6—

(1) The Administrator, in releasing information concerning consumer products and services, shall determine that (A) such information, so far as practicable, is accurate, and (B) no part of such information is prohibited from disclosure by law. The Administrator shall comply with any notice by a Federal agency pursuant to section 11(b) that the information should not be made available to the public or should be disclosed only in a particular form or manner.

(2) In the dissemination of any test results or other information which directly or indirectly disclose product names, it shall be made clear that (A) not all products of a competitive nature have been tested, if such is the case, and (B) there is no intent or purpose to rate products tested over those not tested or to imply that those tested are superior or preferable in quality over those not tested.

(3) Notice of all changes in, or any additional information which would affect the fairness of information previously disseminated to the public shall be promptly disseminated in a similar manner.

(4)(A) Where the release of information is likely to cause substantial injury to the reputation or good will of a person, the Administrator shall notify such person of the information to be released and afford him a reasonable opportunity, not to exceed ten working days after receipt of such notice, to comment or seek injunctive relief, unless immediate release is necessary to protect the health or safety of the public. Whenever notice is served by mail, such notice shall be considered to be received three days after the date on which it is mailed. The district courts of the United States shall have jurisdiction over any action brought for injunctive relief under this subsection, or under section 10(b)(7).

(B) Nothing in this paragraph shall affect the rights of the public to obtain information under section 552 of title 5, United States Code.

(d) In any suit against the Administrator to obtain information pursuant to the provisions of section 552 of title 5, United States Code, where the sole basis for the refusal to produce the information is that another Federal agency has specified that the documents not be disclosed in accordance with the provisions of subsection (b) of this section, the other Federal agency shall be substituted as the defendant, and the Administrator shall thereafter have no duty to defend such suit.

NOTICE

SEC. 12. (a) Each Federal agency considering any action which may substantially affect an interest of consumers shall, upon request by the Administrator, notify him of any proceeding or activity at such time as public notice is given.

(b) Each Federal agency considering any action which may substantially affect an interest of consumers shall, upon specific request by the Administrator, promptly provide him with—

(1) a brief status report which shall contain a statement of the subject at issue and a summary of proposed measures concerning such subject; and

(2) such other relevant notice and information, the provision of which would not be unreasonably burdensome to the agency and which would facilitate the Administrator's timely and effective intervention or participation under section 6 of this Act.

(c) Nothing in this section shall affect the authority or obligations of the Administrator

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

of any Federal agency under section 10(b) of this Act.

SAVINGS PROVISIONS

SEC. 13. (a) Nothing in this Act shall be construed to affect the duty of the Administrator of General Services to represent the interests of the Federal Government as a consumer pursuant to section 201(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(4)).

(b) Nothing in this Act shall be construed to relieve any Federal agency of any responsibility to protect and promote the interests of consumers.

(c) Nothing in this Act shall be construed to limit the right of any consumer or group or class of consumers to initiate, intervene in, or otherwise participate in any Federal agency or court proceeding or activity, nor to require any petition or notification to the Administrator as a condition precedent to the exercise of such right, nor to relieve any Federal agency or court of any obligation, or affect its discretion, to permit intervention or participation by a consumer or group or class of consumers in any proceeding or activity.

(d) Nothing in this Act shall be construed to affect the duty of the Small Business Administration to aid, counsel, assist, and protect the interests of small business concerns, pursuant to section 631(a) of the Small Business Act of 1958 (15 U.S.C. 631(a)), and the Small Business Administration remains the sole executive advocate for the interests of small business concerns.

DEFINITIONS

SEC. 14. As used in this Act, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Agency for Consumer Advocacy;

(2) "Agency" means the Agency for Consumer Advocacy;

(3) "agency action" includes the whole or part of an agency "rule," "order," "license," "sanction," "relief," as defined in section 551 of title 5, United States Code, or the equivalent or the denial thereof, or failure to act;

(4) "agency activity" means any agency process, or phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal;

(5) "agency proceeding" means agency "rulemaking", "adjudication", or "licensing", as defined in section 551 of title 5, United States Code;

(6) "commerce" means commerce among or between the several States and commerce with foreign nations;

(7) "consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, agricultural, or household purposes;

(8) "Federal agency" or "agency" means "agency" as defined in section 551 of title 5, United States Code. The term shall include the United States Postal Service, the Postal Rate Commission, and any other authority of the United States which is a corporation and which receives any appropriated funds, and, unless otherwise expressly provided by law, and Federal agency established after the date of enactment of this Act, but shall not include the Agency for Consumer Advocacy;

(9) "Federal court" means any court of the United States, including the Supreme Court of the United States, any United States court of appeals, any United States district court established under chapter 5 of title 28, United States Code, the District Court of Guam, the District Court of the United States Customs Court, the United States Court of Customs and Patent Appeals, the United States Tax Court, and the United States Court of Claims:

(10) "individual" means a human being;

(11) "interest of consumers" means any health, safety, or economic concern of consumers, including but not limited to the factors enumerated in section 2(b)(3), involving real or personal property, tangible or intangible goods, services, or credit, or the advertising or other description thereof which is or may become the subject of any business, trade, commercial, or marketplace offer or transaction affecting commerce, or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration;

(12) "participation" includes any form of submission;

(13) "person" includes any individual, corporation, partnership, firm, association, institution, or public or private organization other than a Federal agency;

(14) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(15) "submission" means participation through the presentation or communication of relevant evidence, documents, arguments, or other information.

CONFORMING AMENDMENT

SEC. 15. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(60) Administrator, Agency for Consumer Advocacy."

(b) Section 5315 of such title is amended by adding at the end thereof the following:

"(100) Deputy Administrator, Agency for Consumer Advocacy."

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof of the following new paragraphs:

"(135) General Counsel, Agency for Consumer Advocacy.

"(136) Assistant Administrators, Agency for Consumer Advocacy (5)."

EXEMPTIONS

SEC. 16. (a) This Act shall not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security or intelligence functions (including related procurement) of the Departments of State and Defense (including the Departments of the Army, Navy, and Air Force) and the military weapons program of the Energy Research and Development Administration, to any agency action in the Federal Communications Commission with respect to the renewal of any radio or television broadcasting license, or to a labor dispute within the meaning of section 13 of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 113), or of section 2 of the Labor Management Relations Act (29 U.S.C. 152), or to a labor agreement within the meaning of section 201 of the Labor Management Relations Act, 1947 (29 U.S.C. 171).

(b) Nothing in this Act shall be construed to authorize the Administrator to intervene or participate in any proceeding or activity directly affecting producers of livestock, poultry, agricultural crops, or raw fish products, including, but not limited to, such proceedings and activities relating to the initial sale by such producers of raw agricultural commodities; Commodity Credit Corporation price support, procurement, loan, and payment programs; Public Law 480 and other export programs; acreage allotments and marketing quotas; Federal crop insurance; soil conservation and land adjustment programs; Farmers Home Administration and Rural Electrification Administration loans; marketing orders; and programs to prevent the spread of livestock and poultry diseases, plant pests, and noxious weeds.

(c) Notwithstanding the preceding provisions of this Act, the Administrator shall not intervene in any agency or judicial proceeding or activity with respect to the grant or enforcement of any right-of-way, permit, lease, or other authorization that is necessary for, or related to, the routing or construction of any oil or natural gas pipeline system located in whole or in part in the State of Alaska, or the enforcement of any environmental law relating to routing or construction of any oil or natural gas pipeline located in whole or in part in the State of Alaska.

SEX DISCRIMINATION

SEC. 17. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a person alleging discrimination.

FAIRNESS FOR SMALL BUSINESS

SEC. 18. (a) It is the sense of the Congress that small business enterprises should have their varied needs considered by all levels of government in the implementation of the procedures provided for throughout this Act, including section 24 of the Act.

(b)(1) In order to carry out the policy stated in subsection (a), the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the procedures provided for throughout this Act which particularly affect such enterprises, and the activities of the various agencies in connection with such provisions, and (B) shall, as part of its annual report, provide to the Congress a summary of the actions taken under this Act which have particularly affected such enterprises.

(2) To the extent feasible, the Administrator shall seek the views of small business in connection with establishing the Agency's priorities, as well as the promulgation of rules implementing this Act.

(3) In administering the programs provided for in this Act, the Administrator shall respond in an expeditious manner to the views, requests, and other filings by small business enterprises.

(4) In implementing this Act, the Administrator shall, insofar as practicable, treat all businesses, large or small, in an equitable fashion; due consideration shall be given to the unique problems of small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

(5) For the purposes of this section, the term "small business" shall have the same meaning as provided in section 10(a)(4) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out the provisions of this Act, except section 24, not to exceed $8,500,000 for the period from the date of enactment to September 30, 1976, not to exceed $15,000,000 for the fiscal year ending September 30, 1977, not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and not to exceed $25,000,000 for the fiscal year ending September 30, 1979. Any subsequent legislation to authorize appropriations under this Act for the fiscal year beginning October 1, 1979, shall be referred in the Senate to the Committee on Government Operations and to the Committee on Commerce

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

EVALUATION BY THE COMPTROLLER GENERAL

SEC. 20. (a) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of this Act by the Agency for Consumer Advocacy.

(b) Not less than thirty months nor more than thirty-six months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit conducted pursuant to subsection (a), which shall contain, but not be limited to, the following:

(1) an evaluation of the effectiveness of the Agency's consumer representation activities;

(2) an evaluation of the effect of the activities of the Agency on the efficiency, effectiveness, and procedural fairness of affected Federal agencies in carrying out their assigned functions and duties;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of the objectives of this Act as set forth in section 2.

(c) Copies of the report shall be furnished to the Administrator of the Agency for Consumer Advocacy, the chairmen of the Senate Committees on Commerce and on Government Operations, and the chairman of the Committee on Government Operations of the House of Representatives.

(d) Restrictions and prohibitions under this Act applicable to the use or public dissemination of information by the Agency shall apply with equal force and effect to the General Accounting Office in carrying out its functions under this section.

MISCELLANEOUS PROVISIONS

SEC. 21. (a) Nothing in this Act could be construed to limit the discretion of any Federal agency or court, within its authority, including a court's authority under rule 24 of the Federal Rules of Civil Procedure, to grant the Administrator additional participation in any proceeding or activity to the extent that such additional participation may not be as of right, or to provide additional notice to the Administrator concerning any agency proceeding or activity.

(b) (1) No act or omission by the Administrator or any Federal agency relating to the Administrator's authority under sections 6 (a), (d), (f), (i), and (j), 7, 10, 11, and 12 of this Act shall affect the validity of an agency action or be subject to judicial review: *Provided*, That—

(A) the Administrator may obtain judicial review to enforce his authority under sections 6 (a), (d), (f), (i), and (j), 10, and 12 of this Act: *Provided*, That he may obtain judicial review of the Federal agency determination under section 6(f) of this Act only after final agency action and only to the extent that such determination affected the validity of such action;

(B) a party to any agency proceeding or a participant in any agency activity in which the Administrator intervened or participated may, where judicial review of the final agency action is otherwise accorded by law, obtain judicial review following such final agency action on the ground that the Administrator's intervention or participation resulted in prejudicial error to such party or participant based on the record viewed as a whole; and

(C) any person who is substantially and adversely affected by the Administrator's action pursuant to section 6(f), 10(a), or 11 of this Act may obtain judicial review, unless the court determines that such judicial review would be detrimental to the interests of justice.

(2) For the purposes of this subsection, a determination by the Administrator that the result of any agency proceeding or activity may substantially affect an interest of consumers or that his intervention in any proceeding is necessary to represent adequately an interest of consumers shall be deemed not to be a final agency action.

(3) The Administrator's determination, pursuant to subsections 6(a) (2), 6(a) (3), and 6(d), that an agency action may substantially affect an interest of consumers shall be subject to review during judicial review of a final agency action.

TRANSFER OF CONSUMER PRODUCT INFORMATION COORDINATING CENTER

SEC. 22. (a) All officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Consumer Product Information Coordinating Center in the General Services Administration are transferred to the Agency and all functions of the Administrator of General Services administered through the Consumer Product Information Coordinating Center are transferred to the Agency.

(b) (1) Except as provided in paragraph (2) of this subsection, personnel engaged in functions transferred under this section shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(2) The transfer of personnel pursuant to this section shall be without reduction in classification or compensation for one year after such transfer.

PUBLIC PARTICIPATION

SEC. 23. (a) After reviewing its statutory authority and rules of procedure, relevant agency and judicial decisions, and other relevant provisions of law, each Federal agency shall issue appropriate interpretations, guidelines, standards, or criteria, and rules of procedure, to the extent that such rules are appropriate and are not already in effect, relating to the rights of individuals who may be affected by agency action to—

(1) petition the agency for action;

(2) receive notice of agency proceedings;

(3) file official complaints (if appropriate) with the agency;

(4) obtain information from the agency; and

(5) participate in agency proceedings for the purpose of representing their interests.

Such interpretations, guidelines, standards, criteria, and rules of procedure shall be published in proposed and final form in the Federal Register.

(b) Each Federal agency shall take all reasonable measures to reduce or waive, where appropriate, procedural requirements for individuals for whom such requirements would be financially burdensome, or which would impede or prevent effective participation in agency proceedings.

(c) Any rules of procedure issued by any Federal agency pursuant to this section shall be published in a form and disseminated in a manner that is designed to inform, and that is able to be understood by, the general public.

COST AND BENEFIT ASSESSMENT STATEMENTS

SEC. 24. (a) In furtherance of the purpose and policy of section 2(b) (4) of this Act, and except as otherwise provided in this Act, each Federal agency which is authorized to promulgate rules (as defined in section 551(4) of title 5, United States Code) shall prepare a cost and benefit assessment statement with respect to any rules to which section 553(b) of title 5, United States Code, is applicable, which are likely to have a substantial economic impact, for the agency's consideration in connection with the promulgation of such rules. Each such statement shall be short and concise and, together with such supporting documentation as the agency in its discretion determines to be necessary or appropriate, shall consist of the following three elements:

(1) estimated costs, that are foreseeable as a result of the effective implementation of such rule;

(2) estimated benefits, that are foreseeable as a result of the effective implementation of such rule; and

(3) the apparent relationship, if any, between such costs and benefits.

To the extent deemed practicable by the agency responsible for its preparation, each cost and benefit assessment statement shall indicate in an appendix the assumptions, if any, which were made by it regarding the means, or alternative means, and attendant costs of compliance with the proposed rule, including any manufacturer's costs and consumer costs reflected in the price of any product affected by such rule. Before releasing any cost and benefit assessment statement to the public, such agency shall transmit to the Comptroller General such assessment and any appendix there to which indicates the assumption made regarding the means and attendant costs of compliance with the proposed rule including any manufacturers' costs and consumer costs reflected in the price of any product affected by such rule.

(b) With respect to any proposed rule subject to the requirements of subsection (a), each Federal Register notice of proposed rulemaking shall request interested persons to submit to the applicable agency, in writing, comments, materials, data, information, and other presentations relevant to the preparation of the required cost and benefit assessment statement.

(c) Each such agency shall, to the extent it deems necessary or appropriate, seek to obtain comments, materials, data, information, and presentations relevant to the costs and benefits, if any, likely to ensue from effective implementation of any proposed rule, within the time prescribed for consideration of the proposed rule, from other Federal agencies and persons. No extensions of time for comment shall granted solely for the purpose of receiving any such presentations with respect to such benefits.

(d) Each person who contends that effective implementation of a proposed rule will result in increased or decreased costs, shall furnish to the applicable agency the information upon he bases such assertion, and which is in his possession, is known to him, or is subject to his control. Such information shall be furnished to the agency in such form, manner, and detail as such agency in its discretion prescribes. Whenever any relevant information, which an applicable agency deems necessary or appropriate to the preparation of a cost and benefit assessment statement, is or may be in the posession or control of a person who may be directly affected by the proposed rule, such agency is authorized to request such relevant information as reasonably described by it, and such person shall furnish such relevant information promptly to such agency. Such request for information shall be enforceable by appropriate orders by any court of the United States. Such information as is furnished shall be considered a statement for purposes of section 1001 of title 18, United State Code.

(e) A cost and benefit assessment statement prepared pursuant to subsection (a) shall be published at the end of the year in the Federal Register in a report which shall contain all cost and benefit assessment statements applicable to rules promulgated during the preceding twelve months. All relevant information developed or received by the applicable agency in connection with the preparation of such statement shall be available to all interested persons, subject to the provisions of section 552 of title 5, United States Code, and other applicable law.

(f) The President shall issue, pursuant to the provisions of this subsection, (1) reg-

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

ulations providing guidelines for Federal agencies as to the nature and content of any cost and benefit assessment statement required by subsection (a) and (2) regulations which shall insure that any agency shall be able to obtain information deemed by it to be necessary or appropriate to the preparation of any such cost and benefit assessment statement. Such regulations shall be issued by the President upon the recommendations submitted to the President by the Office of Management and Budget, the General Accounting Office, and the Agency for Consumer Advocacy. In issuing or modifying any regulations implementing this section, the President shall proceed in accordance with the procedures prescribed by subsections (b) and (c) of the new section inserted by section 202, Public Law 93-637 (88 Stat. 2193; 15 U.S.C. 57a (b), (c)). The President shall provide public notice of proposed rulemaking to implement this subsection within sixty days of the effective date of this Act, and shall issue regulations implementing this subsection within one hundred and eighty days of the effective date of this Act. After issuance of any regulations implementing this section, the President shall transmit them to the Congress, together with all recommendations submitted to the President pursuant to this subsection. Such regulations shall take effect ninety legislative days after such transmittal to the Congress by the President, unless either House of Congress by resolution of disapproval, pursuant to procedures established by chapter 35, title 44, United States Code, and by section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407), disapproves such regulations, except that Congress may by concurrent resolution modify such regulations within such ninety-day period, in which case such regulations shall take effect in such modified form.

(g) No Federal officer or agency shall submit proposed legislation to the Congress which is likely, if enacted, to have a substantial economic impact, unless such legislation is accompanied by a cost and benefit assessment statement. The statement required by this subsection shall be prepared in accordance with the provisions of subsection (a). The requirements of this subsection may be postponed upon the request of a committee of Congress having jurisdiction over such legislative proposal, for a period not to exceed thirty days from the date of submission to the Congress of such legislation.

(h) In addition to the definitions in section 14 of this Act, the following definitions shall apply with respect to the provisions of this section:

(1) the term "rule" means "rule" as defined by section 441(4) of title 5, United States Code;

(2) the term "legislation" or "law" means a statute of the United States or any amendment thereto;

(3) "benefit" includes any direct or indirect, tangible or intangible, gain or advantage which the agency, in its discretion, deems proximately related to the promulgation of a proposed regulation or the enactment of the proposed legislation. The term shall include such nonquantifiable benefits as the agency identifies and describes. Benefits may include the costs that would be likely to result from the agency's failure to act, but which are likely to be avoided by the agency's action; and

(4) "cost" includes any direct or indirect expense, including component costs of production and supply, and any loss, penalty, or disadvantage which the agency, in its discretion, deems proximately related to the promulgation of a proposed regulation, or the enactment of proposed legislation. The term shall include such nonquantifiable costs as the agency identifies and describes.

(i) The Comptroller General of the United States shall monitor and evaluate the implementation of this section. In addition to any other reports or studies made by the Comptroller General relating to this section, he shall, three years after the effective date of this section, conduct a comprehensive review of this section including an evaluation of the advantages and disadvantages of cost and benefit assessment statements and of the nature and extent of Federal agency compliance with this section. The Comptroller General shall prepare and submit to the Congress a report based on such study and review. Such report shall include, but need not be limited to, his recommendations as to the necessity or advisability of the provisions of this section, and of the need to amend subsection (k), or any other provision, of this section. The Comptroller General shall, if he determines that the assumptions contained in any statement submitted to it pursuant to subsection (a) of this section are inaccurate, incomplete, or unjustified so report to the committees of the Senate and House of Representatives having jurisdiction over any Federal department or agency that prepared such statement.

(j) No court shall have the jurisdiction to review, or enforce or shall review, or enforce and, except for the general review of the effectiveness of this section provided for in subsection (i), no officer or agency of the United States, other than the agency responsible for the preparation of a cost and benefit assessment statement and the duly authorized committees of the Congress, shall have the authority to review, or enforce or shall review, or enforce, in any way the compliance of any cost and benefit assessment statement with this section, or, except where the agency preparing such a statement seeks to enforce in court its request for information, the compliance, by such agency with any other requirement of this section including the manner or process by which such statement is prepared: *Provided*, That a Federal court may, upon the request of any interested person, review and enforce compliance with the provisions of this subsection.

(k) The requirements of this section shall supersede the requirements of any existing executive order imposing any economic, cost-benefit, inflationary, or other similar impact assessment requirement. No requirement of this section shall alter or supersede any Federal agency statutory requirement, regulation, or lawful practice which such agency determines to be inconsistent with any of the requirements of this section. Further, no agency shall be required to prepare and issue a cost and benefit assessment statement required by this section, if information which would be contained in such statement is encompassed within another statement required by law to be prepared in connection with the promulgation of the applicable rule.

(l) The provisions of this section shall become effective upon the effective date of implementing regulations submitted by the President under subsection (g) of this section. There are authorized to be appropriated to carry out the provisions of this section not to exceed $2,000,000 for each of the fiscal years 1976, 1977, and 1978.

BUDGET REPORTS

SEC. 25. (a) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each transmit annually to the Congress a report containing an estimate of the amount of funds expected to be allocated for each fiscal year to any office representing consumer interests located within any department or agency other than the Agency for Consumer Advocacy.

(b) Such estimate shall be included in any committee report accompanying any bill making appropriations for the Agency for Consumer Advocacy.

EFFECTIVE DATE

SEC. 26. (a) This Act, other than section 24 of this Act, shall take effect on January 1, 1976, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the date they first take office at the rates provided for in this Act.

SEPARABILITY

SEC. 27. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 200.

Mr. PERCY. Mr. President, this is a satisfying and landmark day for the consumers of this country. Not only has the Senate at last passed the bill to create a consumer agency, but it has done so in decisive fashion.

The creation of this agency is the first priority of those who have fought for a better deal for American consumers—those men and women who buy the products and pay the bills.

I think the President and others who have been hesitant about the bill will read the overwhelming Senate vote as a clear signal that the day of the consumer is at hand. I hope, after carefully considering the provisions of the bill as finally passed, that the President will look upon it as balanced and fair to producer and consumer alike.

The new agency will be an advocate for the consumer in the decisionmaking process of Federal departments and regulatory agencies. In the past, I have said that the consumer's voice in such deliberations has rarely been heard above a whisper. Now I trust that the new voice of the consumer will not be shrill or irresponsible, but rather firm and thoughtful.

The purpose of the consumer agency is not to be negative or harrassing. Instead it is designed to present the consumer's case in such a way that responsible businesses and government agencies can live with and applaud. I believe its most important goal will be to help restore the weakened confidence of the individual in the products he buys and the representation he receives.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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The assistant legislative clerk proceeded to call the roll.

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

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

Mr. RIBICOFF. Mr. President, much credit belongs to many Members of the Senate and to members of the committee; but before giving credit to the members of the committee, I especially call attention to the outstanding work done by many members of our respective staffs: Dick Wegman, Matt Schneider, Paul Hoff, Mike Pertschuk, Claudia Ingram, Brian Corboy, Stuart Statler, Martha Weisz, Lyle Ryter.

They have been hard-working; they have been patient; they have been knowledgeable. I do not think any group of Senators could have been served by a more outstanding group of men and women who have given so much of their time and dedication.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JAVITS. First, I endorse fully everything that Senator RIBICOFF has said, which is richly deserved. I think the staff will appreciate this, too.

This is one case in which the people who managed this bill and the work done on the floor really deserve that kind of staff. They worked unbelievably hard; they knew the bill; they knew the changes they wanted to make or had to make; they knew the evidence.

The staff really did perform superbly what a staff should do, which is to translate into legislative language and organization a great piece of work. It is much more sophisticated, I say to my colleague, than most of the staff praise we give.

Mr. RIBICOFF. They worked very closely with us.

I do want to take this opportunity to thank the ranking minority member, the Senator from Illinois (Mr. PERCY), and the Senator from New York (Mr. JAVITS).

Mr. LONG. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. LONG. Mr. President, I congratulate the Senator from Connecticut, the distinguished manager of the bill, for the magnificent job he did on the floor of the Senate.

As one who voted against the bill, I think it is appropriate for me to say that no one ever did a better job of managing a bill than the Senator from Connecticut did on this occasion. He was extremely effective, as he always is. Even when he found himself in difference with the other Senator, he exhibited his customary form of being opposed to amendments without being disagreeable in any respect whatever. We all admire the Senator for the magnificent job he has done in shepherding this bill through the Senate.

What the final fate of the bill will be, no one can predict at this point; but if it can be enacted, it will be because of the fantastic leadership that the Senator from Connecticut has provided for this measure.

Mr. RIBICOFF. Mr. President, I thank the chairman.

I do not want these proceedings to be finished without paying tribute to the No. 1 counter of all times in the U.S. Senate, the distinguished Senator from California (Mr. CRANSTON).

All I can say is that no man who has a tough fight on his hands could ever win that fight without ALAN CRANSTON by his side. I wish that I had his skill and his patience and the use of his black pencil and tally sheet. He is the indispensable man to victory and I comment to my colleagues that if they are ever in a tough fight, they should not start it unless they have ALAN CRANSTON by their side. I want to pay tribute to Alan for his outstanding work.

Mr. CRANSTON. I thank the Senator very very much for that comment. It was a great pleasure to work with him on this measure. I know how long he has worked. His leadership has been all that Senator LONG has said and more. I think it is tremendous what he has accomplished here, along with Senator PERCY, Senator JAVITS, and others.

Mr. RIBICOFF. I thank the Senator and I yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I too, commend the distinguished Senator from Connecticut (Mr. RIBICOFF) not only for his great skill in bringing this measure to final passage, but also for the tremendous dedication to this cause that he has demonstrated over a period of several years now.

At all times, he has demonstrated a complete understanding and shown every courtesy to other Senators, no matter whether they were in a position to support his side on a particular amendment or otherwise. It is a pleasure for a member of the leadership to work with a Senator who knows so well how to manage a bill once it is before the Senate, and who cooperates at all times with the leadership. He is most cooperative, most courteous, and most understanding.

I say, too, that I voted against this bill. I did vote for cloture and if the President should veto it and it comes before the Senate, as a member of the leadership, I shall vote to override the President's veto. I have stated my position heretofore to the distinguished manager of the bill and he full understands that.

Also, I commend the manager of the bill on the other side of the aisle, and all Senators who have participated, and certainly, members of the staff.

I join in what the distinguished senior Senator from Connecticut has said—I have said it here before—that the Senator from California (Mr. CRANSTON) is the best nose counter in the Senate. I always feel a little more confident of my own position if I find that ALAN CRANSTON is on the same side that I am on a particular issue. He, too, is a most helpful individual, and a fine team player and Senator.

Mr. CRANSTON. Will the Senator yield long enough for me to say thank you to the distinguished majority whip, who is so effective in all his ways and more? I am extremely grateful.

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

Mr. RIBICOFF. I express my appreciation to the new members of the committee—Senator GLENN, who worked so hard; Senator CHILES, who made so many contributions. I want to pay special tribute to my colleague from Connecticut (Mr. WEICKER) who is a new member on this committee. He is dedicated, he is candid. We always know where he stands. He is consistent and he has made many significant contributions to this measure. His contributions in behalf of the consumer are many and a special tribute should be paid to my colleague (Mr. WEICKER) for his help—his assistance in making the passage of this bill possible.

Mr. PERCY. Mr. President, I have already commented on the yeoman work of my distinguished colleagues Mr. RIBICOFF and Mr. JAVITS, and the magnificent staff work. I think we might also pay particular tribute to those leaders of industry and organized labor, those heads of firms and corporations that have closely analyzed the provisions of this bill and have seen fit to stand up against the opinions of their own peers and forthrightly and courageously proclaim their support for this measure. We have given the names of these companies and we express deep appreciation to them.

Finally, I think we should pay great tribute to those many citizens who represent consumer interests who have worked ceaselessly with us to make this a fair, balanced measure that will serve the interest of all consumers. The Consumer Federation of America, the National Consumers League, Congress Watch, Public Citizen, and other groups have worked painfully through the years in the field to help insure that there is a balance in the legislative processes between producer and consumer. We are deeply indebted to so many of them for their patience and for their faith and for the fact that the Senate of the United States has now finally acted with their full support all the way through.

Mr. JAVITS. Will the Senator yield to me?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from New York.

Mr. JAVITS. I wish to express my deep gratitude for his association to my beloved colleague from Connecticut (Mr. RIBICOFF) and my beloved friend from Illinois (Mr. PERCY) for the consumation of this great work. I believe it is now refined to the point where it will not only become law, but where it will become a law which will be a matter of satisfaction to both the country and Congress.

There is a great expression which says that when something is everybody's business—to wit, all Government departments—it is nobody's business. I think the extraordinary gifted service rendered

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Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

to the country today by the Senate through the managers of the bill has been a very, very fine achievement in the history of consumers' rights so much looked for in this country. I congratulate my colleagues, Mr. RIBICOFF and Mr. PERCY.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 115, S. 95.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the U.S.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-121), explaining the purposes of the measure.

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

PURPOSES

The primary purpose of the bill is to assure the right of otherwise qualified private U.S. citizens residing outside the United States to vote for President and the Congress in their State of last voting domicile even though these citizens may not be able to prove that they intend to retain that State as their domicile for other purposes.

A citizen voting under the bill must state his intent to retain his prior State as his voting residence and voting domicile for purposes of voting in Federal elections. The citizen could vote under the bill only if he has not registered to vote and is not voting in any other State or territory or possession of the United States.

The bill would implement this substantive right by the adoption of uniform absentee registration and voting procedures covering these citizens in Federal elections. One of the most important of these provisions is section 5(c) of the bill requiring election officials to mail out balloting material as promptly as possible after receipt of a properly completed application.

The bill would also assure that Federal, State and local taxation would not in itself be a deterrent to voting in Federal elections.

The provision is not meant to create any new tax exemption for the citizen outside the United States. It is designed only to assure that he will not be subjected to any Federal, State or local tax liability *solely* by exercising his right to register and vote absentee in Federal elections.

The committee was satisfied that American citizens outside the United States should be assured the right to vote in congressional as well as in presidential elections. It was plain from testimony in the hearings that Americans outside the United States possess both the necessary interest and the requisite information to participate in the selection of Senators and Congressmen back home.

Congress is concerned with the common legislative welfare of the entire Nation, along with the specific legislative interests of each district. There is no doubt that the local inhabitants of the district may not have the same interests as citizens outside the United States. The local citizens may be more interested in regional farm prices, the closing of a naval base, or construction of a new highway. Yet the citizen outside the United States also has his congressional interests. The citizen outside the country may be more interested, for example, in the exchange rate of the dollar, social security benefits, or the energy situation.

It is apparent, moreover, that the local citizen and the oversea citizen share a number of common national interests, such as Federal taxation, defense expenditures (for example, U.S. troops stationed overseas), inflation, and the integrity and competence of our National Government.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 95

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 "Overseas Citizens Voting Rights Act of 1975".

CONGRESSIONAL FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds that in the case of United States citizens outside the United States—

(1) State and local residency and domicile requirements are applied so as to restrict or precondition the rights of such citizens to vote in Federal elections;

(2) State and local election laws are applied to such citizens so as to deny them sufficient opportunities for absentee registration and balloting in Federal elections;

(3) State and local election laws are applied in Federal elections so as to discriminate against such citizens who are not employees of a Federal or State Government agency, or who are not dependents of such employees; and

(4) Federal, State, and local tax laws are applied in some cases so as to give rise to Federal, State, and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State, thereby discouraging such citizens from exercising the right to vote in Federal elections;

(b) The Congress further finds that the foregoing conditions—

(1) deny or abridge the inherent constitutional right of citizens to vote in Federal elections;

(2) deny or abridge the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) deny or abridge the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances have the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) have the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) do not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(c) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens outside the United States it is necessary—

(1) to require the uniform application of State and local residency and domicile requirements in a manner that is plainly adapted to secure, protect, and enforce the right of such citizens to vote in Federal elections;

(2) to establish uniform standards for absentee registration and balloting by such citizens in Federal elections;

(3) to eliminate discrimination, in voting in Federal elections, against such citizens who are not employees of a Federal or State Government agency, and who are not dependents of such employees; and

(4) to require that Federal, State, and local tax laws be applied so as not to give rise to Federal, State, and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State.

DEFINITIONS

SEC. 3. For the purposes of this Act, the terms—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands;

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) "citizen outside the United States" means a citizen of the United States residing outside the United States whose intent to return to his State and election district of last domicile may be uncertain, but who does intend to retain such State and election district as his voting residence and domicile for purposes of voting in Federal elections and has not established a domicile in any other State or any other territory or possession of the United States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 4. No citizen outside the United States shall be denied the right to register for, and to vote by, an absentee ballot in any State or election district of a State, in any Federal election solely because at the time of such election he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he was last domiciled in such State or district prior to his departure from the United States;

(2) he has complied with all applicable State or district qualifications and requirements concerning registration for, and voting by, absence ballots (other than any qualification or requirement which is inconsistent with this Act);

(3) he intends to retain such State or district as his voting residence and voting domicile for purposes of voting in Federal elections;

(4) he does not maintain a domicile, and is not registered to vote and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(5) he has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 5. (a) Each State shall provide by law for the registration or other means of qualification of all citizens outside the United States and entitled to vote in a Federal

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Approved For Release 2005/12/14 : CIA-RDP77M00144R001100190007-6

Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG) the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

On this vote, the Senator from Wyoming (Mr. MCGEE) is paired with the Senator from Utah (Mr. Moss). If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Utah would vote "nay."

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Colorado (Mr. HASKELL) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The result was announced—yeas 41, nays 40, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—41

Bartlett	Garn	Muskie
Bellmon	Goldwater	Nunn
Brock	Griffin	Packwood
Buckley	Hansen	Pearson
Bumpers	Hart, Philip A.	Scott, Hugh
Byrd, Robert C.	Hatfield	Sparkman
Cannon	Helms	Stafford
Case	Hruska	Stennis
Chiles	Huddleston	Symington
Curtis	Johnston	Taft
Domenici	Mansfield	Thurmond
Fannin	Mathias	Tower
Fong	McClellan	Young
Ford	McClure	

NAYS—40

Abourezk	Eagleton	Nelson
Allen	Glenn	Pastore
Bayh	Gravel	Pell
Beall	Hart, Gary W.	Percy
Bentsen	Hartke	Proxmire
Biden	Hollings	Ribicoff
Brooke	Jackson	Roth
Burdick	Javits	Schweiker
Byrd, Harry F., Jr.	Kennedy	Scott, William L.
	Laxalt	
Church	Magnuson	Stevenson
Cranston	McGovern	Stone
Culver	McIntyre	Tunney
Dole	Montoya	Weicker

NOT VOTING—18

Baker	Inouye	Morgan
Clark	Leahy	Moss
Eastland	Long	Randolph
Haskell	McGee	Stevens
Hathaway	Metcalf	Talmadge
Humphrey	Mondale	Williams

So the bill (S. 846) was passed, as follows:

S. 846

An act to authorize the further suspension of prohibitions against military assistance to Turkey, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 620(x) of the Foreign Assistance Act of 1961 and section 6 of the joint resolution of October 17, 1974 (Public Law 93-448, as amended by Public Law 93-570) are each amended by striking out "until February 5, 1975, and only if, during that time," and inserting in lieu thereof "if during such suspension".

SEC. 2. Section 620(x) of the Foreign Assistance Act of 1961 is further amended by designating the present subsection as paragraph (1) and by adding at the end thereof the following new paragraph:

"(2) The President shall submit to the Congress within thirty days after the enactment of this paragraph, and at the end of each succeeding thirty-day period, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict.".

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CASE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, today I was regrettably forced to cast my vote against the bill to renew American arms assistance to Turkey. I say regrettably because Turkey has been an old and reliable ally, whose friendship and mutuality of interest with the United States have been demonstrated many times over the past three decades.

Turkish forces have participated proudly alongside the forces of the United States, Great Britain, France, and Germany, and other alliance partners in preserving the security of Western Europe and the Mediterranean. With approximately half a million men in arms, Turkey has NATO's second largest land force. In addition, it occupies the strategically vital position between the Middle East and the Soviet Union. There is no doubt that any withdrawal of Turkey from the NATO would seriously damage its effectiveness.

Nevertheless, I feel compelled to object to the restoration of American arms assistance because I feel the requirements set forth when the embargo was first passed that there be "substantial progress" in the negotiations and a partial withdrawal of Turkish troops from Cyprus have not been met. The mandate of the Foreign Assistance Act of 1961 is clear—American arms are not to be used by allies in aggressive actions. The reason for that law was equally obvious—it was meant to encourage self-defense, not the imposition of foreign policy views by military fiat. That reasoning is as vital today as it was 14 years ago. No alliance can long endure if one ally is free to use indiscriminate force to settle its disputes with another ally.

I had hoped that progress on the Cyprus problem would have come more quickly. However, while it is true that today negotiations are again underway, it seems as though we are no closer to a resolution to the problem than we were 6 months ago. The U.S. Government has not even received private assurances that Turkish withdrawal would proceed once aid was renewed. This situation can hardly be described as representing substantial progress.

Under the circumstances, I feel that the arms embargo must be continued until the talks on Cyprus progress or until, as a minimum, we have received assurances from the Turkish Government that if arms assistance is renewed there will be a new flexibility on the part of Turkey.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. STENNIS. Mr. President, may the Senate be in order?

The PRESIDING OFFICER. The Senators will keep order in the Chamber.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, there will be no further votes this evening. We will, of course, take up the supplemental appropriation bill, which will be laid down this evening for tomorrow, plus the Butterfield nomination tomorrow.

SENATE RESOLUTION 160—RESOLUTION DISAPPROVING CONSTRUCTION PROJECTS ON THE ISLAND OF DIEGO GARCIA

(Referred to the Committee on Armed Services.)

Mr. MANSFIELD. Mr. President, on May 12, 1975, the President of the United States, by letter, certified to the Congress that the construction of naval facilities on the island of Diego Garcia in the Indian Ocean is vital to the national interests of the Government of the United States. The text of the President's letter to the Congress reads as follows:

To the Congress of the United States:

In accordance with section 613(a)(1)(A) of the Military Construction Authorization Act, 1975 (Public Law 93-552), I have evaluated all the military and foreign policy implications regarding the need for United States facilities at Diego Garcia. On the basis of this evaluation and in accordance with section 613(a)(1)(B), I hereby certify that the construction of such facilities is essential to the national interest of the United States.

GERALD R. FORD.

THE WHITE HOUSE, *May 12, 1975.*

Mr. NELSON. Mr. President, may we have order? I cannot hear the Senator's remarks.

The PRESIDING OFFICER. The Senate will be in order.

The Senate may proceed.

Mr. MANSFIELD. Under the provisions of Public Law 93-552, 93d Congress, 2d session, section 613, I am laying before the Senate a resolution of disapproval in accordance with the provisions of section 613. I ask unanimous consent that at the conclusion of my remarks section 613 from the public law be printed in order that Senators may have an opportunity to read this section of law and know exactly how this resolution of disapproval will be handled in the Committee of the Armed Services and on the floor of the Senate.

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

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, I was very surprised that the President of the United States would send this resolution to the Congress at this time in view that we have been told by the administration that the President is in the midst of a reappraisal of our foreign policy because of the debacle of Vietnam, Cambodia, and Southeast Asia.

I think in the debate of this resolution, when it is returned from the Armed Services Committee, a number of very important questions should be examined during the debate.

Why, in the face of the fact that all the nations bordering on the Indian Ocean have asked the United States and the Soviet Union not to escalate the arms race in the Indian Ocean area, has the administration forwarded this letter of certification? At a meeting in New Delhi on November 17, 1974, 30 nations issued a policy statement opposing the United States building a naval facility on the island of Diego Garcia.

Why does this administration persist in the face of a staggering deficit in our budget insist on building a naval facility that will cost approximately $175 million? I contend that the money that the administration is requesting to start building naval facilities on Diego Garcia, amounting to $14 million for the Navy and $3.3 million for the Air Force, is only a downpayment. Already in the fiscal year 1976 budget, the Navy is asking for an additional $13 million for operational facilities on Diego Garcia.

Mr. President, are we going to engage in an adventure of Southeast Asia and Vietnam all over again? Is there an extension of a policy of the United States trying to be policeman for the world in the face of our bitter experience in Vietnam?

Are we not scattered throughout the world enough by having military personnel on all five continents—perhaps, if Antarctica is considered a continent, on all six continents—and naval ships on all the oceans of the world and on a good many seas?

In voting the naval base on the island of Diego Garcia, are we going to vote a three-ocean Navy? The Navy contends that they will be able to operate carriers in the Indian Ocean with only a 12-airplane carrier force. However, will it really have to be 15 carriers to fulfill our commitment in the Atlantic, Pacific, and the Indian Ocean?

I believe that the role of the carrier in sea warfare should be a part of the debate on the island of Diego Garcia. I submit that the aircraft carrier is now obsolete with the technical advancement of the new cruise missiles. I submit that in the Mediterranean Sea, the Soviets always know exactly within a few hundred yards where our carriers are operating. Can a carrier task force adequately protect itself in its operations in the Indian Ocean?

What are our so-called vital interests in the Indian Ocean? Certainly, having a task force in the Indian Ocean had no effect on the oil situation during the Yom Kippur war in October 1973. In fact, our naval vessels were completely cut off from Arab oil and the United States could do nothing about the Arab action.

Incidentally, I understand that there is an interesting article in this week's U.S. News & World Report, which once again raises the specter of war in case of another oil embargo. I hope that that does not come to pass.

Mr. President, the question of Diego Garcia and allowing the Navy to build a naval operating facility on this island some 1,200 miles south of the tip of India is a vital policy question. I urge upon my colleagues to take due notice of this action and to study all of the facts that are available. I urge my colleagues to give serious consideration as to whether this Nation should support a naval base thousands of miles from our shores which will amount to nothing more than "showing the flag" in an area of the world where the nations have requested that we not have our Navy there in force.

For the information of my colleagues, on December 5, 1974, CONGRESSIONAL RECORD, S20742, I delivered a speech setting forth reasons for my opposition to the building of naval operating facilities on the island of Diego Garcia.

I ask unanimous consent that that speech be printed in the RECORD at an appropriate point.

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

(See exhibit 2.)

Mr. MANSFIELD. Finally, I point out that the Senate has 60 legislative days to act upon this resolution and the Armed Services Committee should report it back to the floor of the Senate within 20 days with its recommendation. I urge the Armed Services Committee to report this resolution of disapproval favorably in order that the United States will not embark upon another adventure in the southern part of Asia.

Mr. President, I send to the desk the resolution of disapproval and ask that it be read.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 160

Resolved, That the Senate does not approve the proposed construction project on the island of Diego Garcia, the need for which was certified to by the President and the certification with respect to which was received by the Senate on May 12, 1975.

EXHIBIT 1

SEC. 613. (a) None of the funds authorized to be appropriated by this Act with respect to any construction project at Diego Garcia may be obligated unless—

(1) the President has (A) advised the Congress in writing that all military and foreign policy implications regarding the need for United States facilities at Diego Garcia have been evaluated by him, and (B) certified to the Congress in writing that the construction of any such project is essential to the national interest of the United States;

(2) 60 days of continuous session of the Congress have expired following the date on which certification with respect to such project is received by the Congress, and

(3) neither House of Congress has adopted, within such 60-day period, a resolution disapproving such project.

(b) (1) For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 60-day period.

(2) For purposes of this section, "resolution" means a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the Senate does not approve the proposed construction project on the island of Diego Garcia, the need for which was certified to by the President and the certification with respect to which was received by the Senate on May 12.", the first and second blanks being filled with the name of the resolving House and the third blank being filled with the appropriate date.

(c) Subsections (d), (e), and (f) of this section are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (b) (2) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(d) A resolution with respect to a proposed construction project of the island of Diego Garcia shall be referred to the Committee on Armed Services of the Senate.

(e) (1) If the Committee on Armed Services of the Senate to which a resolution with respect to a proposed construction project on the island of Diego Garcia has been referred has not reported such resolution at the end of 20 calendar days after its introduction, not counting any day which is excluded under subsection (b) (1) of this section, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same proposed construction project which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution of disapproval with respect to the same proposed construction project.

(2) A motion to discharge under paragraph (1) of this subsection may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) (1) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable

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motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

EXHIBIT 2

STATEMENT BY SENATOR MANSFIELD

Mr. President, I feel compelled to speak out on the issue of Diego Garcia, the projected naval operating facility in the Indian Ocean. As we move toward the final days of this second session of the 93rd Congress, Senators are receiving a great deal of pressure from both the Department of Defense and the Department of the Navy to approve $14,802,000 as a down payment on naval facilities that will enable the Navy to operate carrier task forces from the Island of Diego Garcia. In addition, the Air Force is requesting Air Force facilities on Diego Garcia that will enable KC135 tankers to refuel B52's operating out of Thailand over the Indian Ocean. First of all, I would like to briefly give you some background, both historical and legislative, which bear directly upon the Navy's efforts to make the Island of Diego Garcia an operating base.

Diego Garcia is an atoll located within the Chagos Archipelago in the middle of the Indian Ocean approximately 1,000 miles due south of the tip of India. The heavily vegetated island consists of 6,700 acres with average elevations of three to seven feet. It is horseshoe shaped with a 40-mile perimeter. The enclosed lagoon is 5½ miles wide by 13 miles long with average depths of 30 to 100 feet. The annual rainfall is approximately 100 inches. The United States Government became interested in Diego Garcia in the early Sixties, particularly when the British Government announced that it was withdrawing its naval forces from Singapore and indications were made public that Her Majesty's Government intended to greatly reduce its Indian Ocean naval squadron. At about the same time, the Russian navy began operations in the Indian Ocean and making port calls to nations bordering on the Indian Ocean. It must be pointed out that for years the United States Navy has been traversing the Indian Ocean with carriers and other auxiliary combatants when the transfer of aircraft carriers was made to the Pacific fleet.

Beginning in the early Sixties, as aforementioned, with the announcement that the British were greatly reducing their naval activity in the Indian Ocean, the United States has in a more frequent manner stepped up its operations in the Indian Ocean and the Persian Gulf, which is a part of the Indian Ocean. At the present time, naval presence is maintained at Bahrein consisting of a supply ship and two destroyers. The Russians have not matched this naval strength. However, since 1968, the Russians have greatly increased their presence in the Indian Ocean, sometimes having as many as 30 combatant ships, which include a large number of mine sweepers.

The United States sometime in calendar year 1966 began negotiating with the British Government for a lease to establish a communications station and an operationl base on Diego Garcia. This base was to be an austere logistic support activity which was mainly a refueling stop for naval units operating in the Indian Ocean. In 1965, the British formed the British Indian Ocean Territory which comprises the Chagos Archipelago which, of course, includes Diego Garcia. The United States Navy stated that the selection of these islands was predicated in unquestioned UK sovereignty in the absence of a population. A bilateral agreement was signed in December 1966 between the British Government and the United States which granted base rights for a period of 50 years to the United States Government to the Indian Ocean territory.

The Navy came to the Congress in the Fiscal Year 1970 Military Construction Program with a submission for the first construction increment of a proposed logistic facility on the Island of Diego Garcia. The logistic facility was approved by the House and Senate Armed Services Committees and the House Appropriations Military Construction Subcommittee. When presented to the Senate, there was strong opposition from within the Senate Appropriations Committee to the United States becoming committed to another naval operations base within the Indian Ocean. Senator Richard Russell, chairman of the Senate Appropriations Committee at that time, was very much opposed to the United States committing the Navy to sustained operations within the Indian Ocean and so stated in Committee meetings on a number of occasions. The Military Construction Subcommittee also strenuously opposed the appropriation of money to construct the operating facility and the Military Construction FY 1970 conference committee debated this matter through a number of meetings lasting over a two-week period. Finally, an oral agreement was reached wherein the Navy was to be instructed to come back in FY 1971 for a new appropriation which would support only a communications station, and all of the logistic support facilities were to be deleted from the FY 1971 program. The rationale at that time for the communications station was that, in time, the United States would have to withdraw from the main continent of Africa the large communications facility that the United States Government had at Asmara, Ethiopia. (Kagnew Station Communications Center, Asmara, Ethiopia, is now being phased out and the Navy will centralize its African communications facilities at Diego Garcia).

In support of the FY 1971 appropriations for the communications facilities on Diego Garcia, the Navy stated the following:

"The requirement to close the gap in reliable communication coverage which exists today in the central Indian Ocean/Bay of Bengal area was a major consideration in developing the initial concept for a support facility on Diego Garcia. Establishment of a communications support capability in this area is an immediate requirement and is a requirement which exists independent of the modest logistics support facility which was rejected by the Congress. The purely passive role and image of a communications facility should not raise the same concern of active commitment which had apparently been associated with the logistics support aspects of the original concept."

As previously mentioned, the Navy was instructed to come back in the 1971 military construction program with a communications package only and to all intents and purposes the logistic support facility was not to be a part of the package. In fact, it was specifically agreed that there would be no items which could in any way support a carrier task force.

In all of the communications and oral conversations that the subcommittee had with the Navy, it was indicated that the Navy would not use Diego Garcia as an operational base. Members of the subcommittee were reassured, when the FY 1971 construction budget for Diego Garcia was approved, that the Navy did not intend to operate fleet surface units from Diego Garcia.

To bring you up to date concerning the FY 1975 Military Construction Authorization Bill, H.R. 16136, which is still in conference, I will explain Section 612 in the Bill. This section precluded the obligation of any funds until the President of the United States has advised the Congress in writing that he had evaluated all military and foreign policy implications regarding the need for these facilities and has certified that this construction essential to the national interest. Such certification must be submitted to the Congress and approved by both Houses of Congress. This will assure the opportunity for full debate on the policy question of Diego Garcia.

I might say, parenthetically, that I consider this most prudent and realistic action for the Congress to take. I wish to further point out that Section 612 of the Authorization Bill was adopted by a record vote of 83–0 in the Senate.

The position of the House Armed Services Committee is that the Administration should be given the authority to build the facilities in Diego Garcia but that prior to the exercise of that authority the President shall notify Congress of his intention and that Congress shall have 60 days to reject the blanket authority it had previously given to him. This procedure has heretofore been used too often by the Executive and acquiesced in by the Congress. The negative power of the Congress—the power to deny a change in the *status quo*—is turned on the Congress itself. The burden of persuasion shifts away from those who desire action to prove the rightness of their cause. The Congress must insist that the justification for policy must be made *prior* to the grant of authority. It is exactly that insistence that was included in the Military Construction Authorization.

It is my contention, as stated earlier, that the Senate position in the Authorization Bill is realistic and prudent and Diego Garcia, as a policy question, should first of all be thoroughly investigated by the Foreign Relations Committee, then the question should be taken to the floor and the two Houses of the Congress should be allowed to work their will.

On November 17, at a meeting in New Delhi of the 30 nations surrounding the Indian Ocean, a policy statement was issued unanimously that America and the Soviet Union should not escalate the arms race in the Indian Ocean and the area should be left in peace; particularly, all 30 nations opposed the United States' building a facility on Diego Garcia. The cost of this naval base for both construction and equipment will amount to approximately $175 million; thus, as you can see, this $14 million plus $3.3 million is only a down-payment.

Within the Department of Defense we do have a difference of opinion as to how important the building of this base is to our national interest. The Navy says that it is imperative for the defense of the United States, particulary in keeping the oil routes open in the Indian Ocean. The CIA has stated that the buildup of the Russians, particularly in Somaliland, is certainly not as extensive as outlined by Admirals testifying for this project.

Mr. President, is this Southeast Asia and Vietnam all over again? It appears to me that our Government must have learned something about trying to be policemen for the World during our experience in Vietnam: 45,000 dead and 300,000 wounded men must certainly mean something to us. I respectfully submit that the United States cannot go on attempting to be a policeman for the World. And most certainly in my humble opinion, the construction of this operating

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base in the Indian Ocean is only a further effort by the Department of Defense to play the role of policeman in the Indian Ocean and to actively involve our military forces in the politics of an area that now wants to be left at peace. Yet in the face of all the nations in the littoral area requesting that we not build up Diego Garcia as a naval base, there are those individuals in high places that contend we should go ahead in our own national interest with the building of this naval base. I ask the question—what really are our vital interests in the Indian Ocean besides gunboat diplomacy and "showing the flag"? Our presence in the Indian Ocean had no effect on the oil situation during the Yom Kippur War in October 1973, in fact, our naval vessels were completely cut off from Arab oil and the United States could do nothing about the Arab action.

In closing, there are a few points that I would like to make that I think have a direct bearing in my opinion upon whether or not Diego Garcia funding should be approved to build a naval base on Diego Garcia. In allowing this naval base to be built, I think Senators should be aware that they are actually voting for a 3-ocean Navy. It is my contention that this base on Diego Garcia could cost hundreds of millions of dollars. We already have an admission from the Navy of a cost of $173 million. Oh yes, the Navy will contend that the base will only cost $35 million but they are not telling the American people of the cost for salaries of the Seabees that are building the base, nor are they advising the Congress of the complete costs for the communications equipment and other machinery that will go into the making of this base.

I submit that all of the information I have in hand shows that the aircraft carrier is now obsolete with the technical advancement of the new cruise missiles and I might say, by way of explanation, that in the Mediterranean Sea, the Soviets always know exactly where our carriers are.

I state that for just this one time cannot the United States Government wait and really find out what the intentions of the Soviet Union are in regard to the Indian Ocean. All the reports I have indicate that the Soviet Union's naval activity is of a low order.

In summary, I would like to say that it appears to me that our Department of Defense is advocating a 3-ocean Navy to station sailors 10,500 miles from home and putting obsolete carriers in the Indian Ocean, which are vulnerable and practically defenseless against new weaponry.

Are we building a naval base, a new Wake Island, that is completely, in time of crisis, undefendable?

Mr. President, in closing I am reminded of a very important incident that occurred on the floor of the Senate. Some years back when the Defense Appropriation Bill was on the floor and the Senate was considering appropriating money for the Navy for naval landing craft (FDL's) the late great chairman of the Senate Appropriations Committee, Senator Richard Brevard Russell, said and I quote: "If we make it easy for the Navy to go places and to do things, we will find ourselves always going places and doing things." I remind the Senate in approving the building of a naval base on Diego Garcia that we will be making it easy for the United States to go to the Indian Ocean and more than likely that we will do things.

Mr STENNIS. Mr. President, will the Senator yield to me for a parliamentary inquiry or does he yield the floor?

Mr MANSFIELD. Yes, indeed. I will yield the floor.

Mr STENNIS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. As I understand the resolution will be referred to the Armed Services Committee; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. I want to assure the Senate we will consider this resolution and do it well within the time that was agreed on last fall when this matter was, in effect, taken over, and we will hear testimony on it and get back with a report in time for us to consider that agreement.

I do not care to go into a discussion of the merits of the matter now, but it is a matter where the money was in the bill last year and was approved at a certain level, $14 million, I believe it was, but carried over under special consideration here for this resolution.

I just observed that $13 million now requested in the 1976 budget is the same $13 million that was deducted last year by agreement more or less and made two installments out of it. So, after all, it is just that part of the 1975 budget that was before us until this year.

I thank the President.

Mr. MANSFIELD. I appreciate what the Senator said, I expected nothing less. The Senator has been most cooperative and considerate in this matter in and out of committee.

Mr. STENNIS. I thank the Senator.

CHANGE OF VOTE ON S. 846

Mr. KENNEDY. Mr. President, on S. 846 which we just voted on, I voted in the affirmative. I ask unanimous consent that I be recorded in the negative. I understand it will not change the result.

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

(The rollcall vote on S. 846 reflects the foregoing unanimous consent request.)

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 5 minutes each.

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

ORDER FOR ADJOURNMENT UNTIL TUESDAY AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. tomorrow morning.

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

ORDER FOR THE RECOGNITION OF SENATOR GOLDWATER AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, Mr. GOLDWATER be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each.

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

ORDER FOR THE CONSIDERATION OF H.R. 5899 ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow the Senate proceed to the consideration of H.R. 5899, the supplemental appropriation bill.

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

ORDER FOR THE CONSIDERATION OF S. 182 ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the supplemental appropriations bill tomorrow the Senate proceed to the consideration of S. 182, a bill to authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER DIRECTING THE CHAIR NOT TO ENTERTAIN A UNANIMOUS-CONSENT REQUEST TO CHANGE A VOTE ON S. 846

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it not be in order for the Chair to entertain a unanimous-consent request from any Senator to change his vote on rollcall 190, S. 846.

Under rule XII, any Senator who has voted previously may subsequently, after the vote is announced, ask unanimous consent to change his vote, and if such request is not objected to, he is permitted accordingly to change his vote. There has been one such request granted this afternoon. No objection was made in that instance because the outcome of the vote would not have been affected. If I were to be on the floor and other such requests were to subsequently be made, I would be forced to object because the outcome of the final vote might then be changed. I make this request now so that in the event I might not be on the floor, it will not be in order for the Chair to entertain such a request.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, will

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